



PLANNING & TRANSPORTATION COMMISSION MINUTES

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Wednesday, November 1, 2006
Special Meeting, 6:00 PM
Council Chambers
Civic Center, 1st Floor
250 Hamilton Avenue
Palo Alto, California 94301

ROLL CALL: 6:05 PM

Commissioners:

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

Staff:

Curtis Williams, Chief Plan./Transp. Official
Donald Larkin, Senior Deputy City Attorney
Amy Bartell, Mgmt. Specialist Attorney's Ofc.
Julie Caporgno, Advance Planning Manager
Clare Campbell, Planner
Zariah Betten, Executive Secretary
Joe Teresi Public Works Engineer

AGENDIZED ITEMS:

1. Zoning Ordinance Update: Chapter 18.88 to address landscaping standards, requirements for wireless communications facilities and water resources protections.
2. Zoning Ordinance Update: Review and Recommendation of an Ordinance Amending Title 18 (Zoning) to Delete Chapters 18.28 (Multi-Family Residence District Guidelines) and 18.64 (Additional Site Development and Design Regulations for Commercial and Industrial Districts) and to Adopt a new Chapter 18.23 (Performance Criteria for Multi-Family, Commercial, and Industrial Districts).

APPROVAL OF MINUTES: September 27 and October 4 Regular Meetings.

Chair Holman: I would like to call the Special Meeting of Wednesday, November 1 to order. Would the Secretary call the roll, please? Thank you.

This is the time when any member of the public may speak to any item that is not on the agenda.

ORAL COMMUNICATIONS. Members of the public may speak to any item not on the agenda with a limitation of three (3) minutes per speaker. Those who desire to speak must complete a speaker request card available from the secretary of the Commission. The Planning and

1 Transportation Commission reserves the right to limit the oral communications period to 15
2 minutes.

3
4 Chair Holman: We have a speaker.

5
6 Ms. Denny Petrosian, Palo Alto: Just really quickly I wanted to thank the Planning Commission
7 for at least talking about the issues involved in the Fry's site. Several of you made very
8 thoughtful comments at that meeting and addressed the issues that the public was concerned
9 about. Thank you for that. Thank you for doing your job and talking about the issues. I am not
10 real pleased with how the Council is deliberating these things. Thank you very much.

11
12 Chair Holman: Thank you Ms. Petrosian.

13
14 **AGENDA CHANGES, ADDITIONS AND DELETIONS.** The agenda may have additional
15 items added to it up until 72 hours prior to meeting time.

16
17 Chair Holman: We will go now to item number one, which is a study session to discuss changes
18 to Chapter 18.88 of the Zoning Ordinance to address requirements for wireless communication
19 facilities and water resource protection.

20
21 We need to divide this into two sections the wireless. We have a conflict of interest on the
22 Commission so if the City Attorney could speak to this.

23
24 Mr. Don Larkin, Senior Deputy City Attorney: We were unable to segment the item for
25 tonight's discussion. We will segment it when it comes back for recommendation on the
26 ordinance. Unfortunately the message didn't get to Commissioner Keller in time so he is here to
27 announce his conflict.

28
29 Chair Holman: Commissioner Keller would you care to state your conflict.

30
31 Commissioner Keller: I will not participate in the study session because my house where I live
32 abuts Adobe Creek and as a result of that my house would be covered by the ordinance being
33 discussed today. So I will leave from this point until we convene for the regular session.

34
35 Chair Holman: Thank you Commissioner Keller. Would Staff care to make a presentation on
36 the study session?

37
38 **STUDY SESSION:**

- 39
40 1. **Zoning Ordinance Update**: Study session to discuss changes to Chapter 18.88 of the
41 Zoning Ordinance to address landscaping standards, requirements for wireless
42 communications facilities and water resources protections.

43
44 Mr. C. Williams: Yes, I would like to introduce Clare Campbell and we also have Joe Teresi and
45 Julie Caporgno here. At your pleasure we can talk about the wireless section first and have

1 questions or do the whole presentation together. I don't know if Clare and Joe have it worked
2 out that way and then come back to each individual issue.

3
4 Chair Holman: Would the Commission be just as happy to do the wireless first and then the
5 creek? Yes, I think that is the wish of the Commission.

