



Planning & Transportation Commission

Staff Report (ID # 8739)

Report Type: Action Items **Meeting Date:** 12/13/2017

Summary Title: Planning-Related Code Amendments (2018)

Title: PUBLIC HEARING: Recommendation to the City Council Regarding the Adoption of an Ordinance Amending Palo Alto Municipal Code (PAMC) Chapter 2.20 (Planning and Transportation Commission) of Title 2, Chapter 9.10 (Noise) of Title 9, Chapter 10.64 (Bicycles, Roller Skates and Coasters) of Title 10, and Chapters 18.04 (Definitions), 18.10 (Low-Density Residential (RE, R-2 and RMD)), 18.12 (R-1 Single-Family Residential District), 18.15 (Residential Density Bonus), 18.16 (Neighborhood, Community, and Service Commercial (CN, CC and CS) Districts), 18.28 (Special Purpose (PF, OS and AC) Districts), 18.30(G) (Combining Districts), 18.40 (General Standards and Exceptions), 18.42 (Standards for Special Uses), 18.52 (Parking and Loading Requirements), 18.54 (Parking Facility Design Standards), 18.76 (Permits and Approvals), 18.77 (Processing of Permits and Approvals), and 18.80 (Amendments to Zoning Map And Zoning Regulations) of Title 18, and Chapters 21.12 (Tentative Maps and Preliminary Parcel Maps) and 21.32 (Conditional Exceptions) of Title 21. The Proposed Ordinance is Exempt from the California Environmental Quality Act (CEQA) in Accordance With CEQA Guidelines Section 15061(b)(3). For More Information, Please Contact Clare Campbell at clare.campbell@cityofpaloalto.org. (CONTINUED FROM November 29, 2017)

From: Hillary Gitelman

Recommendation

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Planning & Community Environment
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Staff recommends that the Planning and Transportation Commission (PTC) take the following action(s):

1. Find the proposed draft ordinance exempt from the provision of CEQA in accordance with CEQA Guidelines section 15061(b)(3); and
2. Recommend to the City Council adoption an ordinance (Attachment A) to amend various sections of the Palo Alto Municipal Code.

Report Summary

The discussion regarding the proposed code amendments was not completed at the November 29, 2017 PTC meeting. The PTC reviewed the majority of proposed code changes and continued the discussion. This report includes staff responses to the PTC comments and the addition of one code amendment, as discussed below. The November 29, 2017 staff report (Attachment B) and meeting minutes (Attachment C) are attached for reference.

Background

The PTC reviewed the items listed in Table 1 below and provided suggested minor text edits to a few topics (“revise”) and identified topics that needed more in-depth discussion (“pull”). This report summarizes the staff response to the PTC discussion and the draft ordinance (Attachment A) has been revised to incorporate these changes.

For the items that were not discussed (see Table 2) and for general background, please refer to Attachment B, the 11/29/2017 PTC Staff Report. The exception to this is for item #28 *Correct Code Section Reference for Cannabis Definition*; this is a newly added item that will be explained in the discussion section that follows.

Table 1: Proposed Code Amendments Discussed by PTC

Amendment		PTC Direction
1	Correct Threshold Requiring a Transportation Demand Management Plan	No Change
2	Correct Reference to Transportation Management Association	No Change
3	Remove Duplicate Definition of “Director”	No Change
4	Correct Table Reference – Parking Stall Widths	No Change
5	Correct Site and Design Code Reference	No Change
6	Clarify that the Contextual Garage Placement Applies to Carports	Pull
7	Clarification of Carport and Garage Definitions	Pull
8	Site and Design Review – Correct Code Reference for Minor Projects	No Change
9	Resubmittal of Denied Applications – Correct Language	No Change
10	Map Exceptions Process – Add Reference to Title 18	No Change
11	Clarify Floor Area Exemptions for Historic Homes	Revise
12	Office Restrictions in CS/CN/CC – Remove CS Reference	Pull
13	Preliminary Parcel Map – Add Option of Director’s Deferral Directly to Council	No Change
14	Remove Restrictive Election Time for PTC Officers	Revise

15	Establish Uniform Timing for Public Hearing Notices for Maps and Zone Changes	No Change
16	Add Provision to Allow Closure of Inactive Applications and Require New Application for Substantially Modified Projects	Revise
17	Prohibit Gas-Powered Leaf Blowers in Commercial Districts	Pull
18	Add Floor Area Exemption for Trash Enclosures in the CD District	Revise

Table 2: Proposed Amendments To Be Reviewed

Amendment	
19	Expand Exceptions for Historic Homes Related to Floor Area and HIE's
20	Clarify Setbacks for Outdoor Fireplaces and BBQs
21	Establish an Over the Counter Architectural Review Process
22	Various Updates to Application Processing and Approvals
23	Clarifications to the Wireless Communication Facilities Review Process
24	Modify Accessory Dwelling Unit Requirements Per State Regulations
25	Update Residential Density Bonus Per State Requirements
26	Remove Bicycle License Requirement
27	Individual Review and Demolition of Historic Inventory Properties
28	Correct Code Section Numbering for Cannabis Definition with No Substantive Change (ADDED ITEM)

Discussion

There are eight follow-up items from the earlier PTC meeting and one newly added item that are discussed below. The numbering shown below reflects how the items were presented in the previous staff report (Attachment B). All proposed text modifications to the ordinance are presented in the draft ordinance, Attachment A.

Item #6: Clarify that the Contextual Garage Placement Applies to Carports

Staff understands the expressed position of commissioners speaking to this item on both the substance and process for the proposed amendment. Staff has a different perspective as to the nature of the regulation and the proposed change in question. Staff will present the PTC comments as articulated at this and the preceding meeting to the City Council along with a staff recommendation for the proposed amendment.

Item #7: Clarification of Carport and Garage Definitions

The PTC expressed some concerns about the clarity of the definitions for carports, garages, and porte-cochere. The proposed revised definitions of “carport” and “garage” are listed below along with the City’s “porte-cochere” definition in the Municipal Code. When comparing a carport and porte-cochere, they are described similarly, with the exception for how it is used. A porte-cochere is a sheltered transitory location used for loading and unloading; it cannot be used for

any required onsite parking. It seems appropriate to clarify carports and garages are intended for the parking or storage of vehicles.

(24.5) "Carport" means a portion of a principal residential building or an accessory building to a residential use designed to be utilized for the ~~shelter-parking or storage~~ of one or more motor vehicles, which is open ~~(unenclosed)~~ on two or more sides, including on the vehicular entry side, ~~and which is~~ covered with a solid roof.

(59) "Garage, private" means a portion of a principal residential building or an accessory building to a residential use designed to be utilized for the ~~shelter-parking or storage~~ of one or more motor vehicles, ~~and~~ which is enclosed on ~~three~~ ~~two~~ or more sides ~~and covered with a solid roof.~~

(114.2) "Porte-cochere" means a covered structure attached to a residence or adjacent to a residence and erected over a driveway, which is ~~completely~~ open on three or more sides and used for the temporary unloading and loading of vehicles.

Item #11: Clarify Floor Area Exemptions for Historic Homes

In response to PTC's comments, staff added a clarification to the table that included clear direction on how to measure the basement for purposes of excluding it from the floor area calculation.

Item #12: Office Restrictions in CS/CN/CC – Remove CS Reference

The PTC asked for additional clarification for the proposed removal of language that permitted ground floor office along El Camino Real, providing no housing was developed on the site.

The current code subsection 18.16.050(a)(2), which applies to CS, CN, and CC zones, states that ground floor office is permitted providing it would "occupy a space that was not occupied by housing, neighborhood business service, retail services, personal services, eating and drinking services, or automotive service on March 19, 2001 or thereafter."

Subsection 18.16.050(a)(3), the one proposed to be removed, states that "in the case of CS zoned properties with site frontage on El Camino Real, [ground floor office is permitted providing the sites] were not occupied by housing on March 19, 2001."

With the adoption of the citywide ground floor retail and retail-like preservation requirements (PAMC [18.40.180](#) – also referred to as the Retail Preservation Ordinance) earlier this year, subsection 18.16.050(a)(3) is no longer accurate; the City would not support the removal of retail/retail-like uses to accommodate ground floor office. Because the retail preservation is now applicable, subsection (2) is a better reflection of what would be considered if ground floor office was proposed on El Camino Real. This subsection (2) is slightly more restrictive than the retail

preservation requirements in that it also includes protections for neighborhood business services and automotive services.

Staff's recommendation is to remove subsection (3) with the understanding the subsection (2) would then apply to CS zoned sites on El Camino Real, which is essentially how it is carried out today because of the retail preservation requirements.

Item #14: Remove Restrictive Election Time for PTC Officers

Staff revised the proposed text based on direction from PTC. It is noted that additional discussion on this subject matter will occur separately when the PTC conducts a retreat or special discussion on a future agenda.

Item #16: Add Provision to Allow Closure of Inactive Applications and Require New Application for Substantially Modified Projects

The intent of the proposed revision was generally supported, but there was concern about the use of overly strong and subjective language. The language has been revised accordingly. A commissioner also expressed concern with the six month timeframe. Staff notes that six months of inactivity is unusual for planning applications and that it mirrors the time after which a building permit is deemed to have expired by reason of inactivity.

Item #17: Prohibit Gas-Powered Leaf Blowers in Commercial Districts

The PTC was concerned about the unintended consequences of adding the gas-powered leaf blower prohibition to commercial properties and allowing for an exemption for City-related uses. Staff will conduct additional research on this item and report to Council as to whether this amendment is worth pursuing at this time.

Item #18: Add Floor Area Exemption for Trash Enclosures in the CD District

There were two primary comments made on this issue, one suggesting that the floor area exemption be placed in the CD district chapter (PAMC 18.16) of the zoning code and not in the definitions section; and the other was related to the floor area exemption revision, as proposed, would now allow hazardous material storage and resource conservation energy facilities in the CD district.

The proposed text modification does not make any changes to the allowable uses in the CD or other zone districts. The existing exemption, unmodified, allows the floor area exemption in all zone districts but the CD, and staff is proposing to modify this language to have the CD district included for the exemption. Again, if the CD zone was included in this exemption, the established allowable land uses would not be impacted.

Additionally, the added clarifying language regarding the refuse area being exempt is not a new provision to the code. The code already allows exemptions for resource conservation related compliance, which staff has interpreted to include refuse areas. By adding the specific refuse reference, it would eliminate any misunderstanding to it being included within this category of floor area exemptions.

With regards to relocating the exemption to the CD district chapter of the code, staff feels that keeping it within the definitions section is more appropriate since the language already exists there.

Item #28: Correct Code Section Numbering for Cannabis Definition (ADDED ITEM)

On November 13, 2017 the City Council adopted on second reading Ordinance No. 5419 ("Cannabis Ordinance") to prohibit medical cannabis dispensaries and prohibit commercial cannabis activities, except for deliveries. Included in the ordinance was the new definition of cannabis that is to be added to Title 18. The new definition was numbered incorrectly, and the amendment is to correct that. There are no substantive text changes being proposed to the definition in the code.

Environmental Review

The proposed code amendments have been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. Specifically, the proposed amendments have been determined to be exempt from further environmental review per CEQA Guideline section 15061(b)(3) (Review for Exemption) because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment, and it can be seen with certainty that there is no possibility that the activity in question may have a significantly effect on the environment. Additionally, all future development that may be impacted by any of the proposed code changes will be subject to a project specific CEQA analysis as part of the required planning entitlement review (e.g. Architectural Review, Site and Design, Subdivision, etc.) to determine if there are any environmental impacts.

Public Notification, Outreach & Comments

The Palo Alto Municipal Code (PAMC) does not require notice of this public hearing because it was Continued to a Date Certain at the November 29, 2017 PTC meeting, which was publicly noticed in accordance with the PAMC.

Next Steps

Upon recommendation from the PTC, staff will forward the staff recommended ordinance with agreed upon changes to City Council for review. In instances where a majority of the PTC has a different recommendation from staff, that viewpoint will be represented in the staff report

along with implementing language for the Council's consideration. Only one ordinance, however, will be presented to the Council, which is anticipated to occur in early 2018.

Alternative Actions

In addition to the recommended action, the Planning and Transportation Commission may:

1. Recommend adoption of the draft ordinance to the City Council with modifications.
2. Continue the discussion to a future PTC hearing with the expectation that a recommendation to the City Council would be forwarded that time.

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Attachments:

- Attachment A: Draft Ordinance (PDF)
- Attachment B: PTC Staff Report w/o Attachments, November 29, 2017 (DOC)
- Attachment C: PTC Excerpt Meeting Minutes, November 29, 2017 (DOC)
- Attachment D: Draft Over the Counter Architectural Review Guidelines (DOCX)

¹ Emails may be sent directly to the PTC using the following address: planning.commission@cityofpaloalto.org

Ordinance No. _____

Ordinance of the Council of the City of Palo Alto Amending Palo Alto Municipal Code (PAMC) Chapter 2.20 (Planning and Transportation Commission) of Title 2, Chapter 9.10 (Noise) of Title 9, Chapter 10.64 (Bicycles, Roller Skates and Coasters) of Title 10, and Chapters 18.04 (Definitions), 18.10 (Low-Density Residential (RE, R-2 and RMD)), 18.12 (R-1 Single-Family Residential District), 18.15 (Residential Density Bonus), 18.16 (Neighborhood, Community, and Service Commercial (CN, CC and CS) Districts), 18.28 (Special Purpose (PF, OS and AC) Districts), 18.30(G) (Combining Districts), 18.40 (General Standards and Exceptions), 18.42 (Standards for Special Uses), 18.52 (Parking and Loading Requirements), 18.54 (Parking Facility Design Standards), 18.76 (Permits and Approvals), 18.77 (Processing of Permits and Approvals), and 18.80 (Amendments to Zoning Map And Zoning Regulations) of Title 18, and Chapters 21.12 (Tentative Maps and Preliminary Parcel Maps), and 21.32 (Conditional Exceptions) of Title 21

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

SECTION 1. Section 2.20.030 (Officers) of **Chapter 2.20 (Planning and Transportation Commission)** of Title 2 (Administrative Code) is amended as follows:

2.20.030 Officers

The ~~commission~~ Commission shall elect ~~its officers annually at the first meeting in November~~ a chairperson and a vice chairperson from its membership who shall serve in such capacity for terms of one year each, or until a successor is elected, unless his or her term as a member of the Commission sooner expires.

SECTION 2. Section 9.10.060 (Special provisions) of **Chapter 9.10 (Noise)** of Title 9 (Public Peace, Morals and Safety) of the Palo Alto Municipal Code (PAMC) is amended as follows:

9.10.060 Special provisions

The special exceptions listed in this section shall apply, notwithstanding the provisions of Section 9.10.030 through 9.10.050.

...

(f) Leaf Blowers.

- (1) No person shall operate any leaf blower which does not bear an affixed manufacturer's label indicating the model number of the leaf blower and designating a noise level not in excess of sixty-five dBA when measured from a distance of fifty feet utilizing American National Standard Institute methodology. Any leaf blower which bears such a manufacturer's label shall be presumed to comply with any noise level limit of this chapter provided that it is operated with all mufflers and full extension tubes supplied by the manufacturer for that leaf blower. No person shall operate any leaf blower without attachment of all mufflers and full extension tubes supplied by the manufacturer for that leaf blower.

(2) No person shall operate any leaf blowers within a residential zone except during the following hours: nine a.m. and five p.m. Monday through Friday and ten a.m. and four p.m. Saturday. No person shall operate any leaf blower within any non-residential zone except during the following hours: eight a.m. and six p.m. Monday through Friday, and ten a.m. to four p.m. Saturday. No person shall operate any leaf blowers on Sundays and holidays. No person shall operate any leaf blower powered by an internal combustion engine within any residential or commercial zone ~~after July 1, 2005~~. Commercial operators of leaf blowers are prohibited from operating any leaf blower within the city if they do not prominently display a certificate approved by the Chief of Police verifying that the operator has been trained to operate leaf blowers according to standards adopted by the Chief of Police. In addition to all authorizations and restrictions otherwise provided in this chapter, public streets, sidewalks, and parking lots in business districts and at the Municipal Golf Course and all city parks may be cleaned between 4:00 a.m. and 8:00 a.m. using leaf blowers which bear an affixed manufacturer's label indicating the model number of the leaf blower and designating a noise level not in excess of sixty-five dBA when measured from a distance of fifty feet utilizing American National Standard Institute methodology.

(3) The use of leaf blowers powered by an internal combustion engine shall be allowed when used on property owned or operated by the City between nine a.m. and five p.m. Monday through Friday and ten a.m. and four p.m. Saturday for routine maintenance operations, and at any time for emergency operations.

...

SECTION 3. Sections 10.64.010 (Bicycle license required), 10.64.060 (License fees), and 10.64.070 (Safe mechanical condition prerequisite to issuance of license) of **Chapter 10.64 (Bicycles, Roller Skates and Coasters)** of Title 10 (Vehicles and Traffic) of the PAMC are deleted in their entirety.

~~10.64.010 Bicycle license required~~

~~—No resident of the city shall operate any bicycle (defined as any device which a person may ride, which is propelled by human power through a system of belts, chains, or gears and which has wheels at least twenty inches in diameter and a frame size of at least fourteen inches) on any street, road, highway, or other public property within the city, unless such bicycle is licensed in accordance with Division 16.7, Sections 39000 through 39011 of the California Vehicle Code. Any person who violates the provisions of this section may be cited pursuant to Vehicle Code Section 39002(a).~~

~~10.64.060 License fees~~

~~The license fee to be paid for each bicycle licensed pursuant to Section 10.64.010 shall be paid in advance. A fee shall be paid for application for transfer of license pursuant to Section 39008 of the California Vehicle Code. Said fees shall be as set forth in the municipal fee schedule.~~

~~10.64.070 Safe mechanical condition prerequisite to issuance of license~~

~~—Any person applying for a bicycle license pursuant to the provisions of this chapter must demonstrate to the chief of police or his designated representative that the bicycle for~~

~~which the applicant desires to secure license plates meets the requirements of this chapter and the California Vehicle Code as to safe mechanical condition.~~

SECTION 4. Section 18.04.030 (Definitions) of **Chapter 18.04 (Definitions)** of Title 18 (Zoning) of the PAMC is amended as follows:

18.04.030 Definitions

(a) Throughout this title the following words and phrases shall have the meanings ascribed in this section.

...

(~~23.5~~ 94.5) "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this Title, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.

(A) "Commercial cannabis activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products as provided for in Division 10 of the California Business and Professions Code. "Commercial cannabis activity" does not include personal uses allowed by Health and Safety Code sections 11362.1 and 11362.2 or personal medicinal uses allowed by sections 11362.765 and 11362.77, as amended from time to time.

(B) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

(C) "Medical cannabis dispensary" is a facility where cannabis is made available for medicinal purposes in accordance with any provision of state law that authorizes the use of cannabis for medicinal purposes.

...

(24.5) "Carport" means a portion of a principal residential building or an accessory building to a residential use designed to be utilized for the shelter parking or storage of one or more motor vehicles, which is open (~~unenclosed~~) on two or more sides, including on the vehicular entry side, and ~~which is~~ covered with a solid roof.

...

~~(41.5) "Director" means the director of planning and community environment or his or her designee.~~

...

(59) "Garage, private" means a portion of a principal residential building or an accessory building to a residential use designed to be utilized for the shelter parking or storage of one or more motor vehicles, ~~and~~ which is enclosed on three ~~two~~ or more sides and covered with a solid roof.

...

(65) "Gross floor area" is defined as follows:

...

(B) Non-residential & Multifamily Exclusions: For all zoning districts other than the R-E, R-1, R-2 and RMD residence districts, "gross floor area" shall not include the following:

...

(iv) ~~Except in the CD District and in areas designated as special study areas, For existing structures,~~ minor additions of floor area approved by the director of planning and community environment for purposes of resource conservation or code compliance, upon the determination that such minor additions will increase compliance with environmental health, safety or other federal, state or local standards. Any additional floor area approved shall not qualify for grandfathered floor area in the event the building is later replaced or redeveloped. Such allowable additions may include, but not be limited to, the following:

a. Areas designed for resource conservation, such as trash compactors, recycling, and other energy facilities meeting the criteria outlined in Section 18.42.120 (Resource Conservation Energy Facilities); and

b. Areas designed and required for hazardous materials storage facilities, disability related access or seismic upgrades. For the purposes of this section disability related upgrades are limited to the incremental square footage necessary to accommodate disability access and shall be subject to the Director's approval not to exceed 500 square feet per site. Disability related upgrades shall only apply to remodels of existing buildings ~~and shall not qualify for grandfathered floor area in the event the building is later replaced or otherwise redeveloped;- and~~

c. Areas designed and required for refuse storage, such as trash, recycling, and compost, when it is the minimum amount needed to comply with current code requirements. The provisions of this subsection (a)(65)(B)(iv) are not intended to and do not allow the removal of a previously approved existing interior refuse storage area.

...

- (D) Low Density Residential Exclusions: In the RE and R-1 single-family residence districts and in the R-2 and RMD two-family residence districts, "gross floor area" shall not include the following:

...

(vii) For residences designated on the city's Historic Inventory as a Category 1 ~~through 4~~ ~~or Category 2~~ historic structure as defined in Section 16.49.020 ~~of this or~~ any contributing structure within a locally designated historic district, or if individually listed on the National Register of Historic Places or California Register of Historical Resources, the following gross floor area exclusions apply.

...

(114.2) "Porte-cochere" means a covered structure attached to a residence or adjacent to a residence and erected over a driveway, which is ~~completely~~ open on three or more sides and used for the temporary unloading and loading of vehicles.

...

SECTION 5. Sections 18.10.080 (Accessory Uses and Facilities) and 18.10.090 (Basements) of **Chapter 18.10 (Low Density Residential RE, R-2 and RMD Districts)** of Title 18 (Zoning) of the PAMC are amended as follows:

18.10.080 Accessory Uses and Facilities

...

(b) Location and Development Standards

...

- (3) An accessory building shall not be located in a required interior side or rear yard unless the building is at least seventy-five feet from any property line adjacent to a street, measured along the respective lot line. Provided, on corner lots, accessory buildings including detached garages and carports may be located in the rear yard if located at least 75 feet from the front street and at least 20 feet from the side street property lines.

(A) Fixed outdoor fire pits, fireplaces, and cooking surfaces shall be set back a minimum of four feet from the interior side and rear property line.

18.10.090 Basements

...

(b) Inclusion of Gross Floor Area

Basements shall not be included in the calculation of gross floor area, provided that:

- (1) basement area is not deemed to be habitable space, such as crawlspace; or

(2) basement area is deemed to be habitable space but the finished level of the first floor is no more than three feet above the grade around the perimeter of the building foundation. Grade is measured at the lowest point of adjacent ground elevation prior to grading or fill, or finished grade, whichever is lower; or

(3) basement area is associated with a historic property as described in Section 18.04.030(a)(65)(D)(vii).

...

SECTION 6. Sections 18.12.040 (Development Standards), 18.12.080 (Accessory Uses and Facilities), 18.12.090 (Basements), 18.12.110 (Single Family Individual Review), and 18.12.120 (Home Improvement Exception) of **Chapter 18.12 (R-1 Single-Family Residential District)** of Title 18 (Zoning) of the PAMC are amended as follows:

18.12.040 Site Development Standards

...

(b) Gross Floor Area Summary

...

TABLE 3
SUMMARY OF GROSS FLOOR AREA FOR SINGLE FAMILY RESIDENTIAL DISTRICTS

Description	Included in GFA	Excluded from GFA
Accessory structures greater than 120 sq. ft.	✓	
Second floor equivalent: areas with heights >17'	✓ counted twice)	
Third floor equivalent: areas with heights > 26'	✓ (counted three	
Third floor equivalent, where roof pitch is > 4:12		✓ up to 200 sq. ft. of unusable space
Garages and carports	✓	
Porte cocheres		✓
Entry feature ≤ 12' in height, if not substantially enclosed and not recessed	✓ (counted once)	
Vaulted entry > 12' in height	✓ (footprint counted twice)	
Fireplace footprint	✓ (counted once)	
First floor roofed or unenclosed porches		✓
First floor recessed porches <10' in depth and open on exterior side		✓
Second floor roofed or enclosed porches, arcades, balconies, porticos, breeze-ways	✓	
Basements (complying with patio & lightwell requirements described in Section <u>18.12.090</u>)		✓
Areas on floors above the first floor where the height from the floor level to the underside of the rafter or finished roof surface is 5' or greater	✓	
Bay windows (if at least 18" above interior floor, does not project more than 2', and more than 50% is covered by windows)		✓
Basement area for Category 1- 2 -4 Historic Homes or contributing structure within a historic district, <u>and individually listed homes on the National Register of Historic Places or California Register of Historic Resources</u> (even if <u>the finished level of the first floor is</u> greater than 3' <u>above grade</u>)		✓

Unusable attic space for category 1- 8-2-4 Historic Homes <u>or contributing structure within a historic district, and individually listed homes on the National Register of Historic Places or California Register of Historical Resources</u>		✓ (up to 500 sq. ft.)
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...

(f) Contextual Garage and Carport Placement

If the predominant neighborhood pattern is of garages or carports located within the rear half of the site, or with no garage or carport present, attached garages/carports shall be located in the rear half of the house footprint. Otherwise, an attached garage/carport may be located in the front half of the house footprint. "Predominant neighborhood pattern" means the existing garage/carport placement pattern for more than half of the houses on the same side of the block, including the subject site. This calculation shall exclude flag lots, corner lots and existing multifamily developments of three or more units. For blocks longer than 600 feet, the calculations shall be based on the 10 homes located nearest to and on the same side of the block as the subject property, plus the subject site, but for a distance no greater than 600 feet. Detached garages/carports shall be located in the rear half of the site and, if within a rear or side setback, at least 75 feet from the front property line. Detached garages/carports on lots of less than 95 feet in depth, however, may be placed in a required interior side or rear yard if located in the rear half of the lot. Access shall be provided from a rear alley if the existing development pattern provides for alley access. For the calculation of corner lots, the "predominant pattern" shall be established for the street where the new garage/carports fronts.

...

18.12.080 Accessory Uses and Facilities

...

(b) Location and Development Standards

...

- (3) An accessory building shall not be located in a required interior side or rear yard unless the building is at least seventy-five feet from any property line adjacent to a street, measured along the respective lot line. Provided, on corner lots, accessory buildings including detached garages and carports may be located in the rear yard if located at least 75 feet from the front street and at least 20 feet from the side street property lines.

(A) Fixed outdoor fire pits, fireplaces, and cooking surfaces shall be set back a minimum of four feet from the interior side and rear property line.

...

18.12.090 Basements

...

(b) Inclusion of Gross Floor Area

Basements shall not be included in the calculation of gross floor area, provided that:

- (1) basement area is not deemed to be habitable space, such as crawlspace; or
- (2) basement area is deemed to be habitable space but the finished level of the first floor is no more than three feet above the grade around the perimeter of the building foundation. Grade is measured at the lowest point of adjacent ground elevation prior to grading or fill, or finished grade, whichever is lower; or

3) basement area is associated with a historic property as described in Section 18.04.030(a)(65)(D)(vii).

...

18.12.110 Single Family Individual Review

...

(i) If a structure listed on the City's Historic Inventory or by the State of California as National Register Eligible was demolished on a site in conjunction with the issuance of an approval for a building permit, no application for Individual Review for the same property shall be filed within five (5) years from and after the date of issuance of the demolition permit, unless the structure was demolished pursuant to a determination by the Building Official under Section 16.40.040 of Title 16 of this Code that the structure was a dangerous building that cannot be repaired or rehabilitated.

18.12.120 Home Improvement Exception

...

(c) Limits of the Home Improvement Exception

A home improvement exception may be granted only for one or more of the following, not to exceed the specified limits:

...

- (10) For any residence designated on the city's Historic Inventory as a Category 1 ~~or~~ Category 2 through 4 historic structure as defined in Section 16.49.020 of the Palo Alto Municipal Code or any contributing structure within a locally designated historic district, to allow up to 250 square feet of floor area in excess of that allowed on the site, provided that any requested addition or exterior modifications associated with the HIE shall be in substantial conformance with the Secretary of the Interior's Standards for Historic Rehabilitation. The property owner who is granted a home improvement exception under this subsection (10) shall be required to sign and record a covenant against the property, acceptable to the city attorney, which requires that the property be maintained in accordance with the Secretary of the Interior's Standards for Historic Rehabilitation.

...

SECTION 7. Sections 18.15.020 (Definitions), 18.15.030 (Density Bonuses), 18.15.080 (Application Requirements), and 18.15.090 (Review Procedures) of **Chapter 18.15 (Residential Density Bonus)** of Title 18 (Zoning) of the PAMC are amended as follows:

18.15.020 Definitions

Whenever the following terms are used in this Chapter, they shall have the meaning established by this Section:

...

(h) "Density bonus" means a density increase over the maximum residential density granted pursuant to Government Code Section 65915 and this ordinance ~~-, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density.~~

...

(s) "Replace" means either of the following:

- (i) If any dwelling units described in Section 18.15.030(h) are occupied on the date that the application is submitted to the City, the proposed housing development shall provide at least the same number of units of equivalent size ~~or type, or both,~~ to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. For unoccupied dwelling units described in Section 18.15.030(h) in a development with occupied units, the proposed housing development shall provide units of equivalent size or type, or both, to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category in the same proportion of affordability as the occupied units. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. For purposes of this subsection (s) of Section 18.15.020, "equivalent size" means that the replacement units contain at least the same total number of bedrooms as the units being replaced.
- (ii) If all dwelling units described in Section 18.15.030(h) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size ~~or type, or both,~~ as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, then one-half of the required units shall be made available at affordable rent or affordable housing cost to, and occupied by, very low income

persons and families and one-half of the required units shall be made available for rent at affordable housing costs to, and occupied by, low-income persons and families. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years.

...

18.15.030 Density Bonuses

This Section describes the density bonuses that will be provided, at the request of an applicant, when that applicant provides restricted affordable units as described below.

- (a) The City shall grant a 20 percent (20%) density bonus when an applicant for a development of five (5) or more dwelling units seeks and agrees to construct at least any one of the following in accordance with the requirements of this Section and Government Code Section 65915:

...

- (iv) A qualifying mobile home park; or:

(v) At least ten percent (10%) of the total dwelling units of the development for transitional foster youth, as defined in Section 66025.9 of the Education Code, disabled veterans, as defined in Section 18541 of the Government Code, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units described in this subsection shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low income units.

...

- (c) ~~No additional density bonus shall be authorized for a senior citizen development or qualifying mobilehome park beyond the density bonus authorized by subsection (a) of this Section.~~ Reserved

...

- (e) Each development is entitled to only one density bonus, which shall be selected by the applicant based on the percentage of very low restricted affordable units, lower income restricted affordable units, or moderate income restricted affordable units, or the development's status as a senior citizen housing development or qualifying mobilehome park, or the development's provision of restricted affordable units for transitional foster youth, disabled veterans or homeless persons. Density bonuses from more than one category may not be combined. In no case shall a development be entitled to a density bonus of more than thirty-five percent (35%).

...

18.15.080 Application Requirements

An Application for a density bonus, incentive, concession, waiver, modification or revised parking standard shall be made as follows:

- (a) An application for a density bonus, incentive, concession, waiver, modification or revised parking standard shall be submitted with the first application for a discretionary permit for a development and shall be processed concurrently with those discretionary permits. The application shall be on a form prescribed by the City and shall include the following information:

...

- (iv) If a concession or incentive is requested, a brief explanation as to the actual cost reduction achieved through the concession or incentive ~~and how the cost reduction allows the applicant to provide the restricted affordable units.~~

...

