



PLANNING & TRANSPORTATION COMMISSION MINUTES

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Wednesday, December 13, 2006
Regular Meeting at 7:00 PM
Council Chambers
Civic Center, 1st Floor
250 Hamilton Avenue
Palo Alto, California 94301

ROLL CALL: 7:05 P.M.

Commissioners:

Karen Holman - Chair
Lee I. Lippert- V-Chair
Patrick Burt
Paula Sandas
Arthur Keller
Daniel Garber
Samir Tuma

Staff:

Steve Emslie, Director
Curtis Williams, Assistant Director
Donald Larkin, Senior Deputy City Attorney
Steven Turner, Senior Planner
Robin Ellner, Staff Secretary
Whitney McNair, Planning Consultant

AGENDIZED ITEMS:

1. 1072 Tanland Avenue – Continued to January 10, 2007
2. Study session to provide input regarding the review process for the Stanford Medical Center and Stanford Shopping Center projects.
3. Zoning Ordinance Update: Commission review and recommendation of an Ordinance Amending Section 18.10.070(a) of the Zoning Ordinance to prohibit Second Dwelling Units (and any Airspace Rights Thereto) under Different Ownership from the Initial Dwelling Unit in the R-2 and RMD Districts.
4. Zoning Ordinance Update: Commission review and recommendation of an Ordinance Amending Section 18.10.070(a) of the Zoning Ordinance to prohibit Second Dwelling Units (and any Airspace Rights Thereto) under Different Ownership from the Initial Dwelling Unit in the R-2 and RMD Districts. – Continued to January 10, 2007

Chair Holman: I would like to call the meeting of the Planning and Transportation Commission for Wednesday, December 13 to order. Would the Secretary call the roll, please? Thank you.

Let the record show that Commissioner Burt will be joining us for item number two.

1
2 This is the time where Oral Communications is on the agenda and any member of the public who
3 would like to speak to any item that is not on the agenda is welcome to speak. We have one
4 member of the public, Herb Borock that would like to speak. You will have five minutes.
5

6 *ORAL COMMUNICATIONS.* Members of the public may speak to any item not on the agenda
7 with a limitation of three (3) minutes per speaker. Those who desire to speak must complete a
8 speaker request card available from the secretary of the Commission. The Planning and
9 Transportation Commission reserves the right to limit the oral communications period to 15
10 minutes.
11

12 Mr. Herb Borock, Palo Alto: Thank you Chair Holman and good evening Commissioners. The
13 public advertisement and notice of this meeting included an item on some changes to the Zoning
14 Ordinance regarding the RMD and R-2 zones so I wrote you a letter about that. After I had
15 submitted the letter the agenda was posted online and the item had been pulled from the agenda.
16 The packet didn't contain my letter so I thought I would spend some time at the beginning of the
17 meeting to tell you about the letter.
18

19 The letter asked you to continue the item to see if anybody was going to sue to overturn the
20 Council's decision on 610 California Avenue based upon the public testimony and the legislative
21 history regarding the RMD zone. If I wanted to write Staff a letter and ask them to pull it from
22 the agenda I would have done that but I wrote the Commission a letter and I am disappointed that
23 the letter wasn't in the packet.
24

25 The issue that was contested during the hearing was whether or not the text in the zoning
26 regulations requiring joint ownership covered condominium subdivisions or not. The legislative
27 history from 1983 is clear that that was the sole purpose of that language. The lots in question
28 were 5,000 to 6,000 square feet. It is a unique zone in which you get additional density without
29 increasing the lot area. And if the words 'joint ownership' meant something like lot division, to
30 prohibit lot division, you need a lot that would create two 5,000 square foot lots. It is clear from
31 the Staff Report and the testimony before the Council that that isn't what they were talking
32 about. They were talking about condominium subdivisions.
33

34 The Council in January 1983 directed Staff to draft the ordinance. When it went to the Planning
35 Commission the Commission amended the draft to delete the joint ownership requirement. It
36 came back to the Council in June of 1983 and there was a motion to put back in the requirement
37 for joint ownership, which was passed by a five to four vote and was included in the final
38 language.
39

40 The letter contains the attachments with the legislative history but within the text of the letter it
41 contains the quote from Chief Planning Official, Bruce Freeland, which is recorded on page 3454
42 of the minutes of June 20, 1983 when the amendment to add joint ownership back into the
43 language was before the Council. He said quote from the minutes, "Chief Planning Official,
44 Bruce Freeland clarified they were talking about condominium subdivisions and that in order to
45 physically divide one lot into two each lot would require a minimum of 5,000 square feet. For
46 all practical purposes the only way to divide the lots for separate ownership was through a

1 condominium division that would not actually affect the lot division. He further clarified that he
2 was not attempting to undercut the thrust of the recent arguments because Staff still held its
3 original position of preferring the joint ownership provision.”
4

5 So I believe if someone wanted to sue they would have a good case but as you know there are
6 significant barriers to someone filing a lawsuit so that may not happen. In this case as in others I
7 think there would be a better lesson learned or a better teaching experience for the Council if
8 there were lawsuits on issues like this so that they could figure out why these things are
9 happening. The public doesn't have the ability because of resources, they don't get paid as much
10 as Staff does to appear before you and the Council, but an administrative hearing such as you
11 have on applications you don't need the kind of specificity that I just read to you as you would in
12 a judicial proceeding. It is just important to raise the issue. I think that issue was very clearly
13 raised. I haven't talked to anybody to know if anybody is going to follow through on this
14 although I have notified people who are interested in this issue that this is an argument that can
15 be used. Whether or not there is a court case to seek to overturn the Council's decision on 610
16 California Avenue I thought it was important for you and I guess the Council as well to be aware
17 that there is this history. Thank you very much.
18

19 Chair Holman: Remarkable timing. Would Staff see that we get that communication from Mr.
20 Borock prior to our next meeting?
21

22 Mr. Curtis Williams, Assistant Director: It will be with the item on your next agenda.
23

24 Chair Holman: Okay. Noticed on our agenda is item number one, 1072 Tanland Avenue. Staff
25 has a change to the agenda regarding that item.
26

27 *AGENDA CHANGES, ADDITIONS AND DELETIONS.* The agenda may have additional items
28 added to it up until 72 hours prior to meeting time.
29

30 Mr. Williams: Yes, we recommend continuance of that item until January 10, 2007. The map
31 was not in order and there were some confusing aspects to it that we need to resolve before we
32 bring that back to you.
33

34 Chair Holman: Thank you very much. I know of no other changes, additions or deletions to the
35 agenda.
36

37 Mr. Williams: Madam Chair, we should probably make a motion to continue that to that date
38 and the same thing I assume is true of item number four. Don? That is the ordinance Mr.
39 Borock was just speaking of.
40

41 Mr. Don Larkin, Senior Deputy City Attorney: That has already been noticed by Staff so that's
42 okay.
43

44 Chair Holman: So we just need a motion to continue item number one.
45

46 *NEW BUSINESS*

1 *PUBLIC HEARING:*

- 2
- 3 **1. 1072 Tanland Avenue [06-PLN-00101]*:** Request by Prometheus Real Estate Group on
4 behalf of Park Village Peninsula, LLC for a Tentative Map for a proposed residential
5 infill development. This map is required in order to merge eight parcels (approx. 5.7
6 acres) into one (not for condominium purposes). Environmental Assessment: Mitigated
7 Negative Declaration per the California Environmental Quality Act. Zone District: RM-
8 30.

9

10 MOTION

11

12 Commissioner Garber: So moved.

13

14 SECOND

15

16 Vice-Chair Lippert: I will second that.

17

18 Chair Holman: I think to be clear we would like to have a motion that would continue this to a
19 date certain that being January 10, 2007. If we could get a motion that stated such.

20

21 Commissioner Garber: I would like make the motion that we continue this to a date certain,
22 January 10, 2007 at which point we consider the item that to be considered this evening, which is
23 1072 Tanland Avenue.

24

25 Vice-Chair Lippert: I concur.

26

27 MOTION PASSED (6-0-0-1 with Commissioner Burt absent)

28

29 Chair Holman: Thank you very much. We will vote on that continuance. All those in favor?
30 (ayes) None opposed so that passes on a six to zero vote with Commissioner Burt not yet
31 present.

32

33 Mr. Larkin: If I could make a suggestion I know that the Commission was planning on taking a
34 short break but if the Commission wanted it is within the Chair's discretion to move Reports of
35 Officials up to earlier in the agenda since we can't begin item two until 7:30.

36

37 Chair Holman: Yes, the other possibility I discussed with Curtis – sorry for the disorderliness of
38 this – are there any Reports From Officials or Committees? We have not minutes to approve.
39 Commissioner Garber.

40

41 ***REPORTS FROM OFFICIALS/COMMITTEES.***

42

43 Commissioner Garber: I attended as representative the Palo Alto Housing Corporation meeting
44 this morning. The topic that both myself, the Planning Director, as well as John Barton the
45 Council Member had been asked to attend to talk about the items that were being reviewed in the
46 Planning Commission's meeting last week which were the revision of the zoning of the four

1 different parcels from residential to in two of the cases CS, one of the cases remaining
2 residential. That is the end of the report.

3
4 Vice-Chair Lippert: Can I ask what the substance of the discussion was?

5
6 Commissioner Garber: The Housing Corporation obviously has an interest in sites that allow
7 residential and had asked the Council Member to review the objectives that the Council had
8 given both Staff as well as the Commission. Those objectives were, and Staff is welcome to
9 correct me or redefine me as necessary here, to look at the sites that currently had uses that were
10 commercial but in fact were zoned residential and to consider changing those to zones that would
11 allow them to continue the commercial use on them. They were interested to learn that by
12 changing the sites that the Commission recommended if the sites that were recommended by the
13 Commission were changed to CS zones that in some cases they would actually be able to realize
14 greater housing than some of the residential zoning that was allowed on some of the sites.

15
16 There was also discussion about the upcoming ABAG numbers and we learned from the Director
17 of Planning that in order for ABAG to consider a site contributing to their numbers it had to be
18 specifically represented as such and could not be an option, which was an interesting note for the
19 Commission recall at the appropriate time at our next conversation regarding these topics. Have
20 I missed anything, Steve?

21
22 Mr. Steve Emslie, Planning Director: I think they were basically looking for explanation of the
23 Council direction and a status report of the Commission's deliberations on the three sites, the
24 Summerwinds Nursery, Palo Alto Bowl, and the Mayflower Motel.

25
26 Commissioner Garber: The fourth site was the one that is adjacent to Summerwinds.

27
28 Mr. Emslie: Yes, there is an office building I am including in that.

29
30 Chair Holman: Any other reports from Commissioners or officials? We have an awkward ten
31 minutes to fill or we could take a short break and reconvene promptly at 7:30. That looks like
32 what we should do. So our apologies for the change in schedule but we will reconvene at exactly
33 7:30 and Commissioner Burt will be joining us.

34
35 Okay, we will reconvene the Planning and Transportation Commission meeting and take up item
36 number two, a study session to provide input regarding the review process for the Stanford
37 Medical Center and Stanford Shopping Center projects. Would Staff like to make a
38 presentation?

39
40 ***STUDY SESSION:***

41
42 **Study session to provide input regarding the review process for the Stanford Medical**
43 **Center and Stanford Shopping Center projects.**

44
45
46 Mr. Williams: Yes, thank you Chair Holman and Commissioners. We brought this item to you.

1
2 Chair Holman: Excuse me. One second. Commissioner Tuma.

3
4 Commissioner Tuma: As my wife is employed by Stanford University I will be excusing myself
5 from this matter.

6
7 Chair Holman: My apologies.

8
9 Mr. Williams: Thank you. The City Council has now had presentations of conceptual project
10 plans for both the Stanford Medical Center expansion/modernization, and the Stanford Shopping
11 Center proposed expansion. Those projects are both described in the Staff Report and the
12 Council will be considering next week initiating the process of review for those projects
13 including a reimbursement agreement to cover the cost of the review, and looking at a process
14 and timeline for that review over the coming 18 months. We have provided that information on
15 the process and the timeline for you tonight so that you can have an opportunity to comment on
16 those aspects of this before it goes to Council. We will have minutes prepared of your comments
17 and transmitted to the Council before the Monday night meeting. I will be glad to answer any
18 questions.

19
20 Chair Holman: Are there any clarifying questions for Staff before we proceed and also if there
21 are any members of the public who wish to speak to this item I have no cards currently. We
22 have exactly one hour to review this item. We need to conclude it at 8:30. So if there are any
23 clarifying questions now would be the time. Commissioner Sandas.

24
25 Commissioner Sandas: Actually I do have a couple clarifying questions but I think that
26 gentleman down there is actually going to want to speak.

27
28 Chair Holman: Let the record show that Commissioner Burt has joined us.

29
30 Commissioner Sandas: If it is okay for me to ask I will definitely want to do that.

31
32 Chair Holman: Go right ahead, Commissioner Sandas.

33
34 Commissioner Sandas: Thanks. I actually have three clarifying questions for Staff and they all
35 pertain to the Medical Center timeline, actually both timelines. My key question is I am looking
36 at the Tentative Stanford Medical Center Timeline and the sixth item on the timeline, the sixth
37 task or event, says the draft mitigation measures and Development Agreement discussion. Then
38 I notice two tasks down something that is to take place several months after the Development
39 Agreement discussions begin and that is the release of the Draft EIR. I am a little bit confused
40 about the process. I would assume that the DEIR would be completed before the discussion
41 would even begin. That is my first question. If you want to answer then I will go to the next.

42
43 Mr. Williams: Sure. The timeframe is correct but there are a number of mitigation measures we
44 will see as they come along and a number of them you could probably anticipate now that we
45 will be able to begin to have discussions on those issues as well as related to the Development
46 Agreement. Some of the issues the Commission will have had a chance to bring up in early

1 reviews and the Council as well and the community so that we can begin those discussions of
2 those mitigation measures in advance. Nothing will be decided on them and can be
3 memorialized obviously until after the DEIR is out and there is further discussion and those are
4 brought forward in the public setting.

5
6 Commissioner Sandas: Actually I have three and a half questions and this will be my half
7 question. Who precisely participates in the discussions of the Development Agreement?
8
9

10 Mr. Larkin: Council is going to be giving direction on that on Monday.
11

12 Commissioner Sandas: Good. I was a little worried I had stumped the panel. Then another
13 question that I have is also about I notice there are several ARB reviews being done before the
14 DEIR. I was just wondering about that process and how that goes. Once again it just seems
15 counter-intuitive to me it seems a little backwards.
16

17 Mr. Williams: We have one study session and two preliminary reviews scheduled before the
18 Draft EIR. That is something we have done on other projects with EIR where the study session
19 probably would be here are the projects, and just bring them up to speed on what the projects are.
20 You will see that they don't really have a role in the first six months. It is sort of preliminary
21 information gathering and area plan study and that kind of thing. Then as we get into this we let
22 them first of all know what the projects are and then the preliminary reviews are something we
23 have done before so that there can be some early input from the ARB relative to design. We did
24 that with 901 San Antonio and other projects on EIRs but what we have always said is that we
25 can't have a "formal review" by the ARB until the Draft EIR is out. We can't have a formal
26 review by the Commission until the Draft EIR is circulated and has run its course.
27

28 Commissioner Sandas: So basically the whole idea behind this is so that the ARB is involved
29 during the planning phases so that at the end of the line if they hadn't had involvement they
30 wouldn't pull the rug out from under the process and have it start all over again from scratch.
31 Okay.
32

33 Mr. Williams: That's right. They are part of the community that we want to involve in those
34 discussions.
35

36 Commissioner Sandas: Got it. One final thing pertaining to the Medical Center Timeline the
37 fifth item down includes an Area Plan update and land use zoning changes. Which Area Plan
38 update? Is that one that Stanford has done for Stanford or is that part of the Area Plan update
39 that our Comprehensive Plan talks about?
40

41 Mr. Williams: To some extent both. The Comp Plan talks about the Medical Center Area Plan
42 and when the cancer center came through there was an area plan established for that. That
43 obviously doesn't cover what we are talking about so that is going to be completely updated as
44 part of this process and we will take into account, factor into part of that the fact that the
45 shopping center is happening at the same time and we have other activities in the area too. So

1 we want to be sure that we are comprehensive enough to be sure that it is covering all the
2 impacts and issues that we need to address.