6
7 Ms. Clare Campbell, Planner: Good evening. Tonight we are presenting some new sections for
8 Chapter 18.88. As you probably are aware this section is our catchall section of our zoning code.
9 There are a variety of different uses and development standards that are listed within this chapter.
10 It seems like the most appropriate location to add these additional sections that we are working
11 on right now. As part of the Zoning Ordinance Update we are planning to reorganize this
12 chapter and get it in a more user-friendly standard. We are going to reorganize and renumber
13 and probably re-title the chapter.

14
15 So the proposed sections for Chapter 18.88 cover the wireless communication facilities and the
16 water resources protection. For the water resources protection there are going to be two sections
17 for that the streamside development standards and the storm water quality protection standards as
18 well.

19
20 The wireless communication facilities we have had lots of projects come forward and the City
21 has considered developing an ordinance for the telecommunications for quite some time. Prior
22 to 2002 I believe the City Attorney's Office was working on a draft ordinance but priorities
23 changed and that was never worked on since that time.

24
25 The recommended changes that Staff is presenting tonight are basically trying to streamline the
26 review process and to provide some development standards that are typically used throughout
27 this industry. The current review process that wireless facilities currently fall under a Utility
28 Facility and right now all of the zoning districts allow Utility Facilities with a conditional use
29 permit. So it always requires a use permit and then we also require architectural review.
30 Typically we do a Staff level review for these projects unless it is appealed to the Board for some
31 reason.

32
33 Then for Planned Communities we have, unless it is written into the original uses that are
34 permitted or conditional, we would need to do an amendment for each time a project would
35 come forward. We did that recently with 850 Webster.

36
37 The proposed review process, what we are trying to do is for the more sensitive projects, and
38 typically the ones that I have listed here are ones that would be on residentially zoned parcels,
39 sites that have a residential type use, or standalone facilities like the poles that we see, the tree
40 poles and there is a light standard being proposed right now up at Foothill. These projects that
41 may be potentially more sensitive we would want to recommend that there still be a use permit in
42 place and do an architectural review for these projects. For projects that seem to be less
43 controversial because they are attached to an existing building or an existing facility we are
44 proposing just the architectural review for those projects. So a building mounted facility, a
45 building mounted facility on a PC site which is currently not the way that it works right now, and
46 this is something that we can discuss a little bit more, instead of doing an actual PC Amendment

1 to allow that to happen, and a co-location project. Co-location is just adding a new carrier to a
2 site that has an existing facility on that location. So these we are thinking have less impact and
3 architectural review would be an inappropriate review process for these types of projects.
4

5 One of the possible concerns raised by eliminating the use permit process I think it comes up
6 with a lot of the neighbors is the noticing. They want to be aware of the project. So one of the
7 methods of maybe trying to approach this concern is addressing it in the submittal checklist. We
8 have a wireless facilities checklist that I think was attached to your Staff Report. We can add
9 another item to that checklist stating that you would need to do a limited notification to the more
10 immediate neighbors and I was recommending 150 feet for this requirement. This would let the
11 immediate neighbors know what is being proposed so that way they would not feel that they
12 were left out. Currently the Staff level architectural review does not require noticing for this
13 type of project.
14

15 For the development requirements we are proposing that the project shall meet all of the standard
16 zoning that they would need to comply with in each zoning district with the following
17 exceptions. The way that it is worded is with the use permit and with the architectural review
18 either both or one or the review process we can take a look at allowing these exceptions for these
19 projects. One would be if it were a building mounted facility we can allow an additional 15 feet
20 in height. Currently we actually do this as part of the height exceptions that we have written into
21 18.88 already. Standalone facilities can be up to 65 feet in height which kind of goes along with
22 the 50 foot height limits that we have in place plus the additional 15 gives them the 65.
23 Standalone facilities may encroach into the interior or street side setback or the rear setback. An
24 example of this one where we had to do a DEE was on Los Robles in front of Blockbuster, El
25 Camino and Los Robles, the tree that we did pretty recently about a year ago I think where we
26 had to do a Design Enhancement Exception.
27