- (viii) For concessions and incentives that are not included within the menu of incentives/concessions set forth in subsection (c) of Section 18.15.050, the application requires the submittal of the project proforma or other comparable documentation (referred to herein as the "proforma information") to the Director, providing evidence that the requested concessions and incentives result in identifiable, ~~financially sufficient,~~ and actual cost reductions. The cost of reviewing the project proforma information, including, but not limited to, the cost to the City of hiring a consultant to review the financial data, shall be borne by the applicant. The proforma information shall include all of the following items:

...

- ~~—— (B) Evidence that the cost reduction allows the applicant to provide affordable rents or affordable sales prices; and~~

- ~~(B)~~ (C) Other information requested by the Planning Director. The Planning Director may require additional ~~financial information including information regarding capital costs, equity investment, debt service, projected revenues, operating expenses, and such other~~ information as is required to evaluate the financial proforma information;

...

18.15.090 Review Procedures

...

- (a) Before approving an application for a density bonus, incentive, concession, waiver, modification or revised parking standard, the Approval Authority shall make the following findings, as applicable:

...

- (ii) Any requested concession or incentive will result in identifiable, ~~financially sufficient~~, and actual cost reductions based upon the financial analysis and documentation provided. The City finds that the concessions and incentives included in Section 18.150.050(c) will result in identifiable, ~~financially sufficient~~, and actual cost reductions.

...

SECTION 8. Section 18.16.050 (Office Use Restrictions) of **Chapter 18.16 (Neighborhood, Community, and Service Commercial (CN, CC and CS) Districts)** of Title 18 (Zoning) of the PAMC is amended as follows:

18.16.050 Office Use Restrictions

The following restrictions shall apply to office uses:

- (a) Conversion of Ground Floor Housing and Non-Office Commercial to Office

Medical, Professional, and Business offices shall not be located on the ground floor, unless any of the following apply to such offices:

- (1) Have been continuously in existence in that space since March 19, 2001, and as of such date, were neither non-conforming nor in the process of being amortized pursuant to Chapter 18.30(I);
- (2) Occupy a space that was not occupied by housing, neighborhood business service, retail services, personal services, eating and drinking services, or automotive service on March 19, 2001 or thereafter;

~~(3) In the case of CS zoned properties with site frontage on El Camino Real, were not occupied by housing on March 19, 2001;~~

- ~~(43)~~ Occupy a space that was vacant on March 19, 2001;

...

SECTION 9. Section 18.28.070 (Additional OS District Regulations) of **Chapter 18.28 Special Purpose (PF, OS and AC) Districts** of Title 18 (Zoning) of the PAMC is amended as follows:

18.28.070 Additional OS District Regulations

...

- (b) Site and Design Approval

(2) Major Site and Design Review: For all other projects not reviewed as Minor Site and Design Review, the project will be forwarded to the Planning and Transportation Commission for review and recommendation and then placed on the Council Consent agenda for final action, as prescribed for staff actions outlined in Section ~~18.76.060~~ 18.77.060 (Standard Staff Review Process). Provided, however, that the following projects may be forwarded directly to the City Council Consent agenda by staff without review by the Planning and Transportation Commission, where all of the following conditions apply:

...

SECTION 10. Section 18.30(G).060 (Action by Commission) of **Chapter 18.30(G) (Site and Design (D) Review Combining District Regulations)** of Title 18 (Zoning) of the PAMC is amended as follows:

18.30(G).060 Action by Commission

Unless the application for design approval is diverted for minor architectural review under Section 18.76.020 (b)(3)(~~DE~~), the planning commission shall review the site plan and drawings, and shall recommend approval or shall recommend such changes as it may deem necessary to accomplish the following objectives:

...

SECTION 11. Section 18.40.050 (Location and Use of Accessory Buildings) of **Chapter 18.40 (General Standards and Exceptions)** of Title 18 (Zoning) of the PAMC is amended and a new Section 18.40.190 (Application Withdrawal) is added to the same Chapter as follows:

18.40.050 Location and Use of Accessory Buildings

...

(b) Limitations of Uses for Accessory Buildings

In residential zones, accessory buildings may be located in a required interior yard subject to the following limitations:

...

- (3) An accessory building shall not be located in a required interior side or rear yard unless the building is at least seventy-five feet from any street line, measured along the respective lot line.

(A) Fixed outdoor fire pits, fireplaces, and cooking surfaces shall be set back a minimum of four feet from the interior side and rear property line.

...

18.40.190 Application Withdrawal by Applicant or Director

(a) Applicant Withdrawal. The applicant may withdraw any rezoning, permit or other application submitted pursuant to this Title at any time before action to approve, conditionally approve or deny the application has been taken by the decisionmaking body, by providing written notification to the Director.

(b) Inactive Applications. Where there is inactivity on an application on the part of the applicant for a period of at least six consecutive months, the Director shall have the authority to deem an application withdrawn after providing written notice as provided herein. The Director shall provide notice of his or her intent to deem an

application withdrawn at least thirty days' prior to the proposed effective date. Such notice shall be provided by first class mail to the last known address of the applicant on record with the Director. For purposes of this section, "inactivity" on an application means that the Director has requested from the applicant or has provided the applicant with notice of additional information, materials and/or fees needed by the Director from the applicant to continue to process the application and the applicant has failed to adequately respond to that request or notice.

18.40.200 New Application Submittal Required

The Director shall have the authority to require the filing of a new application when a pending application project description, proposed land uses, building design, or other aspects of the project are substantially modified as to warrant a new review of the project to applicable code sections. The filing of a new application shall be subject to new fees and shall render the previous application withdrawn.

SECTION 12. Sections 18.42.040 (Accessory and Junior Accessory Dwelling Units), and 18.42.110 (Wireless Communication Facilities) of **Chapter 18.42 (Standards for Special Uses** of Title 18 (Zoning) of the PAMC are amended as follows:

18.42.040 Accessory and Junior Accessory Dwelling Units

The following regulations apply to zoning districts where accessory dwelling units and junior accessory dwelling units are permitted.

(a) Accessory Dwelling Units

(1) Purpose

The intent of this section is to provide regulations to accommodate accessory dwelling units, in order to provide for variety to the city's housing stock and additional affordable housing opportunities. Accessory Dwelling Units shall be separate, self-contained living units, with separate entrances from the main residence, whether attached or detached. The standards below are provided to minimize the impacts of accessory dwelling units on nearby residents and throughout the city, and to assure that the size and location of such dwellings is compatible with the existing or proposed residence on the site and with other structures in the area.

(2) Minimum Lot Sizes

- A. In the R-1 district and all R-1 subdistricts, RE district, R-2 district, and RMD district, and properties zoned Planned Community (PC) where single-family residential is an allowed use, the minimum lot size for the development of an accessory dwelling unit is 5,000 square feet.

- B. In the OS District, the minimum lot size for the development of an accessory dwelling unit is 10 acres.

...

(3) Setbacks and Daylight Plane

- A. Except as otherwise provided in this section, accessory dwelling units shall comply with the underlying zoning district's setbacks, including daylight plane requirements.
- B. Notwithstanding section A. above, no setback shall be required for an existing garage that is converted to an accessory dwelling unit, except as provided in subsection (a)(5) below.
- C. In districts permitting second story accessory dwelling units, a setback of ~~no more than~~ five feet from the side and rear lot lines shall be required for an accessory dwelling unit constructed above a garage.

...

(5) Conversion of Space in Existing Single Family Residence or Existing Accessory Structure

Notwithstanding the provisions of subsections (a)(2), (a)(3), (a)(4), (a)(7) and (a)(8), in the R-1 district and all R-1 subdistricts, ~~and the RE district only, R2, RMD, RM and OS districts, and properties zoned Planned Community (PC) where single-family residential is an allowed use,~~ an Accessory Dwelling Unit shall be permitted if the unit is contained within the existing space of a single-family residence or an existing accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety, and if the accessory dwelling unit conforms with the following:

...

(7) Additional Development Standards for Attached Accessory Dwelling Units

- A. Attached accessory dwelling units are those attached to the main dwelling. All attached accessory dwelling units shall be subject to the additional development requirements specified below.
- B. Attached unit size counts toward the calculation of maximum house size.
- C. Unit Size: The maximum size of an attached accessory dwelling unit living area shall not exceed 600 square feet and shall not exceed 50% of the proposed or existing living area of the primary dwelling unit. The accessory dwelling unit and any covered parking provided for the accessory dwelling unit shall be included in the total floor area for the site, but the covered parking area is not included in the maximum 600 square feet for attached unit. Any basement space used as an accessory dwelling

unit or portion thereof shall be counted as floor area for the purpose of calculating the maximum size of the accessory unit.

18.42.110 Wireless Communication Facilities

...

(f) Tier 1 WCF Permit Process and Findings

- (1) A Tier 1 WCF Permit shall be reviewed by the Director. The Director's decision shall be final and shall not be appealable ~~pursuant to the procedures set forth in Chapters 18.77 or 18.78;~~
- (2) The Director shall grant a Tier 1 WCF Permit provided that the Director finds that the applicant proposes an eligible facilities request;
- (3) The Director shall impose the following conditions on the grant of a Tier 1 WCF Permit:
 - (i) The proposed collocation or modification shall not defeat any existing concealment elements of the support structure; and
 - (ii) The proposed WCF shall comply with the development standards in Section 18.42.110(i)(3), (5), (6) and (7), and the conditions of approval in Section 18.42.110(j).

(g) Tier 2 WCF Permit Process and Findings

- (1) A Tier 2 WCF Permit shall be reviewed by the Director, who may, in his or her sole discretion, refer an application to the Architectural Review Board. The Director's decision shall be appealable directly to the City Council. An appeal may be set for hearing before the City Council or may be placed on the Council's consent calendar, pursuant to the process for appeal of architectural review set forth in Section 18.77.070(f).

...

(h) Tier 3 WCF Permit Process and Findings

- (1) A Tier 3 WCF Permit shall be reviewed by the Director, who may, in his or her sole discretion, refer an application to the Architectural Review Board and/or Planning and Transportation Commission. The Director's decision shall be appealable directly to the City Council. An appeal may be set for hearing before the City Council or may be placed on the Council's consent calendar, pursuant to the process for appeal of architectural review set forth in Section 18.77.070(f) ~~and the process for conditional use permits set forth in Section 18.77.060.~~

...

(k) Removal of Abandoned Equipment

A WCF (Tier 1, Tier 2, or Tier 3) or a component of that WCF that ceases to be in use for more than ninety (90) days shall be removed by the applicant, wireless communications service provider, or property owner within ninety (90) days of the cessation of use of that WCF. A new ~~conditional-use~~WCF permit shall not be issued to an owner or operator of a WCF or a wireless communications service provider until the abandoned WCF or its component is removed.

(l) Revocation

The Director may revoke any WCF Permit if the permit holder fails to comply with any condition of the permit. The Director's decision to revoke a Permit shall be appealable pursuant to the process applicable to issuance of the Permit, as provided in subdivisions (f), (g), and (h) of this section~~for architectural review set forth in Section 18.77.070 and the process for conditional use permits set forth in Section 18.77.060.~~

SECTION 13. Sections 18.52.030 (Basic Parking Regulations) and 18.52.050 (Adjustments by the Director) of **Chapter 18.52 (Parking and Loading Requirements)** of Title 18 (Zoning) of the PAMC are amended as follows:

18.52.030 Basic Parking Regulations

...

(i) Transportation Demand Management Plan

(1) Requirement for TDM Plan: A Transportation Demand Management (TDM) Plan to reduce and manage the number of single-occupant motor vehicle trips generated by the project shall be prepared and submitted by the applicant in the following circumstances:

A. For all projects that generate ~~100-50~~ or more net new weekday (AM or PM peak hour) or weekend peak hour trips;

...

(1) The Director shall have the authority to adopt guidelines for preparing TDM plans and when applicable shall coordinate such guidelines with the Transportation Management ~~Authority~~Association.

18.52.050 Adjustments by the Director

...

(d) Transportation Demand Management (TDM)

(2) Where a Transportation Demand Management (TDM) program is proposed or required, the TDM program shall outline parking and/or traffic demand measures to be implemented to reduce parking need and trip generation. The Director shall have the authority to adopt guidelines for preparing TDM plans. Required measures may include, but are not limited to: participation in the Transportation Management ~~Authority~~Association or similar organization, limiting "assigned"

parking to one space per residential unit, providing for transit passes, parking cash-out, enhanced shuttle service (or contributions to extend or enhance existing shuttle service or to create new shared or public shuttle service), car-sharing, traffic-reducing housing, providing priority parking spaces for carpools/vanpools or “green” vehicles (zero emission vehicles, inherently low emission vehicles, or plug-in hybrids, etc.), vehicle charging stations, additional bicycle parking facilities, or other measures to encourage transit use or to reduce parking needs. The program shall be proposed to the satisfaction of the director, shall include proposed performance targets for parking and/or trip reduction and indicate the basis for such estimates, and shall designate a single entity (property owner, homeowners association, etc.) to implement the proposed measures.

...

SECTION 14. Section 18.54.020 (Vehicle Parking Facilities) of **Chapter 18.54 (Parking Facility Design Standards)** of the PAMC is amended as follows:

18.54.020 Vehicle Parking Facilities

(a) Parking Facility Design

...

(3) The required stall widths shown in Table ~~5-3~~ of Section 18.54.070 shall be increased by 0.5 foot for any stall located immediately adjacent to a wall, whether on one or both sides. The director may require that the required stall widths be increased by 0.5 foot for any stall located immediately adjacent to a post, where such post limits turning movements into or out of the stall.

...

SECTION 15. Section 18.76.020 (Architectural Review) of **Chapter 18.76 (Permits and Approvals)** of Title 18 (Zoning) of the PAMC is amended as follows:

18.76.020 Architectural Review

...

(b) Applicability

No permit required under Title 2, Title 12 or Title 16 shall be issued for a major or minor project, as set forth in this section, unless an application for architectural review is reviewed, acted upon, and approved or approved with conditions as set forth in Section 18.77.070.

(1) Exempt Projects. ~~The following projects do not require architectural review: Single family and two family residences do not require architectural review, except as provided under subsections (2)(C) and (2)(D).~~

(A) Single-family and two-family residences do not require architectural review, except as provided under subsections (2)(C) and (2)(D).

(B) Projects determined by the director of planning and community environment to be substantially minor in nature and have inconsequential visual impacts to the adjacent properties and public streets. These exempt projects are referred to as “over the counter projects”. The director shall have the authority to promulgate a list of such exempt projects under this subsection.

...

(3) Minor Projects. The following are “minor projects” for the purposes of the architectural review process set forth in Section 18.77.070, except when determined to be major pursuant to subsection (2)(I) or exempt pursuant to subsection (1)(B):

...

SECTION 16. Sections 18.77.020 (Applications), 18.77.060 (Standard Staff Review Process), 18.77.070 (Architectural Review Process), 18.77.080 (Notice), and 18.77.110 (Revocation or Modification of Approvals) of **Chapter 18.77 (Processing of Permits and Approvals)** of Title 18 (Zoning) of the PAMC are amended, and new Section 18.77.077 (Over the Counter Project Review Process) is added to the same Chapter, as follows:

18.77.020 Applications

...

(d) Resubmittal of applications

If an application is denied, the director or city council may specify that a substantially similar application may not be accepted within 12 months ~~prior to~~ following the date of such denial, unless it is shown that the circumstances surrounding the application have changed substantially.

18.77.060 Standard Staff Review Process

...

(b) Notice of Application Completeness

Not later than thirty days after an application has been received, the director shall notify the applicant in writing whether the application is complete. If the application is determined not to be complete, procedures outlined in in Section 18.77.030 shall apply. ~~Once an application is deemed complete, notice that the application has been filed and deemed complete shall be given by mail to owners and residents of property within 600 feet of the property, by publication, by e-mail, and by posting in a public place. The notice shall include the address of the property and a brief description of the proposed project.~~

(c) Decision by the Director

Not less than twenty-one days following the date an application is deemed complete:

...

(2) Notice of the proposed director's decision shall be given by mail to owners and residents of property within 600 feet of the property, ~~by publication, by e-mail,~~ and by posting in a public place. The notice shall include the address of the property, a brief description of the proposed project, a brief description of the proposed director's decision, the date the decision will be final if no hearing is requested, and a description of how to request a hearing.

(3) The proposed director's decision shall become final fourteen days after the date notice is mailed ~~or published, whichever is later,~~ unless a request for a hearing is filed. The director may, for good cause, specify in writing a longer period for requesting a hearing at the time he or she issued the proposed decisions.

...

(d) Withdrawal of Hearing Request

...

(2) Notice of the proposed director's decision shall be given by mail to owners and residents of property within 600 feet of the property, ~~by publication, by e-mail,~~ and by posting in a public place. Notice shall include the address of the property, a brief description of the proposed project, the specific modifications made to the application, the date the decision will be final, a description of how to request a hearing, and a statement that any request for a hearing on the revised decision is limited to those modifications.

(3) The revised proposed director's decision shall become final fourteen days after the date notice is mailed ~~or published, whichever is later,~~ unless a request for a hearing is filed. The director may, for good cause, specify in writing a longer period for requesting a hearing at the time he or she issues the proposed decision.

(e) Hearing and Recommendation (Upon Request) by the Planning and Transportation Commission

(2) Notice of the revised director's decision shall be given by mail to owners and residents of property within 600 feet of the property, ~~by publication, by e-mail,~~ and by posting in a public place. Notice shall include the address of the property, a brief description of the proposed project, and the date, time and location of the hearing.

...

18.77.070 Architectural Review Process

...

(b) Tentative Director's Decision and Hearing Upon Request for Minor Projects

For a minor project, as defined in Section 18.76.020(b)(3), once the application is deemed complete:

...

(2) Notice of the proposed director's decision shall be ~~given mailed to property owner or applicant and posted in a public place~~by publication. The notice shall include the address of the property, a brief description of the proposed project, a brief description of the proposed director's decision, the date the decision will be final if no hearing is requested, and a description of how to request a hearing.

(3) The proposed director's decision shall become final ~~14-7~~ days after the date notice is mailed ~~or published, whichever is later~~, unless an appeal is filed. The director may, for good cause, specify in writing a longer period for requesting a hearing at the time he or she issues the proposed decision.

(i) When there is more than one entitlement required for a project, the longer appeal or request for hearing period shall govern the effective date for the Minor Architectural Review decision.

(4) The applicant or the subject property owner, or owners or tenants of an adjacent property~~Any party, including the applicant,~~ may request a hearing by the architectural review board on the proposed director's decision by filing a written request with the planning division. There shall be no fee required for requesting such a hearing.

...

(d) Decision by the Director

Upon receipt of a recommendation of the architectural review board:

...

(2) Notice of the director's decision shall be given by mailing to owners and residents of property within 600 feet of the property, ~~by publication once in a local newspaper,~~ and by posting in a public place. Notice shall include the address of the property, a brief description of the proposed project, a brief description of the action to be taken, the date the decision will be final, and a description of how to request a hearing.

(3) The director's decision shall become final 14 days after the date notice is mailed ~~or published, whichever is later~~, unless an appeal is filed. The director may, for good cause, specify in writing a longer period for requesting a hearing at the time he or she issues the proposed decision.

(e) Appeal of the Director's Decision – Filing

Any party, including the applicant, may file an appeal of the director's decision with the planning division for projects reviewed by the architectural review board. The appeal shall be filed in written form in a manner prescribed by the director.

...

18.77.077 Over the Counter Project Review Process

The director of planning and community environment shall be authorized to adopt guidelines, rules, and procedures to implement the over the counter project review process for projects exempt from architectural review under Section 18.76.020(b)(1)(B) of this Title.

18.77.080 Notice

...

(f) Notice by Posting in a Public Place

When notice by posting in a public place is required, notice shall be posted in one or more locations accessible to the public, which may include posting on the city's website. The director shall determine the location or locations for posting.

...

18.77.110 Revocation or Modification of Approvals

...

(c) Decision by the director

...

- (2) Notice of the director's decision shall be given by mailing to owners and residents of property within 600 feet of the property, ~~and by publication once in a local newspaper, and by posting in a public place.~~ Notice shall include the address of the property, a brief description of the noncompliance, a brief description of the action to be taken, the date the decision will be final, and a description of how to appeal the decision.

...

SECTION 17. Section 18.80.060 (Notice of Public Hearing) of **Chapter 18.80 (Amendments to Zoning Map and Zoning Regulations)** of Title 18 (Zoning) of the PAMC is amended as follows:

18.80.060 Notice of Public Hearing

- (a) The planning commission shall give a notice of hearing on a proposed change of district boundaries in the following manner:

- (1) Notice of the hearing shall be given by publication once in a local newspaper of general circulation not less than ~~twelve~~ten days prior to the date of the hearing.
- (2) Additionally, excepting a city-wide change in the zoning map, the city shall mail written notice of such hearing at least ~~twelve~~ten days prior to the date of the hearing to each owner of real property and to each residential occupant within 600 feet of the exterior boundary of the property for which classification is sought. Notice shall be provided as specified in Section 18.77.080. Compliance with the procedures set forth in this section shall constitute a good faith effort to

provide notice, and the failure of any owner or occupant to receive notice shall not prevent the city from proceeding with the hearing or from taking any action nor affect the validity of any action.

...

SECTION 18. Section 21.12.090 (Action on tentative and preliminary parcel maps) of **Chapter 21.12 (Tentative Maps and Preliminary Parcel Maps)** of Title 21 (Subdivisions and Other Divisions of Land) of the PAMC is amended as follows:

21.21.090 Action on tentative and preliminary parcel maps

...

(e) Action on Preliminary Parcel Map. Subject to the appeal procedures of this title, the director of planning shall approve, conditionally approve, or deny any preliminary parcel map filed. The director of planning shall take such action or defer the application for decision by the City Council pursuant to Section 18.40.170 of Title 18, within fifty days of the date of filing, unless extended by the mutual consent of the director of planning and the applicant. Prior to ~~taking any such action~~ approving, conditionally approving, or denying a preliminary parcel map, the director of planning shall hold a public hearing at which any interested person shall be allowed to present testimony regarding the ~~preliminary parcel~~ map. If, in the opinion of the director of planning, there are issues of major significance associated with the proposed parcel map, such map may be deferred by the director of planning to the planning commission and the city council for processing in accordance with the procedures set forth in subsections (c) and (d) of this section.

(f) Notice of Hearing.

- (1) Notice of the hearing required by subsections (c), (d), or (e) above shall be given by publication once in a local newspaper of general circulation not less than ~~twelve~~ ten days prior to the date of the hearing.
- (2) Additionally, the city shall mail written notice of such hearing at least ~~twelve~~ ten days prior to the date of the hearing to each owner of record of real property within ~~ninety-one and four tenths meters (three~~ six hundred feet) of the exterior boundary of the property for which classification is sought as such owner of record is shown in the last equalized assessment roll and to owners or occupants of the property within ~~ninety-one and four tenths meters (three~~ six hundred feet) as shown on the city utility customer file. Compliance with the procedures set forth in this section shall constitute a good-faith effort to provide notice and the failure of any owner or occupant to receive notice shall not prevent the city from proceeding with the hearing or from taking any action nor affect the validity of any action.

...

- (4) In addition to any other information required, the applicant shall submit with its application a list of all owners of record of real property within ~~ninety-one and four-tenths meters (three~~six hundred feet) of the exterior boundary of the property to be subdivided as shown in the last equalized assessment roll (as updated by the semiannual real estate update information).

SECTION 19. Section 21.32.010 (Application for exceptions) of **Chapter 21.32 (Conditional Exceptions)** of Title 21 (Subdivisions and Other Divisions of Land) of the PAMC is amended as follows:

21.32.010 Application for exceptions

A subdivider may apply for conditional ~~E~~exceptions to ~~any of~~ the requirements and regulations set forth in this title ~~and Title 18, as defined in Section 21.04.030(b)(17)~~. Such exceptions may be granted only by the city council after recommendation by the planning commission. Application for such exception shall be made by petition of the subdivider, stating fully the grounds of the application and the facts relied upon by the petitioner. Such petition shall be submitted with the tentative or preliminary parcel map for which the exception is requested and shall be reviewed and processed concurrent with said map.

SECTION 20. Any provision of the Palo Alto Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 21. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 22. The Council finds that the adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to CEQA Guideline sections 15061(b) and 15301, 15302 and 15305 because it simply provides a comprehensive permitting scheme.

SECTION 23. This Ordinance shall not apply to any planning or land use applications deemed complete as of the effective date of this Ordinance.

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SECTION 24. This Ordinance shall be effective on the thirty-first date after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

NOT PARTICIPATING:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

Assistant City Attorney

City Manager

Director of Planning & Community
Environment



Planning & Transportation Commission

Staff Report (ID # 8041)

Report Type: Action Items **Meeting Date:** 11/29/2017

Summary Title: Planning-Related Code Amendments (2018)

Title: PUBLIC HEARING: Recommendation to the City Council Regarding the Adoption of an Ordinance Amending Palo Alto Municipal Code (PAMC) Chapter 2.20 (Planning and Transportation Commission) of Title 2, Chapter 9.10 (Noise) of Title 9, Chapter 10.64 (Bicycles, Roller Skates and Coasters) of Title 10, and Chapters 18.04 (Definitions), 18.10 (Low-Density Residential (RE, R-2 and RMD)), 18.12 (R-1 Single-Family Residential District), 18.15 (Residential Density Bonus), 18.16 (Neighborhood, Community, and Service Commercial (CN, CC and CS) Districts), 18.28 (Special Purpose (PF, OS and AC) Districts), 18.30(G) (Combining Districts), 18.40 (General Standards and Exceptions), 18.42 (Standards for Special Uses), 18.52 (Parking and Loading Requirements), 18.54 (Parking Facility Design Standards), 18.76 (Permits and Approvals), 18.77 (Processing of Permits and Approvals), and 18.80 (Amendments to Zoning Map And Zoning Regulations) of Title 18, and Chapters 21.12 (Tentative Maps and Preliminary Parcel Maps) and 21.32 (Conditional Exceptions) of Title 21. The Proposed Ordinance is Exempt from the California Environmental Quality Act (CEQA) in Accordance With CEQA Guidelines Section 15061(b)(3). For More Information, Please Contact Clare Campbell at clare.campbell@cityofpaloalto.org.

From: Hillary Gitelman

Recommendation

Staff recommends that the Planning and Transportation Commission (PTC) take the following action(s):

City of Palo Alto
Planning & Community Environment
250 Hamilton Avenue
Palo Alto, CA 94301
(650) 329-2442

1. Find the proposed draft ordinance exempt from the provision of CEQA in accordance with CEQA Guidelines section 15061(b)(3); and
2. Recommend to the City Council adoption an ordinance (Attachment A) to amend various sections of the Palo Alto Municipal Code.

Report Summary

This report transmits proposed amendments to various sections of the Palo Alto Municipal Code (PAMC), with many changes affecting Title 18, the Zoning Code. These code amendments are intended to modify code provisions to reflect current practice or policy, correct errors, and introduce some new policy initiatives. The proposed code modifications are focused on the items listed below and are presented in the report in this same order.

Minor Text Clarifications:

1. Correct Threshold Requiring a Transportation Demand Management Plan
2. Correct Reference to Transportation Management Association
3. Remove Duplicate Definition of “Director”
4. Correct Table Reference – Parking Stall Widths
5. Correct Site and Design Code Reference
6. Clarify that the Contextual Garage Placement Applies to Carports
7. Clarification of Carport and Garage Definitions
8. Site and Design Review – Correct Code Reference for Minor Projects
9. Resubmittal of Denied Applications – Correct Language
10. Map Exceptions Process – Add Reference to Title 18
11. Clarify Floor Area Exemptions for Historic Homes
12. Office Restrictions in CS/CN/CC – Remove CS Reference
13. Preliminary Parcel Map – Add Option of Director’s Deferral Directly to Council

Procedural-Related Amendments:

14. Remove Restrictive Election Time for PTC Officers
15. Establish Uniform Timing for Public Hearing Notices for Maps and Zone Changes
16. Add Provision to Allow Closure of Inactive Applications and Require New Application for Substantially Modified Projects
17. Prohibit Gas-Powered Leaf Blowers in Commercial Districts
18. Add Floor Area Exemption for Trash Enclosures in the CD District
19. Expand Exceptions for Historic Homes Related to Floor Area and HIE’s
20. Clarify Setbacks for Outdoor Fireplaces and BBQs
21. Establish an Over the Counter Architectural Review Process
22. Various Updates to Application Processing and Approvals
23. Clarifications to the Wireless Communication Facilities Review Process
24. Modify Accessory Dwelling Unit Requirements Per State Regulations

- 25. Update Residential Density Bonus Per State Requirements
- 26. Remove Bicycle License Requirement
- 27. Individual Review and Demolition of Historic Inventory Properties

Background

As circumstances warrant, the City reviews the Municipal Code and makes changes intended to better achieve stated goals, reflect operational practices, provide clarity, or improve a process provided for in the ordinance. There are also instances where code changes are needed to address changes in State law or in the City's Comprehensive Plan. The various code amendments proposed are part of an on-going effort to bring the zoning code into alignment with these practices and regulations. The last collection of Planning Code Amendments was approved earlier this year in February 2017. It is staff's intent to bring forward minor code amendments annually, as needed.

In this collection of proposed code updates, there are references to code sections other than Title 18 (Zoning Code). These additional sections include the noise ordinance, parking and bicycle regulations, and the subdivision process.

Discussion

The proposed code amendments are divided into two groups, one for minor text clarifications and one for procedural or process focused changes. Each amendment is presented with the "issue" that is being addressed by the proposed code change, and includes any relevant background. Additionally, for each existing code section, the staff report provides links to the web-based municipal code so the reader can review the related code sections in full detail. For each amendment, once the issue has been identified, the report then provides the proposed text modifications. The majority of the proposed text amendments are included in the body of the report and for those that are not, they can be found in the attached draft ordinance, Attachment A.

A. Minor Text Clarifications

1. Correct Threshold Requiring a Transportation Demand Management Plan

Issue: With the adoption of Ordinance 5406 in February 2017, a text correction was missed regarding the threshold of when a project would be required to provide a Transportation Demand Management (TDM) plan. Section [18.52.030](#) (i)(1)(A), in Basic Parking Regulations, should reflect 50 new vehicle trips and not 100. This 50 trip threshold was what Council intended by their motion, and the code sections were amended to reflect this change, but the correction was overlooked for the section referenced here.

Proposed Text:

(i) Transportation Demand Management Plan

(1) Requirement for TDM Plan: A Transportation Demand Management (TDM) Plan to reduce and manage the number of single-occupant motor vehicle trips generated by the project shall be prepared and submitted by the applicant in the following circumstances:

(A) For all projects that generate ~~50~~ 100 or more net new weekday (AM or PM peak hour) or weekend peak hour trips;

2. Correct Reference to Transportation Management Association

Issue: In Chapter 18.52, Parking and Loading Requirements, there are two incorrect references to the Transportation Management Authority; it should read Transportation Management Association.

Proposed Text:

[18.52.030](#) *Basic Parking Regulations*

(i) Transportation Demand Management Plan

(2) The Director shall have the authority to adopt guidelines for preparing TDM plans and when applicable shall coordinate such guidelines with the Transportation Management Authority ~~Authority~~ Association.

[18.52.050](#) *Adjustments by the Director*

(d) Transportation Demand Management (TDM)

(2) Where a Transportation Demand Management (TDM) program is proposed or required, the TDM program shall outline parking and/or traffic demand measures to be implemented to reduce parking need and trip generation. The Director shall have the authority to adopt guidelines for preparing TDM plans. Required measures may include, but are not limited to: participation in the Transportation Management Authority ~~Authority~~ Association or similar organization,

3. Remove Duplicate Definition of “Director”

Issue: Section [18.04.030](#)(a), Definitions, contains the same two definitions for “Director” and they are listed in subsections (41.5) and (44.8). The second listing is the correct placement for this definition.