3
4 Chair Holman: Commissioner Garber.

5
6 Commissioner Garber: Two questions. One, will any of this work impact the remaining zoning
7 update exercise and/or the Comprehensive Plan exercise that is being planned?

8
9 Mr. Williams: No, I don't think so. The Zoning Ordinance Update has already dealt with the
10 shopping center area and the Medical Center in terms of zoning for those areas. Those zone
11 districts have already been done but they will both need to be modified in order to accommodate
12 these projects. The shopping center has a limit on square footage in both the Comp Plan and the
13 zoning right now. The hospital area has certain FAR limits and height limits and that which it
14 appears there will need to be modifications to. Commissioner Sandas mentioned the land use
15 changes, those would be part of their request for this proposal that would be reviewed and
16 reviewed as part of the EIR as well.

17
18 Commissioner Garber: The second question has to do with the extent of the Area Plan. Is there
19 an existing Area Plan that is to be updated or is this a new one?

20
21 Mr. Emslie: The Area Plan referenced in the Comp Plan is for the Medical Center area so it is
22 limited to that. There was one prepared as Curtis mentioned that obviously did not anticipate the
23 expansions that are now contemplated. So that Area Plan that was previously included will need
24 to be.....

25
26 Commissioner Garber: meaning the shopping center or the expansions just within Stanford?

27
28 Mr. Emslie: Just the expansion within the Medical Center. The Area Plan and the Comp Plan
29 did not encompass the shopping center. The language is very specific in that the policy refers to
30 the Medical Center. However, because there are going to be combined impacts that you share
31 the same transportation network, and there are similar issues of traffic and transit demand
32 management, as Curtis mentioned, we will be including the shopping center in the policy
33 analysis of that.

34
35 Commissioner Garber: Therefore the Area Plan as well.

36
37 Mr. Emslie: Yes.

38
39 Commissioner Garber: One final follow up to that. How does the City in whatever form that
40 takes relate various issues of demand back to Stanford relative to the planning exercise?
41 Obviously the City is going to have an interest in cars, usage, etc. but I am also thinking in terms
42 of programmatic elements or use elements as well such as housing, retail, entertainment
43 components, what have you.

1 Mr. Williams: The Area Plan will address more than traffic so it needs to look at the land uses
2 themselves and those components of it if it is particularly housing as it is affected by these new
3 proposals.

4
5 Commissioner Garber: So that would get wrapped into the Area Plan.

6
7 Mr. Williams: To some extent. The Area Plan is at a somewhat conceptual level. It is not as
8 specific as a specific plan or a PC or something like that but there will be at least a policy level
9 discussion of those issues.

10
11 Commissioner Garber: Understood. Therefore part of the outreach that you will be doing with
12 community is to better understand what some of those inputs are, etc.

13
14 Mr. Williams: Absolutely.

15
16 Commissioner Garber: Okay, thanks.

17
18 Chair Holman: Commissioner Keller.

19
20 Commissioner Keller: I am wondering whether as part of this process there would need to be
21 any adjustments of the boundary line of the City of Palo Alto or if all of the hospital functions
22 that would be relocated would be within the City of Palo Alto and all of the teaching functions
23 would be located outside of the City of Palo Alto, as I understand the practice is.

24
25 Mr. Williams: I am not sure we know precisely that at this point. I think there may be some
26 very minor aspect of the medical, the teaching, the medical school part that is outside the limits
27 and whether it is included in this or not I am not sure.

28
29 Chair Holman: Commissioner Lippert.

30
31 Vice-Chair Lippert: I had a very similar question. My understanding is that the hospital does
32 straddle somewhat into unincorporated county land. Would we be the lead agency so to speak?
33 The building doesn't necessarily stop at the county line.

34
35 Chair Holman: If I might, Commissioners, we have very, very limited time on this and that
36 wouldn't have to do with the timeline I don't believe.

37
38 Vice-Chair Lippert: Well, if we are the lead agency it does.

39
40 Mr. Emslie: This is discussion of the sequence of events in terms of the timing of the various
41 reviews and so forth. We are not prepared to talk about specifics of the project and where or
42 where not an annexation may be required. That is really more project related so we would
43 respectfully ask that we defer that to a subsequent discussion.

1 Vice-Chair Lippert: Well, the only real thing that is relevant here is would it be going before the
2 county? In this timeline would it wind up being solely within Palo Alto's purview or would
3 there be an interruption where it would be reviewed the county?
4

5 Mr. Larkin: That could make a difference of 15 days in this timeline depending on the answer to
6 that question which is still preliminary and preliminarily we don't know. It is legitimate because
7 it does affect the timeline but we don't know the answer at this point. I would anticipate that we
8 would be the lead agency but the question is whether we have a 30 day review period or a 45 day
9 review period and that I don't know yet.

10
11 Vice-Chair Lippert: Okay.

12
13 Chair Holman: Commissioner Burt.

14
15 Commissioner Burt: I see that the formal application submittal for a Development Agreement is
16 scheduled for July. So that submittal would include the substantive content of the application
17 with some meat on the bones?
18

19 Mr. Emslie: That is our understanding. Stanford has indicated they would be making really a
20 two-phase application. One would be the more conceptual elements, the land use changes, and
21 the proposed zoning changes in early in 2007, approximately February. Then they would be
22 following that up with the project details probably not to the extent where all the architecture and
23 details are known but enough information that the specific review regarding facilities and
24 transportation, circulation, building mass would all be a part of that. That is our understanding
25 of the sequence of the applications.
26

27 Commissioner Burt: Then my understanding is that the City Manager had proposed to the
28 Council that he would be granted authority to commence with the negotiation of the
29 Development Agreement starting right away. Was that the proposal at the last Council Meeting?
30

31 Mr. Emslie: That is the recommendation that will be going to the Council on Monday.
32 According to this timeline if that authorization were given this timeline does not have that
33 starting until approximately a year from now in the fall of 2007 because a lot of data will have to
34 be collected in order for the negotiations to be informed by potential impacts, what mitigation
35 measures are and so forth.
36

37 Commissioner Burt: Okay, good. That provides a valuable clarification. So that sequence
38 would be in January. I am looking for the item. Could you point out where that is?
39

40 Mr. Emslie: Let me take a quick look here. It is in the second block, Draft mitigation measures
41 and Development Agreement discussions. Those look like mid-September to September-
42 October of 2007.
43

44 Commissioner Burt: Thank you.
45

1 Chair Holman: I had a question. Just a quick clarification along the lines of what one of the
2 questions was that Commissioner Sandas asked which is about the Area Plan. It is not clear from
3 either the Staff Report to me or from the Timeline who exactly is leading that. Is it going to be
4 Staff led, Planning Commission assistance, Planning Commission lead? Stanford has done their
5 own Area Plan so how is that going to run?
6

7 Mr. Emslie: In fact we would be agreeable to making a modification to the Tasks/Event column
8 to indicate that the review of the Area Plan would be sponsored if you will by the Planning
9 Commission starting in January and continuing for the first six months of 2007. So we would be
10 happy to make those changes.
11

12 Chair Holman: That would be a series of public meetings I presume?
13

14 Mr. Emslie: Yes.
15

16 Chair Holman: I see no other clarifying questions from Commissioners so I have two cards from
17 the public, Tom Jordan and Brian Schmidt, if you would come in that order, please.
18

19 Mr. Tom Jordan, Palo Alto: I lived in Palo Alto for about 45 years and have followed land use
20 matters closely. I want to speak only on the hospital. Obviously the shopping center is related
21 and will be important but it seems to me the hospital is more fully in front of you and that is what
22 I want to address.
23

24 I only have two requests. The first is that you as a body or it is really two parts of the first
25 request, you as a body and you as individuals be sure that you express yourself that the normal
26 planning procedure be followed as closely as possible, that there be no deviation as far as how
27 the EIR firm is selected or directed, and that the process move in the normal function of Staff,
28 Commission, and Council. Now I will immediately say I have no reason or disavow any reason
29 to slow the process down because you have the power to accelerate this at any time yourself as
30 the Council does. So putting it through the normal sequence does not slow the process down.
31 The other thing is to keep in mind a very important sign that is at the County Recorder's desk
32 where people go in to record their documents and it runs like this, "Your delay is not my
33 emergency." I think that is something to keep in mind to the extent – I have not heard Stanford
34 say that they have an emergency. I have heard that there is a deadline but I didn't hear anything
35 about accelerated or expedited process from them and therefore there should be none.
36

37 One reason we are concerned is that many aspects of the way that the soccer fields on Mayfield
38 were handled were completely I think improper and unsatisfactory to the public to have
39 completely closed negotiation sessions, to have the EIR fully under the control of the Manager
40 who is not a planning professional, and other aspects I could go into were simply unacceptable.
41 As I understand Stanford's own best interest this is an important proposal to them. I at least
42 initially do not disagree with anything that they are asking for, initially I should say. What the
43 focus should be are what are the impacts on the community and it is clear that Stanford should
44 pay for those direct impacts on the community and that is what is so important and why you
45 should stay in and make sure those are accurately determined and that those are fully negotiated.
46 If Stanford wants a great big facility there and thinks it is necessary it is difficult for people to

1 say it is not but it is completely proper for us to say that the direct impact on the community will
2 be borne by Stanford and not us. So please stay in as a Commission and as individuals please be
3 sure that this is an open, proper, complete process not to delay it but just to be sure that the
4 citizens do have confidence that is properly done. Thank you.

5
6 Chair Holman: Thank you, Mr. Jordan. Brian Schmidt.

7
8 Mr. Brian Schmidt, Palo Alto: Good evening. I am the Santa Clara County Advocate for the
9 Committee for Green Foothills. The Committee for Green Foothills was very involved in the
10 General Use Permit in 2000 for Stanford University with Santa Clara County so we would be
11 interested in keeping track of this process. I should also mention I am a Stanford Law School
12 graduate, Class of '99 so we have a lot of Stanford folks involved with the Committee.

13
14 This is at the very beginning of this process so I just want to throw out a couple of ideas that
15 could be kept in mind as the process goes forward. It looks like from the little that I know about
16 the project it involves an increased amount of density more than has been expected for that area.
17 One concept that is often used in planning when you are getting increased density in some areas
18 you require that decrease in the density of development elsewhere. So there are areas of Palo
19 Alto or nearby Santa Clara County where we would not want to see a lot of development maybe
20 up in the hillsides and maybe that could be the mitigation for what Stanford is proposing with
21 this hospital. That is often used when you are trying to go through height limits and putting up
22 something that is much higher than what you normally would otherwise require is you require
23 that decreased development elsewhere.

24
25 They should be considering the recreational impacts from this project. Obviously environmental
26 analysis will have to figure it out but it will probably bring a lot more people to the area and
27 those people will provide some type of impact on the recreation and that needs to be considered.
28 The effect on the jobs/housing balance within Palo Alto would also have to be considered. Then
29 an issue that we are encountering elsewhere and is good to think about at the start of a project,
30 particularly a construction project, is the greenhouse gas issues so that can be involved in both
31 construction and green building and mitigation for the greenhouse gas emissions caused by the
32 change, and the project, and the increased development for the project. We will be keeping track
33 of this. Thank you very much.

34
35 Chair Holman: Thank you very much. So we will close the public hearing on this item and
36 bring it back to the Commission for any further questions. Commissioner Burt.

37
38 Commissioner Burt: I wonder if Staff could elaborate on the thought process for the proposal to
39 have the negotiations on the Development Agreement apparently intended to be in private.
40 Could you share your thinking and what the rationale is for that versus study sessions and public
41 hearings as what I presume would be an alternative approach?

42
43 Mr. Emslie: I don't think that this suggests that the negotiations are all going to be done in
44 private. I think there are going to be many opportunities in these various timeframes for report-
45 outs, for check-ins, and course corrections as they go through. So I am just going to state that it
46 is my belief that it is not implicit in here that negotiations would be done in private. There is need

1 for Staff-to-Staff meetings in terms of sharing data and going through analytical data that would
2 have to happen in order for cogent recommendations to come out to the various decision-making
3 and advisory bodies in this. So I think there is a necessity for Staff-to-Staff meetings on a fairly
4 regular basis but in terms of check-ins, and policy direction I think it is implicit that that would
5 be open in the process.
6

7 Commissioner Burt: That sounds encouraging. The reason I had asked was the original proposal
8 by the City Manager had indicated that the intention was to go right into authorizing him to do
9 the negotiation on the Development Agreement. I think this is really an excellent improvement
10 on the process what we have before us because we are going to have the opportunity to do the
11 Area Plan and a lot of public input preceding that Development Agreement negotiation.
12

13 It does sound like this is in many ways a quite different process from what we did have for
14 instance on the Mayfield Agreement. I think that is why a lot of people have angst over the
15 process.
16

17 So granted that this is in my mind an improvement over the initial proposal and the Mayfield I
18 am trying to understand still just that remaining bit of difference between a fully public process
19 and somewhat of a hybrid one that we have here. Can you give me and the Commission any
20 examples of the sorts of things that would cause this to be a better process if the City Manager
21 were granted even starting in October authorization to do private negotiation as opposed to a
22 fully public process?
23

24 Mr. Emslie: First of all we are pending Council direction. So we haven't had Council indication
25 of the extent to which there will be Staff direction to proceed. I imagine that within all large and
26 complex projects that we will be taking kind of broad areas of interest and concern that should be
27 addressed and then as we move forward refining those down. Those eventually would become
28 very specific conditions or deal points in the Development Agreement with I think regular check-
29 ins through hearings and input and advice from the advisory boards like the Commission and
30 ultimately the City Council. It would just be my assumption that that would comport with the
31 Council's direction but we find that out on Monday.
32

33 Commissioner Burt: Then the other aspect to the question, I watched the Council Meeting so
34 that is part of why I am asking these questions. Is there any clarification on the role of your
35 department and you as Director of Planning and Urban Environment in the negotiation process
36 given that this is a major planning aspect? I would presume that you would have a significant
37 role in conjunction with the City Manager.
38

39 Mr. Emslie: Yes, and Don answered the question earlier about we don't know because the
40 Council hasn't acted but we can tell you the recommendation is that the City Manager and City
41 Attorney be given the authorization to proceed with the process. Also, myself as Planning
42 Director and the Administrative Services Director are included in that negotiation team. We are
43 specifically listed in that recommendation to Council.
44

45 Commissioner Burt: Great. The reason I ask these questions is I understand that the Council has
46 not made that decision but part of our function tonight is this is our opportunity to comment on

1 the proposed process as opposed to the adopted process. If we only commented on adopted
2 process it would be back like the Mayfield Agreement.