28 Some of the other development requirements that we want to get down on paper so this way we
29 can really try to enforce it strongly is the equipment cabinets and enclosure shell utilize the
30 smallest footprints, the equipments cabinets and enclosures should be designed so they are the
31 most minimal height needed to accomplish their goals, the cabinets and all the equipment need to
32 be screened from public view, the equipment enclosures have to be architecturally compatible
33 with the existing site, building mounted antennas shall be architecturally compatible with the
34 existing building, and all antennas shall have stealth design. The last one, it may sound like it is
35 a lot to ask but typically with a lot of the technology today – and what that basically means is we
36 don't want the ugly panels sitting out on its own without some kind of enclosure because they
37 have the ray dome or they have these sheet coverings that you can put over that so that way it is
38 not as obvious what it is. That kind of runs through what we are proposing for the development
39 standards.
40

41 Just to give you some other background, we did some research with some of the local Bay Area
42 cities that have regulations in place. San Jose was the most common or basically is following the
43 same type of thing where if it is a building mounted facility it was a permitted use and you just
44 had to go through a design review whereas if it was in certain residential zones or more sensitive
45 areas then you had to do the use permit to get the project in place. So do you have any
46 questions?

1
2 Chair Holman: Clarifying questions? I think we have one member of the public. Commissioner
3 Garber, I saw your hand first.

4
5 Commissioner Garber: In your first set of definitions about what would require review is
6 essentially any site that was in a residential area as opposed to abutting?
7

8 Ms. Campbell: Correct.
9

10 Commissioner Garber: Would that include then for instance a church that was surrounded by all
11 residential uses?
12

13 Ms. Campbell: The ones that we have seen or actually those churches have actually been in the
14 R-1 zone so those would need the use permit.
15

16 Commissioner Garber: Okay.
17

18 Ms. Campbell: If it were the other way around depending upon the type of project they are
19 proposing it would either be a use permit or just the architectural review.
20

21 Commissioner Garber: Then the word 'stealth' is that an industry-known name?
22

23 Ms. Campbell: Yes it is.
24

25 Commissioner Garber: It if foreign to me. Thank you.
26

27 Chair Holman: Commissioner Sandas.
28

29 Commissioner Sandas: I just had one question too about the stealth antenna in the residential
30 area. How many are there in Palo Alto residential zones right now?
31

32 Ms. Campbell: I would have to do a little bit more research to find out exactly how many we
33 have. I know in recent years we have probably looked at least three or four. The church on
34 Louis and Embarcadero there is an existing cell site within the cross there and there is a
35 collocation proposal right now that is adding another facility for a different carrier in the same
36 spot. So that is another one. The Manuela Drive that we just did six months ago or so that is
37 another on in the R-1. There is a school that we did on Middlefield that is an R-1. Those are the
38 most recent ones I can think of.
39

40 Mr. Larkin: This is a good opportunity, Clare mentioned the proposed collocation facility on
41 Louis Road and I wanted to bring to the Commission's attention that there is new legislation that
42 will be effective January 1 of next year that will change how we are able to regulate collocation
43 facilities. I will introduce Amy Bartell who is a law clerk in our office, a recent graduate from
44 Santa Clara Law School, has been helping us research that. She is here tonight to answer
45 questions if Commissioners have those but also to listen to see what Commissioners' feedback is
46 so that when we go to draft the language for the ordinance that we can make sure that we

1 incorporate your comments as best we can while still complying with the new law that will be
2 going into effect.

3
4 Chair Holman: Thank you. Commissioner Tuma.

5
6 Commissioner Tuma: Approximately how many applications do we get a year say over the
7 course of the last five years?

8
9 Ms. Campbell: We get approximately four to five probably a year. It seems like the number is
10 increasing.

11
12 Commissioner Tuma: Okay, and how do those breakdown? You have the sort of categorized as
13 two different things, one would get a higher level of scrutiny and one would get a lower level of
14 scrutiny. How do those breakdown between those two?

15
16 Ms. Campbell: I would say it is probably about half and half.

17
18 Commissioner Tuma: About half and half, okay, thanks.

19
20 Chair Holman: Vice-Chair Lippert.

21
22 Vice-Chair Lippert: Actually I was going to ask a question regarding collocation. The ideal is to
23 have a few cell sites as possible so collocation is something that is very desirable in this
24 community. Can we make as part of condition of approval the fact that they have to allow for
25 collocation?