Proposed Text:

~~(41.5) “Director” means the director of planning and community environment or his or her designee.~~

4. Correct Table Reference – Parking Stall Widths

Issue: Section [18.54.020](#)(a)(3), in Parking Facility Design, refers to the incorrect table for the dimensions for parking stalls.

Proposed Text:

(3) The required stall widths shown in Table ~~3~~ 5 of Section 18.54.070 shall be increased by 0.5 foot for any stall located immediately adjacent to a wall, whether on one or both sides.

5. Correct Site and Design Code Reference

Issue: Section [18.28.070](#)(b)(2), in Site and Design Approval, refers to the incorrect application review process/code section.

Proposed Text:

(2) Major Site and Design Review: For all other projects not reviewed as Minor Site and Design Review, the project will be forwarded to the Planning and Transportation Commission for review and recommendation and then placed on the Council Consent agenda for final action, as prescribed for staff actions outlined in Section ~~18.77.060~~ [18.76.060](#) (Standard Staff Review Process).

6. Clarify that the Contextual Garage Placement Applies to Carports

Issue: Section [18.12.040](#)(f), Contextual Garage Placement, specifies requirements for where the required covered parking can be placed on the lot for single-family homes in the R-1 zone. Staff believes, and has expressed in the past, that this code provision as written fails to capture its intended purpose of discouraging covered vehicle parking in the front half of the lot where a pattern exists with parking placed on the rear half of lots. This matter was previously presented to the PTC on September 9th, September 30th and October 28, 2015.¹ The Commission at that time did not support forwarding to Council a recommendation to change this code section based in part on commissioner arguments that the modification represented a new policy direction and not a clarification. Staff disagrees with this perspective. Long term city employees with knowledge of the municipal code have affirmed the interpretation to allow carports in the front portion of the lot when a garage was precluded from doing so is anomalous to the historical application of the code. Moreover, staff has found only a limited number of examples where building permits were issued that allowed carports in the front half of the lot when the neighborhood pattern clearly shows parking in the rear half. To avoid any future misinterpretations, staff recommends adding text to clearly indicate that carports must also comply with the contextual placement requirements that apply to garages.

¹ PTC Meeting Minutes: [09/09/2015 Meeting](#); [09/30/2015 Meeting](#); [10/28/2015 Meeting](#)

Proposed Text:

(f) Contextual Garage and Carport Placement

If the predominant neighborhood pattern is of garages or carports located within the rear half of the site, or with no garage or carport present, attached garages/carports shall be located in the rear half of the house footprint. Otherwise, an attached garage/carport may be located in the front half of the house footprint. "Predominant neighborhood pattern" means the existing garage/carport placement pattern for more than half of the houses on the same side of the block, including the subject site. This calculation shall exclude flag lots, corner lots and existing multifamily developments of three or more units. For blocks longer than 600 feet, the calculations shall be based on the 10 homes located nearest to and on the same side of the block as the subject property, plus the subject site, but for a distance no greater than 600 feet. Detached garages/carports shall be located in the rear half of the site and, if within a rear or side setback, at least 75 feet from the front property line. Detached garages/carports on lots of less than 95 feet in depth, however, may be placed in a required interior side or rear yard if located in the rear half of the lot. Access shall be provided from a rear alley if the existing development pattern provides for alley access. For the calculation of corner lots, the "predominant pattern" shall be established for the street where the new garage/carports fronts.

7. Clarification of Carport and Garage Definitions

Issue: The definitions of "carport" and "garage" are not as clear as they should be and the proposed text change would help clarify these terms and correct the specifications for what is considered a garage.

Proposed Text:

18.04.030(a) Definitions

(24.5) "Carport" means a portion of a principal residential building or an accessory building to a residential use designed to be utilized for the shelter of one or more motor vehicles, which is completely open ~~(unenclosed)~~ on two or more sides including on the vehicular entry side, and which is covered with a solid roof.

(59) "Garage, private" means a portion of a principal residential building or an accessory building to a residential use designed to be utilized for the shelter of one or more motor vehicles and which is completely enclosed on three ~~two~~ or more sides and covered with a solid roof.

8. Site and Design Review – Correct Code Reference for Minor Projects

Issue: Section 18.30(G).060, Action by Commission, contains the wrong code reference for the minor architectural review process.

Proposed Text:

Unless the application for design approval is diverted for minor architectural review under Section 18.76.020 (b)(3)(D) ~~(E)~~ the planning commission shall review the site plan and drawings, and shall recommend approval or shall recommend such changes as it may deem necessary to accomplish the following objectives...

9. Resubmittal of Denied Applications – Correct Language

Issue: Section [18.77.020\(d\)](#), in Resubmittal of Applications, has a text error regarding when an applicant may submit a revised project when the earlier application was denied.

Proposed Text:

(d) Resubmittal of applications

If an application is denied, the director or city council may specify that a substantially similar application may not be accepted within 12 months ~~following~~ following prior to the date of such denial, unless it is shown that the circumstances surrounding the application have changed substantially.

10. Map Exceptions Process – Add Reference to Title 18

Issue: Title 21, Subdivisions, provides direction for all subdivision processes, including a map with exceptions. In this title, “exception” is defined to mean “an exception to any of the requirements for lot width, lot depth, lot area, street frontage or access, as set forth in Titles 18 or 21...” For added clarification to the map exception process in Section [21.32.010](#), a specific reference to this “exception” definition is proposed. This will help clarify that map exceptions may include certain standards (i.e. lot width, lot area, street frontage or access) required by Title 18.

Proposed Text:

21.32.010 Application for exceptions.

A subdivider may apply for conditional ~~E~~exceptions to ~~any of~~ the requirements and regulations set forth in this title and Title 18, as defined in Section 21.04.030(b)(17). Such exceptions may be granted only by the city council after recommendation by the planning commission. Application for such exception shall be made by petition of the subdivider, stating fully the grounds of the application and the facts relied upon by the petitioner. Such petition shall be submitted with the tentative or preliminary parcel map for which the exception is requested and shall be reviewed and processed concurrent with said map.

11. Clarify Floor Area Exemptions for Historic Homes

Issue: Section [18.12.040\(b\)](#) Table 3, Summary of Gross Floor Area for Single Family Residential Districts, does not precisely reference how basements should be evaluated for inclusion in the floor area. Table 3 is meant to serve as a simplified reference of the specifications for low density residential floor area inclusions and exclusions, as outlined in the definition of Gross Floor Area (PAMC [18.04.030\(65\)\(C\) & \(D\)](#)). The edit to the Table 3 makes the language consistent with the definition.

Proposed Text:

18.12.040(b) Table 3 Summary of Gross Floor Area for Single Family Residential Districts

<i>Description</i>	<i>Included In GFA</i>	<i>Excluded from GFA</i>
<i>Basement area for Category 1 & 2 Historic Homes or contributing structure within a historic district (even if greater than 3' <u>above grade</u>)</i>		✓

12. Office Restrictions in CS/CN/CC – Remove CS Reference

Issue: The section [18.16.050\(a\)\(3\)](#), in Office Use Restrictions, specifies that for CS zoned sites along El Camino Real, ground floor office use is allowed providing the site was not used for housing on March 19, 2001. This provision is at odds with other code language seeking to minimize or limit the circumstances in which office is allowed in certain districts. A preceding code section prohibits ground floor office when housing, neighborhood business service, retail services, personal services eating and drinking services and automobile services previously occupied the site in the CS, CN or CC districts. Section 18.16.050(a)(3) created a loophole that would allow in the CS zone commercial office to replace retail or restaurants, which is not the intent of this section. It was believed that this issue was addressed in the last planning codes update, but it was not. The City's adoption of the retail preservation ordinance has further limited the impact of this code section, nevertheless, staff recommends amending this section. The proposed amendment would simply strike in its entirety subsection (a)(3) of Section 18.16.050 thereby remedying the conflict.

Proposed Text:

18.16.050 Office Use Restrictions

The following restrictions shall apply to office uses:

(a) Conversion of Ground Floor Housing and Non-Office Commercial to Office

Medical, Professional, and Business offices shall not be located on the ground floor, unless any of the following apply to such offices:

(1) Have been continuously in existence in that space since March 19, 2001, and as of such date, were neither non-conforming nor in the process of being amortized pursuant to Chapter 18.30(l);

(2) Occupy a space that was not occupied by housing, neighborhood business service, retail services, personal services, eating and drinking services, or automotive service on March 19, 2001 or thereafter;

~~*(3) In the case of CS zoned properties with site frontage on El Camino Real, were not occupied by housing on March 19, 2001;*~~

(4) Occupy a space that was vacant on March 19, 2001;

13. Preliminary Parcel Map – Add Option of Director’s Deferral Directly to Council

Issue: Section [21.12.090](#), action on tentative and preliminary parcel maps, provides the director of planning the option to defer action on a preliminary parcel map after a Director’s Hearing if the project is considered complex. The current process requires both the PTC and Council to review the deferred action. Staff suggests modifying the code language to allow the director discretion to forward deferred actions directly to Council for review, making the PTC review optional. The reason to provide this alternative process is to streamline the review of certain projects that have multiple entitlements where Council is required to take action en masse and the PTC has already reviewed the project in a non-map related public hearing, or where the PTC otherwise has no other review authority.

Proposed Text:

21.12.090(e) Action on Preliminary Parcel Map.

Subject to the appeal procedures of this title, the director of planning shall approve, conditionally approve, or deny any preliminary parcel map filed. The director of planning shall take such action within fifty days of the date of filing, unless extended by the mutual consent of the director of planning and the applicant. Prior to taking any such action, the director of planning shall hold a public hearing at which any interested person shall be allowed to present testimony regarding the preliminary parcel map. If, in the opinion of the director of planning, there are issues of major significance associated with the proposed parcel map, such map may be deferred by the director of planning to the planning commission and the city council, or the city council directly under the provisions of Section 18.40.170 of Title 18, for processing in accordance with the procedures set forth in subsections (c) and (d) of this section.

B. Procedural Related Amendments

14. Remove Restrictive Election Time for PTC Officers

Issue: The current code Section [2.20.030](#) specifies that the PTC officers, chair and vice chair, shall be elected annually in November. The proposed code revision would remove the November provision and allow elections to occur as needed, while maintaining the one-year term limit. This change is consistent with the provisions for other city commissions, including the Utility Advisory, Parks and Recreation, and Library Advisory Commissions, and the Architectural Review Board. The PTC can update its rules of order as needed to establish a preferred time to conduct its election of officers.

Proposed Text:

2.20.030 Officers

The Commission shall elect a chairperson and a vice chairperson from its membership who shall serve in such capacity for terms of one year each, or until a successor is elected ~~its officers annually at the first meeting in November.~~

15. Establish Uniform Timing for Public Hearing Notices for Maps and Zone Changes

Issue: All required public hearings associated with planning entitlements have a ten calendar day minimum for providing notice, with the exceptions of zoning amendments ([18.80.060](#)) and maps ([21.12.090\(f\)](#)), which require 12 days. For consistency and to eliminate errors, staff recommends using the 10 day noticing requirement for all public hearing requirements. Additionally, the mailing radius is being updated to reflect our existing practice of doing a 600 foot radius mailing for all hearings, except for hearings for Home Improvement Exceptions and Individual Reviews.

Proposed Text:

21.12.090 Action on tentative and preliminary parcel maps.

(f) Notice of Hearing.

(1) Notice of the hearing required by subsections (c), (d), or (e) above shall be given by publication once in a local newspaper of general circulation not less than ~~ten~~ ten ~~twelve~~ days prior to the date of the hearing.

(2) Additionally, the city shall mail written notice of such hearing at least ~~ten~~ ten ~~twelve~~ days prior to the date of the hearing to each owner of record of real property ~~within ninety-one and four-tenths meters (three~~ within ninety-one and four-tenths meters (three ~~six hundred feet)~~ six hundred feet) of the exterior boundary of the property for which classification is sought as such owner of record is shown in the last equalized assessment roll and to owners or occupants of the property within ninety-one and four-tenths meters (three hundred feet) as shown on the city utility customer file.

(4) In addition to any other information required, the applicant shall submit with its application a list of all owners of record of real property within ~~ninety-one and four-tenths~~

~~meters (threesix hundred feet)~~ of the exterior boundary of the property to be subdivided as shown in the last equalized assessment roll (as updated by the semiannual real estate update information)

18.80.060 Notice of Public Hearing

(a) The planning commission shall give a notice of hearing on a proposed change of district boundaries in the following manner:

(1) Notice of the hearing shall be given by publication once in a local newspaper of general circulation not less than ~~ten~~ ten ~~twelve~~ days prior to the date of the hearing.

(2) Additionally, excepting a city-wide change in the zoning map, the city shall mail written notice of such hearing at least ~~ten~~ ten ~~twelve~~ days prior to the date of the hearing to each owner of real property and to each residential occupant within 600 feet of the exterior boundary of the property for which classification is sought. Notice shall be provided as specified in Section 18.77.080. Compliance with the procedures set forth in this section shall constitute a good faith effort to provide notice, and the failure of any owner or occupant to receive notice shall not prevent the city from proceeding with the hearing or from taking any action nor affect the validity of any action.

16. Add Provision to Allow Closure of Inactive Applications and Require New Application for Substantially Modified Projects

Issue: The zoning code does not have a provision that specifically allows staff to close out or withdraw a planning application due to lack of response by the applicant. In practice, staff notifies an applicant in writing that a response to staff comments is needed within a specific timeframe (this time line is relative to the level of response required); otherwise the project will be closed out. This practice has been sufficient for determining which applicants are still interested in moving forward and which ones are not. Staff seeks to codify this existing practice by adding a new section to [18.40](#), General Standards and Exceptions. Additionally, staff is proposing new code language that would give the Director authority to require the filing of a new planning application when substantial changes to a project warrant a new review to applicable code sections. While this does not happen often, there have been instances where an applicant's project plans change, sometimes significantly, and all previous work reviewing the prior project is no longer relevant. In some of these instances, the City is not being compensated for staff time spent reviewing a new project.

New Text:

18.40.190 Application Withdrawal

(a) Applicant Withdrawal. The applicant may withdraw any rezoning, permit or other application submitted pursuant to this Title at any time before action to approve, conditionally approve or deny the application has been taken by the decisionmaking body, by providing written notification to the Director.

(b) Inactive Applications. Where there is inactivity on an application on the part of the applicant for a period of at least six consecutive months, the Director shall have the authority to deem an application withdrawn without holding any hearing. The Director shall provide a courtesy notice to the applicant at the last known address of the applicant on record with the Director of the Director's intention to deem an application withdrawn at least thirty days prior to deeming such application withdrawn, and the notice shall specify the date that the application is deemed withdrawn. For purposes of this section, "inactivity" on an application means that the Director has requested from the applicant or has provided the applicant with notice of additional information, materials and/or fees needed by the Director from the applicant to continue to process the application and the applicant has failed to adequately respond to that request or notice.

18.40.200 New Application Submittal Required

New Application Submittal. The Director shall have the authority to require the filing of a new application when a pending application project description, proposed land uses, building design, or other aspects of the project are substantially modified as to warrant a new review of the project to applicable code sections. The filing of a new application shall be subject to new fees and renders the previous application withdrawn.

17. Prohibit Gas-Powered Leaf Blowers in Commercial Districts

Issue: The use of leaf blowers powered by an internal combustion engine generates high noise volumes and is generally considered a public nuisance. The current regulations prohibit the use of these gas-powered leaf blowers in residential districts (Section [9.10.060\(f\)\(2\)](#)). The proposal is to carry the prohibition over to commercial districts as well. The proposed amendment includes an exception for activity on City-owned or operated lands and on Palo Alto Unified School District lands. Another exception is proposed on these lands for emergency related operations.

Proposed Text:

9.10.060(f) Leaf Blowers.

- (2) No person shall operate any leaf blowers within a residential zone except during the following hours: nine a.m. and five p.m. Monday through Friday and ten a.m. and four p.m. Saturday. No person shall operate any leaf blower within any non-residential zone except during the following hours: eight a.m. and six p.m. Monday through Friday, and ten a.m. to four p.m. Saturday. No person shall operate any leaf blowers on Sundays and holidays. No person shall operate any leaf blower powered by an internal combustion engine within any residential or commercial zone ~~after July 1, 2005~~. Commercial operators of leaf blowers are prohibited from operating any leaf blower within the city if*

they do not prominently display a certificate approved by the Chief of Police verifying that the operator has been trained to operate leaf blowers according to standards adopted by the Chief of Police. In addition to all authorizations and restrictions otherwise provided in this chapter, public streets, sidewalks, and parking lots in business districts and at the Municipal Golf Course and all city parks may be cleaned between 4:00 a.m. and 8:00 a.m. using leaf blowers which bear an affixed manufacturer's label indicating the model number of the leaf blower and designating a noise level not in excess of sixty-five dBA when measured from a distance of fifty feet utilizing American National Standard Institute methodology.

(3) The use of leaf blowers powered by an internal combustion engine shall be allowed when used on property owned or operated by the City or the Palo Alto Unified School District between nine a.m. and five p.m. Monday through Friday and ten a.m. and four p.m. Saturday for routine maintenance operations, and at any time for emergency operations.

18. Add Floor Area Exemption for Trash Enclosures in the CD District

Issue: Currently the code [Section [18.04.030\(a\)\(65\)\(B\)](#)] allows some minor floor area exemptions upon Director approval for non-residential and multi-family development, but specifically excludes the CD Commercial Downtown zone district. The recommendation is to allow these same minor exemptions to apply in the CD zone and clarify the requirements.

For existing developed commercial sites in the CD zone district, businesses are finding it difficult to comply with City regulations for required enclosed and covered refuse areas (as required by Public Works Water Quality). This is primarily because these refuse structures count towards the site's floor area calculation and many of the existing developed sites are at or over their floor area ratio (FAR) limit. The purpose of requiring covered exterior refuse areas is to prevent rain from falling on containers, compactors, or the enclosure floor and carrying contaminants to the stormwater system. Additionally, polluted water can enter the storm drain through leaks or spills when the containers are emptied.

Although this current code section allows for additional Director approved FAR for the purpose of code compliance, the recommendation is to explicitly identify that new code-required structures for refuse areas for existing facilities may qualify for this exemption. The intent of this code modification is not to allow conversion of existing interior refuse area to be relocated outside the building, but to provide some relief for constrained sites when no refuse storage area exists. Additionally, the added FAR cannot be grandfathered and carried over to a newly constructed project.

Proposed Text:

18.04.030(a)(65) Gross Floor Area

(B) *Non-residential & Multifamily Exclusions: For all zoning districts other than the R-E, R-1, R-2 and RMD residence districts, “gross floor area” shall not include the following:*

(iv) ~~Except in the CD District and in areas designated as special study areas,~~ For existing structures, minor additions of floor area approved by the director of planning and community environment for purposes of resource conservation or code compliance, upon the determination that such minor additions will increase compliance with environmental health, safety or other federal, state or local standards. Any additional floor area approved shall not qualify for grandfathered floor area in the event the building is later replaced or redeveloped. Such allowable additions may include, but not be limited to, the following:

a. Areas designed for resource conservation, such as trash compactors, recycling, and other energy facilities meeting the criteria outlined in Section 18.42.120 (Resource Conservation Energy Facilities);

b. Areas designed and required for hazardous materials storage facilities, disability related access or seismic upgrades. For the purpose of this section disability related upgrades are limited to the incremental square footage necessary to accommodate disability access and shall be subject to the Director’s approval not to exceed 500 square feet per site. Disability related upgrades shall only apply to remodels of existing buildings; ~~and shall not qualify for grandfathered floor area in the event the building is later replaced or otherwise redeveloped;~~ and

c. Areas designed and required for refuse storage, such as trash, recycling, and compost, when it is the minimum amount needed to comply with current code requirements. The provisions of this subsection (a)(65)(B)(iv) are not intended to and do not allow the removal of a previously approved existing interior refuse storage area.

19. Expand Exceptions for Historic Homes Related to Floor Area and HIE’s

Issue: The existing code allows for certain exceptions to residences designated on the city’s Historic Inventory as a Category 1 or 2 historic resource. The Historic Resources Board (HRB) and staff recommend the two exceptions highlighted below regarding basements and Home Improvement Exceptions (HIE) be extended to residences designated as Category 3 and 4 resources. And, in the case regarding basement floor area exceptions, to also include homes listed on the National Register of Historic Places or California Register of Historical Resources. The inclusion of these other historic designated properties for exceptions further supports retention and preservation of these valued resources in the City.

A. Expand basement exceptions for historic homes in the Gross Floor Area definition.

Proposed Text:

18.04.030(a)(65)(D) *Low Density Residential Exclusions: In the RE and R-1 single-family residence districts and in the R-2 and RMD two-family residence districts, “gross floor area” shall not include the following:*

(vii) For residences designated on the city's Historic Inventory as a Category 1 ~~through 4~~ ~~or Category 2~~ historic structure as defined in Section 16.49.020, ~~of this or any contributing structure within a locally designated historic district, or if individually listed on the National Register of Historic Places or California Register of Historical Resources,~~ the following gross floor area exclusions apply.

- a. New or existing basement area, including where the existing finished level of the first floor is three feet or more above grade around the perimeter of the building foundation walls; and
- b. Up to 500 square feet of unusable attic space in excess of five feet in height from the floor to the roof above.

B. Correct references in 18.12.040(b) Table 3, Summary of Gross Floor Area For Single Family Residential Districts, to reflect definition changes noted above. See attached ordinance for details.

C. Update basement regulations for R-1, RE, R-2, and RMD (Sections 18.10 and 18.12) to reflect changes in definition noted above.

Proposed Text:

18.10.090/18.12.090 Basements

(b) Inclusion as Gross Floor Area

Basements shall not be included in the calculation of gross floor area, provided that:

- (1) basement area is not deemed to be habitable space, such as crawlspace; or
- (2) basement area is deemed to be habitable space but the finished level of the first floor is no more than three feet above the grade around the perimeter of the building foundation-; or
- (3) basement area is associated with a historic property as described in Section 18.04.030(b)(65)(D)(vii).

D. Expand the applicability of HIE provisions related to Historic Homes.

18.12.120(c) Limits of the Home Improvement Exception

A home improvement exception may be granted only for one or more of the following, not to exceed the specified limits:

(10) For any residence designated on the city's Historic Inventory as a Category 1 ~~through 4~~ ~~or Category 2~~ historic structure as defined in Section 16.49.020 of the Palo Alto Municipal Code or any contributing structure within a locally designated historic district, to allow up to 250 square feet of floor area in excess of that allowed on the site, provided that any requested addition or exterior modifications associated with the HIE shall be in substantial conformance with the Secretary of the Interior's Standards for Historic Rehabilitation. The property owner who is

granted a home improvement exception under this subsection (10) shall be required to sign and record a covenant against the property, acceptable to the city attorney, which requires that the property be maintained in accordance with the Secretary of the Interior's Standards for Historic Rehabilitation.

20. Clarify Setbacks for Outdoor Fireplaces and BBQs

Issue: There has been a noticeable rise in the popularity of outdoor fireplaces and cooking surfaces in residential properties. The key concern that staff considered with regards to siting these features was fire safety. The Fire Department advised that there are no setback requirements for single-family homes, but suggested a three to five foot clearance to provide maneuverability in case of a fire was appropriate. Another concern considered by staff was the potential nuisance from smoke and odors traveling to neighboring properties. As it stands today, kitchens (i.e. open kitchen windows) can be as close as six feet from a property line and chimneys four feet away, which provides some context for smoke and odor producing activities relatively close to property lines.

When an outdoor fireplace or kitchen has been proposed in the interior yard, staff has applied the R-1 development standards of an attached fireplace to these detached accessory structures and uses. The R-1 code allows a fireplace/chimney, when attached to the home, to encroach into a side setback up to two feet, maintaining a four foot minimum setback. Based on the interpretation of this R-1 standard, outdoor fire pits, fireplaces, and cooking surfaces/BBQs have been required to maintain a four foot setback from both the interior side and rear property lines; they are not permitted in the front yard or street side yard. All other requirements that apply to accessory structures would apply and remain unchanged. The intent with the revision is to codify this code interpretation and practice.

Proposed Text:

[18.10.080](#)(b)(3)/[18.12.080](#) (b)(3) Location and Development Standards [RE, R-2, RMD, R-1]

(b) Location and Development Standards

(3) An accessory building shall not be located in a required interior side or rear yard unless the building is at least seventy-five feet from any property line adjacent to a street, measured along the respective lot line. Provided, on corner lots, accessory buildings including detached garages and carports may be located in the rear yard if located at least 75 feet from the front street and at least 20 feet from the side street property lines.

(A) Fixed outdoor fire pits, fireplaces, and cooking surfaces shall be set back a minimum of four feet from the interior side and rear property line.

[18.40.050](#) (b) Limitations of Uses for Accessory Buildings [General Standards and Exceptions]

In residential zones, accessory buildings may be located in a required interior yard subject to the following limitations:

(3) *An accessory building shall not be located in a required interior side or rear yard unless the building is at least seventy-five feet from any street line, measured along the respective lot line.*

(A) Fixed outdoor fire pits, fireplaces, and cooking surfaces shall be set back a minimum of four feet from the interior side and rear property line.

21. Establish an Over the Counter Architectural Review Process

Issue: Architectural review (AR) is required prior to the issuance any permit on private property except for single family homes and two-family residences.² The Municipal Code identifies two types of AR projects: Major or Minor. All Major projects go to the Architectural Review Board for review and recommendation. Some Minor projects go to the Board, but most are administratively approved by City staff. Minor projects range from new buildings or additions fewer than 5,000 square feet to fences, landscaping, signs, and other minor building changes. Any decision on a Minor AR requires a written determination and a 14-day appeal period.³ Such requirements are not practical for trades professionals seeking to obtain an over the counter permit from the building department for minor and routine work. Moreover, these requirements may discourage property owners and trades professionals from seeking the permits needed for building, mechanical or electrical work due to the extended application processing time and costs. From a public health and general welfare perspective, staff would rather encourage individuals to obtain required permits and streamline or exempt certain work from the Minor AR requirement.

To advance this objective, staff proposes introducing a new category of exempt projects from AR review. The planning director, or designee, would have the authority to determine a project exempt if it is it would not have a significant or material effect to the building or environment (natural and built) and was consistent in scope with a list of representative projects that the director would maintain and update from time to time. An initial draft document is provided in Attachment B, and includes items such as in kind window and door replacement, mechanical screening, refuse enclosures and small business signs. A final list will be provided to the City Council and maintained by the director.

Importantly, this process gives the director the authority to make any of the exempt projects subject to a Minor or Major review process. Projects that are determined exempt would not be subject to further administrative processing including formal determination letters or appeal opportunities.

Proposed Text:

² Architectural review may be required for these structures under certain circumstances in the Neighborhood Preservation Combining District or when three or more single family residences are proposed at one time.

³ Amendments to the 14 day appeal period and the requirements for publication of the Minor AR decisions are also proposed for modification in this ordinance and are addressed in the following sections.

18.76.020 Architectural Review

(b) Applicability

No permit required under Title 2, Title 12 or Title 16 shall be issued for a major or minor project, as set forth in this section, unless an application for architectural review is reviewed, acted upon, and approved or approved with conditions as set forth in Section 18.77.070.

(1) Exempt Projects. The following projects do not require architectural review: Single-family and two-family residences do not require architectural review, except as provided under subsections (2)(C) and (2)(D).

(A) Single-family and two-family residences, except as provided under subsections (2)(C) and (2)(D).

(B) Projects determined by the Director to be substantially minor in nature and have inconsequential visual impacts to the adjacent properties and public streets. These exempt projects are referred to as "over the counter projects". The director shall have the authority to promulgate a list of such exempt projects under this subsection.

(3) Minor Projects. The following are "minor projects" for the purposes of the architectural review process set forth in Section 18.77.070, except when determined to be major pursuant to subsection (2)(I) or exempt pursuant to subsection (1)(B):

18.77.077 Over the Counter Project Review Process

The director of planning and community environment shall be authorized to adopt guidelines, rules, and procedures to implement the over the counter project review process for projects exempt from architectural review under Section 18.76.020(b)(1)(B) of this Title.

22. Various Updates to Application Processing and Approvals

Issues: Chapter 18.77, Processing of Permits and Approvals, has numerous sections affected by the following proposed modifications. The issues have been identified below, but the proposed text revisions are included in attached draft ordinance. Please refer to Attachment A for details.

A. Reduce Request for Hearing Timeline to Seven Days & Limit Hearing Request to Adjacent Property Owners and Tenants (Minor Architectural Review)

Minor AR projects, reviewed by staff, are subject to a 14-day period in which anyone may request a hearing before the ARB. Staff recommends reducing this waiting period to seven days. The staff-level reviews are rarely called up for public hearings. Based on the last six years, an average of 130+ minor AR applications were processed each year; and in the last

three years, only two requests for hearing were filed.⁴ The two-week waiting period unnecessarily slows down work for relatively routine and minor projects. Moreover, staff proposes limiting the opportunity to request a hearing before the ARB to the applicant, property owner and any adjacent owner, or tenant on the subject or adjacent property. The impact of Minor AR projects is typically negligible and if experienced at all, it is likely affecting adjacent property owners or tenants. This modification affects code Section 18.77.070(b)(3) and (b)(4).

B. Remove Requirements for Publishing and E-mailing Director's Decisions

In several sections of Chapter 18.77 of Title 18, the code specifies that the notice of the director's decision is to be given by mail to owners and residents of property within 600 feet of the property, by publication, and by e-mail, and by posting in a public place. This notification requirement applies to the majority of entitlements that we have and include conditional use permits, variances, and board-level architectural review. Staff recommends removing the requirement for publication (i.e. newspaper notice) and/or e-mail of director's decisions from the relevant code sections. In practice, the director's decision for any entitlement is not published in the newspaper, and there is no associated standard e-mail practice that staff completes. Removing these references codifies existing practice. If we were to fully implement these existing requirements for additional notices, the newspaper publication specifically would increase the cost for the applicant and delay the approval process by an additional week, at minimum. The current notification process of mailing the decision letter to the applicant, sending notice cards to the 600 foot radius when applicable, and posting decisions on the City's website has served as an effective process to keep citizens informed. Notices to individuals who request them will continue to be sent. This modification would affect the following code sections: 18.77.060(c)(2) & (d)(2) & (e)(2); 18.77.070(b)(2) & (d)(2); 18.77.110(c)(2).

Additional clean-up language is needed to strike references to *publish* as it relates to the above section. This modification would affect the following code sections: 18.77.060(c)(3) & (d)(3); 18.77.070(b)(3) & (d)(3).

C. Miscellaneous

In addition to the issues mentioned above, staff has taken the opportunity to clarify some additional outdated references in this same Chapter 18.77, as noted below:

- a. Replace outdated language regarding application completeness in section 18.77.060(b) with the current language from 18.77.030.
- b. Include in the description of Notice of Posting in a Public Place (18.77.080(f)) that it may include posting on the City's website. This addition is taking into account the prevalent and commonplace use of the internet to access public information.

⁴ These two projects were related to applications to install solar panels on city parking garages on Cambridge Avenue.

23. Clarifications to the Wireless Communication Facilities Review Process

Issue: Section [18.42.110](#), Wireless Communication Facilities, requires that the Director, or Council on appeal, make specified findings prior to issuing a wireless communications facility permit, including, in some cases, Architectural Review and Conditional Use Permit findings. In many cases, staff may wish to seek input from the ARB or PTC prior to issuing a Director's decision. Unfortunately, the current code is, at best, silent on whether wireless permit applications may be referred to the ARB or PTC for recommendation; at worst, it suggests that the ARB and PTC would consider a wireless permit only pursuant to an appeal after the Director has issued a tentative decision. In addition, because the code addresses appeals by simply referencing the processes for architectural review and conditional use permits, it is unclear whether appeals may be heard directly by the Council or must first be heard by the ARB, PTC, or both. Because federal regulations set presumptively reasonable "shot clock" timelines for processing wireless permits (including appeals), it is essential that the City's wireless code spell out clear and efficient procedures for decision and appeal.