3
4 Chair Holman: Commissioner Sandas, question?

5
6 Commissioner Sandas: Just a sort of a reiteration. That is precisely why I asked the question
7 earlier as to who would be involved in the negotiations. So now I am hearing some answers
8 about who potentially will be involved in the negotiations. Thank you.

9
10 Chair Holman: I have one or two other questions. Could I get a clarification on is there a
11 differentiation between Development Agreement discussion and Development Agreement
12 negotiation? Is there any difference at all?

13
14 Mr. Emslie: I don't think there was intended to be difference in that. Discussions are essentially
15 all negotiations in a Development Agreement. So if that would be clearer to change that to
16 negotiations that would not be a problem.

17
18 Chair Holman: I think that would be clearer for everyone involved unless I am unique in that. I
19 am having a problem with when then the Development Agreement negotiations are initiated.
20 The initiation specifically isn't noted on the timeline. In other words, the word 'initiation' isn't
21 used although it is in terms of the environmental work. Then I note that the DEIR is released in
22 the March timeframe and then the Final EIR is released it looks like at the beginning of June.
23 The FEIR and the Development Agreement are delivered at the same time. I am having
24 difficulty understanding how there can be meaningful public input on the DEIR and then
25 responses to that. Usually, by the time it comes back to us Staff needs the full time, the full
26 DEIR comment period, to respond to all the questions. So I am having difficulty how an FEIR
27 and DA can be delivered at the same time to have really meaningful public input.

28
29 Mr. Williams: Well, the DEIR has the public input.

30
31 Chair Holman: The responses. There are lots of questions that get initiated once the DEIR is
32 released and then there are responses to the DEIR comments.

33
34 Mr. Williams: Those are incorporated then in the FEIR. The FEIR is a combination of the Draft
35 EIR plus the responses to comments. So generally that comes to you with the project per se.
36 Like 901 San Antonio had the PC with the FEIR and had the whole package, the Tentative Map,
37 all those things bunched together when the FEIR came to you but there had been the full review
38 period on the Draft EIR and then the responses to comments on that incorporated in the Final
39 EIR.

40
41 Chair Holman: I guess I am viewing this as a bit different because it is a negotiation it is not a
42 PC project. So I am having difficulty interpreting that as an appropriate timeline if you will.
43 Commissioner Sandas, you had another question?

44
45 Commissioner Sandas: Yes I do have another question. Something that you brought up made
46 me think of this, Chair Holman. I am looking at this timeline all together and we are looking at

1 19 months I think. All things considered, I don't want to slow this process down by any stretch
2 of the imagination, I have friends who are physicians at Children's Hospital and have to have
3 their patients sent out of the region because there is not enough space at Packard. I am just
4 wondering can this be done in 19 months? Do we have the Staff to handle this considering we
5 are launching into the Comp Plan Amendments and finishing the ZOU? Is this really going to
6 work for timeline?
7

8 Mr. Emslie: Well two things. One is this is a tentative timeline. There are going to be factors
9 that we have not taken into account and unforeseen circumstances that will change this. I
10 guarantee it. We will not end up with the same process you see before you that is a given. So
11 this is our best guess of the time and the sequence of events. The sequence should probably stay
12 the same but the length of time depending on scheduling and so forth is going to obviously
13 change. So there is built into this some anticipated slippage in that.
14

15 The second part of this is the Staff resources. The Council is also set to approve Monday a
16 reimbursement agreement that will provide the Staff resources we have engaged, contract help in
17 fact they are in the audience this evening. If we have a minute we can introduce them maybe
18 after your deliberations. So there is a mechanism to add the resources without cost to the City
19 that won't affect the current workload of Staff.
20

21 Chair Holman: Commissioner Keller, you have a quick question? Then we will go to
22 Commissioner Garber and then we will go to comments. Okay, we will begin comments.
23 Commissioner Keller.
24

25 Commissioner Keller: What I am wondering is the consideration that at some point there is a
26 Development Agreement which is negotiated. What I am trying to figure out is my
27 understanding for what was originally proposed for December 18th is that the City Council would
28 give direction to the City Manager et al to figure out what to negotiate. What I am trying to
29 figure out is I don't think there is enough time to get public input immediately to inform that
30 process on December 18.
31

32 So if the Draft Mitigation Measures and Development Agreement discussions constitutes the
33 time in which the Development Agreement is discussed there are a couple of issues that are
34 relevant to that. The first issue is that there should be some meeting or some initiation process
35 which is by the Planning Commission or ARB and/or the City Council, some combination
36 thereof, which gives at that time the charge to the people who do the negotiation, if there is a
37 negotiation rather than a completely public process, to inform what the criteria are and what the
38 desires are for that negotiation.
39

40 Secondly, if there is a Development Agreement at PTC in June and the FEIR is produced then
41 and the DEIR is released in March it looks like the Development Agreement is actually
42 negotiation stops with the release of the DEIR, which I am confused about. I would expect that
43 the negotiation would continue at the point in time that all the comments came in and the FEIR
44 were produced. So there is something that doesn't match for me about that.
45

1 Mr. Larkin: Just a real quick correction to something you mentioned. The Planning
2 Commission doesn't give direction on the policy negotiation. The Planning Commission makes
3 recommendations to the City Council and City Council gives the direction.
4

5 Chair Holman: Commissioner Garber.
6

7 Commissioner Garber: A couple of suggestions. On Attachment B I would add the language on
8 I believe it is my number five, which is more similar to line number five of Attachment A that
9 includes the Area Plan language. That can be couched obviously as needed.
10

11 A couple of other really just some suggestions of the organization of this document and I am
12 thinking specifically of your timeline. Given that it is organized as a Gantt chart it would be
13 helpful just in terms of reading it to see the sort of four, I think there are at least four there may
14 be more that I am not seeing here, critical milestones. When it starts, when it stops, when it gets
15 handed off, and when it stops again and then something a little bit more descriptive for each of
16 the phases. So the Phase I, I am not sure what the right description is, existing conditions, issues
17 identification, objective and goals whatever that is, but just something that you can glance at and
18 recognize what is happening and organized as that set of tasks and the same thing for Phase II.
19

20 Another suggestion for a little later on is seeing a document that is rather than a Gantt chart but a
21 Swim Lane chart that has the handoffs, not necessarily the handoffs but how information moves
22 from the various public entities to the organizing committee or group, etc. and seeing how that
23 works. A document of that sort would be very helpful. That's it.
24

25 Chair Holman: I have a clarification for Staff, probably the City Attorney. With this type of an
26 item we don't typically take motions but what would Staff see as the best mechanism for us to
27 determine where there is consensus? Can we take a motion and then a straw vote on that or what
28 would be the best mechanism so we have clarity when we go to Council?
29

30 Mr. Larkin: Well, certainly you can't because it is a study session item no action can be taken. I
31 think general comments as each of the Commissioners makes comments if there are items that
32 you want to suggest that the Commissioners highlight either their agreement with or
33 disagreement with that might be a way to convey the consensus of the Commission or at least the
34 general majority sense.
35

36 Chair Holman: Okay. If I might and we do have 20 minutes left here so keeping in mind the
37 clock as you are asked to speak if there are Commissioners who have spoken prior to you and
38 you agree with their comments rather than reiterating them just say I concur with the comments
39 of Commissioner Garber, which I will state right now I do. Commissioner Burt. You all get the
40 gist, right?
41

42 Commissioner Burt: I get the gist and I will try and be succinct but I have actually two
43 clarifying questions I need to ask. I will be quick. First, does this timeline adequately meet
44 Stanford's needs and how much fudge is there for what they have to accomplish in the timeframe
45 that they are attempting to accomplish it?
46

1 Mr. Emslie: We believe it does and there is about a six month fudge factor in here. So it can
2 extend six more months and still be within the target.

3
4 Commissioner Burt: Okay. Second, I appreciate that in development projects in general that
5 there is a Staff role of meeting with applicants and giving feedback on projects before it goes to
6 the public entities. The difference that I was struggling with is really one between whether it is
7 discussions with Staff and feedback on Staff perspective versus negotiation. And I see in here
8 that the way it is listed on the second section, the seventh line, Draft mitigation measures and
9 Development Agreement discussions, which is different from negotiations. If discussions based
10 upon the guidance that the Council gives to Staff is what the intended process is then this sounds
11 sound to me. Is that difference between discussion and negotiation, does discussion capture what
12 is now Staff's proposal to Council?

13
14 Mr. Emslie: Yes, I am assuming when I responded to Commissioner Holman's question earlier
15 that my statement was predicated on the fact that clearly the guidance is going to be given by the
16 Council in specific measure as to what points the Manager so to the extent the Manager won't be
17 giving his own policy direction it will be coming from the Council and as the Commission
18 advises the Council. So if it is clearer to say that has been discussions because that would
19 assume that the points to be negotiated are given by the policy-makers. I can accept that.

20
21 Commissioner Burt: Great. I think that clarification and the evolution of clarity on the process
22 has gone a long ways to improve my comfort level with what is being proposed here.

23
24 Chair Holman: Commissioner Lippert.

25
26 Vice-Chair Lippert: I will be brief. First of all I want to reiterate and support Commissioner
27 Sandas' comment with regard to the general timeline in terms of the length that this process
28 should take. I also agree with Commissioner Garber's comment with regard to having important
29 milestones delineated and I am going to explain why now. If you look at where this falls this
30 facility is basically being upgraded and expanded because of seismic safety standards embodied
31 in SB 1953. I don't think most people understand what the implications of this are. I think we
32 have seen it throughout the entire Bay Area region if not the state where hospitals go in having
33 the expectation that they are going to re-improve their buildings and in fact OSHPOD standards
34 are so strict that it is cheaper for a hospital to come in find a new site, building a new facility,
35 and then demo the old hospital, raise that and sell that site off than it is to re-improve their
36 buildings. That is the implication that is here. What I am concerned about in looking at this
37 schedule is that if we cannot meet Stanford's timeline here that at some point it is going to be
38 fish or cut bait. They are going to look and say hey, we can move this facility, we can move this
39 entire hospital, we can move this entire Medical School to perhaps some site in some other city,
40 get the approvals we need, build a state-of-the-art facility and have an annex to Stanford
41 University. That is it plain and simple. I just want to be careful about us staying within the
42 constraints here of the timeline and be able to say yes, we can accommodate you and we want
43 you here. I can't say it any more plainly. I don't mean to scare people but I have seen other
44 hospitals do that.

45
46 Chair Holman: Commissioner Keller, comments.

1
2 Commissioner Keller: Yes. First let me ask a quick question. According to SB 1953 when do
3 they have to commence construction?
4

5 Mr. Emslie: I know we have some Stanford folks to clarify but I don't believe there is a deadline
6 to commence. There is a deadline to comply that they must meet the new higher standards by
7 and I am going to defer so I don't screw up the date to someone from Stanford for the exact date
8 for that.
9

10 Chair Holman: Please identify yourself.
11

12 Mr. Mark Tortorich, Vice President of Facilities, Stanford Hospital and Packard Hospital: SB
13 1953 mandates that the hospitals need to be compliant by January 1, 2013 that is not going to be
14 possible in Stanford's case. There was a recent senate bill that was passed and the Governor
15 signed called the Cox Bill which would give us a two-year extension, however to get that two-
16 year extension we have to submit drawings to OSHPOD by 2009 and start construction by 2011.
17 So there are deadlines to get the extension to 2015.
18

19 Chair Holman: Submit drawings by 2009, is that right?
20

21 Mr. Tortorich: And start construction by 2011.
22

23 Chair Holman: Thank you very much.
24

25 Commissioner Keller: So it seems to me that that gives us a little bit more definiteness about the
26 timeline that we are operating under. I appreciate that comment. I think that Stanford in general
27 is a big asset to the community and I think that Stanford has in general in the past been very
28 supportive of communications and in particular housing and the money that they give to the
29 school district. So I think that it is important to make sure that this project is properly mitigated
30 and I am very concerned about understanding better the process by which public input gets into
31 the negotiation. I think that should be made more explicit exactly, I assume that the charge to the
32 negotiator shouldn't happen on December 18, but should really happen as part of the Phase II
33 process. So a milestone that says here is when the Planning Commission give input and the ARB
34 gives recommendations to the Council and the Council makes a decision which then gives the
35 charge to the City Manager or whoever does the negotiation assuming that it is a negotiated
36 agreement. I think that that's critical to place on the timeline.
37

38 Chair Holman: My comments are as follows. I concur with the comments of Commissioner
39 Garber as I indicated earlier about the milestones and Commissioner Lippert had comments to
40 add to that. I concur with that a great deal. If other Commissioners want to chime in here with
41 agreement that is fine since we are not having motions so we will have a concerted opinion going
42 to Council for recommendation, if we do indeed. That the Area Plan be for the Medical Center
43 and also the Stanford Shopping Center, as I believe Staff had indicated. That the Area Plan
44 commence January 2007, as I believe Staff is also in concurrence with that. That that Area Plan
45 be led by Planning Commission and Staff, Stanford of course will have its input. That the word,
46 'Development Agreement discussions,' be deleted in favor of the more accurate term of,

1 'Development Agreement negotiation' so that confusion is eliminated. That the Development
2 Agreement negotiations be initiated, which is not currently precisely indicated, that those
3 Development Agreement negotiations be initiated in the May-June 2008 timeline after the FEIR
4 has been certified. That is the only way that I can see that meaningful input on the DEIR can be
5 accepted and integrated into any negotiations. That the ARB have two rather than four meetings
6 on these projects prior to the DEIR. The reason for that is I just quickly will say that sometimes
7 we get into situations where there is so much architectural detail that is provided and input that is
8 provided prior to having the impacts identified that it seems to be a waste both in time, process,
9 and applicant's money. It also puts decision-makers and recommenders if you will in kind of an
10 awkward situation because we find ourselves saying well, it is a great service that you provide as
11 the Children's Hospital does for instance and sorry you spent all this money but this really isn't
12 something that we can find that we can mitigate. So that is why I am saying that that should be
13 limited to two, the schematic and the study session, or however Staff concludes that those should
14 take place. I guess lastly I would say that there is no doubt that there is great value to the
15 Stanford Medical Center, to the shopping center, and to a proposed hotel. There is no doubt that
16 there is great value to that. There also is responsibility on the part of this body to make sure that
17 we can do the best job possible and I think that is what you see in the comments from
18 Commissioners tonight. It is also exceedingly important with the scope and scale of these size
19 projects not that it isn't for small projects too but most especially with something of this scope
20 and scale that the very best most public process be followed that we can even conceive of
21 identifying. I think in the long run that will lead to the most expeditious process with the fewest
22 challenges down the line and that is what the basis is for my comments. Commissioner Sandas.

23
24 Commissioner Sandas: Thank you. I concur with your comments. I also wanted to just pipe in
25 with just one more comment and that is on our Commission's responsibility to the impacts on
26 our community and keeping our vigilance and diligently examining what those would be so that
27 we can agree to the best possible mitigations.

28
29 Chair Holman: Commissioner Keller.

30
31 Commissioner Keller: I would like to concur with the comments of Commissioner Garber,
32 Commissioner Lippert, and Chair Holman.