The proposed changes clarify that the Director may refer wireless permit applications to the ARB or PTC for recommendation, and that appeals are heard directly by the City Council. This clarification more closely reflects staff's current practice of seeking ARB input prior to issuing a Director's decision on certain applications, eliminates the potential for duplicative hearings, and provides a more efficient process consistent with the federal "shot clock" timelines applicable to wireless permit applications.

Proposed Text:

18.42.110 Wireless Communication Facilities.

(f) Tier 1 WCF Permit Process and Findings

(1) A Tier 1 WCF Permit shall be reviewed by the Director. The Director's decision shall be final and shall not be appealable ~~pursuant to the procedures set forth in Chapters 18.77 or 18.78;~~

(g) Tier 2 WCF Permit Process and Findings

(1) A Tier 2 WCF Permit shall be reviewed by the Director, who may, in his or her sole discretion, refer an application to the Architectural Review Board. The Director's decision shall be appealable directly to the City Council. An appeal may be set for hearing before the City Council or may be placed on the Council's consent calendar, pursuant to the process for appeal of architectural review set forth in Section 18.77.070 (f).

(h) Tier 3 WCF Permit Process and Findings

(1) A Tier 3 WCF Permit shall be reviewed by the Director, who may, in his or her sole discretion, refer an application to the Architectural Review Board and/or Planning and Transportation Commission. The Director's decision shall be appealable directly

to the City Council. An appeal may be set for hearing before the City Council or may be placed on the Council's consent calendar, pursuant to the process for appeal of architectural review set forth in Section 18.77.070(f) and the process for conditional use permits set forth in Section 18.77.060.

(k) *Removal of Abandoned Equipment*

A WCF (Tier 1, Tier 2, or Tier 3) or a component of that WCF that ceases to be in use for more than ninety (90) days shall be removed by the applicant, wireless communications service provider, or property owner within ninety (90) days of the cessation of use of that WCF. A new ~~conditional use~~ WCF permit shall not be issued to an owner or operator of a WCF or a wireless communications service provider until the abandoned WCF or its component is removed.

(l) *Revocation*

The Director may revoke any WCF Permit if the permit holder fails to comply with any condition of the permit. The Director's decision to revoke a Permit shall be appealable pursuant to the process applicable to issuance of the Permit, as provided in subdivisions (f), (g), and (h) of this section. ~~for architectural review set forth in Section 18.77.070 and the process for conditional use permits set forth in Section 18.77.060.~~

24. Modify Accessory Dwelling Unit Requirements Per State Regulations

Earlier this year, the City adopted comprehensive regulations related to Accessory Dwelling Units (ADU) to conform to state law that became effective on January 1, 2017. Subsequently, the state Legislature passed two additional bills AB 494 and SB 229, signed by the Governor in September 2017, clarifying the previously adopted ADU legislation. The City's existing ordinance only requires minor modifications to remain consistent with state law. The proposed amendments include those conforming changes as well as other clarifications.

Cities still retain the ability to designate those areas where new ADUs are permitted. The City's existing regulations allow ADUs to be constructed in districts where single-family residential is an allowed use on parcels with an existing single-family dwelling. State law has been revised to clarify that an ADU may be constructed on sites with either an existing *or proposed* single-family dwelling. This revision is consistent with the City's implementation of the ADU ordinance, and the proposed ordinance would make conforming changes to reference proposed single-family homes. The proposed ordinance would also add to the list of zoning districts where ADUs are allowed (R-1, R-2, RE, RMD and OS districts) those sites that are zoned Planned Community where single-family dwelling is an allowed use. The PC zoned sites would require a minimum lot size of 5,000 square feet like the conventional zoning districts (other than the OS district) where ADUs are allowed.

With respect to ADUs established through conversions of space within an existing single-family home (i.e., garage) or an existing accessory structure, the new state legislation requires that

such conversions be allowed in any zoning district where single-family residential is an allowed use (i.e., multi-family zoning districts permitting single-family dwellings). The state law previously required only that such conversions be allowed in single-family residence districts, and the existing ordinance accordingly applied these provisions to the R-1 district, all R-1 subdistricts, and the RE district only. The proposed amendment would also apply the conversion provisions to the R-2, RMD, RM, and OS and PC districts where single-family residential is an allowed use.

The proposed ordinance revisions are in Section 12 of Attachment A.

25. Update Residential Density Bonus Per State Requirements

On January 1, 2017, several amendments to the State Density Bonus Law took effect. The proposed amendments to the City's Density Bonus Ordinance are intended to conform to the current state law.

AB 2501 made a number of changes to facilitate applicants' use of Density Bonus Law and clarify provisions of the law. Among them:

- Local governments may not require applicants to prepare an additional report or study to qualify for a density bonus, but may require provision of reasonable documentation to establish eligibility for the requested density bonus.
- Local governments may no longer reject incentives and concessions on the grounds they are not "required in order to provide for affordable housing costs". The requested incentive or concession may only be denied if it "does not result in identifiable and actual cost reductions." The agency as the burden of proof for denying an incentive or concession.
- An applicant that qualifies for a density bonus can choose to accept a lower density bonus or none at all, while remaining eligible for incentives and concessions.
- Certain mixed use projects may qualify for a density bonus.

Amendments are proposed to PAMC Sections 18.15.020(h), 18.15.080 and 18.15.090, as shown in Attachment A, to implement these changes.

AB 2442 added that a 20% density bonus shall be granted to any project that reserves at least 10% of its housing units for disabled veterans, foster youth, or homeless persons. These units must be offered to the selected group at the same affordability levels of very-low income units. The proposed ordinance would amend PAMC Section 18.15.030(a) to add this type of housing to the list of projects eligible for a density bonus, and require an affordability restriction of 55 years to be recorded for these very-low income units.

The Density Bonus Law requires that developers interested in demolishing an existing housing development (or constructing on a site where housing was demolished in the prior 5 years) ensure the new housing project that enjoys a density bonus includes at least as many

affordable units as were demolished. This ensures there is no loss to the affordable housing stock overall. State law requires that any new affordable units constructed are the “equivalent size” of the units being replaced, which, the law states, means that the replacement units contain at least the same total number of bedrooms as the units being replaced. This requirement is narrower than the current requirements of PAMC Section 18.15.020(s)(i)-(ii), which allow for new units of equivalent size or type or both. The proposed ordinance would amend that section to mirror state law’s narrower definition of replacement.

26. Remove Bicycle License Requirement

Issue: The current code Section [10.64.010](#), bicycle license required, requires all residents to obtain a license to operate a bike of certain size within the City. The license requirement has not been enforced in the City and is considered a barrier to encouraging the use of bikes as an alternative mode of transportation. In support of City goals to encourage and support bike use, staff recommends the removal of the bike license requirement. In lieu of a City license, staff will encourage cyclist to register bikes online through a state or regional program to prevent theft.

Proposed Text: Delete section 10.64.010, which requires bicycle licenses and strike all references thereto in the chapter. See draft ordinance for details, Attachment A.

27. Individual Review and Demolition of Historic Inventory Properties

Issue: Individual Review (IR) is an application process to review two story homes in the R1 district in compliance with the IR Guidelines. The City receives about 100 IR applications a year. Due to the discretionary nature of these applications, some properties require a historic evaluation if the existing structure is listed on the City’s historic inventory. If a property is on the inventory and confirmed to be a historic resource, project modifications or an expanded environmental analysis may be required.

In some instances, an owner may seek to replace an existing residence with a single story home. This type of project is not subject to discretionary or environmental review. Staff has observed in rare instances, after the existing structure has been demolished, that an owner, or perhaps new owner, seeks a project modification that includes a second story and is now subject to discretionary review. However, with the existing structure removed, any opportunity to review a potentially historic resource is lost, which may affect neighborhood character and potentially the community’s historic fabric.

While rare, the above scenario illustrates a concern staff has with the code. And, while it may not be construed by some as a loophole, the current code does not create any disincentive to discourage this activity that effectively circumvents the historic evaluation process and could have a significant effect on the local and community-wide environment. Accordingly, staff recommends that a stay in application processing be established that would prevent the issuance of a second story addition on those properties that previously received approval to demolish an existing structure. This provision would only apply to properties that had

structures listed on the city's inventory or listed as National Register Eligible, which are defined terms in state and local laws. Another exemption allows for the removal of dangerous or unsafe buildings. The draft ordinance includes a five year stay on future IR applications, but the Commission may want to discuss whether that is the appropriate timeframe.

Proposed Text:

18.12.110 Single Family Individual Review

- (i) *If a structure listed on the City's Historic Inventory or by the State of California as National Register Eligible was demolished on a site in conjunction with the issuance of an approval for a building permit, no application for Individual Review for the same property shall be filed within five (5) years from and after the date of issuance of the demolition permit, unless the structure was demolished pursuant to a determination by the Building Official under Section 16.40.040 of Title 16 of this Code that the structure was a dangerous building that cannot be repaired or rehabilitated.*

Environmental Review

The proposed code amendments have been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. Specifically, the proposed amendments have been determined to be exempt from further environmental review per CEQA Guideline section 15061(b)(3) (Review for Exemption) because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment, and it can be seen with certainty that there is no possibility that the activity in question may have a significantly effect on the environment. Additionally, all future development that may be impacted by any of the proposed code changes will be subject to a project specific CEQA analysis as part of the required planning entitlement review (e.g. Architectural Review, Site and Design, Subdivision, etc.) to determine if there are any environmental impacts.

Public Notification, Outreach & Comments

The Palo Alto Municipal Code requires notice of this public hearing be published in a local paper at least ten day in advance. Notice of a public hearing for this project was published in the Palo Alto Weekly on November 17, 2017.

Included as Attachment C of the report is a comment letter received regarding ADU ownership requirements. Staff will be prepared to discuss as needed at the meeting.

Next Steps

Upon recommendation from the PTC, staff will forward the staff recommended ordinance with agreed upon changes to City Council for review. In instances where a majority of the PTC has a different recommendation from staff, that viewpoint will be represented in the staff report

along with implementing language for the Council's consideration. Only one ordinance, however, will be presented to the Council, which is anticipated to occur in early 2018.

Alternative Actions

In addition to the recommended action, the Planning and Transportation Commission may:

1. Recommend adoption of the draft ordinance to the City Council with modifications.
2. Continue the discussion to a future PTC hearing with the expectation that a recommendation to the City Council would be forwarded that time.

Report Author & Contact Information

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PTC⁵ Liaison & Contact Information

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(650) 329-2679
jonathan.lait@cityofpaloalto.org

Attachments:

- Attachment A: Draft Ordinance (PDF)
- Attachment B: Draft Over the Counter Architectural Review Guidelines (DOCX)
- Attachment C: Lundy Comment Letter Regarding ADUs (PDF)

⁵ Emails may be sent directly to the PTC using the following address: planning.commission@cityofpaloalto.org



CITY OF
PALO
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n Avenue

Planning & Transportation Commission

Action Agenda: November 29, 2017

Call to Order / Roll Call

6:02PM

Oral Communications

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

Agenda Changes, Additions, and Deletions

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

City Official Reports

1. Assistant Directors Report, Meeting Schedule and Assignments

Action Items

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

2. PUBLIC HEARING: Recommendation to the City Council Regarding the Adoption of an Ordinance Amending Palo Alto Municipal Code (PAMC) Chapter 2.20 (Planning and Transportation Commission) of Title 2, Chapter 9.10 (Noise) of Title 9, Chapter 10.64 (Bicycles, Roller Skates and Coasters) of Title 10, and Chapters 18.04 (Definitions), 18.10 (Low-Density Residential (RE, R-2 and RMD)), 18.12 (R-1 Single-Family Residential District), 18.15 (Residential Density Bonus), 18.16 (Neighborhood, Community, and Service Commercial (CN, CC and CS) Districts), 18.28 (Special Purpose (PF, OS and AC) Districts), 18.30(G) (Combining Districts), 18.40 (General Standards and Exceptions), 18.42 (Standards for Special Uses), 18.52 (Parking and Loading Requirements), 18.54 (Parking Facility Design Standards), 18.76 (Permits and Approvals), 18.77 (Processing of Permits and Approvals), and 18.80 (Amendments to Zoning Map And Zoning Regulations) of Title 18, and Chapters 21.12 (Tentative Maps and Preliminary Parcel Maps) and 21.32 (Conditional Exceptions) of Title 21. The Proposed Ordinance is Exempt from the California Environmental Quality Act (CEQA)

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1. Spokespersons that are representing a group of five or more people who are identified as present at the meeting at the time of the spokesperson's presentation will be allowed up to fifteen (15) minutes at the discretion of the Chair, provided that the non-speaking members agree not to speak individually.
 2. The Chair may limit Oral Communications to 30 minutes for all combined speakers.
 3. The Chair may reduce the allowed time to speak to three minutes to accommodate a larger number of speakers.

1 in Accordance With CEQA Guidelines Section 15061(b)(3). For More Information,
2 Please Contact Clare Campbell at clare.campbell@cityofpaloalto.org.

3 Chair Lauing: Ok, so the first study session is on the action item is itemized in number two so

4 we'll not take any speaker cards for item two and (unintelligible) (interrupte)

5 Mr. Lait: Do you want to hear a Staff report first or – your call. Typically, we do it a Staff
6 presentation and then hear from the public.

7 Chair Lauing: I presume they read it but let's go ahead and do that.

8 Ms. Clare Campbell, Senior Planner: Great, thank you. Good evening Commissioners, Clare
9 Campbell, Senior Planner. So, tonight Staff if bring forward a collection of planning related code
10 changes for adoption in 2018. The group of miscellaneous code amendments were adopted
11 earlier by Council in February.

12 The proposed amendments are intended to be minor in nature and not controversial. The
13 amendments are to address simple text errors, modify the code to reflect current practice,
14 introduce some new policy initiative and update the code to be consistent with the State law.
15 This is specific to the accessory dwelling units and the housing density bonus. As noted it the
16 Staff report, the amendments are grouped into twenty-seven categories and are broadly
17 divided into minor text amendments and procedural amendments. This slide shows that the
18 majority of changes are affecting Title 18 and you'll also see noted that there are a handful of
19 other code sections that are also being affected by the proposed amendments today.

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1. Spokespersons that are representing a group of five or more people who are identified as present at the meeting at the time of the spokesperson's presentation will be allowed up to fifteen (15) minutes at the discretion of the Chair, provided that the non-speaking members agree not to speak individually.
 2. The Chair may limit Oral Communications to 30 minutes for all combined speakers.
 3. The Chair may reduce the allowed time to speak to three minutes to accommodate a larger number of speakers.

1 So, here is a list of all of the text clarification amendments. Basically, we've got some that are
2 just typo corrections and then we have some clarifying language that's being added to the
3 code. The next list here represents all of the procedural related amendments. So, here we've
4 got quite a few on the list for all of the things that we're looking at tonight and Staff has
5 selected six amendments to review in more detail in the presentation. And those are the ones
6 that have been high lighted on the slide for you so there are six of them. These amendments
7 are thought to be generally of more interest for discussion tonight.

8 So, the first one is item number 18 in the Staff report and this is related to adding the floor area
9 exemption for refuse areas for the CD District. So, in the commercial and multi-family zones,
10 the current code already allows for minor floor area exemptions for purposes of code
11 compliance. One is determined that these minor additions would increase compliance with
12 environmental health, safety, or other standards; with the exception for sites that are located
13 in the CD District and special study areas. So, the proposed amendment would remove this
14 exemption for the CD District and special study areas and then specifically mention that refuse
15 areas are considered for the floor area exemption, even though it's already implied with the
16 existing language.

17 So, the next one is to establish an over the counter review process. So, I'd like to just clarify first
18 that the Staff report incorrectly refers to this amendment as an over the counter architectural
19 review process so this was missed in the final edits of the report. The proposed amendment
20 was intended to establish an over the counter review process separate from the architectural

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1. Spokespersons that are representing a group of five or more people who are identified as present at the meeting at the time of the spokesperson's presentation will be allowed up to fifteen (15) minutes at the discretion of the Chair, provided that the non-speaking members agree not to speak individually.
 2. The Chair may limit Oral Communications to 30 minutes for all combined speakers.
 3. The Chair may reduce the allowed time to speak to three minutes to accommodate a larger number of speakers.

1 review. As a reminder, for all commercial and multi-family projects, all exterior changes to the
2 site which can be new constructions or existing façade improvements or site improvements,
3 these all require architectural review. And depending on the scope of the work, it would be
4 considered either Major or Minor and there would be a respective review process applied to
5 that project. So, for very minor projects such as a door or window change or adding equipment
6 screening, trash enclosures and that type of thing, we regularly review and approve them at the
7 Development Center in association with related Building Permits. And we... and this is without
8 requiring a Formal Architectural Review Application to be completed first. So, our current code
9 doesn't actually have a specific provision to allow Staff to approve projects in this manner and
10 the proposed amendment would codify this existing practice. At the Director's discretion, the
11 over the counter process would allow approval of projects deemed insignificant and that have
12 no effect to the building or the adjacent environment. And again, it's typically associated with a
13 Building Permit but there could be instances where maybe it's not and a good example of that
14 is it may be a minor landscape change like switching out a plant type or something like that on a
15 site. Project subject to the over the counter review would not be subject to further
16 administrative processing so that would include appeals and having to do approval letters and
17 decision... a formal decision-making process. Everything would be encompassed within the
18 Building Permit review and that process. So, Attachment B provides a draft of the Over the
19 Counter Review Guidelines and this is still being developed. And this guideline will help guide

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1 Staff and applicants with the process and the possible eligible projects that would be
2 considered for this type of review.

3 Ok, so the next one is Item Number 22(A) in the Staff report and it's an amendment to reduce
4 the request for hearing time for Staff Level architectural reviews and limit those that make
5 those requests. So, as noted in the Staff report, we process over 130 Staff level Architectural
6 Review Applications a year and we rarely get a request for hearings for these minor projects.
7 So, I think this understanding helps bolster support for these proposed amendments. So, the
8 amendment would apply to Minor Staff level architectural review projects only and it doesn't
9 apply to anything that's a Board level review. It would reduce the request for hearing time from
10 a 14-calendar day period to a 7-day period and this is intended to reduce the overall application
11 processing time and it still maintains a process for an appeal if that was something that a
12 member of the public wanted to do. The amendment would also reduce the range of hearing
13 requesters from anyone to project applicants and adjacent property owners or tenants. And
14 this is usually what we think of the people who are most affected by these minor projects.

15 Ok, so the next amendment is related to the ADUs and it's to bring our local regulations in
16 compliance with the state regulations. So, the state regulations will take effect on January 1st,
17 2018, and basically, it includes these very minor but key changes. So, ADUs are permitted not
18 only on sites with existing single-family homes but now must be allowed with proposed homes.
19 So, basically what that means is if someone submits for an Architectural – I'm sorry, an
20 Individual Review Application or even a Single-Story Home Building Permit it can now include

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1 the accessory dwelling unit with that permit application. And we've actually been doing this
2 already with the permits that have been submitted. The second item is that all ADUs must be
3 allowed in zones that permit single-family use and it's listed here. So, that's the R-1, R-2, RE,
4 RMD, OS and designated PC zones that have single-family as a use and not just those districts
5 zoned for single-family use. So, there are other updates to the ADU Ordinance that are being
6 prepared and that will be brought back to the Planning Commission in December in a study
7 session. So, this is also a good time to mention that Staff has received a letter from the public
8 which was attached to the Staff report. The issues raised in the letter regarding occupancy will
9 be one of the items that will be discussed or addressed in the study session coming up next
10 month. And as you are already aware, Mr. Lundy is present in the audience and his sister to
11 speak to his concerns.

12 Alright, so the next state driven update is for the Housing Density Bonus Regulations. The
13 updates state regulation took effect earlier in January of this year and the key updates include
14 local governments may not require applicants to prepare an additional report or study to
15 qualify for a density bonus, local governments may no longer reject incentives and concessions
16 on the grounds that they are not required in order to provide for affordable housing costs,
17 there's a twenty percent density bonus that shall be granted to any project that reserves at
18 least ten percent of the housing units for disabled Veterans, foster youth or homeless persons.
19 And lastly, the density bonus law requires developers of new housing projects to replace all
20 demolished affordable units so there's no net loss.

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1 Alright, so this is the very last one here so... And its item number 27 and it has to do with the
2 Individual Review Process and the demolish of historic properties. So, the purpose of this
3 amendment is to discourage the misuse of the permitting process to potentially avoid
4 additional environmental analysis and historic review when building a new home. If a structure
5 is listed on the City's Historic Inventory or is National Register Eligible and is demolished, an
6 association with an approved Building Permit for a new single-story home and no home is
7 constructed, no application for an Individual Review shall be filed within 5-years of the date of
8 the demolish permit issuance. That was a mouth full, alright.

9 So, now there are three ordinance corrections that I just want to review quickly with you. They
10 are very minor and I'd just like to point those out. So, the first one is Section Number One of the
11 ordinance and it's related to the PTC Officer election and the highlighted text here should be...
12 Should remain in the section it was just erroneously deleted so that's very simple there.

13 The next one is related to Section Two of the ordinance related to leaf blowers and basically,
14 we want to strike the language referring to the Palo Alto Unified School District. The school
15 district is exempted from complying with the City's Noise Regulation.

16 The last one is related to ADUs and again, there are two words of highlighted text that just need
17 to be deleted.

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1 Alright so for our next steps, upon recommendation from the Planning Commission, the draft
2 ordinance will be revised and forward to City Council for review and that's tentatively
3 scheduled for February 2018.

4 And then I'd just like to do a summary of a revised motion. So, Staff recommends that the
5 Planning Commission find the proposed draft ordinance exempted from the provisions of CEQA
6 in ordinance [Note - accordance?] with the CEQA Guidelines Section 15061(b)(3) and that PTC
7 recommend to the City Council adoption of an ordinance with the three text corrections just
8 sited in Section One, Two and Twelve to amend various sections of the Palo Alto Municipal
9 Code and that concludes Staff's presentation, thank you.

10 Chair Lauing: Ok, thank you. We do have two speaker cards but I understand that Commissioner
11 Rosenblum has to leave in about 15-minutes so is that, about right? So, if we could just maybe
12 slightly change the procedure, you're speaking to one narrow issue and we can get his
13 comments a number of things before he has to leave. So, unless there are any objections to
14 that, let's go with that and we'll be to you in about 10-minutes speakers. Commissioner
15 Rosenblum.

16 Commissioner Rosenblum: Great, thank you so much. I have – my daughter is in the Jordan
17 Choir and she got a solo for the first time so she really wants me there. So, just a couple things,
18 first I appreciate this exercise. I've now gone through it several times and I think each time I
19 think it's getting closer to the intent so my comments are really about the intent of this

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1 exercise, which is there's a number of things that are really small. So, Staff, there is a couple
2 instance where there's clearly a word missing and they've reinserted that word and that makes
3 sense but then there are other things that are quick significant. So, one of my main things that I
4 think the discipline that needs to be on this Commission is that things that big should not just
5 be approve in this kind of meeting. They should have a full hearing, we should discuss is this the
6 right thing, is this the wrong thing so a lot of things I go through and I try to take the test of is
7 this is a meaningful change or is this just something that oh, we should have been recorded. So,
8 under that I say, my personal belief is that Item Number Six which is clarification of the
9 contextual garage placement [unintelligible] it applies to carports is actually significant. Even
10 though the Staff explanation is that this was always the intent, I'm not sure and I think it could
11 affect a lot of people so it's something that I don't think is one of these on the bus type changes
12 of just cleaning up language.

13 Number 11 which is floor are exemptions for historic homes. This is just one I don't understand
14 as well as I should so I would just ask I hope my fellow Commissioner's dig in a little bit to
15 understand this a little bit better.

16 Number 12, office restrictions in CS, CN, CC, I looked at the Palo Alto zoning map and looked at
17 all of the CS areas affected and again same thing. I am not sure... it's not apparent to me that
18 this is one of those things that was just an obvious mistake and so would like the
19 Commissioners to dig in a little bit with Staff to understand was this something that when
20 drafting the ordinance around office use was simply overlooked. But it doesn't appear that way

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1 to me from the way it's written and it doesn't appear that way to me necessarily from where
2 the CS zones are on the map.

3 The procedural items, the ones that I think are of interest to discuss further, are obviously we'll
4 discuss the election time for PTC Officers. I think that would be a lively discussion but on that
5 one, my only comment is since Commissioner Lauing has served on other Commissions and it's
6 referenced in the Staff report that part of the reason for this is to align with the way other
7 Commissions do their business. It would be great to hear from you how that works in other
8 places because I just don't know what that means that we shall elect Officers at our discretion.
9 I'm not sure what that means exactly, like what time, who calls it, is it like the British system
10 where you call for a vote of confidence at any time?

11 The – Number 17 which is the gas-powered leaf blowers in commercial districts, this is also one
12 that I just don't necessarily understand the leaf blower industry. I'm not sure if there are certain
13 commercial properties that are just not... That you have to have a gas-powered leaf blower for.
14 So, I don't understand if this is a big change for some folks or not a big change. I personally
15 don't like gas-powered leaf blowers in Palo Alto but it's possible that I just don't understand
16 that electrically flowers may have constraints. For example, that this may have unintended
17 consequences to extend this into commercial areas.

18 The... to be consistent, Items Number 24 and 25 I'm in favor of but to be consistent I'm not sure
19 these are small deals. I think this puts us in alignment with state law, this is around ADUs and

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1 density bonuses and so if the... If Staff's argument is this simple aligns us with what the state
2 has already required then I am satisfied with that and I'm in favor of these anyway. But to be
3 fair, I'm not sure that these are small deals and I'm not sure that Palo Alto always tries to be
4 perfectly in compliance with state law. And I guess our Attorney can comment on that at the
5 time that we discuss these items but those are my impressions. These are the items I pulled out
6 as not necessarily being as simple as oh, a word was omitted and we're just adding that back.
7 These things seem to have more substance, at least on my reading. And that's it for me and
8 I'll... if that's ok, I'll listen to the speakers and the (interrupted)

9 Chair Lauing: Yeah, no I was just going to ask you just for clarification. So, are you suggesting,
10 for example on some of these bigger deals, that we carve those out, re-agendize them for a
11 different time and give them further debate?

12 Commissioner Rosenblum: For some of them so for example, Items Twenty-Four and Twenty-
13 Five (interrupted)

14 Chair Lauing: Right.

15 Commissioner Rosenblum: If it's determined that those are a bigger deal then it should be part
16 of an ADU review for example and then this should be considered. Like I said, I would support
17 these things and say it's in accordance with state law but this is something where if you
18 determine that these are bigger deals, then it should come back and have a more meaty
19 discussion on that issue with people preparing against that issue. And so, these are the items

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1 that seem to be slightly larger. I doubt we'll have a whole meeting on gas-powered leaf
2 blowers, I ask from the Commissioners was just to ask about this. If this is something that is an
3 onerous requirement in any way or if this is something that is actually just an omission where it
4 should have always exempted commercial properties and just no one ever did it.

5 Chair Lauing: My question was your intent on the process and it sounded like, which was why I
6 was asking a question just so that your colleagues can hear, that you want some of these things
7 carved out for more discussion at a later time.

8 Commissioner Rosenblum: Yeah, if you guys agree with that... With those points of views then
9 of course.

10 Chair Lauing: Or others.

11 Commissioner Rosenblum: Yeah.

12 Chair Lauing: Alright, thanks for your patience. Now we'd like to call the two speakers, Jackie
13 and Tom Lundy, in that order.

14 Ms. Jackie Lundy: Good evening, congratulations on your daughter's solo, that's a big deal. So,
15 my brother Tom and I are here to talk about a small unit that we're trying to add onto an
16 existing house we own on Loma Verde. And this house and the house next door were houses
17 built by our parents and when our parents went to buy the property to build these houses on,
18 Loma Verde was still a gravel road, there was nothing but fields and oat hay. And when our

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1 grandfather came out to look at it, he called it lonely acres because it was so far away so that's
2 where we started with as far as way back when. And then we have the two houses and now
3 we're moving up to post World War Two and these houses are completely corralled...
4 Surrounded by all the building boom that had happened in mid-town; lots of track houses and
5 modest bungalows as I'm sure you all are very aware of. And then we've gone to today, another
6 transition is going on in our neighborhood where these small bungalows are disappearing, very
7 large homes are being put in on many small lots, [Note - and] any big lot has an even bigger
8 house on it. The house that we're talking about on Loma Verde at this point is between
9 Middlefield and Cowper; it's a flag lot. That house and the house that we... that was the house
10 that we grew up in front of it, each are on quarter acre lots. The house in the back my parents
11 built as a rental, it's been a rental ever since they've built it in the 1950's. So, now when we
12 come up to today and we're looking at Palo Alto, it's the town we love, it's the town that we
13 grew up in, [Note - and] we also think or at least I think back about what did it mean to live
14 here? When I lived here all my friend's parents basically they were the teachers, they were the
15 truck drivers, they fixed the phone, they did all that sort of thing. Housing for those kinds of
16 people now, as you all I'm sure are very aware of, is rapidly disappearing, almost to zero. In
17 addition to that, just down the street from us on South Court and Loma Verda a friend of mine
18 lives there and the house across the street from her was torn down, a very large house was put
19 in, it sold for over three million dollars and this was several years ago and nobodies ever moved
20 in. The house has remained vacant so you have small houses disappearing, big houses going in

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1 that nobody can afford to rent and even more of shame is big houses were nobody even lives in
2 it, they don't even rent it. So, what my brother and I are trying to propose is a very small help in
3 the way of trying to make Palo Alto still affordable to people who have a modest income.
4 Maybe they are a teacher, maybe work somewhere in town but at least they can live in town
5 because when I taught at Ohlone School I was one of three teachers that actually lived in town.
6 Everybody else had to live elsewhere and I got to ride my bike to school, they all had to drive
7 miles. So, it's not... even in the greater sense of what's sustainable to have that many people
8 living that far away. So, the little house that we're talking about putting in is a very modest size
9 house, it would go in a spot on the quarter acre where there's a perfect spot of it. And my
10 brother will fill you in on more of the details.

11 Chair Lauing: Ok, thank you. Tom Lundy?

12 Mr. Tom Lundy: Thanks. I just had two or three points just to give a little more practical idea of
13 what's going on here. Break a leg for your daughter. The reason we're here is... Been talking in
14 terms of amendments to the ordinance and the reason we're here is that I feel that the
15 ordinance overlooked having a retroactivity provision. And as a result, we got... We were on
16 parallel tracks with the new ADU Ordinance. We started planning our ADU, back then they were
17 called Secondary Dwelling Units, in early 2016. I believe the state statute passed somewhere
18 like January 2016. The City was on a track at that point to revise the ADU Ordinance and we
19 were on the track to build our ADU Ordinance under the old statue. Completely oblivious to the
20 fact that this new statue was in the works. We sold property in Santa Rosa in January 2016 to

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1 raise funds to build the unit. We signed a contract in September with our contractor, we began
2 designing and engineering and doing architectural work in December 2016 through March of
3 2017. We interacted with the City during that time, we had no notice from the City that there
4 was a new ordinance in the works. Now both Jackie and I live out of town so it's in a way I guess
5 it was our fault also that we didn't know about this but the fact of the matter is we didn't. We
6 submitted our application for a Building Permit on the very day that the new enactment was
7 passed that night. We were actually on file before the statute by a matter of hours but we were
8 on file before the statute but that was a complete coincidence because we still didn't know that
9 the new statute was in effect. We finally found out in June when we went to get our final
10 Building Permit and there was a requirement of the deed restriction. And the deed restriction is
11 the problem for us, I exemplified that in the letter. We don't want to have a 2,500-square foot
12 rental, we want to have a 1,700-square foot rental and a 900-square foot rental and that's what
13 Palo Alto needs. Thank you.

14 Chair Lauing: Ok, thank you. A question Commissioner Alcheck? Oh, he'd like to address you.

15 Mr. Lundy: Pardon?

16 Chair Lauing: If you'd you stay up there, Chair [Note - Commissioner] Alcheck would like to
17 address you, excuse me.

18 Commissioner Alcheck: I have read your letter, I'm curious if you could articulate essentially
19 what change you think could we make to essentially accommodate the goal you have?

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1 Mr. Lundy: Well, we actually, coincidentally, we had an email communication back and forth
2 with Karen Holmen and she suggested that the Council typically has retroactivity language in
3 new ordinances that provides that if an application is on file prior to the passage of the new
4 ordinance, that application would be processed under the old ordinance. So, I would suggest
5 something along those lines given the fact that we were on file before the old ordinance...
6 Before the new ordinance was passed. It was the same day but we were before so if the
7 language of the amendment were phrased in terms of on file before the passage of the
8 ordinance, that would do the trick.

9 Commissioner Alcheck: Ok, I appreciate that help, thank you.

10 Mr. Lait: And Chair, if you don't mind? Just because I've had some correspondence with Mr.
11 Lundy.

12 Chair Lauing: Sure.

13 Mr. Lait: I think alternatively because that could present some challenging issues from an
14 administrative standpoint to retroactively at this point go back and do that. I think the other
15 issue, and Mr. Lundy can correct me if I am wrong, has to do with the deed restriction
16 requirement that the owner occupies one, either the primary residence or the ADU at the time.
17 And so, I think that's the specific issue that... To respond to your question, it has to do with the
18 deed restriction requirement for ADUs requiring the owner to be on... in one of the units.

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1 Mr. Lundy: Or... Yes, or alternatively that you have to rent both units out to one tenant that
2 (interrupted)

3 Commissioner Alcheck: I actually have a quick question.

4 Chair Lauing: Go ahead.

5 Commissioner Alcheck: So, to Staff so properties that have an ADU, which have rented an ADU,
6 if the owner rents the main facility that would essentially violate our ADU Ordinance?

7 Mr. Lait: The owner just has to occupy one of the two units. It could be the ADU or it could be
8 the primary residence.

9 Commissioner Alcheck: Is that... I'm just curious because I'm not saying that's unfamiliar to me
10 but what's the... do you know the intent of that sort of position? Is it that we don't want
11 essentially two renters? I mean is there... I'm trying to understand why we would require that.

12 Mr. Lait: Yeah, you know (interrupted)

13 Commissioner Alcheck: I'll give you a quick example, I'm sorry. If the owner dies and the child
14 inherits it, the child has to take possession and live there. If they, for example, live out of state,
15 they couldn't rent it out, they would have to sell the property. These sorts of requirements are
16 odd.

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1 Mr. Lait: Right but I... so I don't think that the ordinance would require that scenario but there
2 are some provisions in which the whole... Both units could be rented to a single entity so that's
3 an option.

4 Mr. Lundy: Yeah and I'll... sorry.

5 Chair Lauing: Yes, go ahead.

6 Commissioner Summa: So, before... so it's one parcel in an R-1 zone and they want to put a
7 second unit on it which they were going to rent. They don't live in either... They currently don't
8 live in Palo Alto, what... so how were they going to do that before the state law?

9 Mr. Lundy: There was no deed restriction required before the state law. See that's the problem
10 when we were... We were working under the old ordinance. We qualified in terms of setbacks
11 and everything under the old ordinance and the old ordinance did not have the deed
12 restriction. That's where we got caught up and I just would reemphasize that the fact that you
13 can rent to a single party... You can rent both units to a single party really defeats the purpose
14 from our standpoint providing rental units.

15 Chair Lauing: Did you have any additional comments?

16 Mr. Lait: Just that we have a deed restriction requirement for... this is a one-line item on the
17 deed restriction requirement. The deed restriction that we require be associated with the

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1 property that's seeking an ADU also has to... It's just standard language about the size of the
2 unit, the plumbing fixtures and so on.

3 Chair Lauing: Ok, thank you so let's go... I'm sorry, go ahead.

4 Commissioner Waldfogel: I'm sorry, a point of clarification. Is deed restriction either required
5 by state law or is it consistent with state law?

6 Mr. Lait: So, it's required for the JADU.

7 Commissioner Waldfogel: It's required by state law for JADU.

8 Mr. Lait: But it's not required for the ADU.

9 Commissioner Waldfogel: In the new state law... I mean I've seen some briefings and summary
10 on new state law which is it possible for us to be more restrictive than state law on
11 requirements? I think this is a legal (interrupted)

12 Mr. Albert Yang, Senior Deputy Attorney: So, the deed restriction for non-JADUs or just ADUs,
13 it's not required by state law but it is permitted... Expressly permitted by state law so it's
14 consistent with state law that way.

15 Commissioner Waldfogel: Ok, it's consistent. Thank you, that's what I wanted to know.

16 Mr. Lundy: Could I just interject just one quick point?

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1 Chair Lauing: It's got to be really quick because you've had three speaking engagements.

2 Mr. Lundy: Ok, I live in Santa Rosa and pre-fire we had a deed restriction on the ADU Ordinance
3 for 12-years. They are now eliminating the deed restriction because it was an impediment to
4 the building of ADUs; it defeated the purpose. For whatever that's worth, that's not... that's
5 beyond our issue but anyway, thank you.

6 Chair Lauing: Ok, thanks so let's get back to considering this. I do want to talk about a process
7 question which happened to come up with our first Commissioner comments is... which is how
8 should we go through this? I mean we can go through this sort of point by point and some of
9 these can be grouped I think and some can't. But some clearly are, quote bigger than others,
10 and we need to decide as a Commission if we do want to pull those out and how that helps or
11 hinders your process. So, could you give us feedback on that first?

12 Mr. Lait: Yeah, I think that's... I think that's a good idea. Maybe... I think it might be good to first
13 go down the list that we have on packet Page 8 and continues on 9. And maybe we could just
14 go down the line and see what items Commissioner's want pulled. You know, it may be...

15 Chair Lauing: Well... but the other way to do it is just to go through them and if they are quick,
16 we knock them off and if they don't then we say well, this one seems a little bit bigger, let's put
17 this one out... over.

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1 Mr. Lait: I just want to... so that's fine and I just wanted to mention because this has come up a
2 couple times as we've been doing these ordinances. And Commissioner Rosenblum has left I
3 recognize at this point but it's... This is an effort that Staff initiated a few years ago to clear up
4 the code but it wasn't always... Our first run on this was to have minor amendments and to
5 have things that are not controversial because we agree that if it's a big controversial item, we
6 should have a hosted public meeting specifically on that issue. But I want to push back a little
7 bit on the idea that they all have to be minor in nature and there can't be a change in policy or
8 direction because that's not how the report is presented. And what we're trying to do here is
9 address some operational challenges and procedures that we've run into at the Planning
10 Counter or processing applications. So, we don't think any of these things are hugely... Are huge
11 policy shift but they may be a little bit more than minor, we recognize that. And as for as the
12 final product goes, we're presenting... This is a Staff ordinance that we're presenting to the
13 Commission to seek the Commissions feedback and input. We may make some modifications
14 just based on the feedback that we receive. It is possible as it has been for the previous years
15 that the Planning Commission and Staff may have a different perspective on which ones should
16 advance to the Council. And the way that we've done that in the past is that Staff has moved
17 the ordinance forward but in our Staff report we have a very detailed discussion about where
18 were the points that the Planning Commission supported and the areas that they didn't
19 support, then the reason that support was not there. And we presented the totality of the
20 ordinance to the Council so that they can have the flexibility to concur with the Commission

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1 and pull things off or also alternatively, put things on if they think they need to move forward.
2 So, we're helping to facilitate a conversation in the best way that we can.

3 Chair Lauing: Right, you covered that on point... On Pages 30 and 31 in the packet which is
4 perfectly acceptable as you eventually go and have descending opinions or we have descending
5 opinions, perfectly fair.

6 It's also kind of hard to estimate the amount of time this is going to take. It might take less time
7 as we start to pull things out and say we're going to come back to them. I think we should... My
8 suggestion is we work through this for about an hour and see where we are. And then kind of
9 recalibrate relative to the other items that are on the agenda and see if we think it's going to a
10 second meeting or we should just push on.

11 [Note - Female:] [unintelligible]

12 Chair Lauing: But we're going to go through them in order, that's right. And I think the simplest
13 way to do it is just to... Because someone might... Literally be simple is just to kind of go down
14 the row. I'll go last as I often do when I sit in this chair and just see what the comments are. So,
15 this starts on Page 9, maybe we could take the first two together because they are about
16 transportation; Threshold on Transportation Demand Management. Do we want to start with
17 Commissioner Summa on that one and if anybody has no comments just say pass so we can rip
18 through these shorter ones?

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- 1 Commissioner Summa: Pass.
- 2 Commissioner Alcheck: Yeah, no, I just had a quick question. So, if the Council's motion was for
3 it to be 50 or for it to be 50 trips, how... What... Does that mean they... Someone spoke wrong
4 during the meeting and they didn't realize it until too late?
- 5 Mr. Lait: No, it's a Staff error. It just... The official record that got memorialized and adopted by
6 the Council said 100. We have to go through this process to change it.
- 7 Commissioner Alcheck: You have to go through the process to rectify it, ok. That's all... I just
8 didn't understand. Ok, alright, I have no conflict with this one.
- 9 Commissioner Monk: Pass.
- 10 Commissioner Waldfogel: Pass [unintelligible -mic not on]
- 11 Commissioner Gardias: [unintelligible- mic not on]
- 12 Chair Lauing: On One, ok. We'll stay with you and what about Two?
- 13 Commissioner Gardias: Are we going through all of them or just one by one?
- 14 Chair Lauing: Well, we did one by one but now we're on two and we're going to come back this
15 way.
- 16 Commissioner Alcheck: Number Two then.

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- 1 Chair Lauing: Ok.
- 2 Commissioner Gardias: Number Two?
- 3 Commissioner Alcheck: Yeah, he's going (interrupted)
- 4 Chair Lauing: He did... Alright, what about you?
- 5 Commissioner Monk: Pass.
- 6 Chair Lauing: Yes?
- 7 Commissioner Monk: Pass.
- 8 Chair Lauing: Ok, sorry. I have nothing, go ahead.
- 9 Commissioner Gardias: So, I... Excuse me so I have a question on Two. So, what's the... Yes, this
- 10 is clarification, I'd like to understand what is the association? Is there a definition of the
- 11 association in the Palo Alto Code?
- 12 Mr. Lait: Yeah, so this is... the City Council formed the Transportation Management Association;
- 13 they formed it. We have this... There's a whole set of... They might... Do they have their own
- 14 Charter? I mean there's a whole set of procedures for it. We're just doing a work change.
- 15 Commissioner Gardias: Because association is legal organization (interrupted)
- 16 Mr. Lait: Yeah, yeah.

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- 1 Commissioner Gardias: Legally registered rights. This is legal entity, authority is not a legal
2 entity so I think this the difference right, isn't it?
- 3 Mr. Yang: Well and authority can be a legal entity as well, we just got the name wrong. So,
4 there is an entity that exists and we have the wrong name so we're fixing it.
- 5 Commissioner Gardias: Ok, so it's recorded as an association? Ok, good, thank you.
- 6 Chair Lauing: Let's go Three, Four and Five. Commissioner Summa?
- 7 Commissioner Summa: Pass.
- 8 Commissioner Alcheck: Three, Four, Five, pass.
- 9 Commissioner Monk: Pass.
- 10 Chair Lauing: And you did.
- 11 Commissioner Gardias: Pass through Five.
- 12 Chair Lauing: Ok, why don't you pick up Six then and come back this way. This is the one on the
13 garage placement and carports.
- 14 Commissioner Gardias: Ok, yeah so this is... Actually, we voted on this 2-years ago. If I... If we
15 have time just to go through the votes of how they were... How they fell so I can remember
16 how I voted but I remember there was discussion and we pulled it out. Because we felt that this

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1 was rather a policy change as opposed to cosmetic change that should go through this
2 Commission without our review. So, my perspective the questions like this, can we get some...
3 And this is one of those that I would recommend maybe for pulling out till we get some
4 documentation or support documents from the Staff. And I would like to just get some statistics
5 which neighborhoods or some numbers that would illustrate what would be truly impact of
6 those changes. If we're going to have the carport in the front as opposed to in the back. And I
7 understand totally that there is a context in place but then I think that this is in relationship to
8 the ADU Ordinance that we approve because this placement would affect the ADU Ordinance,
9 is this right?

10 Chair Lauing: Well, Mr. Lait suggested that there were going to be some potential policy issues
11 here so I don't think there's a debate about that right now. So, are you questioning whether it
12 should be a policy?

13 Commissioner Gardias: No, what I am saying is that I would like to just get some
14 documentation... I'd like to pull it out. I'm proposing to pull it out and then get more supportive
15 documentation... Supporting documentation that would allow us to make some judgment.

16 Chair Lauing: Ok, let me ask... Adding to the process issues here. What do you folks all think
17 about how many votes we should have for pulling it out? Is it one, two, three, four? One person
18 says majority, any other ideas?

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1 Commissioner Gardias: Well, I mean if you are asking me, I'd like to just hear the discussion
2 about the topic so it's... I understand that there are pros and cons. From my understanding is
3 that pros and cons are perspectives of ADU Ordinance that would [unintelligible] the placement
4 of the carports may affect how you could have an accessory dwelling unit on your lot. So, this
5 has not been... This relationship is not disclosed in here so I would like to ask Staff to provide
6 more materials, specifically from the ADU perspective. Is there any effect on that ordinance or
7 not?

8 Mr. Lait: Yeah, so Chair if I can just respond to that, the specific on the ADU?

9 Chair Lauing: Go ahead.

10 Mr. Lait: We don't see any policy implication with this ordinance relative to ADUs.

11 Ms. Campbell: And just to kind of clarify, an AD... if you're going to build an ADU, you can
12 remove the required covered parking to accommodate that ADU. So, if someone were to install
13 a carport or a covered detached garage, that could be torn down and that floor area could be
14 used for something else for the ADU. So, that's... it doesn't prohibit an ADU from being
15 developed.

16 Mr. Lait: This, from our perspective, is really about the garage placement requirement in the
17 code, which I think you're familiar with, where it says set forth where a garage... If the pattern...
18 If the neighborhood pattern is such that most of the garages or carports are in the back, we

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1 want to see new development have garages and carports in the back; that's the Staff's read of
2 that provision. The way that it is now if the pattern is most of the carports or garages are in the
3 back of the lot, you have to put your garage back there but your carport can be in the front.
4 And we have... I hear your request for some data, we're... I don't see that we're going to be able
5 to collect the kind of data that you're seeking for... Seeking on that but we have done some
6 research talking to the folks that have been processing these permits for quite some time and
7 there are not a lot of examples of the carports being placed in the front when they have been in
8 conflict with the neighborhood garage placement criteria. There are a few examples out there
9 but it is not the prevalent pattern and so that's why we think this is a correction.

10 Commissioner Gardias: Sure, I understand but... So, from... The reason that I am talking about
11 this relationship is because I think that with the ADU Ordinance that we passed, there may be a
12 placement of carports either at the back or allowing this at the front against the contextual
13 pattern may either constrict or not constrict placement of an ADU. Because if you have an ADU
14 at the back, right and then you have a garage at the back, then you have to also put that
15 carport at the back.

16 Chair Lauing: Ok, so I think the question is do we want to call this out or not so let's get to that
17 but go ahead.

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1 Mr. Lait: I was just going to say ADUs do not require parking in the City. That's not... We don't
2 have a parking requirement for ADUs. Parking... Under certain circumstances, covered parking
3 can be removed when placing an ADU but I'll differ to the Chair.

4 Chair Lauing: Ok so for this exercise I would like to get consensus or a vote or other suggestions
5 if it's other than four people that we need to vote for putting it on a pull-out list. I heard one
6 person say one... four and I heard one person say one. The question is if anybody... If every... If
7 one... If each of us picked out ten, we'd have forty so it seems like there should be some vote
8 rather than just anyone asking for this be sort of continued and debated.

9 Commissioner Alcheck: I guess I would support a process where if we're going to go item by
10 item, we give everybody a chance to talk through it. So, maybe somebody might say this is a big
11 deal and somebody might say it's not a big deal, they might persuade each other. And then
12 maybe after that preliminary discussion, you could determine whether a quick poll would be
13 required to figure out whether (interrupted)

14 Chair Lauing: Yeah, I'm asking what the poll should be? Should it be four to three or can it be
15 anyone one or any two?

16 Commissioner Alcheck: I don't have a particular (interrupted)

17 Chair Lauing: Well, in absence of any then we would need four to pull it out.

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1 Commissioner Monk: Chair Lauing, I did have my light up if you recall. So, I just wanted to ask
2 folks here if we think it makes sense to discuss Item Seven, which discusses what the definition
3 is of a carport. Should we have that discussion before we have the discussion on the
4 modification to the ordinance? Do you think one should go first because the way they have it
5 presented is the other way? I'm wondering if that will (interrupted)

6 Chair Lauing: If you do, we can.

7 Commissioner Monk: If that makes sense to... they are concurrent, ok so we'll discuss them
8 concurrently, ok. I think we should just have the discussion. We've already started it, let's just
9 discuss it.

10 Chair Lauing: Yeah so, we are, so your... Actually, your light is not on here but anyway go ahead,
11 continue.

12 Commissioner Alcheck: You have to push up or down.

13 Chair Lauing: But you're speaking so we don't need a light.

14 Commissioner Monk: But can you just check because...

15 Commissioner Alcheck: It's the green one.

16 Chair Lauing: Yeah, it's not.

17 Commissioner Monk: I don't know, I'm not seeing a change [unintelligible]

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1 Commissioner Alcheck: Try again. Sorry, it's not my fault, this is the most confusing
2 [unintelligible]

3 Commissioner Summa: So, in the meantime, I'll opine on Six and Seven that I'm fine with them
4 as they are but if any... But if some of my colleagues or one have a very serious concern about
5 it, I think we should just put it on the list and if we have too many, we'll whittle the list down.

6 Chair Lauing: Let's see, I think Waldfogel had (interrupted)

7 Commissioner Waldfogel: Yeah, just a couple of things. I think you started to speak to this
8 about the prevalence of this issue. I mean I think that if this is just a clarification of placement
9 for a feature with... What is it, two walls or two open sides versus three open sides?

10 Mr. Lait: Yeah so speaking to Item Number Seven, if you read it unmodified (interrupted)

11 Commissioner Waldfogel: Yes.

12 Mr. Lait: As proposed, you can simultaneous have a carport and a garage and meet both
13 definitions.

14 Commissioner Waldfogel: Well, I think there's also a conflict with the Porte Cochere definition.

15 Mr. Lait: There... well, we can take a look at that.

16 Commissioner Waldfogel: I think you should take a look at that because that's defined as three
17 or more open sides.

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1 Mr. Lait: Ok but that's different than... I mean that would not be considered a garage.

2 Commissioner Waldfogel: But a carport and a Porte Cochere may overlap under these
3 definitions so I just think that if we want to be (interrupted)

4 Mr. Lait: Yeah, we can take a look at that.

5 Commissioner Waldfogel: We want to be careful. If the point is that we want to restrict a
6 parking facility in the front of the building, whether it's in the form of a garage or carport, I
7 support that. I don't want to make a change on Porte Cocheres without being thoughtful about
8 that.

9 Mr. Lait: Right.

10 Commissioner Waldfogel: And I'll just make a side point on this, maybe it's slightly off topic but
11 to meet this high-level goal of vehicle parking that's not in front half of the lots. Something that
12 I've noticed over the last couple of years in residential neighborhoods is that I think our
13 driveway requirements are too narrow. So, I'm not seeing people use the garages that are
14 located in the back of lots because possibly because they don't have the driving skills to get in
15 and out of them or because we don't require a big enough turn around space. But I think that
16 that's something we should potentially look at for next year, to meet our high-level objective of
17 actually... of parking actually ending up in or near the garage and not in front yard setbacks.

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1 Mr. Lait: Ok and we... and to your point, I mean maybe there's a... To the... Maybe there is a
2 need for us to clarify... Distinguish a carport from Porte Cochere as you pointed out.

3 Chair Lauing: Commissioner Alcheck, your light's on.

4 Commissioner Alcheck: Ok, so we have dealt with this before and I would suggest that... I would
5 reiterate the comments that I made on the prior three occasions that we discuss this item. So, I
6 would share Commissioner Gardias and Commissioner Rosenblum's suggestion that this might
7 be something that we want to visit. And I'll suggest that... Look when... The notion that we
8 would essentially try to consistently approach the location of parking facilities on a lot is not
9 problematic for me. But I think actually there is a nuanced issue with the ADUs and I'll tell you
10 why. And I had this conversation yesterday with City Attorney Albert Yang, which is that the
11 likelihood of a new development... A lot of ADUs are coming in by converting existing detached
12 garages into accessory dwelling units; which in assents eliminates parking for the home and the
13 result would not satisfy, for example, Commissioner Waldfogel's desire for these people to be
14 able to get to the back. The answer Staff gave earlier about, you could always take down the
15 carport and make it an ADU also wouldn't satisfy that requirement. So, the question is are we
16 really trying to eliminate the parking facility in the front and maybe what we want to do and I
17 think Council would be in it's right to make that determination but I don't think they make that
18 determination in the absence of understanding the effects on ADUs. Principally if you are to
19 build a new construction project today, the likelihood of you building two detached structures
20 in the rear of your lot is very low. The likelihood of you building a detached structure in your lot

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1 that you would then take down for the purpose of rebuilding an ADU is unlikely and so to the
2 extent that if you can accommodate the parking somewhere in the front through a carport let's
3 say, you're actually less likely to tear that down in an effort to have an ADU because you don't
4 have to pick between the two. So, I... it's not that I'm opposed to this, I would support this
5 change, I just think we have to sort of figure out what is our goal. And I would argue the
6 following one comment about Commissioner Waldfogel's suggestion that we widen the
7 concrete requirement. We are vastly... we are quickly, maybe not quickly enough, approaching
8 a world where car ownership may dramatically change. These structures that we're approving
9 for build today are (interrupted)

10 Commissioner Waldfogel: I just want to make a point of order. I just think that that's a false
11 and unknowable statement.

12 Commissioner Alcheck: Yeah, no, that's fine. I believe that we are approaching that world. I
13 don't think that it's actually an argument that we can dispute but the point is that the notion
14 that we pay... I'll just say this. The notion that we would encourage paving more, I couldn't
15 imagine how that wouldn't trigger some kind of CEQA analysis. How that wouldn't affect
16 (interrupted)

17 Chair Lauing: Ok, anyway, you want [unintelligible](interrupted)

18 Commissioner Alcheck: Anyway, I'm saying I'm not opposed to the change if we determine that
19 that's what we want. The question is how does it reconcile with our other goals, that's my only

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1 comment and then I'll just quickly say something about the carport. It didn't occur me that
2 there was a Port Cochere discrepancy there. I believe that we could change this to be even
3 more precise, for example, if we give a percentage. I believe in the past they've approached this
4 with a notion that it should be more than fifty percent open. So, if you look at the language of
5 this classification it says cover means a portion of a principal residential building on an
6 accessory building to residential use design for utilized shelter for one or more vehicles which
7 are open or unenclosed on two or more sides and including on the vehicle entry side. So,
8 obviously on the vehicle entry side, if you don't have fifty percent of the front open you're not
9 going to get your car in but on the other side the notion of louvers or some architectural
10 component. This seems to basically support a carport that's just four posts, which I think it
11 architecturally restrictive. Maybe we can require seventy-five percent open and that allows
12 some architectural detailing and it would be a little less imprecise. Those are my two
13 comments.

14 Chair Lauing: Ok, Commissioner Monk, is your light still on?

15 Commissioner Monk: Yes.

16 Chair Lauing: Ok, go ahead.

17 Commissioner Monk: I just flipped it on for this issue. So, I just have a general comment about
18 how this was presented to us because it's not how I typically receive a redline document. So,
19 it's unclear to me what we're trying to achieve as far as the ordinance goes under the

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1 definitions because if we were to accept your proposed changes it would read, carport dot dot
2 dot, which is completely unenclosed on two or more sides. Is that what's you're looking to do?
3 To take out the parentheticals and have it read completely enclosed so am I reading that
4 correctly?

5 Ms. Campbell: Yes, you are.

6 Commissioner Monk: Ok because typically... Ok so redline would redline that stuff and it just
7 doesn't look... I just want to make sure that I'm reading it correctly. So, I would propose putting
8 in language to the effect of mostly unenclosed an opposed to completely. I think it's
9 problematic and contradictory with the rest of the sentence. I think it would be difficult to
10 comply with because you're going to have framing on different sides and the roof, that would
11 make it not feasible to fully comply with the way that you're making the proposed changes.

12 On the second part of that definition, I would consider adding in some language to alleviate any
13 concerns about it resulting in some sort of non-compliance with the new ADU Ordinances that
14 were inactive by the state and by our City. So, if that's something that would be appropriate to
15 put in the definition, you don't typically see that in the definitions. I would just encourage some
16 language to the effect that this isn't in anyway intended to or Albert you can speak to that if
17 you'd like. I'm not trying to propose language but we just want to make sure that it's covered.

18 Chair Lauing: Well, for now, we've pulled this off at 6 and 7, do we want to hold on getting the
19 wording changes? If we're going to take another look at this one.

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1 Mr. Lait: Well, yeah, I guess alternatively I mean I think if the Commission is articulating... I
2 mean I can understand the challenge with the word completely and I can understand also the
3 interest in wondering how some kind of aesthetic flexibility, we can look at that terminology.
4 So, not that's not... I think it's ok to have dialog, not be precise about the language but
5 communicate the intent for us to work on and communicate that to the Council.

6 Chair Lauing: Yeah, ok, great.

7 Commissioner Monk: So, just to continue, I just want to acknowledge the letter that we
8 received from Ronit Bodner. I thought what was presented in that letter addressed a lot of the
9 concerns that we have in that this is something that should be presented to Council as part of
10 the regular legislative process and not as a minor clarification. These are material changes in
11 the building requirements for a carport and I couldn't agree more. Thank you.

12 Chair Lauing: Commissioner Gardias, your light is on.

13 Commissioner Gardias: Sorry this is past light. Thank you.

14 Chair Lauing: Oh, ok. No other items on this, we've got this on the potential carve-out area. So,
15 Number eight... I'd like to go back to our potentially quicker process of just running down the
16 line on these things so Number Eight?

17 Commissioner Summa: Pass.

18 Chair Lauing: Eight.

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- 1 Commissioner Monk: I pass on Eight, Nine and Ten.
- 2 Commissioner Waldfogel: Pass.
- 3 Commissioner Gardias: Pass through Nine.
- 4 Chair Lauing: Ok, I think we're passed through Nine, do you want to go to Ten then?
- 5 Commissioner Summa: Pass.
- 6 Chair Lauing: [unintelligible] Commissioner Monk, Ten?
- 7 Commissioner Monk: Pass.
- 8 Commissioner Waldfogel: I'm just trying to sort out, is this a clerical error or is this a change in
- 9 any way? Number Ten the Map Exception Process? I mean does it change anything?
- 10 Mr. Lait: Ok, yeah, so thank you. Give us a second here to jog our memories.
- 11 Commissioner Waldfogel: We can keep going if you need some time. I'm sorry to be asking hard
- 12 questions but it was a little too complicated for me parse.
- 13 Mr. Lait: So, this one is we have a process in our subdivision section of our code that allows an
- 14 applicant to request a Map Exception to standards in the... Title 18, our Development Code
- 15 Standards. And we believe that the Map Exception process allows for that today without any
- 16 change. This added language here just puts it in black and white a practice that has been done

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1 for many years using the Parcel Map Exception to grant changes to Development Standards.
2 This Commissioner considered a project, I think it was on California, there were some three lots
3 with a Parcel Map Exception for three lots. I think you considered a Parcel Map Exception for
4 the Bowmen School. There's a number of examples where we've used a Parcel Map Exception
5 for Development Standards like lot area and things like that and so now we're just making it
6 explicatively clear.

7 Commissioner Waldfogel: Just as a point of clarification, this isn't code your changing but this
8 language may be granted only by the City Council after recommendation by the Planning
9 Commissioner. Does that mean the Planning Commission needs to make an affirmative finding
10 and the City Council does not have the discretion to do this without an affirmative finding by
11 the Planning Commission? I mean what does that language mean?

12 Mr. Yang: We would read that language that the Planning Commission has to make a
13 recommendation so that the item would need to be considered by the Planning Commission.
14 Not necessarily the Planning Commission would need to make an affirmative recommendation.

15 Commissioner Waldfogel: That doesn't seem like a plain language reading of that piece of code.

16 Mr. Lait: So, I just want to make sure that we're in the same section. So, right after

17 [unintelligible][interrupted]

18 Commissioner Waldfogel: It's right after the red section.

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1 Mr. Lait: Such exceptions may be granted only by the City Council after recommendation by
2 the Planning Commission. So, you can have any kind of recommendation; one of support, one
3 of against.

4 Commissioner Waldfogel: I would use different language for that then recommendation. I mean
5 then... The language I would use would only after consideration.

6 Mr. Lait: If you want we can say consideration or review, this is consistent language.

7 Commissioner Waldfogel: Well, no but I just... I mean I am just... This may not be the right time
8 or place but I'm really taking issue with this notion that recommendation just means the same
9 as a consideration as opposed to an affirmative finding.

10 Chair Lauing: Ok, we're through Ten I believe. Ok, go back to Eleven, anyone wants to speak on
11 that starting with Commissioner Summa.

12 Commissioner Summa: I believe the only change here is to add above grade because before it
13 just said... read 3-feet, like a 3-foot. So, I don't think it's a substantive change at all. I know
14 that... I believe Eric Rosenblum.... Commissioner Rosenblum mentioned it but I think it's just
15 because he didn't read it maybe so I don't have a problem with this one.

16 Chair Lauing: Ok, others? Commissioner Alcheck, you're good?

17 Commissioner Alcheck: I guess I'm... The... I wouldn't have flagged this one but I was curious if
18 Staff would help us understand really what are they preventing I guess or what...

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1 Ms. Campbell: I can go ahead and jump in here.

2 Commissioner Alcheck: Can you clarify (interrupted)

3 Chair Lauing: Please do, thanks.

4 Commissioner Alcheck: I didn't want to flag this one but after Eric mentioned it, I kind of looked
5 at it again and I thought ok what are they curing?

6 Ms. Campbell: Ok, so there's a table in 1812 in the R-1 Chapter that basically has this laundry
7 list of all of the exemptions from floor area and one... This is one of the line items in that table.
8 So, what we've done is we've just added the clarification and this reflects exactly the same
9 language that's in the definition for low-density residential projects... For low-density projects.
10 So, basically... It's just basically if as long as your basement isn't more than 3-feet above grade
11 and it was just adding that clarifying above grade so it's just not 3-feet; just say above grade so
12 there's a relationship to what that's supposed to mean. And it's taken directly out of the
13 existing definition for floor area for low-density residential so really, it's just a clarification of an
14 existing definition.

15 Commissioner Alcheck: If you don't mind, I'd like to follow up. So, I was under the impression
16 that there were requirements for single-family new construction that your first floor couldn't
17 begin more than 3-feet above grade; which essentially created a... Which made it unnecessary
18 to distinguish where a basement could exist. So, for example, if you were going to build a new

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1 construction, you couldn't build a walk up that puts you 5-feet above grade so that you only
2 had to dig 5-feet down to have a 10-foot basement let's say. And my question here is this would
3 affect existing structures whose floors are already in place so is that right?