33
34 Chair Holman: Commissioner Burt.

35
36 Commissioner Burt: Well the only other thing that I would add is I guess I am still a little
37 unclear as to what will be going before the Council this coming Monday as far as the
38 authorization to is it negotiate, Steve?

39
40 Mr. Emslie: Yes it is to initiate the process and authorize the City Manager to negotiate and then
41 it identifies the team as I mentioned before. The process is the timeline you see before you. This
42 has already gone to Council this way or will go tomorrow in the packet.

43
44 Commissioner Burt: Your prior clarifications, if I understood them correctly, were that really
45 what we have in here is called discussion rather than negotiation and when would this
46 negotiation commence?

1
2 Mr. Emslie: This timeline has it starting in September-October of 2007.

3
4 Commissioner Burt: That is listed as discussion.

5
6 Mr. Emslie: Yes, we don't feel that we can even initiate until that time. The data regarding the
7 mitigation measures and what impacts – we really won't even have meaningful discussions until
8 in mid to late 2007.

9
10 Commissioner Burt: I concur with the necessity of having this other information before being
11 able to even have the preliminary discussions. What I am still a little confused by is what is the
12 language of the City Manager's proposal to the Council for Monday versus what I am hearing
13 from you. Why does the Council need to authorize the City Manager to commence negotiations
14 for something that is in here defined as discussion starting in eight months? Why wouldn't we
15 wait until after we have had the preliminary updated Area Plan and then at the same time that the
16 authorization occurs there is some context to the authorization?

17
18 Mr. Emslie: I don't know if I can answer that question because it essentially I think involves the
19 direction that the City Manager is seeking from the Council. So I imagine that we will hear
20 some feedback on that on Monday. I know that the Manager was actively involved in preparing
21 this timeline and agreed with the sequence of events. To be clear, our recommendation is to
22 authorize the Manager to initiate the process and negotiations that is in the recommendation.

23
24 Commissioner Burt: So I guess my recommendation to Council out of this study session would
25 be that they would authorize the initiation of the process on Monday and then defer authorization
26 of negotiation until after the first phase of the preliminary steps returns to them and then
27 negotiation or discussion would be commencing per the guidance they would provide within
28 having a better context of the project.

29
30 Chair Holman: I would concur with you about the authorization. My thought as I stated earlier
31 was that the negotiation should not commence until the FEIR was certified. Commissioner
32 Garber.

33
34 Commissioner Garber: I think I would find myself tending to leave some of the description or
35 the – let me try it this way. I agree entirely with what it is you are pointing out or what it is I am
36 hearing here is that there are two parts, Phase I, which is identification of the issues,
37 identification of the goals of Area Plan and the existing additions that need to be met underneath
38 the EIR. Then Phase II, which is the actual negotiation that is based on that. Now whether you
39 call the entire thing a negotiation process or the process in general or whatever it is that maybe
40 something that is simply a title as opposed to a descriptor of what the actual activity is but what I
41 am hearing is that yes in fact there are two phases underneath this process. Is that correct?

42
43 Commissioner Burt: It is and connected with that I think it is premature to authorize negotiation
44 even if the timeline says that negotiation wouldn't commence for eight months then wait six
45 months until you have more information. I feel the Council should wait six months before
46 authorizing negotiation. They don't have any context for the negotiation. It just seems out of

1 sequence to give that authorization at this time. By doing so it potentially leads to
2 misunderstandings or disconnects on what was authorized.

3
4 Chair Holman: Commissioner Garber, you were saying conclusions before investigation?

5
6 Commissioner Garber: That the consequence is that you would be doing work out of sequence
7 and that you would be taking action on things that you have not investigated first.

8
9 Chair Holman: Commissioner Lippert and we are getting close to the end here.

10
11 Vice-Chair Lippert: I see it slightly differently. If we were starting from scratch and we weren't
12 working with a hospital or a facility that wasn't already there and we weren't working with a
13 shopping center that wasn't already there I would concur with that completely. But we are
14 working with a known asset and I believe that there are some assumptions that can be made in
15 the negotiation process and that that could be advanced thereby at least on the hospital portion
16 assuring that the timeline is followed a little bit more closely.

17
18 I just want to make one other comment and I need some guidance from the City Attorney, which
19 is since this is being discussed at the City Council meeting on Monday, you are taking down our
20 comments here, they are going to be draft form, un-voted on by this Commission in terms of its
21 content, and as a sole representative who really can't speak on behalf of my colleagues unless we
22 have firm finalized minutes how do you want this presented?

23
24 Chair Holman: If I might interject to get to your question and get to a Commission question
25 broader than your participation, important as it is at the Council Meeting on Monday, that if Staff
26 could foresee and we will need City Attorney's input on this, if the draft comments from this
27 study session could be forwarded to the Commission for their comments on 'x' day, Friday
28 would be ideal, but maybe even over the weekend so we could comment on those so
29 Commissioner Lippert could represent us. That would be one.

30
31 Then two is a question if there are some changes to this timeline that Staff actually agrees with
32 will it be possible that there could be amended timelines handed to the Council Members on
33 Monday?

34
35 Mr. Emslie: I don't know if we will have the time to incorporate these but based on the
36 comments there are many suggestions that I think are very informative that would add to the
37 clarity and the usefulness of the document that we have indicated could be done. I think you
38 have given us those types of comments, which I think we have been taking notes and have
39 indicated where we could add some clarification. We will incorporate those and let the Council
40 know by transmittal of the minutes and by verbal comments on Monday.

41
42 Second, you raised I think policy issues regarding the timing of this and those will be transmitted
43 through the minutes. We can through Commissioner Lippert as the Commission's rep and
44 through Staff comments can provide clarifications to those. Those we would not make any
45 changes to those because those we would need to have feedback from the Council whether or not
46 they agreed with that.

1
2 Then I think there is one category where there was a suggestion and change that we are not going
3 to agree with and in the interest of full disclosure and that is starting the discussion/negotiations
4 of the Development Agreement after the DEIR is released. That is legally very problematic
5 because that would most likely, because if there are any discussions or anything that changed in
6 the Development Agreement that was not adequately analyzed and included in the DEIR you are
7 going to go back to square one, you are going to need to re-circulate that document and you will
8 probably lose a significant amount of time. There should be ample information at the time the
9 negotiations are discussed and ample community input by that time over the course of the next
10 six months to a year that I think there could be a fairly formed set of negotiations or deal points
11 that would be informed of that. By waiting on the DEIR you are most likely going to see re-
12 circulation issues that will substantially delay this.

13
14 Mr. Williams: I just want to add that we are doing everything we can to get those minutes back
15 by Monday. So there is not going to be time to route them around but we will certainly do the
16 best we can to have this section of the meeting, we won't have the rest of the meeting we will
17 focus just on this, and get that to the Council on Monday.

18
19 Chair Holman: It would be anticipated only for this section of the meeting so can those minutes
20 be emailed to Commissioners on Monday as well?

21
22 Mr. Williams: Sure.

23
24 Chair Holman: Not that we would be able to make changes to those or that the Staff could make
25 changes but we would be able to at least comment or clarify. Commissioner Lippert.

26
27 Vice-Chair Lippert: I just want to say if you have any comments don't send the comments to me
28 send them to Staff otherwise if I get comments from more than two other members it represents a
29 violation of the Brown Act.

30
31 Chair Holman: On the clock we are complete with this. Are there any other burning questions
32 or issues?

33
34 Mr. Larkin: I was just going to remind you that time is up.

35
36 Chair Holman: Yes, okay.

37
38 Mr. Williams: Before we go off that subject entirely I just want to point out that Steven Turner
39 is going to be the primary Project Planner and Manager at the Staff level on this project. So we
40 are going to divert a number of Steven's other duties so that he can have the adequate time to do
41 that. You have met Whitney McNair before who has been helping us with the Zoning Ordinance
42 Update and she is going to as that winds down be shifting gears into helping Steven do a lot of
43 the work on this. As Steve mentioned we do have a reimbursement agreement. We will be
44 going out to get contracts for EIR consultants and economic consultants and hospital consultants
45 and that as necessary as early in the process as well.

46

1 Chair Holman: Great, thank you very much. With that we will go to – we do have some
2 members of the public here to speak to this. Can we go another half hour and then take a brief
3 break? We have Zoning Ordinance Update, item three. We need to get Commissioner Tuma in
4 and we are going to look at the streams portion of the ZOU first. Commissioner Keller has a
5 conflict there so we will be gaining one and losing one. Commissioner Keller.

6
7 Commissioner Keller: Yes, my personal residence abuts Adobe Creek so I am enjoined from
8 participating in this discussion.

9
10 Chair Holman: Okay, so we will see you again later. Staff would you like to make the
11 presentation on the creeks portion of the Zoning Ordinance Update. If there are any members of
12 the public who would like to speak to this portion of the ZOU feel free to submit a card at this
13 time.

14
15 ***PUBLIC HEARING:***

- 16
17 **3. Zoning Ordinance Update:** Planning and Transportation Commission review and
18 recommendation of an Ordinance deleting Chapter 18.88 and adopting new Chapters
19 18.40 (General Standards and Exceptions) and 18.42 (Standards for Special Uses),
20 including criteria for landscaping, wireless communications, stream setbacks, and storm
21 water prevention, and amending Chapter 18.83 (Parking) to revise landscape
22 requirements. Environmental Assessment: Comprehensive Plan EIR.

23
24 Mr. Williams: Madam Chair?

25
26 Chair Holman: Yes?

27
28 Mr. Williams: What we would like to do since Commissioner Keller is conflicted on this is have
29 Whitney just briefly present the Stream Corridor Protection section to you after you finish your
30 deliberations on this section then we will get Mr. Keller back and have Whitney review the other
31 sections for you.

32
33 Chair Holman: Very good.

34
35 Ms. Whitney McNair, Planning Consultant: So we have taken the 18.88 and broken it up into
36 the two chapters. The one 18.40 will be the General Standards and Exceptions and we have
37 taken the water resources and broken it up into two separate sections. While Commissioner
38 Keller is out we will go over the Stream Corridor Protection.

39
40 We did add a purpose statement in at the direction of the Commission and included information
41 about protection for streamside properties. There was a question about R-2 lots the Commission
42 had and Staff looked into that. There are only four R-2 lots and no RMD lots that could
43 potentially be impacted by the new regulations. So it is Staff's recommendation to exempt R-1,
44 R-2, and RMD zoned lots from general compliance. So that was a follow up item.

1 The other item that we looked at is the Requirements. There was quite a bit of discussion about
2 what was going to be exempt from the Requirements so the list of exempt projects has been
3 revised to remove accessory structures and decks all together and includes more specific limits
4 for the remaining items. So that has been substantially changed based on your direction.
5

6 Then structures and uses not allowed, we have included all structures, impervious areas, and
7 decks regardless of size or height are not permitted within the slope stability protection area.
8 There was one clarification on page 11 of the underlined portion of the attachment it is (4)(a) at
9 the very bottom of page 11. The guidelines within the streamside review area and in (a) it says
10 the distance between nighttime lighting and the riparian corridor of a stream should be
11 minimized and that actually should say 'maximized,' it was just a slight typo.
12

13 Mr. Williams: It is the third line from the bottom on that page.
14

15 Ms. McNair: It is the last word in (4)(a). That is the end of the changes to the stream corridor
16 protection.
17

18 Chair Holman: Questions for Staff? Commissioner Lippert.
19

20 Vice-Chair Lippert: I raised a question for Staff in clarifying copper usage. As you know
21 asphalt composition shingles have impregnated granulated copper and my concern was runoff
22 from those roofs into the stream.
23

24 Mr. Joe Teresi, Public Works: There is a section in the Municipal Code, Section 16.09.160,
25 which has been in effect since January 2003 which prohibits the use of copper metal roofing,
26 copper granule containing asphalt shingles, and copper gutters. So all those items are not
27 allowed.
28

29 Vice-Chair Lippert: Who goes and makes sure that the asphalt shingles don't have the
30 granulated copper? My understanding is that all asphalt shingles are treated with granulated
31 copper. So we would in fact be prohibiting the use of asphalt shingles in the entire city.
32

33 Mr. Williams: We can check on that with Building and see what the situation is but it is already
34 in here so there is not any particular benefit in adding it to the section as we had discussed
35 yesterday. We will have to be sure that Building knows that and I didn't have a discussion with
36 a Building official today. I just forwarded your comment to Joe.
37

38 Vice-Chair Lippert: Let me just tell you from my own personal perspective with granulated
39 copper in asphalt shingles it is done for the east coast, it is done so that moss doesn't develop on
40 roofs which is really detrimental to roofs. Out here we don't have that problem. The runoff
41 from those roofs onto regular soil doesn't necessarily bother me even though it might be a City
42 ordinance because it is filtered through the soil and most of that stuff is taken out before it gets
43 into the aquifer and runs out to the bay. However, in a condition where it is near a creek side
44 area that may not be the case so it becomes even more of a concern. What happens is the
45 granulated copper retards small plankton type things from growing, which basically wildlife live
46 off of so it is a concern.

1
2 Mr. Williams: We will check with Building and see how this is being enforced and be sure they
3 are aware of this requirement.

4
5 Chair Holman: Commissioner Burt.

6
7 Commissioner Burt: Well, I share Commissioner Lippert's concern on the copper runoff. I
8 would recommend that you speak with Phil Bobel and see whether his department has evaluated
9 the options on granulated asphalt. I don't know whether all forms contain it. Unfortunately my
10 roof with granulated asphalt tiles has moss growing on it.

11
12 Vice-Chair Lippert: It is granulated copper not granulated asphalt.

13
14 Commissioner Burt: It is the copper in the granulated asphalt. The other thing is the concern
15 isn't limited to direct runoff into streams it is any storm water drain runoff, which is what we
16 have in the Municipal Code on all of those sections. They are equally harmful to bay life. As
17 you probably know the copper moves up the food chain and was an acute issue for the city. Just
18 to make sure folks Phil Bobel's department lead one of the most innovative programs in the
19 country in an effort with Stanford to identify the 25 percent of all our copper runoff was coming
20 from copper brake pads as well. We want to keep those issues at the forefront as Commissioner
21 Lippert has done. Thanks.

22
23 Chair Holman: Other Commissioner questions? Commissioner Tuma.

24
25 Commissioner Tuma: I have a question to make sure I understand. In the previous memo we
26 had there was a list of six exempt project types and I understand how five of those have been
27 dealt with. I am just trying to make sure I understand with fences six feet tall or less how are
28 they dealt with here?

29
30 Mr. Williams: They are dealt with not by prohibiting them generally but there is an addition that
31 they have to be setback at least three feet up from the top of the bank so that it can't be the kind
32 of case where it is crossing or in some way interfering with the stream flow or getting into an area
33 of slope that might cause some instability where you placed the fence. We do feel it is necessary
34 from a security standpoint and that to allow for fences.

35
36 Commissioner Tuma: Okay, that applies to all new fences not just those six feet tall or less.

37
38 Mr. Williams: Right.

39
40 Commissioner Tuma: Thanks.

41
42 Chair Holman: I see no other hands. I have two or three nits under the purpose statement. I
43 want to thank Staff very much for including the purpose statements. I think from a going
44 forward perspective this provides the history looking back such that when someone comes up
45 later and says why did they do this, this provides the basis and we don't lose our toehold into
46 what are current conditions are and just slip into an abyss of unintended consequences later.

1
2 In that purpose statement on the fourth line in the middle of the line it says, “Flooding and bank
3 erosion and reduce storm water pollution.” I am wondering if the word ‘minimize’ might be a
4 better and stronger word for that as opposed to reduce.

5
6 Mr. Williams: I think that is fine.

7
8 Chair Holman: If other Commissioners are agreeable to that. In the line above that just the word
9 ‘damaged’ I think it should be ‘damage.’ On page 11 two comments. “Exceptions to this
10 requirement may be granted by the Director of Public Works,” and nowhere in any of this list or
11 within that statement does it mention pollution, reducing or minimizing pollution that I found.
12 I’m sorry, it is page 11 at the top it says, “Exceptions to this requirement may be granted by the
13 Director of Public Works,” and I don’t find or did not find that it referenced stream pollution. So
14 I think reference to that should be added and if I overlooked it Staff will correct me I am sure.

15
16 Mr. Williams: I think two things. One is we do have another section that deals with storm water
17 runoff per se so it is sort of addressed there but then most all of these criteria are criteria that – I
18 mean that I think one of the purposes is to reduce or minimize pollution, preserving native
19 riparian vegetation with 100 feet helps do that for preventing nonnative invasive plant species
20 helps do that. So all of these help do that in different ways. So I think it gets to that. If we put
21 something else in here I am not sure what it would say other than very general language about
22 reducing pollution and that doesn’t have much meaning as these other specific requirements do.
23 So if you have some suggested language we could certainly consider that.

24
25 Chair Holman: I guess some suggested language might be ‘and does not increase storm water
26 pollution.’ So it is just the reverse of what is in the purpose statement. Maybe it is not necessary
27 and I do understand of course that the riparian vegetation helps to reduce the pollution it is just
28 that it is not specifically noted. Again, we have as time goes on Staff changes so I am not going
29 to harp on that one but it is something maybe others have concern with that are not.

30
31 The other comment is (b) immediately under that. It says, “New fences shall be constructed a
32 minimum of three feet landward from the top of bank.” I guess I am finding three feet a bit
33 troubling not because of it being three feet from but constructing a fence three feet from the top
34 of a bank. I find that that would be very difficult to complete without some potential impacts.
35 So I guess I would like other Commissioners to comment on that or Staff to comment on that.
36 Again it is not the locating of it that close it is the construction of a fence that close.

37
38 Vice-Chair Lippert: My experience with fences of this nature generally fences of that size and
39 configuration are done with posthole diggers it is not done with heavy equipment. So it is a guy
40 who is a ditch digger going out with a device and going ‘plunk’ and lifting the soil out. What we
41 might want to do is look at something along the line of heavy equipment not be used.

42
43 Chair Holman: I guess my response to that is somebody with a posthole digger is what I
44 envisioned and they are going to straddle that hole. So I see somebody being very close to the
45 top of a bank in constructing a fence. So if that is concern of other Commissioner then so be it. I

1 would suggest something more like seven feet or something like that just to have a little bit of
2 person room not having a magic number to apply there. Mr. Teresi.

3
4 Mr. Teresi: I was going to say it is not really a magic number it was an attempt at a compromise
5 between not being too close to the top of the bank and not making a large portion of one's yard
6 inaccessible. Often times peoples' property line extends all the way down into the creek. So it is
7 basically that compromise number.

8
9 Mr. Larkin: I apologize I don't have a site off the top of my head but I know that we do have
10 another provision in our code that requires best management practices for construction and those
11 practices would have to involve some sort of protection during the construction of a fence. If I
12 had the site I could tell you what it says but that might alleviate some of your concerns as well.

13
14 Chair Holman: Commissioner Lippert.

15
16 Vice-Chair Lippert: That raises another point, which is that in this ordinance did we describe at
17 all an applicant showing on any development where the top of bank is located?

18
19 Mr. Williams: We discussed that and that is something that we will require as an application
20 requirement but we don't think it is appropriate in here any more so than other plan application
21 requirements. So it is something that we need to incorporate. I don't know to the extent to
22 which we already do probably when you have a creek there but we will take care of that at the
23 Staff level in terms of getting that into our application requirements but we don't feel we need to
24 specify that here again. It is an administrative procedural type of issue.

25
26 Chair Holman: Commissioner Tuma.

27
28 Commissioner Tuma: As somebody who has dug a few fence post holes myself actually using
29 not the posthole digger but one with arms on it and people hold onto it. You can actually do
30 quite a bit of damage to the surrounding area. I concur with Chair Holman's concerns about this.
31 I think you can beat that area up. I think despite the idea of best practices, I know often times
32 when people are out there they are just digging the holes. I think if you encourage it being
33 slightly further away maybe five feet or six feet or something like that does seem to make sense
34 to me.

35
36 Mr. Williams: Maybe five feet.

37
38 Chair Holman: Commissioner Garber and then I think we will be ready for a motion.

39
40 MOTION

41
42 Commissioner Garber: I will forego my comments and offer to make a motion. I would like to
43 move that we accept the Staff's recommendations as presented here in the Zoning Ordinance
44 Update specifically Chapter 18.40.140 Stream Corridor Protection with the following suggested
45 revisions. One, in paragraph (a) that the word 'reduce' become the word 'minimize,' that the
46 word 'damaged' in line three become 'damage,' that the word 'minimized' in paragraph (4), item

1 number (a) become ‘maximized’ instead of ‘minimized.’ Were there other items that we should
2 be included here? Thank you. That the five foot recommendation by Staff on the setback of the
3 fences from the property line.

4
5 Chair Holman: Do we have a second?

6
7 SECOND

8
9 Commissioner Sandas: Second.

10
11 Vice-Chair Lippert: Top of bank.

12
13 Commissioner Garber: Thank you, and noted.

14
15 Chair Holman: Commissioner Sandas seconded. Commissioner Garber, do you need to speak to
16 your motion?

17
18 Commissioner Garber: I do not, thank you.

19
20 Chair Holman: Commissioner Sandas.

21
22 Commissioner Sandas: No.

23
24 MOTION PASSED (6-0-1-0, Commissioner Keller not participating)

25
26 Chair Holman: Any discussion on the motion? We are therefore ready for a vote. All those in
27 favor of the motion as stated please say aye. (ayes) No opposing so we have a six to zero vote
28 in favor of the motion as made by Commissioner Garber with Commissioner Keller not
29 participating.

30
31 We will take about a seven-minute break. We have a Special Order of the Day to attend to and
32 we will be back in seven or eight minutes. Thank you very much.

33
34 Okay, we will reconvene the meeting and go back to Chapter 18.40. I believe Staff’s desire
35 would be to look at 18.40.150 first that would be the Storm Water Quality Protection. Would
36 Staff care to make a presentation on that chapter?

37
38 Ms. McNair: For that one section most of this is what you had seen at your last meeting. A
39 purpose section was added and it is encouraging the incorporation of site design measures to
40 preserve and enhance storm water quality and then guidelines. So this section includes ten
41 different guidelines and won’t highlight all of them because I think you have seen them before.
42 One of them to highlight is number three, which is to minimize directly connected impervious
43 areas by routing storm water runoff into vegetative swales. So there weren’t any changes from
44 when you saw this at the last Commission meeting.

45
46 Chair Holman: Do we have any questions of Staff? Commissioner Garber.

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MOTION

Commissioner Garber: I would like to offer to make a motion to accept the Staff's recommendations for the revisions to this section with is Section 18.40.150 as submitted.

SECOND

Commissioner Sandas: Second.

Chair Holman: Would you care to speak to your motion, Commissioner Garber?

Commissioner Garber: No, I need not say anything more. Thank you.

Chair Holman: Commissioner Sandas? Any other comments or discussion about the motion? Commissioner Keller, do you have a question?

Commissioner Keller: I notice that it talks about connecting directly to storm drains. I am wondering if that includes drainage directly onto the street.

Mr. Teresi: The concept would be to interrupt that continuous path from a hard surface into a gutter or storm drain or a creek. You want to interrupt that by some kind of pervious or landscaped area in order to filter the runoff and allow some of it to infiltrate before it gets into the storm drain or creek.

Commissioner Keller: So I am wondering whether it makes sense to add the phrase 'street' or 'curb' or whatever you want because people say I am not connecting to the storm drain I am just loading it out onto the street. So that is just one question.

Mr. Williams: Where are you looking at specifically to do something like that?

Commissioner Keller: Basically, it looks like (c)(3).

Mr. Williams: It specifically says to route the storm runoff into vegetative swales and other landscaped areas. I see, you are saying before it reaches a storm drain, street or stream?

Commissioner Keller: Yes.

Mr. Williams: That's okay.

Chair Holman: Would that be agreeable to the maker of the motion?

Commissioner Garber: It would be.

Chair Holman: And the seconder?

1 Commissioner Sandas: Yes.

2
3 Chair Holman: Then I had a question I had posed awhile back that is a clarification about
4 number ten. Minimize changes to the volume, flow rate, timing, or duration of storm runoff
5 from the development site. I guess I was wondering how that is consistent or inconsistent with
6 basement construction as we currently allow it.

7
8 Mr. Williams: I will let Mr. Teresi answer that.

9
10 Mr. Teresi: That wasn't really what we were thinking of when this was crafted. We were
11 thinking more again of impervious areas tend to retard the infiltration of the runoff into the
12 ground and to also speed it up. So it gets out to the street and storm drains and creeks more
13 quickly.

14
15 I know that you had asked a question earlier about basements and pumping and I guess I could
16 add that fairly recently the Public Works Department has changed its policy with respect to
17 permanent pumping from basements. It changed its policy such that it is no longer allowed for
18 applicants to construct systems that collect water around basements and pump it out. They
19 instead have to build their basements to be waterproofed and to be of enough strength to
20 withstand the hydrostatic pressures and uplift forces that is caused by any water. So the only
21 time that there would be pumping for basements is during the actual construction where it is
22 necessary in order build the structure, to have the hole dewatered first. On applications from
23 here forward we should no longer see pumping on a permanent basis from these basements.

24
25 Chair Holman: A clarification on that. In recent years I have seen and people have commented
26 to me that they see large hoses coming off construction sites and then going sometimes down one
27 block and around the corner down the next block to a sewer inlet and their sewer drain. That is
28 water being pumped off a site. So are you saying no longer will that be allowed and they will
29 have to capture that water onsite?

30
31 Mr. Teresi: No, I am saying that that won't allowable once the basement is constructed and
32 backfilled. That kind of a practice is still used during construction when the hole needs to be
33 dewatered in order to actually build the structure. The reason why these hoses and pipes run
34 down the gutter is because it has been found that that is less of a nuisance than having several
35 feet of water running down the gutter for several blocks.

36
37 Chair Holman: The other part of that question for clarification is I myself note and people have
38 commented to me that there are homes that have been built recently that clearly have basements
39 and there are little round holes in the curb in front of the homes and water is continually, I can't
40 say 12 months a year, but water is pretty continually coming out of those holes off the property.
41 You are saying that that is no longer going to be allowed?

42
43 Mr. Teresi: That is correct.

44
45 Chair Holman: Okay. Commissioner Garber.

1 Commissioner Garber: If I understand Staff's response to the Chair's question there isn't a
2 relationship between storm water runoff and the existence of basements except during the period
3 of construction. Is that a correct statement?
4

5 Mr. Teresi: Yes.
6

7 Commissioner Garber: Thank you.
8

9 Chair Holman: Commissioner Burt.
10

11 Commissioner Burt: Joe, could you just clarify? If the reason that there is ongoing pump-out
12 that occurs in some of the circumstances where people have put in basements is because there is
13 water filling up between the basement and the separation wall? Is that essentially why that
14 occurs?
15

16 Mr. Teresi: It occurs now because of either seepage water that seeps into the ground and collects
17 along the basement wall or because during times of heavy rain over the course of several months
18 the whole groundwater table can rise or you can have a perch level of groundwater that collects
19 and often times the designers want to have a pump system to collect and remove that water for
20 fear that the basement is going to leak or that the water is going to exert that extra pressure on the
21 walls and they are trying to avoid that and having a pump is a simple way to avoid that.
22

23 Commissioner Burt: That is what I thought and there are homes with basements in certain
24 aquifer areas where we have underground streams running throughout the city in different places.
25 So if we are now prohibiting that pumping what happens to that water? What is the alternative?
26

27 Mr. Teresi: The alternative is that the designers are going to have to take a measure of care to
28 have a more robust waterproofing system. Often times they are going to have to have thicker
29 walls and slabs in order to withstand that pressure.
30

31 Commissioner Burt: Nothing that would require appraisal in advance of whether certain
32 locations are going to have an excessive amount of that sort of seepage?
33

34 Mr. Teresi: We go to this new policy after making a series of changes to try and answer that
35 question and one of the things that is done any time a basement is proposed is a soils report is
36 done and a soils engineer is asked to assess this groundwater question. In the past we have asked
37 them to estimate the highest level of groundwater. If they said the groundwater wasn't going to
38 come up to the point of where the basement is they were allowed to have a pump that would be
39 there to collect any nuisance water that comes from above. We found that in spite of their best
40 efforts to estimate this groundwater they have been wrong so many times that we end up with
41 these places where they said there was going to be no groundwater and lo and behold there is and
42 we end up with these places where the water is pumping for months at a time. So in an attempt
43 to avoid that in the future we have taken a stronger stand and said no pump system period
44 because it hasn't worked in the past.
45

46 Chair Holman: Commissioner Lippert.

1
2 Vice-Chair Lippert: To understand what a basement is it is basically a swimming pool in reverse
3 if you think about it. The way basements are constructed is there is a void in between where the
4 ground is and where the actual basement wall is and that is filled with crushed gravel. The idea
5 is that the groundwater or the storm water would come along and hit this gravel and the gravel
6 cannot sustain or hold the water it just basically through gravity drops all the way to the bottom.
7 At the bottom there is usually a perforated pipe located there. Now, in basement construction the
8 sidewalls are generally treated with some sort of asphaltic membrane, which also prevents water
9 from seeping through the walls of the basement and getting into this swimming pool in reverse.
10 The weak link however is the bottom slab of the basement. Generally what happens there is that
11 it is very difficult to create a waterproof membrane there. So the way it has generally been done
12 is that any of the water that seeps down and gets underneath the slab to the basement, again there
13 is a layer of gravel and there is a sump that is located below that where the water would collect
14 and get pumped out and also from this perimeter piping. What Joe has basically explained is that
15 that pump would be eliminated. Therefore, what is important is that the bottom of the slab be
16 adequately waterproofed. What that does now is it creates, and I want you to imagine a boat, in
17 that the soil and all the groundwater around it is fluid. So the tendency is if it is not weighted
18 down it is going to pop out of the ground and it is going to literally push the house up. So that is
19 my Mr. Science explanation of the way basements work. I hope I have done an adequate job
20 there. I think between the soils engineer and Public Works' review of this it can be adequately
21 addressed so that we don't have all these houses popping up out of the ground.

22
23 Chair Holman: I am having visions of cemeteries. Commissioner Keller and then
24 Commissioner Sandas.

25
26 Commissioner Keller: I understand that you are prohibiting pumps outside the basement itself.
27 In the event of a flood or somehow seepage into the basement are some sort of pump
28 arrangements allowed with the basements themselves or is that prohibited as well?