4 Ms. Campbell: Actually, that's not (interrupted)

5 Commissioner Alcheck: Is this like if you were going to build a basement under a historic
6 structure?

7 Ms. Campbell: No so for an existing project, if you wanted to build a basement today and if you
8 didn't want that basement to count toward floor area for your site, it has to only be a certain
9 distance above grade and that's where this number comes in. So, if it's 4-feet above grade, then
10 your basement is going to count toward your floor area for your site. If it's less than, then we
11 won't count that basement towards the floor area of your site. So that's why... the idea is you
12 have your basements that are low and so it's not a visual impact to the site, it keeps your
13 building smaller and that kind of thing.

14 Commissioner Alcheck: Got it, ok. So, is this similar to the other requirement of not having your
15 first floor above 3-feet?

16 Ms. Campbell: No.

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- 1 Commissioner Alcheck: Because if the top of the floor is 3-feet above grade and you count all
2 the studs and all the framing, then it kind of necessitates the requirement that your basement
3 also not be above that same number so I'm confused.
- 4 Ms. Campbell: Yeah, I'm confused about what you're suggesting for this particular requirement.
5 I'm not familiar with that.
- 6 Commissioner Alcheck: Oh, I was under the impression that there's a requirement in our code
7 that says that for the first floor of new development can't be higher than 3-feet or then it could
8 theoretically could qualify as a second floor; which is why the basement would then be deemed
9 FAR accountable.
- 10 Ms. Campbell: We don't have a minimum requirement for that height that I'm aware of.
- 11 Commissioner Alcheck: Ok.
- 12 Chair Lauing: Anyone else on Eleven?
- 13 Commissioner Summa: That was Eleven.
- 14 Chair Lauing: Yeah, I know and I said anyone else on Eleven? Let's move to Twelve then, this is
15 that...
- 16 Commissioner Gardias: Just a quick comment if I may? Just [interrupted] [unintelligible]
- 17 Chair Lauing: Are we on Eleven now or what?

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1 Commissioner Gardias: On Eleven, yes please, so just wait... When one reads it and I listen to
2 the discussion it's obvious what it says but when I read it without the discussion, I really don't
3 understand this sentence. What is great than 3-feet above grade? It doesn't specifically say
4 what is greater than 3-feet above grade so I would just suggest some clarification that we're
5 looking for the floor level (interrupted)

6 Ms. Campbell: Yes, I think we can do that.

7 Commissioner Gardias: Or a ceiling level or just (interrupted)

8 Ms. Campbell: Right or we can refer them back to the definition which (interrupted)

9 Commissioner Gardias: Subfloor.

10 Ms. Campbell: Is much more specific.

11 Commissioner Gardias: Typically, it's the subfloor, ok. Thank you.

12 Chair Lauing: Alright, Twelve?

13 Commissioner Summa: So, I do have some comments about Twelve and that is that I think in
14 office use, especially in CN, CS, and CC, there's a lot of confusion about different kinds of offices
15 and what they mean. So, I would say that business offices are... Needs... Under a medical,
16 professional, and business offices should not be located on the ground floor. Does that mean
17 administrative offices as defined in the code? General business office as defined in the code?

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1 So, I... and there's a lot of question and there's a lot of concerns about these uses in the little c,
2 as I like to call them, zones. So, I think that that could be clearer and I also, under number Two,
3 occupy space that was not occupied by housing etc.; business service, retail services, personal
4 services, eating and drinking. I also think that maybe... It doesn't... I think there are some things
5 that... uses in there like may warehouse that should be added and that it should be covered
6 too. I'm not sure if that list is complete and that's it on that one. Does that make sense?

7 Mr. Lait: Yes, I hear it clearly what you're asking. I think it goes a little bit beyond what we were
8 trying to do.

9 Commissioner Summa: Ok.

10 Mr. Lait: It's... And I'm not saying that we don't have a position against it but I know there's
11 been a community conversation about different types of office. And what we were specifically
12 interested in on this one is the knockout language on Packet Page 15 because we believe that
13 creates a loophole wherein the CS zone... On any CS zone property, if there was housing on that
14 property or if there was no housing on that property which is most of them, then you can do
15 office. And we're thinking that the one above it too is actually... Yeah, the one above it too... I'm
16 sorry. It's actually already covered... Captured in Two where it says not occupied by housing
17 but then it lists all these other uses and so it captures the greater universe; whereas three
18 throws out that universe and simple just say housing for the CS zone property.

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1 Commissioner Summa: Yeah, I think striking out Three is good. I was wondering if the list in
2 Two (interrupted)

3 Mr. Lait: Yeah, we updated that list last year to add neighborhood business service but we
4 haven't heard any other conversation and haven't run across any specific issues to add more
5 items on there. Certainly, this is an amendment that is being considered by the Commission, it's
6 been advertised if the Commission feels like there's more that needs to be added to that it's
7 within your authority to make that recommendation.

8 Commissioner Summa: Ok so I was wondering if it covered all retail like uses and the one I
9 really thought of was warehouse but I will stop there.

10 Chair Lauing: Commissioner Alcheck?

11 Commissioner Alcheck: Ok, sorry, I'm sorry to bring this up. I just... the reason why I mention
12 this is because again, it always comes back to this sort of new ADU process you have. I'm going
13 to go back to Number Eleven for a second. On Page 5 of this... of the Single-Family Technical
14 Manual, which I know is not the ordinance, it specifically says that basements of Category One
15 and Two historic homes or contributing structures in a historic district even if greater than 3-
16 feet don't count as floor area. One of my questions here is because these structures are built,
17 whatever's existing exists so the comment you made about sort of discouraging basements
18 from rising above a certain level and being unsightly. In theory, these basements already exist
19 and so my issue is that if you now count area that you didn't use to count, then someone who

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1 would then want to let's say build an ADU attached in their rear may not be able to anymore
2 because they don't have the adequate floor area. And so, the concern that I have here is
3 basically what we're saying is we want to start counting square footage that we didn't use to
4 count.

5 Mr. Lait: I think it's... I think what we're trying to do is exactly what you want us to do, which
6 excludes that floor area. So, we're saying even if it's above 3-feet above grade, even if it's
7 bigger than... More than, we're saying it doesn't count toward floor area.

8 Commissioner Alcheck: I understand.

9 Mr. Lait: Ok, thank you.

10 Commissioner Alcheck: Ok because that's... I was confused. I thought that what... Yeah so, it's
11 basically the same. I apologize, thanks for making that clarification.

12 With respect to Twelve, my major concern with this one is I actually think it applies to a very
13 small number of parcels and I was concerned coming into this that did we invite the individuals
14 who own these parcels to participate in this discussion or is there any sort of notice that we
15 may want to go through to indicate to these parcels owners that this changed? I don't
16 completely understand this one so I'm not entirely sure. I would suggest pulling it but because
17 it was so few parcels, I wondered if it merited a discussion and I don't know. I'll just throw that
18 out there, I don't feel strongly about it.

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1 Chair Lauing: Commissioner Monk, Twelve.

2 Commissioner Monk: This was included amongst the minor text clarifications section so to me
3 removing an entire section of an ordinance does not seem like a minor text clarification. I'm not
4 inclined to support this without further understanding of what the impact or the intent is and it
5 seems like something that should go to Council in my viewpoint.

6 Chair Lauing: So, you are suggesting we pull that one for further discussion?

7 Commissioner Monk: I'm just not really sure what the impact is of pulling that text is.

8 Chair Lauing: Ok, you're fine. I mean these all go to Council eventually so but that's fine;
9 because we're trying to get together a list here so let's do that.

10 Commissioner Monk: I guess for minor text clarifications that's pretty obvious when that's the
11 case and to me taking out it... this is not a text clarification. I'd rather have some more color
12 around what is trying to be accomplished. Chair, I know you did give some background on it. Is
13 the Commissioner stratified with this? I'm just curious.

14 Chair Lauing: Well, let's see what some other folks say. Commissioner Waldfogel, do you have
15 any comments?

16 Commissioner Waldfogel: Are you finished with that? Yeah, thanks. I'm actually not sure
17 because I actually find this language extremely hard to parse so I'd like a little bit of help
18 because it keeps going positive and negative on me. So, I'm not quite sure what's in and out as I

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1 read through it so help me out a little bit here to just explain what are the conditions where
2 office would or would not be allowed in the CS district. Because I'm kind of... maybe everybody
3 else here is perfectly clear but I'm not.

4 Mr. Lait: No, it's one that requires a few reads.

5 Commissioner Waldfogel: I've done that.

6 Mr. Lait: So, what this is saying is that in the CS, CN and CC zones, there are some additional
7 office restrictions that apply and they apply under these circumstances. The conversion of non-
8 office space... housing and non-office space to office in these three zones can only occur under
9 these prescribed scenarios. The first one is the office has always been there, that makes sense.
10 The second one says for all these three zones if it has not been occupied by housing,
11 neighborhood business services, retail services, personal services, eating and drinking services
12 and automobile services; if it's not been occupied by those then you can convert to office.
13 Warehouse can convert of office under that scenario and the reason for that is... I mean these
14 are a list of uses that are seen as supporting the neighborhood and/or neighborhood serving
15 uses and so those are trying to be protected. Three is a subset of Two and it specifically carves
16 out the CS zone and it says in the CS Zone, if you've got housing or if you did not have housing
17 on that property, you can do office.

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1 Commissioner Waldfogel: I don't want to pick on any size bullets. Let's talk about... I'm just
2 trying to think of some examples. So, you've got like that Quonset hut building that CrossFit is
3 in and I'm trying to remember what it's use was (interrupted)

4 Mr. Lait: Yeah, I don't know.

5 Commissioner Waldfogel: Before CrossFit was there but... so which bucket? I'm just trying to
6 work out what bucket that would be and what the potential conversions... I mean under the
7 current circumstance, that could be taken over and converted to the office because of the CS
8 carve out, is that correct?

9 Mr. Lait: Yeah, so under the current zoning if it's a... if a CS zone property is not used for
10 housing, it can convert to office. And we believe that, well one, the Retail Preservation
11 Ordinance kind of makes this a little bit moot because the Retail Preservation Ordinance casts
12 an even wider net than Item Number Two. The Retail Preservation says any retail or retail like
13 use that's in existence as of a certain date has to stay there. And so, if we didn't make this
14 change, we still have that Retail Preservation Ordinance but this has been one that's been on
15 our list and I think that it still... We would like to have it cleared up. Clarified and cleared up so
16 it's not... it just makes it cleaner for us to administer the code.

17 Commissioner Waldfogel: Ok, actually that helped a lot because I wasn't sure about the
18 relationship between this and Retail Preservation and that actually helped connect a couple of
19 dots.

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1 Mr. Lait: Yeah, that... if we did nothing, we're... There's no change but from esthetics and
2 administration, we would prefer it to be removed.

3 Ms. Campbell: And I just want to add one clarification to that. Office is restricted with
4 Conditional Use Permits so it's only up to 5,000-square feet and anything above 5,000-square
5 feet would require that use permit.

6 Commissioner Monk: Could I just add one thing before we move on? Would it make sense to
7 reference the Retail Ordinance in this ordinance in some capacity just so that when someone is
8 coming to the code and reading it, they are not reading it in a vacuum and they know there's a
9 related code section that they might also want to reference? And likewise, in the Retail
10 Ordinance to reference this section.

11 Mr. Lait: Sure, so yeah (interrupted)

12 Chair Lauing: That seems pretty easy and helps clarify it.

13 Mr. Lait: Yeah, we'd like to maybe add that too. I think Albert was whispering in my ear that we
14 could have some kind of provision that says that in the event of any conflict between this and
15 the Retail Preservation Ordinance in section blah blah blah, that provision [unintelligible].

16 Chair Lauing: Ok.

17 Mr. Lait: Ok, so we'll make that change.

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1 Chair Lauing: Good. Good suggestion. Alright so we're onto Thirteen, let's keep the same
2 batting order.

3 Commissioner Summa: So, I didn't really understand the point of this one and given
4 Commissioner Waldfogel's earlier question about the other Map Act Item and I guess this is a
5 question for Staff. Do... Doesn't the PTC have to review this?

6 Mr. Lait: Well, the PTC and I'm going to maybe need some help here from the colleagues but
7 there was a... so the reason we're doing this is to... let's just back up a step because this does
8 refer to the... It relates to the referral, right? Ok. So, last year or earlier this year the Council
9 adopted this provision where the Director can differ any project that is... requires City Council
10 approval or one of the applications requires City Council approval or major policy... Basically, it
11 allows the Director to differ any actions being considered like an Architectural Review Board
12 Action, CUP, all that stuff can be pushed to the City Council under broad circumstances. We
13 believe that includes the subdivision maps that are processed in our code as well but because
14 we don't have this specific reference in the language, a project came up where there was this
15 debate that we had internally at Staff, which was does the code allow for Director deferrals of
16 these maps to the City Council when it's a non-controversial map? I mean we were able to
17 make the decision on it but the map was associated with another permit that was going to go
18 to the City Council for approval. I'll just say site and design by way of example and so we were
19 kind of stuck on this procedural issue, can we send the map and the site and design to the City
20 Council for a decision or do we have to declare that this something that we need PTC guidance

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1 on, even though it was a really straightforward map, to get it to the City Council? And so, all this
2 language does is it gives us the ability to link that map, that otherwise has to be approved by
3 the Director, and allows us to move it forward to the City Council along with its other Council-
4 related permits. It's awfully nuanced and more... We write it down because we stumble on but
5 it's not a huge process change and we believe it's reflective of the Council's action earlier this
6 year that gives the Director the ability to move things up to Council if it's appropriate to do so.

7 Commissioner Summa: Ok, thank you.

8 Chair Lauing: And this says, and PTC has already reviewed it in a non-map public hearing.

9 Mr. Lait: That's right. Yeah, I'm actually trying to remember the (interrupted)

10 Chair Lauing: So, we've already seen it at the time.

11 Mr. Lait: You saw it in some context already.

12 Chair Lauing: Right, pre-map.

13 Mr. Lait: Saw the site and design, it was... But... And you saw the project but I don't know if they
14 saw the map. And so, the question was, well gosh, now do we have to send a map back to the
15 Planning Commission?

16 Chair Lauing: Right, so this is just a later stage deferral. Commissioner Alcheck?

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1 Commissioner Alcheck: Yeah, so I actually agree with this change but it is a good opportunity
2 for me to demonstrate sort of another issue that I have with the process that was sort of
3 outlined at the beginning of this meeting. Which is let's say we didn't agree with this position
4 and Staff... As Jonathan already articulated at the beginning of the meeting, they may take a
5 different position than us. And then the Staff report that goes to Council will in an effort
6 articulate our concern but maintain the ordinance as written and here's my issue. I'm not
7 exactly sure where Staff would have the authority to sort of disagree on whether any of these
8 items are clerical and minor and where they are not. And I agree with the suggestion that this
9 isn't just clerical and administrative, we are actually exercising an opportunity here to make
10 decisions. The problem is that if the ordinance moves forward without edits by this
11 Commission, it strips this Commission of the opportunity to essentially oversee and help Staff
12 determine what should the policy be. So, if for example we take issue with one of these items
13 and say this is policy and we need to spend more time on this and Staff goes no, we disagree.
14 Then the Commission is essentially stripped of the sort of power and authority to participate in
15 the process. And the discomfort I have is that the suggestion that this is minor creates an
16 uncomfortable context for City Council because if they fail to read our minutes and Staff
17 doesn't articulate the narrative of our argument as well as, frankly I think we could, then there's
18 a little bit of conflict of interest. So, while I agree with this one (interrupted)

19 Chair Lauing: Yeah, I got you.

20 Commissioner Alcheck: I'm a little... The process here is a little concerning.

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1 Chair Lauing: But I think the process here you're describing is not the intent even of the written
2 document that will go to Council. So, Jonathan, why don't you speak first?

3 Mr. Lait: Well, so, yeah, I mean I... The reason we noted it in the Staff report and I made an
4 extra effort to communicate it in the presentation is to sort of navigate what I thought was a
5 pretty awkward experience a few years ago as we kind of did our first one of these ordinance
6 changes. And not everyone was on the Commission at that time but it was... I think it was a
7 reflection of that series of meetings would show that there was... It was not a smooth process
8 and so we wanted to be clear about what our intent is. And then it is our job I would say to
9 make these recommendations to City Council. It's fully within what we believe to be our scope
10 of authority to make these recommendations and I would argue or suggest that this is the
11 process where we are engaging the Planning Commission in its conversation. There will be
12 minutes, there will be a Staff report, one of you will attend the City Council meeting to offer
13 those comments to the City Council in that forum. We, in fact, made changes to our Staff report
14 as a result of this discussion last year where we include this blurb for each of these things in the
15 Council reports and we've been sending those to the Chair [Note-asking] did we get this right?
16 And we have a dialog back and forth about that when those opportunities happen. I don't think
17 we had any conflicts or issues in this year so I feel like there's... and we're having this
18 conversation now in the absence of a critical issue. I mean we already heard from
19 Commissioner Alcheck that he supports this amendment so I kind of feel like we're rehashing
20 this in a moment where we really don't need to do that.

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1 Commissioner Alcheck: I don't dispute the authority that you can make the recommendations.
2 The point I'm making is when they are lumped together, something this simple and something
3 more complicated, for City Council to be able to navigate that in one meeting is complicated
4 and that's the part that (interrupted)

5 Chair Lauing: Yeah but I think the process... The end game process is that we might pull out two
6 or three of these, we might debate them, we might then vote in a different way than what City
7 is going to recommend. The City thinks about it and says we're still going to recommend it
8 because we don't agree but they call out here's the PTC's position on these two items. We
9 don't have an agreement, now you seven Council Members have to make a decision. So, that
10 way both... It's been hashed by us, it's been hashed by them, we got a dialog together and then
11 here are the twenty areas we agree, here are the two areas we don't, then they have to make a
12 call. Ok, others on Thirteen?

13 Commissioner Waldfogel: I have a question.

14 Chair Lauing: Go ahead.

15 Chair Lauing: Again, just a point of clarification on this. I think I support it but I'm just trying to
16 understand if there any scenario under this in combination with any other Director
17 discretionary approvals where projects would completely bypass the Planning Commissioner?
18 Where it would just get processed by Staff? I'm just... Because I know the Explanatory Tax

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1 describes a scenario which an intent but that's not what the actual code language says so I just
2 want to understand if that's a scenario.

3 Mr. Lait: Yeah, no I believe the answer to that question is no. The types of applications that you
4 would see that would be included in this would either be... It'd either be a standalone map
5 application which the Director routinely approves or reviews I should say and makes a decision
6 on. If its an acceptance, it has to go to the PTC and then on to the City Council. If it's a site and
7 design application, that has to go to the PTC and then on to the City Council. I suppose if it's an
8 ARB application but then the Director still makes the decision.

9 Mr. Yang: [unintelligible- no mic]

10 Mr. Lait: CUP has to go to the Planning Commission.

11 Mr. Yang: [unintelligible -no mic]

12 Mr. Lait: On a request for a hearing. If... That's right. That's right so no, I don't... I'm not... I can't
13 think of an application type where the Planning Commission would be (interrupted)

14 Commissioner Waldfogel: Ok thanks, that clarification helps. Thank you.

15 Chair Lauing: Ok.

16 Commissioner Gardias: Yes so exactly... Thank you. So exactly, I had the same concerns that
17 Mike had just... named when he spoke first. I was thinking that pretty much there would be a

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1 process to bypass the Commission and then just reading the issued language. the proposed text
2 didn't agree with this... What I understood as an issue was and I was thinking pretty much there
3 should not be any direct submittal to the Council. That this should be... my understanding was
4 submittals to the City Council would be dealt for those projects that were reviewed by the
5 Planning and Transportation Commission but the intent is no, is this correct?

6 Mr. Lait: So, that's... We're talking about one application type that is the Parcel Map, the
7 Preliminary Parcel Map, which is traditionally reviewed by the Director. The Planning
8 Commission doesn't have a role in that process today and what we're trying to do is say on
9 projects where we want to forward something onto the City Council because of some other
10 entitlement. A site and design would come already before the Planning Commission and that's
11 what happened in one instance that we're talking about; that we're referencing. So, again, this
12 isn't designed to... The reason it's written this way is because the language in here says that the
13 Director that makes the decision or sends it to the Planning Commission and City Council for
14 review when the Director feels like there's an issue that needs to be made. That process still
15 exists, if we felt like there was an issue that we weren't able to make it at staff level [crosstalk],
16 it would still go through that same process. All we're saying is for those other ones that are
17 more minor in nature, tradition... Typical but there's this other application, we want to be able
18 to group those together.

19 Commissioner Gardias: Ok so thank you very much, then I'm fine with the proposed change.
20 Thank you.

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1 Chair Lauing: Ok, on Fourteen, which is collection time for Officers. Let's start with... sorry?
2 Thirteen?

3 Commissioner Waldfogel: Yeah, just one other point of clarification. This language was prior to
4 taking such action, the Director of Planning shall hold a public hearing. So, what is the proposed
5 venue for that public hearing because it sounds like you can't forward it... The Director can't
6 forward it to Council without holding that public hearing.

7 Mr. Lait: We have Director hearings all the time, at least once a... We have them scheduled for
8 once a month and they take place either here or in other conference rooms that we have
9 available.

10 Commissioner Waldfogel: Ok, thank you.

11 Mr. Lait: On this Item Fourteen that's coming up, just a clarification. So, I thought Commissioner
12 Rosenblum's comments were kind of enjoyable on how this gets scheduled. So, I just wanted to
13 state that the intent of this is to strike the specific reference from the code and leave it to the
14 Planning Commission through its rules and procedures, which we hope to have a conversation
15 about earlier next year, to set the date and time... The date where this would happen. Not that
16 it's just going to be this free-flowing concept but you will actually (interrupted)

17 Chair Lauing: Right.

18 Mr. Lait: Decided.

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1 Chair Lauing: Right, that's exactly what I was going to say and he asked for consistency with
2 other Commissions and the constituency is that they now have the flexibility to choose when to
3 do the election of Officers but once you do that, it doesn't change every month. You get on a
4 different annual schedule. One other comment though in the wording, which is actually better
5 in the ordinance but not as it's explained, there's the unfortunate reference to maintaining a 1-
6 year term limit. Just the words term limits have implications and that's not the intent to limit
7 anybody to only 1-year ever. And I just think it's...

8 Commissioner Alcheck: One-year at a time.

9 Chair Lauing: At a time, yeah so if that could just be clarified.

10 Commissioner Monk: I would just say 12-month period.

11 Chair Lauing: We're just going to do down the rows here on this stuff.

12 Commissioner Summa: [unintelligible – no mic]

13 Chair Lauing: Yeah, we're on Fourteen. I was just tagging onto the Assistant Director's general
14 comments about the flexibility that's being created here, just to kind of set the stage for the
15 discussion. But the other point that I was raising was this term limit just has implications that
16 aren't intended so I just think that there's some language change there. Why don't we go ahead
17 and Commissioner Summa, did you have anything on that?

18 Commissioner Summa: On Fourteen?

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1 Chair Lauing: Yeah, ok. Alcheck?

2 Commissioner Alcheck: Yeah so, I'll just chime in here. I think actually it's a very good point. It
3 didn't even occur to me when I read it and it's happened in my experience. Commissioner
4 Eduardo Martinez served at Chair during my 10-year and the then Vice Chair was not
5 reappointed and in the absence of that reappointment we could have selected a new Chair
6 from the remaining Commissioners but we chose to reappoint Commissioner Martinez and he
7 served 2-terms. And so, the language kind of sounds like it would prohibit that so I actually
8 think that's a really good idea. And I actually would suggest that we change the sentence a little
9 more so it would say something like serve in such a capacity for 12-months at a time or 1-year
10 at a time (interrupted)

11 Chair Lauing: It says that for 1-year each.

12 Commissioner Alcheck: Until... Then I would add at which point another election should take
13 place. I don't think it should say until a successor is elected because I think we should codify
14 that elections should take place regularly, as opposed to... Here's my [unintelligible], the reason
15 why this got all messed up is because the City Council had a very difficult time recruiting people
16 to this Commission and as a result, they actually unilaterally extended the terms. I originally...
17 my term was supposed to end in June 2017 and about 3-year ago they extended it to December
18 2017 and in the process, it became problematic. I guess my point is, is that (interrupted)

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1 Chair Lauing: But the phrase here doesn't refer to just the person that is elected. They could...
2 The Commission could decide to elect a new Vice Chair or somebody could resign or something
3 so it was meant to give us maximum flexibility but I agree with you. It should be tightened up a
4 little bit so it's not misunderstood.

5 Commissioner Alcheck: Ok.

6 Chair Lauing: So, you could say annual terms and notwithstanding the foregoing as Attorney's
7 say. There are no limitations to the number of terms someone can serve as an officer or
8 something like that, [unintelligible] change.

9 Commissioner Alcheck: So is it your vision that in the near term we would specifically clarify in
10 our bylaws when (interrupted)

11 Chair Lauing: Yes, right.

12 Commissioner Alcheck: I would just make one point there, which is that I... I don't know where
13 everybody stands on this but I... Despite the fact that I don't think it was the original intent for
14 outcoming Commissions to choose incoming leadership. I accept... I acknowledge that I don't
15 believe that was the original intent. I believe the original intent was for the new members to
16 choose new leadership. There are two problems with that, the first is that if you have a term
17 ending Chair, there's no one to preside over the meeting or a term ending Vice Chair and term
18 ending Chair. You have no one to preside over that meeting, that's problem number one and

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1 problem number two is that in our practice now for the last 4-years, we've actually had the
2 outgoing or term ending participates, so it's the opposite of Commissioner Gardias's point of
3 view, select the future leadership. And what I've personally found is that has been very helpful
4 because it allows the Commissioners who are familiar with the practices of the different
5 Commissioners to participate even if they are being termed off. Even if they "have no dog in the
6 race", they might have a more informed opinion about who might make a better leader.
7 Whereas a new Commissioner who has never served like for example [Billy Riggs] who may be
8 unfamiliar with us doesn't. And the significances of not making the decision today is that one of
9 those individuals who participated in the vote tonight who I believe would support my... This
10 argument that I'm making and opposed the argument Commissioner Gardias would make,
11 wouldn't be there in January to participate in that discussion about it. That's not to say
12 anything, I'm just making that point so that you're aware of it and I think that there's a vote
13 there that won't get heard in January.

14 Chair Lauing: So, I think we get another dip at this when we come back with the bylaws so I
15 don't think we have to really beat this up or take it offline or pull out. But let's continue if other
16 Commissioners have comments, Commissioner Monk?

17 Commissioner Monk: Again, just looking at this purely from how it was drafted and the original
18 language which reads the Commission should elect its Officers annually at the first meeting of
19 November. So, I would hope that in the future we would receive changes that are redlined that
20 it would be more accurate so the Commission... I don't know why Commission and elect are

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1 read. Those are language that hasn't changed so it's just confusing to me when I'm reading this
2 for the first time. I'd like to see original context listed as it is originally. Shouldn't be italicized, it
3 should just be black unless you want to make Commission capitalized and maybe that's why
4 you're trying (interrupted)

5 Mr. Lait: That's what happened.

6 Commissioner Monk: Do it.

7 Ms. Campbell: That is what happened.

8 Commissioner Monk: So, then the C should be red and capitalized, just to make it clear for us
9 who have never seen this ever before. I shouldn't have to be referencing it back and forth so
10 just making that as a side note from a clerical standpoint.

11 As far as the proposed language goes, I would like to see something along the lines of the
12 Commission shall annually elect a Chairperson and Vice Chairperson from its Membership who
13 shall serve in such capacity for 12-months and just leave it at that or something as simple and
14 along those lines.

15 [Note Male:] That's fine.

16 Commissioner Monk: Thank you.

17 Commissioner Waldfogel: I don't think I have any comment.

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1 Chair Lauing: Commissioner Gardias?

2 Commissioner Gardias: Very good so on the... You heard me talking about this many times so
3 probably I should not be talking about this any longer but first, congratulations to the newly
4 elected Chairmen and Vice Chair; congratulations.

5 Commissioner Monk: Thank you.

6 Commissioner Gardias: However, so I resent the comments that some people are enlightened
7 and they know better whom to elect and then they have the right to elect for others. I really
8 believe this is the direct democracy and then [Note -the] body has the right to elect its
9 leadership. It means also build who's going to be incoming Members, he should have this right.
10 and also, the same right that Commissioner Summa and Commissioner Lauing [Note -Monk?].
11 Last time when they joined the Commission there was a curiosity because the prior leadership
12 was pretty much elected by two Council Members so for this reason, I think that things like this
13 should not be happening. Specifically, that this could make us... An argument against this
14 Commission when we fight very hard to get the public to come to our meetings and discuss it
15 with us. We should be as crystal clear from the perspective of our code and I believe that this is
16 not right. It may be legal that somebody elects people for others but I think that this is... This
17 doesn't feel right to me. And for this reason, I think that elections should be happening once all
18 the Council... City Council appointees are installed. I think that sentence should read, the
19 Commission shall elect Officers annually at the first meeting upon installation of new

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1 appointees. Which clearly says that pretty much that once the process takes place, the new
2 appointed Commissioners by the City Council, then the body selects its leadership. Thank you.

3 Chair Lauing: So those two bits of suggested wording frame the debate for the next time we're
4 talking about the bylaws. Do you have another comment Commissioner Monk?

5 Commissioner Monk: Well, Commissioner Gardias is bringing up a point and he's brought it up
6 now twice in this meeting so I don't know if this is the time to discuss it but I did want to
7 address this point because he's now made the same point twice. Is this the appropriate time?

8 Chair Lauing: Yeah but let's keep it brief.

9 Commissioner Monk: I just want to say that I understand what you're saying but we're all
10 appointed by Council so the timing of it, to me, seems relevant. I think the bigger issue is what's
11 most appropriate for this Board and I have a different perspective in that I was brought on this
12 year and Commissioner Summa was brought on as well and I don't know if she shares this
13 perspective but I think it would be immense amount of pressure and unknowing on who to vote
14 for coming in a vacuum. I don't know our future Commissioner Riggs and he doesn't know any
15 of us so I wouldn't feel comfortable coming onto this Commission and having to vote when I
16 first step onto it. I think that being here and seeing how we all interact with each other, how we
17 interact with Staff, our positions on things, I think we have a lot of value and a deep
18 understanding of what each of us brings to the table when we make out selections. So, I

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1 actually support the outgoing members to do the voting versus the incoming members. I just
2 want to make that different perspective known to you, thank you.

3 Chair Lauing: Ok, Commissioner Waldfogel?

4 Commissioner Waldfogel: Sorry, just one quick comment. I just looked at the codes for other
5 Commissions and so far, everyone that I've looked at also includes the phrase at the end of the
6 sentence; until successors are elected unless his terms are, I'm not sure about the is but unless
7 his term is the member of the Commission sooner expires or expires sooner. So, I'm seeing this
8 under Human Relations and Utilities.

9 [Note- Male:] [unintelligible – mic not on]

10 Commissioner Waldfogel: Yeah but they all seem to have this mention of term expiration. I
11 mean that might be [unintelligible] in this other language about appointing a replacement but
12 I'm just pointing out the inconsistency in the language.

13 Chair Lauing: Commissioner Summa.

14 Commissioner Summa: Just really briefly since Commissioner Monk referenced my name. I
15 would have been perfectly comfortable to vote when I got on this Board. I was familiar with the
16 members and I've never... I mean I've never heard of a Board or Commission that doesn't vote
17 for their own Chair so just for what it's worth, I support Commissioner Gardias's concern.

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1 Chair Lauing: Ok, we'll get another dip at this one as I said so let's go onto Fifteen but before I
2 do that, I promised to do a time check, it's about 8 o'clock. I think we're making, actually, quite
3 good progress with only possibly two pulls outs right now. So, if we want to press on, we can
4 unless someone wants to (interrupted)

5 Commissioner Alcheck: [unintelligible – mic not on]

6 Chair Lauing: Yeah, we can set another time limit. Do you want to go to like 8:45 and take
7 another time check? Ok, so... I'm sorry, Fifteen.