29
30 Mr. Teresi: I honestly don't know the answer to that. This is not my policy. I am aware of it but
31 I am not the one who is most familiar with it so I don't know the answer to that question.

32
33 Chair Holman: Commissioner Sandas.

34
35 Commissioner Sandas: At risk of becoming one of the most unpopular people in Palo Alto I
36 have to ask this question. Are basements even a good idea here?

37
38 Mr. Williams: We have had this discussion many times and with the Council as well. We think
39 that at this point they aren't a bad idea but that the policy is that these technical issues have been
40 addressed and are addressed and that it is preferable to allowing more square footage above the
41 ground. This is a way for people to get larger houses without building more above the ground.
42 So that is the policy whether it is good, bad or indifferent, that is where we are now. We had a
43 lot of discussion on this during the R-1 zoning reviews. In fact we had an environmental study
44 of impacts on groundwater and that determined that it was not significant.

45
46 Commissioner Sandas: Okay, pretend I didn't ask that question.

1
2 Mr. Williams: It is a very valid question. It is asked over and over just for your history.

3
4 Chair Holman: At the risk of being even more unpopular than Commissioner Sandas I have
5 raised many questions about basements and their viability and how they affect our community's
6 sustainability in terms of affordability and all manner of other impacts that the proliferation and
7 size of basements that we allow in this community how that impacts our community.

8
9 However, back to our motion that has been made by Commissioner Garber and seconded by
10 Commissioner Sandas as amended to add in (c)(3) the word 'street' after, 'it reaches a street, or
11 storm drain, or stream.'

12
13 Mr. Larkin: Before you do that we need to note for the record that there are no members of the
14 public that wish to speak to this item.

15
16 Chair Holman: This is correct. There are no members of the public.

17
18 Mr. Larkin: And likewise with the prior item. The minutes can't view the audience.

19
20 MOTION PASSED (7-0-0-0)

21
22 Chair Holman: Thank you very much, City Attorney. All those in favor of the motion say aye.
23 (ayes) There are none opposed so that passes on a seven to zero vote.

24
25 So I think Staff's intention is to go to the Landscaping section next, Chapter 18.40.130.

26
27 Ms. McNair: Thank you very much. For Landscaping we did add a purpose section as well as
28 General Regulations that reference the other applicable sections of the code. We have included
29 information on Natural Areas with language in there to retain or enhance native vegetation unless
30 modification is found necessary or appropriate for specific use allowed through architectural or
31 site design review with the preference for natural indigenous and drought resistant plants and
32 materials. There is also information included in (c)(4) that roof mounted equipment shall be
33 screened in a manner that protects the viewshed from adjacent properties, including views from
34 above, which was a comment by the Commission.

35
36 On page eight we have included information for Low-Density Residential Landscaping Design
37 Standards including a 50 percent of the required front setback to be landscaped. Street trees may
38 be required for items that have Individual Review for a new second story or additions to a second
39 story or for other discretionary reviews in certain zones. Also the Commission commented about
40 again basements but this is a proposed light wells and below grade basements shall be screened
41 from public view.

42
43 We included some information about special design and landscaping standards. We separated
44 these two sections out into Requirements and Guidelines. For Requirements the Commissioner
45 did talk about screening of utilities so there is information on that. There were some comments
46 about the percentage of lawn or a restriction for the amount of lawn in commercial properties.

1 So for developments within commercial and industrial zoning districts there are some standards
2 in there for requirements on limitations on lawn. There is also, based on the Commission's
3 comments about the 50 percent shading of parking lot surface areas within 15 years included in
4 that.

5
6 Then in the Guideline section we have some language to encourage rooftop gardens, edible
7 gardens and other sustainable agricultural landscaping alternatives for multi-family, commercial,
8 and industrial developments. There is information about structural soils, a guideline where it is
9 preferred where planting in compacted soil areas such as in parking lots and sidewalks. We have
10 also included, based on the comments from the Commission, some information about the
11 incorporation of recycled water usage into the design of landscape and irrigation systems for
12 multi-family, commercial, and industrial zoning districts where feasible. That concludes Staff's
13 presentation.

14
15 Mr. Williams: Chair, if I can just add a couple of things? One is that I just noticed and I will
16 jump in here before Mr. Keller corrects me that under (d) item six should be item five, we
17 jumped from four straight to six there so we will make that correction.

18
19 Then the other thing is I had a call today from a resident that suggested a couple of language
20 changes, which I think are useful on the Natural Areas section. In items two and six in particular
21 there is language where one says, "in so far as is as reasonably practical," and the other says,
22 "where feasible." Then in some other spots we have "to the maximum extent feasible" and I
23 think we would like to use that language in all of those places and be consistent with that
24 language in each of those. So we would modify items (c)(2) and (c)(6) to say like in (c)(2)
25 would say, "Site development plans shall, where to the maximum extent feasible, provide for,"
26 and (6) "To the maximum extent feasible existing vegetation shall be retained." So we would
27 offer those amendments as well.

28
29 Chair Holman: If I might add to that I had those very things highlighted on my plan too. On
30 page six, under Landscaping (a) Purpose on the third line it also says "where possible" and if that
31 might also be changed to the "maximum extent feasible." Did people track that?

32
33 Then also on page nine under Guidelines, number three, the second line, "incorporate into site
34 design where feasible" if that language could also be consistent so that it reads, "to the maximum
35 extent" that would be good.

36
37 Mr. Williams: Those are fine.

38
39 Chair Holman: I'm sorry. On page nine under Guidelines, number three, the second line says in
40 the middle of the line "where feasible" instead of "to the maximum extent."

41
42 So questions? Commissioner Tuma.

43
44 Commissioner Tuma: Under (d) what I guess in now (d)(5) which deals with the light wells, it is
45 labeled as (d)(6) here but should be (d)(5). We talked about this before and the language that is
46 here to me is fairly vague and could be interpreted to be – "screened from public view." What

1 we talked about before you described kind of holding up your fingers a couple of inches tall as
2 something to kind of make it not as visible. This language here I think could have an unintended
3 consequence of really getting people to not do these things. If you have a tall screening with a
4 light well you may very well not get the benefit of the light well in the first place. So what I am
5 trying to avoid here is something where people don't do these and we don't create as good usable
6 space in a basement because you have to landscape it in such a way that it blocks the light. I
7 don't know if there is some way we could be more specific about what is required here but,
8 "screened from public view," just seems fairly heavy handed.
9

10 Mr. Williams: Actually this language already exists elsewhere in the zoning code in the R-1 and
11 R-2 chapters of the code that talk about light wells and basements. I think when Dave Dockter
12 was here last time he indicated he thought that we had lost that language that we had before but
13 we didn't it is still there and it says something very similar to this. If you would rather say
14 something that says it minimizes view impacts or minimizes rather than saying, "shall be
15 screened," maybe shall minimize view impacts from offsite or something like that.
16

17 Commissioner Tuma: To me that would be better.
18

19 Mr. Williams: What we have generally found is it takes relatively little landscaping on these
20 things to screen it from offsite.
21

22 Commissioner Tuma: Right and all I am trying to do is have the language reflect that that was
23 the intent of what we were trying to do here.
24

25 Mr. Williams: It does just take a shrub. Okay.
26

27 Chair Holman: Commissioner Keller.
28

29 Commissioner Keller: With respect to (c)(5) it says that, "Planting of invasive plant species shall
30 not be permitted." What about invasive plant species that already exists? Is there some notion
31 that when there is re-landscaping or landscaping maintenance, whatever the right triggering point
32 is, that invasive species be removed to the maximum extent feasible?
33

34 Mr. Williams: I think that is kind of inherent in here but I guess I am open to seeing if there is
35 more specific language to that effect. We have in number the preference is given in new
36 landscaping to these things and that non-indigenous landscaping be limited, that the existing
37 vegetation be retained or enhanced to maintain wildlife habitat, riparian vegetation being
38 retained or enhanced. So I think there are words in here with the discretionary approval and
39 landscaping plans coming in that these guiding principles would tend to lead us that way but if it
40 would be helpful I don't think it would be a problem to say planting of invasive plant species
41 shall not be permitted and existing non-natives may be required to be reduced or something like
42 that.
43

44 Commissioner Keller: I think it might make sense to say existing invasive. I am not suggesting
45 removal. That we should require or mandate removal of non-native species but in particular

1 invasive species is a different story and saying something explicit about removal of invasive
2 species would make sense to me.

3
4 Mr. Williams: Okay, I am just concerned about how far we go with that. If we have a fairly
5 minor addition going through ARB on a project site in the Foothills someplace and there is an
6 invasive species over five acres of land do we make them go out there and remove all of that as
7 part of that very minor approval?

8
9 Commissioner Keller: Do you have any suggestions on how we might handle that?

10
11 Ms. McNair: I do believe that there is some language in here about limiting it in and around the
12 immediate area around the structure, non-indigenous landscaping. I agree with Curtis there
13 might be invasive plantings, which might occur on a hillside or something like that, which
14 actually stabilizes that area in some fashion, and removal of it might cause more disturbance than
15 by keeping it. If you were to add language I would suggest not using the word ‘shall’ but using
16 something to the effect of existing invasive species should be considered for removal on a case-
17 by-case basis or something.

18
19 Mr. Williams: Yes, maybe shall not be permitted and removal of existing invasive species may
20 be required.

21
22 Commissioner Keller: Would it be reasonable to say that it would be required when that space is
23 re-landscaped? In other words if you are going to be working in an area maybe.....

24
25 Chair Holman: Commissioner Keller, if I might, I think that is inferred. There has to be a
26 trigger point and I think that is inferred in the language that was suggested. Would Staff concur
27 with that?

28
29 Mr. Williams: Yes. I think number one also supports that too in terms of new landscaping and
30 re-landscaping type areas that we are going to look to have that done in a way that removes those
31 and replaces them with the preference for the indigenous species.

32
33 Commissioner Keller: Thank you.

34
35 Chair Holman: Commissioner Lippert.

36
37 Vice-Chair Lippert: I didn’t want to wordsmith it but I have a suggestion here following up on
38 Commissioner Keller’s comment. Maybe it is done proportional to the amount of development.
39 So if you were redeveloping an entire site, new building, it would apply to the entire site.
40 Whereas a small 200 square foot addition is quite minimal so it would be proportional.

41
42 The following up on Commissioner Tuma’s comment on (d) previously number six and now five
43 on the light wells. It says “public view,” and I think what was implied or meant there was public
44 right-of-way as in when we do roof screening for instance it is not that it is observed from
45 another property it is observed from the public right-of-way, correct?

1 Mr. Williams: You could be correct with that but it is not necessarily a neighbor view.

2
3 Vice-Chair Lippert: So that is a very important point. If it is public view it implies any
4 surrounding property plus the public right-of-way whereas public right-of-way is very specific.

5
6 Mr. Williams: I would have to check with Current Planning and see how they have interpreted
7 that in the past on light well situations. I think it is important that neighboring properties not be
8 looking down into a hole or that kind of thing too. So I think it has been done both ways in
9 practice but the words “public view” I think do infer the public right-of-way from a park or
10 something like that.

11
12 Chair Holman: I have just one comment, which is under the Purpose, and again thank you Staff
13 for including these, under Landscaping, Purpose on page six. The purpose of this section is to
14 encourage creative and sustainable landscape design that enhances structures, streetscapes, and
15 parking areas. It would seem to me that it also would apply to open spaces so I am wondering if
16 Staff might think that is appropriate to include.

17
18 Mr. Williams: In terms of the enhances part?

19
20 Chair Holman: Yes.

21
22 Mr. Williams: Enhances open space areas?

23
24 Chair Holman: Yes.

25
26 Mr. Williams: That’s fine.

27
28 Chair Holman: Commissioner Garber, are you going to make another motion?

29
30 MOTION

31
32 Commissioner Garber: Yes. I would like to move that we accept the Staff recommendation for
33 this section of the code 18.40.130 Landscaping with the following recommended revisions. In
34 item (a) Purpose that we include open spaces in the areas to encourage creative and sustainable
35 landscape design. That sustainable landscape design preserves native plant species to the
36 maximum extent feasible replace the ‘where possible’ statement in that same paragraph. On
37 paragraph (c)(2) that we use the same phrasing, “maximum extent feasible” in that sentence.
38 That in (3) we introduce the concept of the removal recommended or as the Staff defines the
39 actual actionable word here, the preference for noninvasive species and the removal for invasive
40 species that may be in....

41
42 Mr. Williams: Isn’t that paragraph (5)?

43
44 Commissioner Garber: I thought it was (3).

45
46 Chair Holman: It is (c)(5) I believe.

1
2 Commissioner Garber: I apologize, that would be (5) then. Then in item (6) we use the
3 'maximum extent feasible' language with that sentence. Item (5) that should Staff return with a
4 recommendation relative to better definition around the screening from public view or public
5 right-of-way that be included.

6
7 Mr. Williams: What do you mean?

8
9 Commissioner Garber: You were going to check to see if the right language is to say that the
10 light wells from below grade should be screened from public view or should they be screened
11 from the public right-of-way.

12
13 Mr. Williams: Okay, but I think we probably need to decide on something tonight because this
14 isn't coming back. So I would go ahead and put the language in 'shall be screened to minimize
15 these from offsite' if that works.

16
17 Mr. Larkin: I would just point out that at this point it is most important to get the policy if there
18 are language tweaks that need to be made those can be made prior to the Council meeting but at
19 this point the policy question is important.

20
21 Commissioner Garber: Right. The intention of the Commission is to minimize the view from
22 offsite locations. Yes?

23
24 Chair Holman: Why don't we let Commissioner Garber complete his motion and then if we
25 have amendments or suggestions make them.

26
27 Commissioner Garber: Okay. Then finally that we under the Guidelines section item (3) that we
28 use the 'maximum extent feasible' in that sentence. I think those were all the notes that I caught.

29
30 Chair Holman: Commissioner Sandas were you going to second this motion?

31
32 SECOND

33
34 Commissioner Sandas: Yes indeed, I second.

35
36 Chair Holman: Commissioner Garber do you need to speak to your motion at all?

37
38 Commissioner Garber: No.

39
40 Chair Holman: Commissioner Sandas.

41
42 Commissioner Sandas: No.

43
44 Chair Holman: Commissioner Tuma.

45

1 Commissioner Tuma: I do want to. I think the intent was not necessarily to minimize the view
2 from offsite but rather from the public right-of-way. Offsite could be the neighboring private
3 property. So I will offer a friendly amendment to that effect.
4

5 Mr. Williams: Is that okay with everyone?
6

7 Commissioner Garber: That is okay with the maker of the motion.
8

9 Chair Holman: And the seconder?
10

11 Commissioner Sandas: Yes.
12

13 Chair Holman: Okay, any other comments? Commissioner Keller.
14

15 Commissioner Keller: Yes, I am assuming that in your Guidelines (3) you are referring to (e)(3),
16 just to be clear in your comment about ‘maximum extent feasible’ just to make that
17 unambiguous. With respect to this issue of proposed light wells and below grade basements
18 shall be screened from public right-of-way to the extent that there is would that include for
19 example public parkland and things like that? So I am sort of wondering ...
20

21 Mr. Williams: I was going to suggest that that say public right-of-way or other public properties.
22 So it would include any parkland or public lands.
23

24 Commissioner Garber: That is acceptable to the maker.
25

26 Chair Holman: Commissioner Lippert.
27

28 Vice-Chair Lippert: I just want to make a comment again on Commissioner Tuma’s amendment.
29 I support the amendment I think it is the public right-of-way and to support that I would like to
30 say good fences make good neighbors. Neighbors have the ability to screen that light well if
31 they don’t wish to see it.’
32

33 Chair Holman: I guess I would say that isn’t true from a second story though a lot of times. I
34 had a comment under Guidelines. I guess maybe it is a question actually. Under Guidelines (5),
35 “The Director may allow a combination of hardscape and landscape to satisfy landscape
36 requirements where permeable surface materials are used and where the visual quality and
37 screening functions of the hardscape/landscape areas are maintained.” Would it be reasonable to
38 add ‘as per conditions of approval?’ The reason I am asking is because of enforcement issues.
39 Would that be clarification of that section because a lot of times there is not maintenance of these
40 areas?
41

42 Mr. Williams: Yes, I think that is fine. I think that is probably a good suggestion.
43

44 Chair Holman: Would that be agreeable to the maker of the motion?
45

46 Commissioner Garber: It would.

1
2 Chair Holman: Commissioner Sandas?

3
4 Commissioner Sandas: Yes.

5
6 MOTION PASSED (7-0-0-0)

7
8 Chair Holman: Seeing no other hands or comments we are ready to vote on the motion. I think
9 Staff has it clear with the many changes rather than repeat that. All those in favor of
10 Commissioner Garber's motion seconded by Commissioner Sandas as we are doing tonight say
11 aye. (ayes) That passes on a seven to zero vote.

12
13 So now we will go to the balance of Chapter 18.40. Staff presentation?

14
15 Mr. Williams: I don't think we have any presentation. The remainder of this chapter is
16 essentially existing language that has just been transferred into this section.

17
18 Chair Holman: Commissioner Garber.

19
20 Commissioner Garber: May I make a motion?

21
22 Chair Holman: You may.

23
24 MOTION

25
26 Commissioner Garber: That we accept the Staff's recommendation of the remaining Zoning
27 Ordinance Update that has been offered this evening that is Chapter 18.40 as it has currently
28 been worded.

29
30 Chair Holman: Commissioner Sandas do I dare ask if you want to second the motion?

31
32 SECOND

33 Commissioner Sandas: Of course I do.

34
35 MOTION PASSED (7-0-0-0)

36
37 Chair Holman: Okay. Any comments, questions or concerns? Seeing none we are ready to vote
38 on the motion. All those in favor say aye. (ayes) That passes on a seven to zero vote.

39
40 Mr. Larkin: I am just going to comment for the record once again that there were no members of
41 the audience wishing to participate.

42
43 Chair Holman: At the risk of being really brazen here I am going to correct the City Attorney
44 that is not members of the audience but members of the public.

45
46 Mr. Larkin: That works just as well.

1
2 Chair Holman: So we are ready for Chapter 18.42. Staff.

3
4 Ms. McNair: Chapter 18.42 is Standards for Special Uses. There are two sections the first is just
5 a deletion of the limit of permits issued per block in accordance to be in compliance with
6 alcoholic beverage control regulations. That occurs on page six, item (e). Do you want to take a
7 motion on that or can we go to wireless communication facilities, which is 18.42.110? We
8 included a purpose section for this minimizing visual impacts of wireless communication
9 facilities. We also included language about blending with the existing surroundings and a
10 statement about building mounted wireless communication facilities and collocation facilities are
11 preferred and encouraged. All of those were based on Council input at the last meeting. We did
12 include some modifications to the review procedure. Instead of extending the noticing for a
13 building mounted project that exceeds the building height we have revised the review process for
14 those facilities to require both a conditional use permit and architectural review. There was also
15 a question about historic and the review by the HRB, there already is a process in place for all
16 projects that are proposed on historic properties to be reviewed by the Historic Preservation
17 Planner or the HRB.

18
19 Mr. Williams: We have specified that in the ordinance itself as well.

20
21 Ms. McNair: The rest of the code is just clarification and putting into the specific format for the
22 chapter.

23
24 Chair Holman: Commissioner Keller.

25
26 Commissioner Keller: Yes. In terms of paragraph (c)(3) I am wondering whether it makes sense
27 to exclude encroachment into interior street side and rear setbacks where (a) the side in question
28 abuts a residential property or residential zone or (b) where the side in question has a special
29 setback for street setbacks or whatever as defined in the code?

30
31 Mr. Williams: We don't think it is necessary to do that mainly because any standalone facility is
32 going to require a conditional use permit. So if there is some objection to that then someone can
33 request a public hearing with the Commission to come forward with that. I don't think a blanket
34 statement prohibiting it in those areas that might be a very good location, it might be well
35 screened, and it might not cause any problems at all. So just blanket prohibition does not seem
36 to us to be appropriate. At the last meeting we were talking about particularly enhancing the
37 notice for things like that but we would note that what we are talking about are standalone
38 facilities and those would because they are standalone require use permit and 600 feet notice on
39 all of those anyway. So I don't know that that would cause problems by doing it but it just does
40 not seem necessary to go there.

41
42 Chair Holman: Commissioner Lippert.

43
44 Vice-Chair Lippert: I would like some clarification on collocation that might have to come from
45 the City Attorney. By approving an antenna with a conditional use permit whoever the applicant

1 is or the wireless carrier is they can thereby have collocation at that site without any further
2 review, is that correct?

3
4 Mr. Larkin: It is unclear at this point because there is conflicting language within the statute.
5 My general belief is that it is required to be permitted as a collocation facility so the use permit
6 would actually permit it as a collocation facility as opposed to a standalone antenna and there
7 would be a distinction between the two. It wouldn't automatically become a collocation facility
8 but there is some vagaries in the language of the statute that make me not 100 percent confident
9 but that is my inclination.

10
11 Vice-Chair Lippert: Okay. My question goes to would there be an additional review process for
12 that collocation?

13
14 Mr. Larkin: There wouldn't be an additional review for the collocation but we could still place
15 architectural review requirements so the ARB could recommend imposing conditions that would
16 inhibit the collocation of the second facility if it were going to violate the terms of their
17 architectural review. For example I think it would be extremely difficult for somebody to
18 collocate a facility on one of our tree antennas because physically you couldn't do that and still
19 meet the architectural review conditions.

20
21 Vice-Chair Lippert: Is it possible to require that the applicant or the wireless carrier present at
22 the time that they are making the initial application what the maximum build out of collocation if
23 they are going to in fact have collocation at that site?

24
25 Mr. Larkin: I think that is possible. I am a little hesitant because I think we can't anticipate
26 advances in technology that would allow additional collocation where it is not feasible with the
27 current technology.

28
29 Vice-Chair Lippert: No, but what we could do and where I am going with this is if the plans
30 deviate from what is proposed as the ultimate build out then in fact we could say that it is subject
31 to additional review or revisiting.

32
33 Mr. Larkin: It is difficult under the current status of the law for us to regulate by number of
34 facilities or by radiation output. What we can regulate and is clearly within our purview is
35 aesthetics. So that is where I recommend the restrictions be placed is on the aesthetics and the
36 aesthetic impacts. That does limit you in terms of being able to review an application where
37 under current technology it would be a single antenna and there is no way that a second antenna
38 or transmitter would be able to be placed there. Ten years from now if technology is advanced
39 enough that they can fit it into a smaller location and could place it for example in one of our tree
40 poles you are limited in that way by doing that but it is a lot safer legal position to be in because
41 that is one area where the courts have consistently said the cities have the right to regulate.

42
43 Vice-Chair Lippert: I guess where I am going on this is that the permit is going with the site it is
44 not going with a specific antenna. So it is very easy for an applicant or carrier in this case to go
45 and say we are just going to build a second tree, in fact we are going to build a whole forest of
46 trees.

1
2 Mr. Larkin: I think that is something that would be prohibited under the ordinance because we
3 are requiring the CUP and the CUP is going to in conditioning the approval I would expect the
4 conditions would be such that they would preclude multiple plantings, so to speak. So it would
5 have to be a second facility attached to the same pole and in order to do that it would have to not
6 have an aesthetic impact. Right now that can't be done but what that means in the future I don't
7 know.

8
9 Vice-Chair Lippert: I am going to make a suggestion here and I am going to just throw it out.
10 Since the law is ambiguous at this point that we accept the language that is here. I am not
11 making a motion because I know that Commissioner Garber will want to make the motion
12 eventually. But that we accept the language here but that we in fact revisit this maybe in about
13 six months when the City Attorney has a better handle on some of the decisions.

14
15 Chair Holman: Commissioner Tuma I think you had a question.

16
17 Commissioner Tuma: A couple of things. The first one is a comment which is I am really
18 pleased with the suggestion and the resolution of this issue on notice and requiring the
19 conditional use permit. I think that is a great result.

20
21 Last time we had talked about abandoned equipment. I think there was some discussion around
22 possibly requiring applicants to certify that all abandoned antennas had been taken down prior to
23 accepting any new applications for approval. That continues to make sense to me. I don't know
24 if there is some way to incorporate that into (f).

25
26 Mr. Williams: Right. I think we could add that. I think we would do that if we saw somebody
27 come in and we knew there were abandoned antenna we would tell them they need to get that out
28 and we wouldn't approve a new antenna without them doing that. If we need to specify that here
29 I don't think that is a problem here either.

30
31 Commissioner Tuma: I think what I am asking for is that we require them to affirmatively
32 certify that there aren't any such abandoned antennas still out there. In other words, we may not
33 know about it but I think we want them to tell us and certify that there aren't any abandoned
34 antennas out there. It puts the burden on them because I think enforcement of these could be
35 tricky.

36
37 Mr. Williams: Okay, so we could say something like an applicant shall prior to receiving any
38 further permits certify that no existing abandoned facilities exist in Palo Alto.

39
40 Commissioner Tuma: Certify that all abandoned antennas have been removed prior to the
41 approval of any application is the language I had in mind.

42
43 Chair Holman: Might I suggest it wouldn't be just antennas it might be also cabinets or
44 equipment?

45
46 Commissioner Tuma: Yes, thanks.

1
2 Chair Holman: Commissioner Burt, did you have any questions? I had just a couple of
3 clarifications here. I had inquired and maybe I need a reminder on this, I inquired if the
4 equipment could be placed underground because it does end up being pretty prolific at grade.
5 Was there a definitive answer on that if I could be reminded please?
6

7 Mr. Williams: There wasn't but I have never seen it underground. I just have to believe that
8 there is a reason for that and that people have asked for it before.
9

10 Chair Holman: It is cheaper to upgrade.
11

12 Mr. Williams: I know that but I think there needs to be access to it that doesn't require going
13 underground to get to but I can't say that definitively.
14

15 Chair Holman: I guess if the other Commissioners are interested in this before this goes to
16 Council, and I don't want to hold it up, but I would be most curious to find out if it could be
17 placed below grade and understanding that they need to have access. There are ways to
18 accomplish that. Part of what drives me there even though there are design and compatibility
19 issues and conditions that are addressed in this revised ordinance it also happens that when there
20 is a permit given and there is a collocation that happens there is more equipment that shows up.
21 So sometimes we have additional boxes that show up and they end up taking up part of the
22 landscape space. If we have lesser control over this than we might wish we have a street side
23 scene situation that could be occurring. So I am interested in minimizing this to the greatest
24 extent possible. City Attorney.
25

26 Mr. Larkin: I would just add I don't know that I was as clear as I could have been in answering
27 some of Commissioner Lippert's questions but when I say we have the ability to regulate
28 aesthetics that includes bulk and massing and size. So to the extent that we limit the size of the
29 equipment that goes at the base of the pole and that precludes additional facilities from
30 collocating that is okay. It becomes more difficult when we just limit it to a specific number
31 because then if the technology changes and they can fit two poles worth of equipment into one
32 small box that we have already approved then we probably have to allow them to do that.
33

34 Chair Holman: So is it possible, given the aesthetics are a control that we do have, to add some
35 language that would indicate that equipment shall not take up required open space or required
36 landscape? For instance if you have a PC and under conditions of approval you have a landscape
37 area that has been required as a part of the project do we need additional language for collocation
38 such that required landscape cannot be taken up by equipment that is as a result of collocation?
39

40 Mr. Larkin: I think it could be done either through the PC ordinance or through the conditional
41 use permit when it comes in.
42

43 Mr. Williams: I wouldn't see this as allowing in any way violating an open space requirement
44 whether it is PC or a zoning district that requires a certain amount of open space or whatever to
45 put this in.
46

1 Chair Holman: I guess what causes me to ask this question is under architectural review but no
2 conditional use permit is required for – I am seeing it now, okay. All right.

3
4 One last thing, which is minimal. If the language on page nine, (d)(2) says shall be designed to
5 minimize overall height. Essentially that is the same language that is used in (1) which is, “Shall
6 utilize the smallest footprint possible.” I guess it is the same thing as minimizing. So that is
7 okay. Any other comments or questions? Commissioner Keller.

8
9 Commissioner Keller: Yes, as a follow up to Chair Holman’s comments regarding the
10 imposition of the equipment cabinets and enclosures on required landscape. I am wondering if
11 the easiest way to handle that is to indicate that equipment cabinets shall be part of the lot
12 coverage as far as zoning regulations are concerned. So in other words, just like a building has
13 lot coverage that the equipment cabinets are considered lot coverage.

14
15 Chair Holman: Does Staff have a response to that or not?

16
17 Mr. Larkin: I believe that is addressed but I don’t know how and Curtis is looking it up.

18
19 Chair Holman: While you are looking it up I had one other question, clarifying question.
20 Having to do with two things, one with in general but also specifically regarding historic
21 properties again it has to do with collocation. We can review and have purview over the
22 aesthetics but the question has come up previously about if you allow an antenna and it has to be
23 screened so there has to be screening here too but if you allow it to 15 feet above the maximum
24 height, so 65 feet, how do we not end up with a proliferation of them such that the building
25 appears ultimately to be a 65 foot high building or in the case of historic affects the historic
26 design of the building? Can you respond to that? I know we have talked about it before but I
27 guess I need clarification because I am not seeing it clearly addressed here.

28
29 Mr. Larkin: You raised the historic issue and I will let Curtis address the overall height issue.
30 For projects on historic properties it requires not only ARB review but also HRB review as well
31 as the CUP. So I think between those three bodies that would review the project those concerns
32 could be addressed and that would be an aesthetic quality that could be regulated.

33
34 Chair Holman: Also for collocation.

35
36 Mr. Williams: Realistically what I think we are going to see here with this kind of fresh on our
37 minds is that first of all I think we have heard enough that the aesthetic aspect can be addressed
38 through architectural review at least at a Staff level. If it is collocated in a position that is not
39 appropriate and particularly contradicts the original approval then we can say that is not
40 appropriate. The other thing is that I think realistically we are going to get to where I think
41 Commissioner Lippert was sort of heading which is when one of these projects comes in with a
42 potential for collocation we are going to look at it like what would it look like if it had more
43 antennas on it or something like that and stipulate at that point sort of what the guidelines are in
44 terms of additional antennas coming in so we have criteria. I think the attorney is saying sort of
45 the worst-case scenario is still if we have the criteria set there for them they have to meet those

1 as long as they are aesthetic criteria and not public health or those kinds of things that we can
2 regulate that.

3
4 Chair Holman: Commissioner Garber.