8 Commissioner Summa: I have nothing on Fifteen or Sixteen.

9 Chair Lauing: Mr. Alcheck? I had a question on Fifteen as long as we're just going down the line
10 here. I totally agree with consistency, I just was wondering how you picked which number for
11 consistency because there could be an argument that there should be long time frames, not
12 shorter. So, as long as it's consistent, I'm cool with it but why not make it longer so that people
13 can be notified well in advance?

14 Mr. Lait: Yeah and that's fair. I mean the... everything else is ten so we chose ten. That's the
15 traditional noticing period that we have for all of our entitlements. On Number Fifteen, right?

16 Chair Lauing: Yes.

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1 Mr. Lait: The reason twelve is problematic for us is because it actually requires everything to be
2 set forward a week earlier for publication than it does for ten. The way the calendar sets up and
3 we (interrupted)

4 Chair Lauing: What about fourteen, does that help?

5 Mr. Lait: Well, it just pushes everything back. I mean if it was (interrupted)

6 Chair Lauing: I see what you're saying.

7 Mr. Lait: For me, there's no difference between twelve and fourteen because it's in the same
8 cycle but we're so programmed to do everything at ten. We don't... It takes somebody who's
9 really paying attention to what they're working on to know that this one is unique and if you
10 missed the noticing timeline for that, we get this awkward moment where we've got to
11 postpone it.

12 Chair Lauing: Ok.

13 Mr. Lait: We don't really have so much of a dog in the fight for the number, we want them to be
14 consistent. Nine out of ten are ten so we selected ten.

15 Chair Lauing: But it's harder for you if it goes longer?

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- 1 Mr. Lait: It has other implications in application processing timelines will get dragged out
2 because we're not... We lose a week of putting things together and a lot of stuff happens in the
3 week leading up to a notice and packet.
- 4 Chair Lauing: Ok. Sorry, go ahead.
- 5 Commissioner Waldfogel: Why calendar days and not business days? I mean just in terms of
6 your process.
- 7 Mr. Lait: Well, this... So... (interrupted)
- 8 Commissioner Waldfogel: I mean does that get dicey over sometimes a year to (interrupted)
- 9 Mr. Lait: Over a year?
- 10 Commissioner Waldfogel: Well, over sometimes a year like over the holidays, does ten calendar
11 days... If somebody walked in on Christmas Eve with an application or if a notice period
12 (interrupted)
- 13 Mr. Lait: Yeah, so this is all noticing that we do to advise the public about stuff in the paper.
- 14 Commissioner Waldfogel: Right.
- 15 Mr. Lait: And so that always gets published on Friday.

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1 Commissioner Alcheck: There is a requirement that if the tenth day lands on a holiday, then
2 (interrupted)

3 Chair Lauing: It goes over.

4 Commissioner Alcheck: It's the following business day.

5 Mr. Lait: For appeals and things of that nature, we [unintelligible] (interrupted)

6 Chair Lauing: Yeah but this is our posting as a City.

7 Mr. Lait: That's right which always happens on Friday and we account for holidays and we have
8 to do some planning ahead for holidays that are especially on Mondays and things like that. So,
9 if we published a ten-day notice in the paper, it's there for ten days. It gets published on Friday
10 and it's there the whole next... It's... The meeting isn't until the next week and then the week
11 after that so holidays don't really come into play.

12 [Note-Male:] [unintelligible – mic not on]

13 Mr. Lait: Right.

14 [Note-Male:] [unintelligible – mic not on]

15 Commissioner Alcheck: Do you have to re-publish like if it's ten days and the paper comes out
16 twice in that period of time?

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1 Mr. Lait: No.

2 Commissioner Alcheck: Do you re-publish?

3 Mr. Lait: No.

4 Chair Lauing: Ok. Did you have anything Commissioner Gardias?

5 Commissioner Gardias: Yeah so, I was looking for the same clarification and so pretty much the

6 ten means that... Is the period because a number must mean something? So, you're saying that

7 ten is specifically because of the process of publishing on Fridays and then it pretty goes into

8 effect or pretty much it's business, as usual, the following Monday.

9 Mr. Lait: Yeah so basically that two adds a week to our preparation time; those two days add a

10 week.

11 Commissioner Gardias: Ok, yeah, I'm fine with this. Thank you.

12 Chair Lauing: Ok, back to the other end on Sixteen. Did you already pass on that one? And so,

13 did Mr. Alcheck? I'm good on that one. Sixteen, Commissioner Monk?

14 Commissioner Monk: Can you just give us a little context of where this is coming into play

15 because it's referring to the Chapter and I don't know what Chapter it's referring to since it's

16 entirely new.

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1 Ms. Campbell: Yeah so what we're trying to do is add in some specific language to state that
2 applications can be withdrawn by the applicant and (interrupted)

3 Commissioner Monk: Sorry, there's a little bit of a side dialog. Can you just tell me where to
4 look in the current code where you're planning on putting this and then (interrupted)

5 Ms. Campbell: 1840.190.

6 Commissioner Monk: So, it's going to follow what?

7 Mr. Lait: It's just another grab bag area of the code, it's [unintelligible] (interrupted)

8 Commissioner Monk: Oh, ok so where (interrupted)

9 Ms. Campbell: It's going to follow the set Retail Preservation is... 1840.180 is the section
10 previous.

11 Commissioner Monk: Ok, I don't have that in my (interrupted)

12 Mr. Lait: You don't.

13 Commissioner Monk: I might have an outdated printout. I... My... The zoning code that I was
14 provided seems to end at 1840.150, that's probably why I'm a little lost.

15 Mr. Lait: We've adopted a couple things probably since we've given that to you, Retail
16 Preservation is one of them.

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1 Commissioner Monk: Ok so that's why I don't know the context of this.

2 Mr. Lait: Yeah, that's right. So, this is like the general provisions where we don't have a place to
3 put something, this is the section that it goes. It doesn't neatly fit into districts or things like
4 that. And again, we just have some applications that sit around for a long time and we don't
5 really have a mechanism to deal with them. We ask applicant... a lot of people blame the City
6 for not processing applications in a timely manner but I'll tell you, there's a whole other set of
7 stories where we have a bunch of applications that we're waiting for a response from an
8 applicant or architect. It's amazing how many times architects can change, homeowners change
9 plans and so the whole point of this is to allow us to move applications along without denying
10 them. And an applicant doesn't get a refund on denials but here we can have their application
11 withdrawn and then people are eligible for a refund at least.

12 Chair Lauing: Was that it?

13 Commissioner Monk: Thank you.

14 Chair Lauing: Commissioner Waldfogel?

15 Commissioner Waldfogel: Yeah, I'm sorry, I'm still on Fifteen and I was just trying to get
16 clarification on this. Is there a reason why you wouldn't operate on six business days rather
17 than ten calendar days? I mean would that have the same effect? What I'm trying to get at is
18 suppose you sent out... I'm not saying you would ever do this but you could imagine an evil

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1 Director who sends out applications... Who sends out a notice the Friday before Thanksgiving.
2 And then in the ten-day requirement goes through two or three holidays so you... But you'd still
3 be fully compliant. The end day would still be a business... It would still be a work day; the start
4 day would be a work day but this would go out over a duration that really takes away an
5 opportunity to respond.

6 Mr. Lait: Its... Again, this is a notice requirement with an outgoing notice to... From the City to
7 the paper. This is also to residents?

8 Ms. Campbell: Nope, this is just notice (interrupted)

9 Mr. Lait: This is just a notice to the paper so I... All of our notices are ten-day notice. This one's
10 an outlying at twelve days. I don't know how the holidays necessarily factor into that notice.
11 They always get published on Friday.

12 Ms. Campbell: It does include the card as well, sorry. It does include the notice cards.

13 Mr. Lait: Advising of the hearing date.

14 Ms. Campbell: Yes.

15 Mr. Lait: I would say I think business days adds... I mean that's a real shift of us. If the
16 Commission thought that the ten days was too short and there's been no indication that it is so
17 far by... Since I've been here. People may talk about not getting notices but nobodies talked
18 about the time frame for the notice. But I would polite push back on business days and if there

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1 needed to be some movement, I'd rather see the number of days change but I'm not
2 advocating for that. I just think that's more of a structural change.

3 Commissioner Waldfogel: Yeah, I'm just looking... I think there's a legal definition somewhere
4 on what business days or work days are for the City and I'm just trying to track it down in the
5 code; I'm looking for the reference.

6 Commissioner Monk: I think that going back to the twelve days, if that's a concern of yours,
7 would just elevate any of those calculations if that's what you're really worried about. But I
8 think for consistency, you're looking... Is this... Is what you do in this section going to have an
9 impact on other notice requirements?

10 Ms. Campbell: This existing... So, the ten days requirement is what we use for everything else.
11 We use it for architectural review (interrupted)

12 Commissioner Monk: So, this is the main section so don't you think that our community would
13 be a little (interrupted)

14 Ms. Campbell: No, it's the other... So, for all of our other entitlements aside from these ones
15 here for the maps, we use a ten-day period... Calendar day period. So, these are the only ones
16 that are inconsistent with everything else that we do so that's where the difference is.

17 Chair Lauing: Ok, we're on Sixteen now.

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1 Commissioner Alcheck: I have a quick question about the inactive application provision, that
2 would be on Page 18b. So, I understand that there's a lot of application that Staff... That no one
3 is waiting on Staff to do anything. That's really on the... The [unintelligible] is on the applicant to
4 sort of do something. One of my issues here is like for example, let's say you submitted
5 something at the beginning of this year and then you've become aware of the ADU discussion
6 and it makes you want to wait so that you can sort of determine how the ADU would shake out.
7 Considering how long it took for us to sort of... We haven't even had our study session yet to
8 sort of understand it. I was at a meeting a couple weeks ago that Director Gitelman hosted
9 where she explained how the ADU is working in our City and I noticed a lot of people felt like it
10 was very informative. I guess my point is that to me is like the classic example of somebody
11 goes in but then they are like oh, interesting and my comments that I got back reflected issues
12 but this ordinance might change. Their decision to be inactive for a certain amount of time
13 while they reevaluate the financial implications and maybe the law changing. I wonder if really
14 six months should just... My point is that six months seem very short considering that most
15 applications from beginning of submission to conclusion are not typically six-month process;
16 like you submit and if you're in a single-family review... I mean a two-story IR review, you're
17 unlikely to get your final probably within six months. It's probably going to be a little longer
18 than that so (interrupted)

19 Chair Lauing: Jonathan.

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1 Mr. Lait: Just to clarify, we're talking about no activity in six months. We know that
2 applications could take six months, eight months to process. We're saying we're
3 [unintelligible]... We're getting no feedback from the applicant team for six months.

4 Commissioner Alcheck: So would like an email saying we're going to wait until your ADU
5 discussion is complete to respond to the comments you've made which could theoretically take
6 eight months. Would that suffice as activity? I guess that's what I'm trying to say. I understand
7 you say we need to see your architectural plan reflect the following changes. Those changes
8 require someone to sit down with their architect and make some compromises but they may be
9 navigating other issues and financial questions and six months just seem short. That's what I am
10 saying.

11 Mr. Lait: So, the whole point about this is to connect with the applicant, make sure their still
12 connected and engaged in the project. This doesn't mandate the Director to withdraw the
13 application, it simply states that the Director shall have the authority. We get cases where an
14 applicant will say we're going to have revised plans to you in six weeks. Two months pass, we're
15 going to have revised plans in a month. Fine (interrupted)

16 Commissioner Alcheck: My question is you have a term here called adequately respond and
17 the question is would (interrupted)

18 Mr. Lait: The scenario that you just described may qualify for that. I mean if there's a policy
19 issue.

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1 Commissioner Alcheck: That's my point, sort of figuring out would it qualify and (interrupted)

2 Mr. Lait: It's subject... Yeah, the Director would have that authority to make that
3 determination. I mean part of this is as an application, is it right for processing? There's a lot of
4 expectation on Staff to process applications within a certain time frame. We want to also make
5 sure that there's an expectation of that when you file an application, that it's being processed
6 and that we're getting that same response time so that we can provide that service to you. So...
7 But if there's a policy...

8 Commissioner Alcheck: I don't... now look, I don't know that I necessarily think they are linked.
9 We're in the habit of processing applications because we run a Development Center that takes
10 applications and we make it... We've sort of obligated ourselves to respond quickly but I don't
11 know why an applicant is... I don't know why the... I don't know why our Building Department
12 would have... Would be concerned whether an applicant was working through the issues they
13 have to work through in a timely way. It's not like if you want to build, you have to build quick.

14 Mr. Lait: So, I don't disagree with that statement. That's exactly right and if that's the scenario,
15 then there's no issue. We're talking about inactivity, nothing, no feedback.

16 Commissioner Alcheck: Well, adequate.

17 Mr. Lait: That's right.

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1 Commissioner Alcheck: We're talking about adequate responses so I'm just saying, my point is
2 that that's where I'm struggling with this. I don't know maybe the time frame should be
3 extended based on our experience with the ADU. That's really the only reason I mentioned it
4 because I feel like there are people who are in the marketplace right now who have put their
5 plan on hold because they are still trying to figure out if the ADU changes are affecting them.

6 Chair Lauing: Commissioner Monk?

7 Commissioner Monk: To follow up with what Commissioner Alcheck was stating, perhaps we
8 would consider putting in a definition of inactivity. Just something to think about.

9 Commissioner Alcheck: It is defined. It's the question of what is adequate?

10 Commissioner Monk: Or rather a definition of adequate. Just something to consider and I
11 would just also add that the way it's written, the first sentence, in and of itself is quite extreme
12 if you just read it by itself. It looks like now after you read that sentence, then there's a notice
13 that they may or may not provide. I'd like to see baked into that first sentence that some sort...
14 I think it would be fair that they would be obligated to notify the applicant because the way
15 that its written looks pretty draconian. And then just maybe clean up the second sentence
16 afterward to support that. That would just be my feedback on that content.

17 Chair Lauing: Ok, Commissioner Waldfogel.

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1 Commissioner Waldfogel: Thanks. Just some clarification on the process here so let's say that
2 an applicant submits... Let's say if somebody submits an application for development, do we
3 freeze the codes that apply to that application on the day that first application is submitted? I
4 mean I'm just trying to understand a scenario... What the scenarios are for something sitting in
5 the process for a long period of time; potentially dormmate.

6 Mr. Lait: So, I think it depends on the application, for one. Most of our applications would be
7 subject to the codes that are in place at the time that permits are issued. Though if you're
8 deemed complete... Well, I guess... Yeah, once your... Ok.

9 Mr. Yang: So, typically pending applications are subject to any new changes in the law. Often
10 when we do change the law, we exempt pending applications but there's no obligation to do
11 that.

12 Commissioner Waldfogel: Ok, so there's no freeze. There's no... you don't get any entitlement
13 to the current law by submitting an application on... On a date certain, is that correct?

14 Mr. Yang: As a general matter, no, unless there's some specific provision that says that there is
15 such a freeze but as a general matter, no.

16 Commissioner Waldfogel: Ok, let me just ponder that for a second but thank you.

17 Commissioner Alcheck: I do have a quick question, is there... I'm vaguely remembering that
18 there's a rule that allows the Building Department or maybe the Director to refuse applications

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1 if another application was submitted within a certain period of time. Is that... Is there... So, if
2 someone's application was withdrawn, they could be excluded from re-submitting an
3 application?

4 Mr. Lait: So, this wouldn't apply to that scenario. There is something where after... the City
5 could take an action where it would freeze the filing of a similar application that was denied
6 within twelve months. This has nothing to do with that provision that a withdrawn application
7 doesn't trigger that. And then also, just to be clear, we're not talking about Building Permits.
8 We're talking about planning entitlements, these are AR... not a Building Permit. Architectural
9 Review Applications, individual review applications, Conditional Use Permits, these are the pre-
10 planning process, not the Building Permit.

11 Chair Lauing: Ok. Commissioner Waldfogel, are you ok on this one?

12 Commissioner Waldfogel: I'm just still trying to work through some scenarios in my head
13 because it seems like it's prudent if you know the rules are changing, a prudent course of action
14 is to try to get a complete application in as quickly as possible to... That you may even... You
15 may choose to amend later. But I'm just trying to understand the process and can do to protect
16 themselves from code changes because you know, design processes take time so what's the...
17 What is a prudent person... What would a prudent person do and how does that play into this
18 timeline?

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1 Mr. Yang: So, typically the general rule is that you only obtain a right to the rules as they exist to
2 freeze them in place. If you have an improved... Sorry, if you have an approved entitlement so
3 you've made your application, it's gone through the process, it's been approved and you've
4 made a substantial expenditure in reliance on the entitlement. That's the point in which the
5 rules freeze so just filing an application, complete or not, really, for the most part, does
6 nothing.

7 Commissioner Waldfogel: Ok, so substantial... I'm sorry, what was the word you used?
8 Substantial (interrupted)

9 Mr. Yang: Expenditure and reliance on that approval.

10 Commissioner Waldfogel: And what about substantial expenditure and reliance in a design
11 process on a rule set? That's not something that [unintelligible](interrupted)

12 Mr. Yang: If there's no approval, then you're not relying on anything.

13 Commissioner Waldfogel: Ok, that may be a different topic but I think that is on the earlier
14 point that is something that maybe we need to... That bears on what the Lundy's were
15 discussing and something that we may need to explore. Because what that does is it
16 discourages the design because it creates huge risks for taking the time to do go design.

17 Chair Lauing: Ok, one final comment from Commissioner Alcheck.

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1 Commissioner Alcheck: Yeah, I know I... Now look, I appreciate that we're eager to wrap this
2 quickly but the whole point here is to figure out whether or not these issues are more complex.
3 And so, I would just ask this question too or this is for the group to think through. What extent
4 does this... How could financial hardship... how could a... I don't know a death that involved in
5 the applicant ownership group or something... I'm trying to think through the scenarios where
6 somebody is like you know, I can't work on this. And maybe they are not even really the... I
7 don't know. The time frame seems very short, that's my main issue with this. I think that the
8 idea is correct, I just think the time period is short and I wonder if there's any consensus there.

9 Mr. Lait: So, can I just offer... So, nothing about this prevents the Director from making a
10 decision on a project that's been inactive. We can deny an application that's been sitting
11 around for three months, four months, if we're not getting what we think is enough traction on
12 the application to move it forward. What this is doing is it's creating... It's codifying a process,
13 memorializing this withdrawal procedure and it gives an applicant an opportunity to receive
14 money back. You're not getting money back if we make an action on the application. If we deny
15 the application because we don't have enough information to process the application, we're...
16 And we deny it, you got to pay your new fees and all that kind of stuff. If you've paid fees and
17 you've for whatever reason, it stalled out and you're not going to get to it for a while, maybe
18 this application isn't right for processing. You withdraw the application, you recoup your fees
19 that you're able to recoup and you come back and you file when you are ready to file. It also
20 doesn't preclude the Director from having the thoughtful conversation that you are talking

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1 about which is when the circumstance comes up and it's reasonable to say yeah, you're right.
2 This... we'll give this one more time to move... Take the time. If there was a death in the family
3 and we've had that. We've actually had those kinds of scenarios come up and we... Where not
4 in this to be difficult, we're trying to create a process that transparent and everybody
5 understands the rules because right now we're just kind of winging it.

6 Commissioner Alcheck: I think what you're trying to do is encourage... You're trying to create a
7 process by which your encouraging applicants to be responsive. I understand that I actually
8 think it's a smart idea. I just am of the opinion that six months is a very short time frame, that's
9 all. I think... That's all I have to say.

10 Chair Lauing: Ok.

11 Commissioner Monk: I don't know about the six months but just in how it's written, I would
12 just have you look at it again through the lens of the applicant and determine whether or not
13 you're having it be too subjective on the Director's side because it looks pretty one-sided.

14 Mr. Lait: Yeah, we can certainly look at how we've phrased it.

15 Commissioner Monk: Yeah and even at the end of it because under inactivity, that definition is
16 saying if the Director deems they haven't adequately responded. So, even if they do respond if
17 the Director says oh, well you responded but it wasn't adequate therefore I'm denying you. It

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1 just gives a lot of power to the Director and I just would like to see a little bit more balanced if
2 possible.

3 Then going back to Section A, you might want to consider adding in a time period. You've
4 mentioned that the application... That by providing written notification to the Director but you
5 don't give any indication about when so you might want to consider what would work on your
6 end on the time period. If they need to give twenty-four hours or week or whatever would be
7 best for Staff.

8 Commissioner Alcheck: A follow up question, is there a process... If someone felt that they have
9 been withdrawn in a... If an applicant felt that they had been sort of withdrawn and disagreed
10 with this sentiment of the Director that their response wasn't aliquant. Is there a process by
11 which they could appeal?

12 Mr. Lait: So, there's no appeal of a withdrawal, you can file a new application.

13 Commissioner Alcheck: No, I mean is there a process by which they could appeal the Director's
14 determination (interrupted)

15 Mr. Lait: To withdraw an application?

16 Commissioner Alcheck: That their response wasn't adequate?

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1 Mr. Lait: No but I would say this. If it was... If you are an applicant, I don't think we're going to
2 go through the process of withdrawing it. We just may make a decision on it, I mean you
3 understand what I'm saying? It's (interrupted)

4 Commissioner Alcheck: I'm actually just trying to understand how what oversight there is.

5 Mr. Lait: Yeah, this isn't... I mean clearly there's intended to give broad authority to the
6 Director to make this decision, that's clear. And it is with the intent to make sure that
7 applications are being processed in an efficient manner both on our end but also on the
8 applicant end. It creates a process for withdraws and application refunds without having to
9 make a decision. None of this precludes the City from making a decision on an application.
10 There's no added process, there are no added timelines, there are no added hurdles for an
11 applicant. It sets up a transparent process for dialog and we'll work on the language to make
12 sure that it reads more balanced and less draconian as I heard. But this is how organizations...
13 The fact that we don't have something like this in our code is a bit surprising frankly, on how
14 you process applications that have been stale.

15 Commissioner Monk: I think it's necessary but also maybe consider you're calling it application
16 withdrawal so maybe also consider in the title the additional powers that you're looking to give
17 to the Director. So, at least they are aware that application withdrawal and results of inactivity
18 in six months or just something along those lines so that it alerts the applicant that there's this
19 authority that they can lose their application within a period if they are not active.

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1 Ms. Campbell: I just want to add too, just coming from a planner's perspective. We would very
2 diligently to engage with our applicants all the time. We never just say oh, I haven't heard from
3 you in a month. We email, we call, we try to engage and we'll hear back from them all the time
4 and we try our best to work with them to accommodate their issues and their concerns. We...
5 closing out an application is not something that we do all the time. It actually doesn't happen
6 very often at all but this is just putting something in the code that actually gives us a process... A
7 legitimate process.

8 Chair Lauing: Ok, I have new lights popping up here and ok. Mr. Gardias?

9 Commissioner Gardias: Sure, yes, thank you so I'm fine with the language. I think it's very
10 reasonable and clarifies the process. Maybe the wording could be a little bit polished just so
11 applicants don't feel pressed but you know, it's logical. Six months is a reasonable period if
12 there's no activity within this period of time and then there's also a mechanism to interact
13 between the Director... It says the Director shall and then just it's a [unintelligible] process upon
14 the Director to follow up with applicants whose applications are inactive for a period of time.
15 So, I don't find anything wrong with this process, I support this and hope we can move on.
16 Thank you.

17 Chair Lauing: Ok. Are you done?

18 Commissioner Monk: I just want to say that I absolutely support this and Commissioner
19 Alcheck and I are both attorneys so we're looking at this through the lens of what's the best

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1 way of drafting. And we're not... At least I'm not passing judgment on any capacity so I hope it's
2 not interpreted that way. I'm just trying to be helpful.

3 Mr. Lait: And please, I mean absolutely, that's why we are here. It's the spirit of this
4 conversation and the back and forth and please don't construe any excitement, particularly on
5 my end, about the topic. It's just something that we're... We're passionate about the work that
6 we do and we're presenting here. It's not like we're trying to be difficult.

7 Chair Lauing: Ok, thanks. Are we ready for a juicy one now? Are we ready for leaf blowers?

8 Commissioner Gardias: That was a very interesting statement by the way. I look forward to
9 going back to these meeting minutes.

10 Chair Lauing: So, I'm getting a question now from Commission Alcheck is this one we want to
11 pull? I (interrupted)

12 Commissioner Alcheck: I guess I would say I'm not suggesting pull but maybe at the follow-up
13 meeting we could see language that reflects the changes that we're suggesting.

14 Chair Lauing: Isn't that intent? You're going to show us kind of any revised languages before it
15 goes to Council?

16 Mr. Lait: Yeah, we'll wait to see what the disposition is here but we're definitely going to do
17 some different language. I mean we're hearing very clearly that we need to polish this up and
18 make it a little more...

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1 Chair Lauing: Lawyerly.

2 Mr. Lait: Well and you know we have our lawyers also looking at it too but we get the
3 sentiment. I mean that's what we'll do.

4 Chair Lauing: Right, let's jump right into leaf blowers. I'm sure this will be completely non-
5 controversial.

6 Commissioner Summa: Okey-dokey. So, you already answered one of my questions that we're
7 not... that we don't have jurisdiction over the school district. So, some observations I have is
8 that since we've determined that there's technology available besides... That are not internal
9 combustion engine leaf blowers. Why wouldn't the City use them as well?

10 Mr. Lait: So, this ordinance... So, I'm not... We don't have a position on that right now. I mean
11 that's not what we studied. That's not what we were looking at in this particular ordinance.
12 There is a policy conversation that probably should take place about the City's use of leaf
13 blowers. And... But that is something that has broader implications across multiple departments
14 and City operations and fiscal considerations. We weren't interested in making any changes to
15 any existing City procedures. What we are trying to do is address a consistent refrain that we
16 get from the community and confusion about these... And we get these requests that come in
17 and they'll say hey, this building just down the street... This commercial building... Has got all
18 these... They're using their gas-powered leaf blowers. I thought they were banned and what
19 we're trying to do is in the same vain that the gas-powered leaf blowers were implemented in

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1 the first place in the residential districts, we're particularly interested in these transition areas
2 where people are... they are not understanding why we can't enforce it in the commercial area
3 but we enforce it... We have regulations to enforce in the residential area. And So, I... I'm not...
4 Your topic Commissioner Summa is, I think a broader policy conversation that was beyond
5 where we wanted to go on this particular issue.

6 Commissioner Summa: Ok but we are prohibiting now in commercial areas with this?

7 Mr. Lait: That's the proposal.

8 Commissioner Summa: And our... currently, the ordinance allows certain... Based on how
9 powerful and loud they are certain gas leaf blowers, will those still be allowed?

10 Ms. Campbell: The gas leaf blowers are not allowed a period in residential districts.

11 Commissioner Summa: Ok So... Ok, I guess I would just say that it looks a little funny to impose
12 something on everybody else in the City, including huge properties in the Research Park with
13 very big amounts of areas they might like to manicure and not ask the City to do it. So, I think
14 we should probably consider that.

15 Mr. Lait: Yeah, I... You know obviously we'll hear from the rest of the Commission about that
16 but I think that's a comment that we'd absolutely include in the Staff report to Council about
17 what is the City's disposition on this issue and should we be studying it further?

18 Commissioner Summa: Ok.

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1 Chair Lauing: Commissioner Alcheck.

2 Commissioner Alcheck: Yeah so, I'm going to take a different position here but before I do that,
3 this is a good example of like why does the City Staff feel that they are in a position to articulate
4 what should or should not be allowed and why aren't the community participating more in a
5 process to determine what they want? This is a perfect example of my issue with you advancing
6 the ordinance as written with comments of ours on the side. In theory, this is something we
7 should discuss and determine if we want.

8 Now I will make my case really quickly, I think it's ludicrous to require commercial property
9 owners in the City to use leaf blowers. I believe that one of the reasons why the regulations
10 that exist currently aren't well enforced, one of the many reasons, is because neighbors don't
11 really want to call in enforcement on other neighbors. And when neighbors talk to their
12 landscapers about this, they probably hear from the landscapers that non-gas-powered leaf
13 blowers are pretty ineffective. However, for the moment I will not make that argument but I
14 will suggest to you that the notion that... Take the property on the corner of Page Mill and El
15 Camino that houses the movie theater. I don't know the name of that property.

16 [Note-Female:] Palo Alto Square.

17 Commissioner Alcheck: Palo Alto Square. The notion that someone would drag an extension
18 cord from corner to corner on that property is so... And their little parking lot is so ridiculous to
19 maintain the property. I want to jump onto the back of what Commissioner Summa said which

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1 is the notion that individuals around the corner from where Commissioner Gardias lives on...
2 across the street from Rinconada, can't use a blower but the Staff of Palo Alto can use a blower
3 for 2 1/2-hours at Rinconada Park is also problematic. If the City... And I believe the City if they
4 did investigate this issue, they would come back and say it is literally economically infeasible for
5 us not to use blowers, that would be the response. If the City did look into it, they would get
6 feedback from their landscaping services that what do you mean? How can we possibly
7 maintain all of our property without the flexibility of non-corded blowers? So, that's what the
8 City would say and we would exempt them because we don't want to ensure the extra cost or
9 the inefficacy that would surround hand raking or potentially running around with an extension
10 cord. So, to me in perfect world neighbors who have real problems with this, maybe their
11 neighbors would respect them and adhere to the policy that we have in place for the R-1 but to
12 require for example our local schools that [unintelligible] private or our major property owners
13 that have huge parking lots, Stanford Research Park is a perfect example, from not being able to
14 effectively do this, seems like a problem.

15 And here's again, I'll restate my first point, we didn't really notice the community that we were
16 going to take on. It's kind of a big... I would argue a big change so nobody is here from the
17 commercial community to sort of understand this because if you read the notice in the paper,
18 we were doing an annual exercise in clarifying policies and revising and correcting little nuance
19 issues. And so, again, I don't know why this... The Planning Department or where ever this came
20 from has a dog in this fight, aside from the fact that they may get some or to many complaints

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1 from a resident. But the notion that we would discuss this without more input seems very
2 foolish and I believe that the reason why they're excluding the City from the discussion is
3 because the answer is... I'm not suggesting that they are hiding the answer but I'm suggesting
4 that the answer is very likely to be that it would be very infeasible economically. So, that's
5 where I stand on this one. Pull, pull it.

6 Chair Lauing: Commissioner Waldfogel.

7 Commissioner Waldfogel: Thanks, yeah, this is an interesting one. I agree with some of the
8 points that Commissioner Alcheck just made but what I point out is that the purpose of this
9 seems to be around high noise. I mean you could imagine three purposes around leaf blower
10 bans, one being the noise, the second on being dust, and the third one being fumes and carbon
11 footprint. And we generally have a requirement on noise, 65 DBA, in... what is this? 9.10.060f-1,
12 there's a 65 DBA noise requirement that's across the board for combustion or electric leaf
13 blowers and some compliance process. I'm not sure that's well enforced. I looked at some
14 other jurisdictions, I think Burlingame publishes a list of approved products that meet that 65
15 DBA standard and it might be that just across the board. What we should be focusing on are the
16 noise levels. You know basically requiring that everybody meet the 65 DBA standard or some
17 other standard and that would be a fair approach. I could imagine over time battery powered
18 leaf blowers may evolve to a point where they work on commercial scale. I don't know but this
19 just seems like it's trying to capture something that may be a problem but I'm just not sure
20 we're addressing it correctly tonight.

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1 Chair Lauing: Commissioner Gardias, do you have a questions or comments?