5
6 Mr. Williams: I also forgot Mr. Keller's question. Lot coverage essentially only excludes
7 ground level paving, landscaping, and open recreational facilities. So everything else
8 structurally is considered lot coverage.

9
10 Commissioner Keller: So then I would suggest that on the form where wireless carriers apply for
11 having a wireless communication facility that the form request the total current lot coverage and
12 the total allowed lot coverage and the increased proposed lot coverage just to make that explicit
13 in the calculations.

14
15 I was a little confused by something that the City Attorney said. What you said is that
16 collocation on an historic review required HRB, which I understand, ARB, which I understand,
17 and I don't understand it including CUP unless it is a standalone so please explain that to me.

18
19 Mr. Larkin: The collocation facility, the facility itself would still require a CUP. It is the
20 additional antennas and maybe that is something that we need to make more clear before we get
21 this to Council. The facility itself could still require a CUP but once the facility is approved
22 when a new antenna is proposed to be located on that facility it would not require a separate
23 CUP. Prior to the new legislation we required a CUP for each antenna now we would require a
24 CUP for the initial facility but then for the collocated antennas we would not require a CUP.

25
26 Commissioner Keller: Let's suppose we have a steeple on a church and the antenna were placed
27 in an historic resource, which is the church. It would be building mounted. My understanding of
28 reading this is that that does not require a CUP. Do you understand otherwise?

29
30 Mr. Larkin: That would be correct but the initial CUP would cover all of the proposed size and
31 massing of whatever is located there. So if something was going to be located within a steeple
32 and the condition was that it not be visible that wouldn't change just because they are adding a
33 second antenna. So they would have to fit the second antenna within the obstructed view of the
34 steeple and that HRB conditions would probably preclude – I think the concern was to use Chair
35 Holman's term, the roof acne, and that would be precluded by the HRB conditions.

36
37 Commissioner Keller: I am just trying to make a distinction HRB conditions are not a CUP is
38 that correct?

39
40 Mr. Larkin: That is correct, they are conditions of approval.

41
42 Commissioner Keller: Right. I am just trying to make the distinction that if it is building
43 mounted it doesn't require a CUP.

44
45 Mr. Williams: Correct.

1 Chair Holman: Commissioner Lippert, you had a question or comment?

2
3 Vice-Chair Lippert: I did. I think what is difficult to do here is to sort of get our hands around
4 the details here. So maybe we want to think about a couple of things here. I am looking
5 specifically at page nine, (c) Development Standards. If you look at item (1) it says "Building
6 mounted WCF may extend 15 feet beyond the permitted height of the zone." Maybe we want to
7 look at that again and say no, we don't want that. We don't want a building mounted that
8 extends 15 feet above, which would be roof mounted or we do. Now this is where I am going is
9 that we want to try to reduce the height of the antennas as much as possible so in this case here
10 the standalone shall be no taller than 65 feet, well that is going to really trump the roof mounted
11 ones. It might be desirable to go with the roof mounted ones which are 15 feet above whatever
12 the height is and say that the standalone can only be as high as the building that is permitted on
13 the site and eliminate the 15 feet which would make it 65 feet. Do you see where I am going?
14 So again we are looking at standalone antennas actually being shorter and we allow the
15 additional height for the ones that are building mounted per se.

16
17 The other things that we could look at are things like the footprint that an antenna is going to
18 cast. If it is going to be a long slender antenna it is going to cast a very small footprint in terms
19 of area including its adjacent little equipment box. So maybe the thing to look at there again is
20 maybe that figures into lot coverage and floor area that is permitted in the development of that
21 site. I know it is rather minimal but somebody who then does a tree-looking antenna is going to
22 have a much broader footprint. Maybe they won't do that. Maybe they will look at that and say
23 let's incorporate it into a building and thereby reduce that footprint. So it is all in how you look
24 at these antennas.

25
26 Chair Holman: Commissioner Keller and then let's try to conclude this item.

27
28 Commissioner Keller: My question has to do with this thing we have been talking about (c)(1).
29 It says, "Building mounted WCF may extend 15 feet beyond the permitted height of the zone."
30 To me height is ambiguous and I would prefer if it would say the permitted building height of the
31 zone because I could imagine somebody saying, well, you allow 15 feet of various and sundry
32 stuff on top of the building, that is the permitted height of the zone and I am going to go even
33 further than that. Because we have had people twist things around from what we say I would
34 prefer if it would say '15 feet beyond the building height of the zone,' which is the kind of stuff
35 we currently allow on top of buildings.

36
37 Chair Holman: Commissioner Garber.

38
39 MOTION

40
41 Commissioner Garber: I would like to make a motion that we accept the Staff's proposed
42 revisions to Chapter 18.42 Standards for Special Uses with the following modifications. In
43 subchapter 18.42.110 Wireless Communication Facilities, paragraph (c) Standards and
44 Exceptions, item (1) that we introduce the word 'building' between permitted and height of the
45 zone.

1 Chair Holman: In (c)(1), right?
2
3 Commissioner Garber: Yes, (c)(1), Development Standards and Exceptions, item (1) under (c).
4
5 Two, although not previously discussed I would like to make a recommendation that on (d)
6 Equipment Cabinets and Enclosures, (2) “Shall be designed to minimize overall height,” we
7 include the words that also been used in the conversation so that the sentence reads, ‘Shall be
8 designed to minimize overall height, mass and size.’
9
10 Then under item (f) Removal of Abandoned Equipment that we add language indicating that
11 equipment and antenna be certified upon their removal.
12
13 I will cover the other comments that are important to the Commission under my comments after
14 the motion.
15
16 Chair Holman: Commissioner Sandas.
17
18 SECOND
19
20 Commissioner Sandas: I would like to second that motion.
21
22 Chair Holman: Commissioner Garber, would you care to speak to your motion?
23
24 Commissioner Garber: Yes. There are three topics that I think are important to the Commission
25 here that should be included if not specifically within the zoning but should be carried forward to
26 the appropriate bodies be they ARB, HRB, etc. One, that we would like to revisit the issue of
27 collocation once the language of the collocation is better defined and/or understood by the City.
28 If not, before within at least a six-month timeframe even if we understand that we don’t know
29 and we need to set that date further out.
30
31 Mr. Larkin: We will come back to you with at least a status at the beginning of next year.
32
33 Commissioner Garber: Okay, thank you. Two, although it is implicit in many of the things that
34 have already been said and some of the wording in the zoning it is of great interest of the
35 Commission to minimize the overall visual impact of the equipment and the antenna on the
36 environment even to the degree if it can be made underground. Whether that is technically
37 feasible is unknown but to the way and to the extent that Staff can forward that interest of the
38 Commission we would be interested to hear their recommendations outside of the zoning topic
39 this evening.
40
41 Three, that the application requirements be amended to include if they don’t already the
42 definition of the project’s site coverage and that that date include what is allowable, what exists
43 if any in the case of a collocation, and then what is proposed so that that impact is more clearly
44 understood at the point of application. That ends my comments.
45
46 Chair Holman: Commissioner Sandas.

1
2 Commissioner Sandas: No thanks.
3
4 Chair Holman: Commissioner Lippert.
5
6 Vice-Chair Lippert: I just want to make one comment that is a follow up on Chair Holman's and
7 Commissioner Garber's motion. With regard to the minimizing of the equipment cabinet and
8 potentially locating it below grade the most difficult one is going to be your first one. I think if
9 you can find some way, shape, or form to do the research and be prepared that it can be
10 accommodated underground then that becomes your case study for then presenting it to future
11 wireless service providers.
12
13 Chair Holman: Commissioner Keller.
14
15 Commissioner Keller: I would like to make a friendly amendment adding item (5) under
16 paragraph (d) Equipment Cabinets and Enclosures. That is that equipment cabinets and
17 enclosures shall not be placed on any required landscaping.
18
19 Chair Holman: Is Staff okay with that or does Staff think that conditions of approval of projects
20 would preclude that anyway or there is no harm in adding it here I presume?
21
22 Mr. Williams: I don't think there is any harm in doing it I am just trying to think – that is
23 probably okay. I was thinking more of something that said in a way that it reduces the
24 landscaping below required levels or something like that. I think the same thing is done
25 probably with the language you suggested so I think we can live with that.
26
27 Chair Holman: Would the maker accept that amendment?
28
29 Commissioner Garber: The maker would.
30
31 Chair Holman: Seocnder?
32
33 Commissioner Sandas: Yes.
34
35 Chair Holman: Okay. If I might just ask for a clarification. As I understood your motion
36 Commissioner Garber I think it may have missed part of Commissioner Tuma's intention. As I
37 heard it it was that it would have to be certified that all existing abandoned equipment would
38 have to be removed and that would have to be certified. I am not sure I heard as part of your
39 motion that that would have to be certified prior to any new application being approved.
40
41 Commissioner Tuma: I think there was some acknowledgement. The intent was that the
42 wireless service provider would have to certify prior to or along with an application for any new
43 antennas that all previously abandoned antennas would be removed.
44
45 Chair Holman: So is that a clarification or addition to your motion, Commissioner Garber?
46

1 Commissioner Garber: I will accept it as part of the motion.
2
3 Chair Holman: Commissioner Sandas.
4
5 Commissioner Sandas: As well.
6
7 Chair Holman: Commissioner Keller.
8
9 Commissioner Keller: I assume that the wording should be ‘have been removed’ not ‘would be
10 removed.’
11
12 Commissioner Garber: Yes, I accept that clarification.
13
14 Chair Holman: Okay, with no other further comments seen are we ready to vote on the motion?
15 Does Staff have it clear or do we need to restate the motion?
16
17 Mr. Williams: We are fine.
18
19 MOTION PASSED (7-0-0-0)
20
21 Chair Holman: Okay, great thank you very much. I am so glad to hear that. All those in favor
22 of the motion say aye. (ayes) That passes on a seven to zero vote.
23
24 So we are nearly complete with our meeting this evening but not quite.
25
26 Item number four has been continued to Regular Meeting of January 10, 2007. That is the
27 Zoning Ordinance Update having to do with second dwelling units under different ownership in
28 the R-2 and RMD districts.
29
30 **ITEM NO. 4 HAS BEEN CONTINUED TO THE REGULAR MEETING OF**
31 **JANUARY 10, 2007**
32
33 **4. Zoning Ordinance Update**: Planning and Transportation Commission review and
34 recommendation of an Ordinance Amending Section 18.10.070(a) of the Zoning
35 Ordinance to prohibit Second Dwelling Units (and any Airspace Rights Thereto) under
36 Different Ownership from the Initial Dwelling Unit in the R-2 and RMD Districts.
37 Environmental Assessment: Categorical Exemption per Section 15301.
38
39 ***APPROVAL OF MINUTES***: None.
40
41 Chair Holman: We had Reports from Officials and committees earlier.
42
43 ***REPORTS FROM OFFICIALS/COMMITTEES. :***
44
45 Chair Holman: Are there any questions, comments or announcements from Commissioners?
46 Commissioner Tuma.

1
2 **COMMISSION MEMBER QUESTIONS, COMMENTS, AND/OR ANNOUNCEMENTS.**
3

4 Commissioner Tuma: I just wanted to take a minute, as this is our last meeting of the year to
5 make a couple of comments. One is to express my appreciation to fellow Commissioners that
6 this is the end of the first six months of my term on the Commission. I would like to thank
7 everybody for not only their thoughtful input and comments on the Commission in doing the
8 City's business but also for the help that I have received from each of you and what I have been
9 learning during the process. So I would like to thank everybody and acknowledge that.

10
11 Also, I think tonight is a demonstration of the quality of the job in my view that Staff is doing. I
12 made this comment in the back and I want to make sure that it was made in public. The Staff's
13 ability to sort of grasp what we talk about up here and put it down on paper and come back to us
14 and I think very accurately reflect the comments and the thinking of the Commission is
15 outstanding. It makes our job easier, it makes the end result better, it makes us look good, and I
16 just wanted to make sure that that hard work was acknowledged and I think we are all very
17 grateful for how well that streamlines the process and makes us able to do our business better.
18 Thank you.

19
20 Chair Holman: I would concur with those comments and also as it is the last meeting we can get
21 mushy I guess. It has been my absolute pleasure to serve as Chair, and an honor to serve as
22 Chair of this Commission, and support your comments regarding Staff as well.

23
24 MOTION

25
26 I had one thing to add or to attend to under Commission Member Comments. I would like to
27 initiate a zone change for the Bressler property that previously came to us to be zoned PF. So it
28 would be to add the D Overlay for that property, to add the D Overlay for the Foothills Park,
29 which currently does not have it. I also discovered that Esther Clark Park does not have the D
30 Overlay. If I can get a second I will explain why.

31
32 SECOND

33
34 Commissioner Sandas: Second.

35
36 Chair Holman: Thank you very much Commissioner Sandas.

37
38 Mr. Larkin: Just as a word of caution, in explaining why needs to be very limited and then there
39 would be a vote on the motion.

40
41 MOTION PASSED (7-0-0-0)

42
43 Chair Holman: Yes. No discussion just a vote on the motion. The reason why is because, and
44 Staff had comments about when this could come back to us from a practical standpoint, but the
45 reason why is while we have processes in place that at this point in time don't maximize but do
46 cover the Site and Design Review for projects happening in these Public Facilities, our Open

1 Space which is very treasured in this community, Staff members do change if it is codified then
2 we don't run the risk of there being slippage of the review process. So that is why I make the
3 motion.

4
5 So if we could vote on the motion. I believe Staff said they could come back to us probably
6 February-March as part of the Special Zone Districts that would be the most economical and
7 practical time to undertake this. So if we could vote on the motion.

8
9 All those in favor? (ayes) Any opposed?

10
11 Mr. Williams: Just a clarification, did you include Foothill and Esther Clark Park as well as
12 Bressler?

13
14 Chair Holman: I did indeed. Thank you so much. So that passed on a seven to zero vote.

15
16 We have Commission Representation at Council. December is Commissioner Lippert, January
17 is Commissioner Keller, and February is Commissioner Tuma.

18
19 With that I wish you all...I'm sorry, City Attorney.

20
21 Mr. Larkin: I have one announcement. I cleaned my desk yesterday and lost the piece of paper
22 but I will find it, there is a class offered by the UC Davis Extension on the role of Planning
23 Commissioners that is being offered in February. UC Davis Extension is the premier land use
24 planning continuing education provider in this area. I would encourage anybody who is
25 interested to get in contact with me and I will be happy to provide information.

26
27 Typically the extension classes are in Davis. I believe this one is as well. Sometimes they are
28 offered in San Francisco but I believe this one is in Davis.

29
30 On a somewhat related note I wanted to note the passing of Dan Curtin who is one of the City
31 Attorney gurus on land use and planning who was a long time instructor at the UC Davis
32 Extension and has been a mentor to many people in my line of work.

33
34 Commissioner Keller: Can I just suggest that you email that to all of the Commissioners if you
35 can?

36
37 Mr. Larkin: I will have Zariah email it to all of the Commissioners.

38
39 Chair Holman: Commissioner Sandas.

40
41 Commissioner Sandas: In that case, can we adjourn in the memory of Dan Curtin?

42
43 Chair Holman: Absolutely. Wish you all very happy holidays whatever that is to each of you
44 and Happy New Year.

45
46 NEXT MEETING: Meeting of January 10, 2007.

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Mr. Williams: January 10, 2007 is the next meeting. Have a good one.

ADJOURNED: 10:31 p.m.