2 Commissioner Gardias: Sure, thank you. So, I have a subtly different perspective. So first of all, I
3 don't understand, I mean we... you told me why very much the City is excluded from these
4 operations but I just... Looking how further our government operates, for example on the
5 [unintelligible] buildings. Where pretty much it takes leadership on converting government
6 buildings to lead certifiable buildings and to allowing the rest of the world just to catch up as
7 they may economically and giving thirty percent of GEP [unintelligible] or large number or
8 twenty being a government expenditure. I think that the City should take the lead pretty much
9 on proposing the internal processes before the rest of the City is subject to this legislation. So, I
10 disagree totally that the City should be excused from this ordinance but then, of course, there's
11 a larger problem with enforcement and we know this. I totally... It's not enforced in my
12 neighborhood at least, everybody is using gas-powered blowers.

13 By the way, there are leaf blowers that are battery operated these days and then of course
14 contractors, they have the cord that can span for hundreds of yards away from the truck
15 because they have a battery on the truck. And then pretty much they pull this cord far away so
16 they can service large areas, even the parking in front of the theater square. But then there's a
17 technology that allows them to do this... To use the power... Battery powered blowers
18 remotely. So, I don't believe that from the technology perspective there's any use, my request
19 is rather just to have the City take leadership on enforcing its own policy as opposed to before it
20 proposes any policies on the rest of the town. Thank you.

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1 Chair Lauing: Yeah so, I would make a couple comments here but the main one is this one
2 might have enough consensus to pull it now and just say that the Commission doesn't support
3 it. Based on the consistency issue that any number of these other things we're trying to get in
4 place, a number of days and so on. If we have commercial banned, homeowners banned, and
5 City can do whatever they want, that goes beyond a problem of just optics. There is just no
6 consistency with that so I think we can get there.

7 With respect to enforcement, its kind of the same thing. I mean it seems to me that there are
8 ways that you could make sure that some Deputy gives out two tickets a day to gardeners, the
9 word starts to spread that you're not supposed to use these. That might help a little bit but
10 that's going to be inconsistent as well because the factory next door to the house can use it. So
11 similar to what Commissioner Alcheck said if we were going to consider this I think the... we
12 would like to have the City come up with what would they do and then notice it so there can be
13 some comment on it. I think without that I'm not hearing any votes in place of that. Yeah,
14 Commissioner Alcheck?

15 Commissioner Alcheck: I just want to understand because I'm not saying I don't see... I'm not
16 suggesting that I personal... I mean I don't love this personally but I'm not suggesting in this
17 medium that my personal opinion about the validity of electric versus gas should control. What
18 I'm suggesting and I just want to clarify, is that we should have a conversation outside of the
19 annual code clean up where we discuss this.

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1 Chair Lauing: I got it but what I'm suggesting is we might be able to go further now which is to
2 say that we (interrupted)

3 Commissioner Alcheck: No, see this is my problem, I just want to clarify. Asher... Commissioner
4 Waldfogel's comments are actually very interesting. He just came up with a very interesting
5 way to approach it but I don't believe that this type of decision should be made on the fly
6 where one Commissioner says oh, I know there's electric out there and other Commissioner
7 says well, why don't we... The real way that we should approach these decisions is by noticing
8 the community and having a discussion.

9 Chair Lauing: Right, I'm not disagreeing with you so it's good we're having this conversation.
10 What I'm saying is that there isn't enough information here to even have a conversation on it
11 tonight so what I'm suggesting is we have to make a non-decision meaning we cannot support
12 what's being done.

13 Commissioner Alcheck: I just wanted... I just hope that our communication to Council isn't
14 reflective that we disagreed with the position. It's that we felt that the position shouldn't be
15 incorporated into the ordinance without further review.

16 Chair Lauing: Yeah.

17 Commissioner Alcheck: Ok, alright.

18 Chair Lauing: And again, my understanding...

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1 Commissioner Alcheck: Some of us might agree that it should be a restriction.

2 Chair Lauing: Yeah so... But my understanding again, we're reiterating, is that anything that
3 goes to Council is going to very specifically itemize and iterate what our objections were to one
4 of these twenty-three policies.

5 Commissioner Alcheck: Yeah but it's not... I just want to be clear. I'm not objecting to the policy,
6 I'm objecting to the process. The process should involve community outreach and discussion.
7 We should have a hearing where we talk about whether or not we want this new policy
8 initiative so I'm not objecting to... In this particular instance, I'm not objecting to the use of... To
9 the restriction that leaf blowers not be used on commercial property even though I personally
10 feel they probably shouldn't. I'm objecting that we're including this new policy as if we're
11 annually improving our ordinance without... Nobody is here.

12 Chair Lauing: Right, no, no, that's what I'm saying.

13 Commissioner Alcheck: That's my point. It's not... and that's why I find that this notion that the
14 Staff is going to articulate that we took issue with... It's not that. It's why aren't you... Why does
15 Staff believe these are minor enough to not include a discussion with the community? This is
16 my point.

17 Chair Lauing: I think we get the point.

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1 Commissioner Alcheck: We can't possibly know how involved this is without having a
2 conversation.

3 Chair Lauing: I think we got that point. Commissioner Summa.

4 Commissioner Summa: I did want to make a few clarifying comments. I really appreciate in
5 general that Staff brought this forward because I think gas-powered leaf blowers are awful
6 personally and they get complaints all the time. If you look on [Note - Building I] on the
7 enforcement map, it's one of the most common code enforcement complaints.

8 I also would like to state that there are battery driven ones, I think Commissioner Gardias
9 mentioned it. One of the worries that I have frankly is the cost of replacing the equipment will
10 go to the people... In most cases most financially capable of ... Incapable of not having it hurt
11 them, meaning small gardening firms. So, I think some consideration should be given to that
12 also because maybe the building owner should be required to provide the equipment. There's...
13 we have to think about that at least and how that might affect a lot of people.

14 And also, I think we should examine the City's policy of where we use leaf blowers. Leaf blowers
15 are generally regarded to be very bad for the environment because they blow away the topsoil
16 so I think maybe... I'm not saying I think the City does it wrong but it would be good to have a
17 conversation about the policy about leaf blower use in City-owned properties, especially parks.
18 So... but I think there's enough concern about this that we should take it off.

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1 Chair Lauing: Yeah, what I was suggesting is that we can take it off because of all of the
2 information so right now Seventeen is off. Any other comments on Seventeen?

3 Commissioner Monk: Yeah, I had a question and perhaps it's been answered but in the policy
4 behind bringing this tonight, you're talking about extending this existing regulation to
5 commercial and that's all you state. But then when we look at it, you add a whole new Section
6 Three about this internal combustion engine and all these things. How does that comport with
7 the beginning of this code section that you did not include in our packet that says, the DBA
8 levels and things like that in Item Number One? So, it is contradictory within its own section?
9 Under F you gave us a language for Number Two and Number Three but Number One talks
10 about... No one else here can look at it because it wasn't provided. I'm looking online at our
11 code section under leaf blowers. Again, this was just pulled out of... This was part of the code.
12 The code says that no person shall operate a leaf blower which does not have the manufactures
13 label designating a 65 DBA when measured at a distance of 50-feet American Standards, things
14 like that. That's how this provision starts so how does that comport with this new internal
15 combustion engine language that you're adding?

16 Mr. Lait: Yeah, we can... We've heard a lot of comments on this one. Let us talk a look at that
17 one as well and we can report back to the Commission on this item when we come back. I don't
18 have the code section in front of me right now.

19 Commissioner Monk: Ok.

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1 Chair Lauing: Ok so Seventeen is off right now. Moving to Eighteen, trash enclosures in CD.
2 Since there was a lot of discussion about that, Jonathan do you want to kind of very briefly
3 reframe that? Number Eighteen on what we're trying to capture here.

4 Commissioner Alcheck: Oh, yeah, I'll let Clare actually summarize the trash enclosure in the CD
5 district.

6 Ms. Campbell: Ok so let me just bring up the slide.

7 Chair Lauing: This is probably going to be the last one before we do the time check. I mean it is
8 the last one before the time check and it may be the last one we do period.

9 Ms. Campbell: So currently in our definitions in the gross floor area for commercial and multi-
10 family exemptions, there is this existing language that's referenced in that first paragraph and
11 it's listed in our attached ordinance. I can find that page for you which is... so it's on Packet Page
12 34 and that's the draft ordinance. So, there was existing language that has some exemptions for
13 minor additions when its related to code compliance. So, what we're trying to do is take away
14 the restriction of the CD districts so that we can also have this Director... At the Director's
15 discretion to have this additional exemption provided for projects in the downtown. And it's
16 just that it's come up where many sites are maybe built up with the floor area but there is still
17 available lot coverage but because trash enclosures would count toward your floor area, there's
18 no way to accommodate these trash enclosures without going through a complicated variance
19 process or some type of exception process. So, what we're trying to do is have a provision that

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1 would apply not just everywhere but... I mean not to just everywhere other the CD but include
2 the CD as well and have the provisions that are a limited amount of floor area could be made
3 available to be compliant with our code requirements for a covered and enclosed trash area.

4 Chair Lauing: Ok. Let's start with Commissioner Summa.

5 Commissioner Summa: Ok and thank you to Staff because I sent in a lot of questions about this
6 because in my... I had two main concerns about this and one is that if... That downtown,
7 obviously it's tight. Most... Many of the parcels are all the way built out to the line so that map
8 was interesting to me because a lot of the areas that are yellow are actually, probably a
9 required garden. I know there's on behind a big residential building on Lytton or they might be
10 parking; there are other reasons that couldn't be used. Downtown is pretty tight and they
11 can't... They may have area left in the parcel but it might already have parking spots on it and
12 they can't get rid of those. So... but where... So, what the code really requires... you directed me
13 to 16... oh, whatever it was, 16 something b10 but that is actually for new buildings. So, it's for
14 new buildings and it also says covered area for a dumpster, it doesn't say covered and enclosed.
15 So, I'm wondering if we... If there are dumpsters in the CD zone that are outside but are... can't
16 they just be covered? Do they have to be enclosed also? So, I have a question about covered
17 versus covered and enclosed.

18 Ms. Campbell: Ok so let me just address that right now. So as part of our architectural review
19 when we have things that are placed out in the public view, we always want them to be

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1 screened. So, I think from the planning perspective, we're looking for that enclosure but the
2 Public Works Department is looking for that cover so then it ends up being a covered and
3 enclosed facility to screen the refuse area.

4 Commissioner Summa: Ok so you added that language and then the amendment, the area that
5 your planning on amending formally didn't not exempt trash. It exempted those in special
6 environmental areas and what not. So now you want to amend... You want to exempt trash
7 rooms in basically all residential zones and large multi-family zones. Which is a change not to
8 CD, it's actually a bigger change to all of the other zones.

9 Ms. Campbell: I was reviewing this with Sandy the City Attorney and we... In this... In the
10 paragraph subsection four, it refers to minor additions of floor area for the purposes of
11 resource conservation or code compliance. So, there is this resource conservation section that
12 we think could definitely be applied to recycling, composting and the related trash areas. So,
13 we did see a connection there and also with just compliance with environmental health. So, the
14 pollution prevention to me is consistent with that goal of compliance with environmental
15 health.

16 Commissioner Summa: And I'll leave it at there for now.

17 Commissioner Alcheck: I have no comment on this.

18 Chair Lauing: Commissioner Waldfogel.

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1 Commissioner Waldfogel: Yeah just one area, I mean directionally I understand this. I think it's a
2 good thing. I'd like some clarification on the criteria... The areas designed for resource
3 conservation and other energy facilities... Resources conservation and energy facilities, there's a
4 cross-reference to code 1842120 which that code allows up to 3,000-square feet for code
5 generation and energy recovery... Energy conservation... Resource conservation energy
6 facilities. So, I'd just like some clarification on what the intent is on including that language into
7 this piece of code and if there was no intent, it was just there, that's fine? I think it makes sense
8 in other districts but from the CD district, I'm trying to understand how and where it would
9 make sense.

10 Ms. Campbell: So, I'm just going to clarify so you're talking about subsection A?

11 Commissioner Waldfogel: Yeah, subsection A.

12 Ms. Campbell: So, that's an existing language.

13 Commissioner Waldfogel: Right but we've never included that in the CD district before so how
14 would that make sense in the CD district?

15 Ms. Campbell: I'm not too sure, I would have to kind of think that through.

16 Commissioner Waldfogel: Yeah, I mean this is a thing that happens with kind of a... with code
17 changes is that the cross-references get... Can get interesting.

18 Chair Lauing: Ok, Commissioner Gardias, did you have anything?

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- 1 Commissioner Gardias: Let's see if they can answer this. I'll wait for my (interrupted)
- 2 Commissioner Waldfogel: You're curious too?
- 3 Commissioner Gardias: Time, yes.
- 4 Commissioner Waldfogel: We stumped them.
- 5 Commissioner Gardias: Yeah, that was a good point.
- 6 Commissioner Waldfogel: As long as we're all confused together, that's all I can ask for.
- 7 Mr. Lait: It's a little bit late and I think we're probably trending to a place where we're going to
- 8 be coming back for another meeting.
- 9 Chair Lauing: We are.
- 10 Mr. Lait: So, rather than just give you an off the cuff response, we'll research it a little bit more
- 11 and come back.
- 12 Commissioner Gardias: Ok, so now it's my questions I guess. What does this 500-square foot
- 13 stand for? That's the area that can be granted up to the ceiling of that area that can be granted
- 14 by the Director's permission. It's a large enclosure so I want to understand what does this...
- 15 how has this... How was this calculated? B.
- 16 Mr. Lait: Yeah so that's... so that's not text we're changing, that's just... That's been there.

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1 Commissioner Gardias: No, I understand but then (interrupted)

2 Mr. Lait: So presumably they got... I mean they just had to set a cap and it looks like they set a
3 cap at 500-square feet, not to exceed.

4 Commissioner Gardias: Ok, I [unintelligible], thank you.

5 Chair Lauing: Is that it? Commissioner Gardias?

6 Commissioner Gardias: For now, yes, thank you.

7 Commissioner Waldfogel: I'll just point out in that section that Commissioner Gardias was just
8 referencing, Section B, it also references hazard mat storage facilities which I would hope that
9 the CD districts have some other restrictions on haz. mat storage. That we're not authorizing
10 haz. Mat storage behind buildings in the CD district.

11 Chair Lauing: Ok so I would like to suggest that we suspend the discussion.

12 Mr. Lait: So, just on that last point so we're not freaking out this stuff. What we're talking
13 about are just exemptions... What qualifies as floor area and what doesn't? That doesn't change
14 any regulations in place about where haz. mat material is located or not. We're just saying what
15 is exempted in floor area and the main purpose of this one is we're trying to align the City's
16 pollution prevention along with some constraints that we're seeing with the code. And do
17 things have to be enclosed, maybe not. Do they just need to be covered? These are the things
18 that we can talk about at the next time that we come together.

-
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1 Chair Lauing: Ok so I'm going to suggest that we... Although we're only four items from the end,
2 I'm going to suggest that we suspend this right now given agenda Items Three and Four. And if
3 we're at lightning speed through those two, then we can come back to this and finish.
4 Otherwise, we'll pick it up in our December meeting.

5 Commissioner Summa: Are we going to pull the last one?

6 Chair Lauing: Oh, I'm sorry and I think the three that I have... Thank you. I was going to
7 summarize this, the three that we have listed as potential pulls are Six and Seven together,
8 Twelve and Seventeen but I didn't have this one as a pull that you just discussed.

9 Mr. Lait: I didn't have Twelve as a pull. I thought that was just a clarification and an add
10 reference to the Retail Preservation Ordinance.

11 Commissioner Alcheck: [unintelligible – mic not on]

12 Chair Lauing: I had it as a pull so what is the view? Michael?

13 Commissioner Alcheck: I was just... My concern with this is that there's a community of parcel
14 owners that might be impacted and I was uncomfortable with (interrupted)

15 Commissioner Monk: It was a pull because they're striking out the language. I think you're right
16 that it was a pull.

17 Chair Lauing: So, we (interrupted)

-
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- 1 Commissioner Alcheck: I had a concern that it just felt like there wasn't enough interaction
2 with maybe the community on this. I'm not saying I wouldn't support it, I think the process...
3 This process should not pass this element. That's... I just was uncomfortable with that.
- 4 Chair Lauing: Ok so, for now, the pull list is Six, Seven which is kind of the same, Twelve and
5 Seventeen.
- 6 Commissioner Alcheck: I also don't think Six and Seven are the same.
- 7 Chair Lauing: No but they are related. We discussed them (interrupted)
- 8 Commissioner Alcheck: I think one of them... for one of them the issue was potentially
9 [unintelligible] but for the other one its esthetics. I don't know that they are the same.
- 10 Chair Lauing: Well my view on this is when we get through the next four, whether that's now or
11 in two weeks, we'll come back to these pulls and discuss them again and see if we need to
12 actually pull them or we just need to revise them.
- 13 Commissioner Alcheck: Ok.
- 14 Chair Lauing: So, we're all concurred that we're going to move to Agenda Item Number Three
15 and this is agenda... Sorry, Commissioner Summa?
- 16 Commissioner Summa: Can I make a quick comment about I. Eighteen?
- 17 Chair Lauing: Eighteen.

-
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1 Commissioner Summa: The one we were just doing before we move on. The one we just did,
2 the trash enclosure.

3 Chair Lauing: Ok, trash.

4 Commissioner Summa: Yeah, trash enclosure so I also didn't understand why this wouldn't be
5 in like 1806 which is other exemptions in the CD district. And it seems to me... I understand the
6 need to craft something for the downtown district regarding trash enclosures for existing
7 buildings but I think it would be better in the CD zoning, and there is a section as I mentioned
8 that has other exemptions, rather than changing all the exemptions everywhere to add trash. I
9 just... I'm a little uncomfortable. I understand the special conservation area as being an
10 exemption because it's providing a unique solution to the environmental problem but trash has
11 always been around and it doesn't fall into the same category for me. And I think it just looks
12 like kind of a give away of FAR to me, which I think that the public is uncomfortable with. So, I
13 would like to discuss it more or at least if nobody else wants to discuss more, at least get that
14 on the record. Thanks.

15 Chair Lauing: Yes, go ahead.

16 Commissioner Waldfogel: Sorry, just a question... One other legal question for Twenty-four and
17 Twenty-five, is there any urgency around deadlines proposed by state law? Is anything
18 happening on January 1 if we don't act quickly?

-
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- 1 Commissioner Alcheck: I thought that we said this was only going to come up for Council in
2 February anyway?
- 3 Commissioner Waldfogel: Well but this is (interrupted)
- 4 Commissioner Alcheck: So how could our incorporation today (interrupted)
- 5 Commissioner Waldfogel: Well the question... Yes, but still the question does anything happen
6 on January 1 if we don't act in a speedy way?
- 7 Mr. Yang: So, I'll need to take a closer look at these but my understanding is that there changes
8 where just meant to conform to state law so if we don't make these changes, we'll still have to
9 comply with state law and our local code just won't be consistent.
- 10 Commissioner Waldfogel: Right but is there any validation of the rest of our code from non-
11 conformance with state law? I've seen some analysis that suggests that there might be if we're
12 not fully in compliance?
- 13 Mr. Yang: I'll take a closer look but doubt it.
- 14 Mr. Lait: Can I... Commissioner Summa, can you... That code section that you referenced you
15 said 1806 I believe.
- 16 Commissioner Summa: [unintelligible – mic not on]
- 17 Mr. Lait: Ok, thank you.

-
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1 Commissioner Summa: I think it's e, little letter e. Its [unintelligible – no mic on]

2 Mr. Lait: Great, I see it, thank you.

3 [The Commission revisited Item Two after hearing Items Three and Four]

4 Mr. Lait: Well yeah but I... So, I... Correct and just to be clear, I thought we had tabled Item
5 Number Two to see if we were going to revisit it after this discussion. We're happy to do that
6 but if you're not, we would like you to continue it to the next meeting.

7 MOTION

8 Commissioner Alcheck: I'd like to move that we continue Item Two to the next meeting.

9 SECOND

10 Commissioner Monk: I'll second that.

11 Mr. Lait: Ok, and that's December 13 for the record.

12 Chair Lauing: Any discussion on that point?

13 SUBSTITUTE MOTION

14 Commissioner Gardias: Well, if I may just make a comment? Since this is a motion, I think that
15 it's up to you if you still have power, I think it would be beneficial to the Staff to spend another
16 half an hour just to go through the rest of the items so at least they can hear our comments.

-
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1 Otherwise, if there was to be something new, we are going to just spill this over through the
2 next after the following meeting. So, my proposal is that [unintelligible] motion just to continue
3 for another half an hour to go through the rest of the items on this second topic.

4 Chair Lauing: Yes, go ahead Commissioner Alcheck, speak to your motion.

5 Commissioner Alcheck: I'll just quickly speak to my motion before you seek a second for that
6 substitute motion. Which is that I do think that the items that are at the end of this, some of
7 them are more complex and will take more time. I want to suggest to you that our
8 Commissioner Rosenblum began the meeting by referring to Items Twenty-four and Twenty-
9 Five specifically and that I think it would probably behoove us to come together at the next
10 meeting with fresh minds and also our seventh Commissioner. Because I think it will help us
11 when we conclude the review and determine how you should process the items that you're
12 pulling. In addition to the discussion of the remaining items, we also need to have a process
13 discussion on what we really want to see. And I think it's just going to take time and I'd rather
14 have Commissioner Rosenblum be apart of those two discussions.

15 Chair Lauing: Yeah to be clear there wasn't a substitute motion. He was just speaking against
16 the motion.

17 Commissioner Alcheck: I actually think he made a substitute motion.

18 Commissioner Gardias: No, actually I was trying to make a substitute motion.

-
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- 1 Chair Lauing: Oh, I'm sorry, I didn't hear that.
- 2 Commissioner Gardias: Yes, but I respect... He's right because he should have spoken
3 (interrupted)
- 4 Chair Lauing: Yeah, I'm sorry, I did not hear (interrupted)
- 5 Commissioner Gardias: His motion first.
- 6 Chair Lauing: I didn't hear the word substitute. I thought you were just speaking against the
7 motion. Alright, so I thought that was going to pass quickly so that's why I moved along so the
8 second can also speak to the motion and then we'll have to come back to the substitute.
- 9 Commissioner Monk: Yeah, I just want to clarify that at our next meeting it looks like we don't
10 have a lot on the agenda and so I think we do have time to discuss Items Nineteen through
11 Twenty-Seven to continue it. Is that right Jon... Assistant Director?
- 12 Mr. Lait: Yes, so you're going to receive a housing law update, that will probably be the first
13 item on your agenda and we have a discussion on ADUs.
- 14 Commissioner Alcheck: Thirty minutes on process.
- 15 Mr. Lait: We've got the thirty minutes process discussion, you've got this ordinance so I mean
16 it's not a lite agenda.
- 17 Chair Lauing: How many housing laws are you going to update for us? There are a lot of them.

-
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- 1 Mr. Lait: There's like thirteen or something.
- 2 Chair Lauing: Yeah, that's why I was asking.
- 3 Commissioner Alcheck: I'm sorry, is it your anticipation that presentation will be long?
- 4 Mr. Lait: Well, it could be tailored to the Commission's interest but the other thing is we're
- 5 presenting it to the City Council. The Commission is interested, it could also (interrupted)
- 6 Commissioner Alcheck: Are you seeking input on revisions to it?
- 7 Mr. Lait: No, we're just informing. There's some interesting housing law updates that we're
- 8 going to have to (interrupted)
- 9 Commissioner Alcheck: State law.
- 10 Mr. Lait: Respond too.
- 11 Commissioner Alcheck: It seems like a lot of reading material but not necessarily a lot of time.
- 12 Mr. Lait: Well again, so we can... I mean (interrupted)
- 13 Chair Lauing: We pace that with our numbers of questions. Ok, so let's get back on... So, it was
- 14 not a comment against the motion, it's a substitute motion to continue moving along.
- 15 Commissioner Gardias: Yes, so (interrupted)
- 16 Chair Lauing: So, now I need a second for that.
-

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- 1 Commissioner Gardias: So, let me just reiterate this. So just (interrupted)
- 2 Chair Lauing: We don't have a second so if we don't have a second, we can't (interrupted)
- 3 Commissioner Gardias: Half an hour just to give Staff the taste of our comments. I understand
- 4 this topic will continue in the second but I propose just to go quickly through the rest of those.
- 5 We can at least read out the comments, they can make a note (interrupted)
- 6 Chair Lauing: I understand.
- 7 Commissioner Gardias: And then make our following meeting productive. Thank you.
- 8 Chair Lauing: Is there a second to the substitute motion?
- 9 SECOND
- 10 Commissioner Summa: I will second.
- 11 Chair Lauing: Ok, now we get to have debate on the substitute motion; thirty-minutes more on
- 12 the (interrupted)
- 13 Commissioner Alcheck: I don't think it's realistic to assume we will finish in thirty minutes these
- 14 issues because I think they are actually just as complex as (interrupted)
- 15 Chair Lauing: I believe he just suggested a substitute motion to limit it to thirty no matter
- 16 where we are.

-
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1 Commissioner Alcheck: I know but the point though is that somehow by working on it tonight,
2 we won't have anything to work on next week, which means that they could bring this to
3 complete... If we work on it in two-weeks, that means there's probably going to be a third
4 meeting. I think he's trying to avoid that, I think thirty minutes is going to cut it so at the very
5 least we're going to have to meet next time. And so, I just... I don't see why we would go
6 through that exercise?

7 Chair Lauing: Any further comments? Ok, substitute motion is to continue on, whatever that
8 was, Item Two for thirty minutes.

9 Commissioner Monk: Tonight?

10 VOTE ON SUBSTITUTE MOTION

11 Chair Lauing: Yep so all in favor of that motion? Two. Opposed? Five [Note- four], defeated.

12 SUBSTITUTE MOTION FAILED: 2(Gardias, Summa) -4(Alcheck, Lauing, Monk, Waldfogel) -1
13 (Rosenblum Absent)

14 VOTE ON ORIGINAL MOTION

15 Chair Lauing: Back to the original motion so the motion is to continue it to the next meeting. All
16 in favor of that? All in favor of this motion, please to continue to the next meeting, Item Two?
17 Right now, we've got one, two, three, four, five. And opposed? One.

-
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1 MOTION PASSED 5 (Gardias, Waldfogel, Monk, Lauing, Alcheck) -1 (Summa) -1(Rosenblum
2 absent)

3 Chair Lauing: Right, ok.

4 Commissioner Summa: [unintelligible – mic not on]

5 Commissioner Monk: I just wanted to point out that the person who drafted the Staff report is
6 no longer here so I don't think there's value in having it continued tonight anyway.

7 Mr. Lait: But the person who reviewed it is so.

8 Commissioner Monk: So, it would have been fine to... Ok.

9 Commissioner Gardias: And who was that?

10 Commissioner Monk: Oh, so you would like to stay?

11 **Commission Action:** Item was continued to December 13, 2017.

12 **Approval of Minutes**

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

14 **Committee Items**

15 **Commissioner Questions, Comments or Announcements**

16 **Adjournment**

17 10:41pm

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Palo Alto Planning & Transportation Commission

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Chair Michael Alcheck

Vice Chair Asher Waldfogel

Commissioner Przemek Gardias

Commissioner Ed Lauing

Commissioner Susan Monk

Commissioner Eric Rosenblum

Commissioner Doria Summa

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Show up and speak. Public comment is encouraged. Please complete a speaker request card located on the table at the entrance to the Council Chambers and deliver it to the Commission Secretary prior to discussion of the item.

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

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

Americans with Disability Act (ADA)

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Administrative Procedures for Over the Counter Architectural Review

What is an Over the Counter permit?

An Over the Counter or OTC permit is the review and approval of a minor change to the exterior of a property (non single or two family use) that is handled at the Development Services front counter. These items are typically very minor in nature and may or may not be associated with a building permit.

Authority

Minor modifications to commercial and multifamily properties are typically subject to a discretionary Architectural Review application under Palo Alto Municipal Code (PAMC) Section 18.76.020(b)(3). The authority to exempt minor Architectural Review projects as an OTC project is contained within PAMC Section 18.76.020(b)(1)(B). The decision to grant an over the counter approval is an administrative determination and requires no hearing or notice.

Authority Reserved

Approval of such projects may be granted by the Planning Director. The Director has authority and discretion to determine if a project is exempt in accordance with 18.76.020(b)(1)(B). Projects that do not qualify as exempt will be processed as a Minor or Major Architectural Review, as appropriate, upon the filing of a complete application. The Director may delegate this authority.

Over the Counter (OTC) Approval Process

OTC approvals occur at the Development Center front counter located at 285 Hamilton Avenue. No appointment is required for OTC applications. OTC approvals will require an application form with the property owner's signature. The application form is available at the following link: <http://www.cityofpaloalto.org/civicax/filebank/documents/6491>. A minor fee for OTC review will be charged at the time of the review. The Planning fee schedule can be found at the following link: <http://www.cityofpaloalto.org/civicax/filebank/documents/2653>. Applicants must provide sufficient information for staff to be able to make an informed decision. Please see the following link for the minor Architectural Review application submittal checklist to use as a guide for the materials that would also be needed for the OTC review and approval process: <http://www.cityofpaloalto.org/civicax/filebank/documents/26107>. Applicants shall be prepared and include items such as photos, sections, sightlines, floor plans, site plans, elevation drawings, color renderings, color and material samples, etc. as necessary to facilitate OTC review. Digital copies of the plans must also be provided at the time of review.

The examples above are not a complete list of items that may be exempted as "Over the Counter" projects. Similar projects may be exempted at the discretion of the Planning and Community Environment Director or their designee. For questions regarding the OTC process please contact the Planner on Duty at (650) 617-3117.

The following projects typically qualify as an Over the Counter application:

- 1. Rooftop mechanical equipment:**
When a parapet or similar screening feature is being added or already exists and would clearly screen the new equipment from off-site views (equipment cut sheet required with the dba level listed) (site plan, line of site drawings, and elevation drawings are required to clearly demonstrate the new equipment will be screened from view.)
- 2. Window/door changes (additions or deletions):**
Like for like or substantially similar replacement of windows and doors on non-historic buildings. Photos of existing doors and/or windows must be provided along with details/elevation drawings for any new or replacement doors and/or windows.
- 3. Electric vehicle charging stations:**
(Parking requirements must be met after implementation and installation of any equipment-protecting bollards. The associated trenching for the electrical conduit must not harm existing parking lot and landscape trees) (Applicant must demonstrate compliance with the parking regulations for any new and existing parking spaces)
- 4. Minor modification of architectural elements:**
Minor changes to existing (non-historic) buildings. Site plans, building elevations, color renderings, and material samples will be required as necessary to make a determination. Changes could include but are not limited to roof materials, awnings, exterior siding, finish materials, architectural details, trim, lighting, etc. Additions of square footage would not qualify as an OTC project and would be subject to a formal Architectural Review application.
- 5. Wall Signs:** Wall mounted signs that are comprised of individual pin mounted letters made of metal may be exempted. The proposed wall signs must compliment the building design and be appropriately sized and no more than 50% of the area permitted by the code. If illuminated, halo illumination only and no extreme colors. Site plan, elevations, color renderings or photo simulations, sign drawings, and material samples required.
- 6. Minor changes to previously approved projects:** Staff would apply discretion to first ensure the change is minor and second to ensure the proposed change is appropriate for the building or site. Changes could include but are not limited to roof materials, awnings, exterior siding, finish materials, architectural details, trim, lighting, etc.
- 7. Minor site improvements:** i.e.: changes to parking lot, pathways, hardscape, benches, art work, site lighting, accessibility ramps and improvements, refuse enclosures, changes to building color, etc. (site plan and details required)
- 8. Minor landscape changes:** These changes would typically include items such as the replacement of one plant material for another, replacement of small turf areas with other plant material or ground cover/mulch, and other changes to planting and or hardscape layout. (site plan/landscape plan required, if water calculations are required based on the project scope, over the counter review would not be an option)