26
27 Mr. Larkin: I think that is something that we could do. It is not directly addressed by the new
28 statute I am told but that is probably something that we could encourage and require. It will be
29 encouraged because one of the things that the new law does is restrict our ability to limit
30 additions of new cell sites on collocation facilities. So once a collocation facility has been
31 established our ability to restrict new antennas on that facility is severely limited. So it will
32 encourage applicants to seek out collocation facilities I would imagine.

33
34 Vice-Chair Lippert: That was going to be my follow up to that which is if we were to actually
35 make a condition of approval that you had to allow other wireless carriers to use your antenna
36 site, collocation, can we then say we are going to restrict by radius so many feet having another
37 cell site in proximity to that?

38
39 Mr. Larkin: As long as we meet the criteria in the federal code because the Telecommunications
40 Act makes difficult for us to restrict unless we can show that there is no gap in service that would
41 be created. I think it is something we could do it would take some tweaking with the language
42 but we could probably do something like that.

43
44 Ms. Campbell: If I could add to that too, a lot of times the carriers have their own specific
45 requirements for their technology so it requires a certain amount of separation. So sometimes
46 even if a pole may have the appropriate height that could allow maybe more than carrier and up

1 to maybe three carriers if they don't have enough physical separation between the antennas or
2 the clearance when it shoots out even if the pole looks good and seems like it should be able to
3 accommodate it may not be able to do it. Plus, the search rings too, if there are only certain areas
4 that the need the service we may just have a pole sitting empty with just the one carrier because
5 the other carriers may not need to go in that location.

6
7 Chair Holman: Commissioner Sandas, did you have another question?

8
9 Commissioner Sandas: I did. Actually there are a couple of them. I am intrigued by the notion
10 of the stealth concept. You mentioned the First Congregational Church at the corner of Louis
11 and Embarcadero. I don't think I have actually seen the tower there. So could you describe in
12 some ways how they would be placed stealthily?

13
14 Ms. Campbell: That particular project is stealth within the crucifix. So the antennas are actually
15 inside the crucifix and typically the building material that you use is fiberglass. So if you have
16 fiberglass as the covering that will allow the radio frequencies to do their job. You can treat that
17 surface and make it look like pretty much anything that we want them to make it look like. They
18 do the brick finishing or stucco or they can make it look like wood. They can treat it and
19 texturize that to make it fit with the building. So when I see these projects coming through those
20 are the things that I am looking for to make the project look good and fit with the buildings.

21
22 Commissioner Sandas: I have one more question and it is a little bit off the topic. I was thinking
23 about those cable boxes, when we are talking about stealth design and realizing that they are not
24 wireless but they are communication facilities. Where in the code do we have guidelines for
25 those guys and if we don't is there any way that we can incorporate some stealth language or
26 concept with those at this point?

27
28 Mr. C. Williams: There are not specific guidelines for those. There is technically a design
29 review process for those. So we just happen to have had a meeting yesterday with a number of
30 different departments including someone from the legal department to talk about ways to better
31 be sure that those are addressed through architectural review and other means. We are
32 embarking on that process of inter-departmental communication to try to identify those way.
33 That is definitely on our radar. It was a big subject at the ARB's study session with the Council
34 that they had a month or so ago. So we are pursuing trying to find something that maybe
35 ultimately needs to go in the zoning code or the building code.

36
37 Chair Holman: Commissioner Burt.

38
39 Commissioner Burt: Just a follow up to Commissioner Sandas' question. Is there reason that we
40 could not incorporate within this section those other telecommunications boxes? So instead of
41 titling this 'wireless communications' we might just call it 'telecommunications.' Are those
42 potentially interrelated and something that we should and could fold together? The guidelines
43 that I am seeing seem like they might apply to those.

44
45 Mr. C. Williams: I think that is something we can explore with the Attorney's Office. They are
46 obviously both communications, telecommunications I don't know if the franchises or whatever,

1 are different in ways that would govern them differently. Also the boxes are much more
2 frequent and need to be in certain locations that are near streets and such and don't have the same
3 kind of flexibility to hide them in particular as the wireless but we will be glad to look into that
4 and see if there is.

5
6 Commissioner Burt: I had another follow up question for the City Attorney. Don, you alluded
7 to this new law coming forward. Can you give us a little more sense of what is the essence of
8 that new law and how it might impact our considerations tonight?

9
10 Mr. Larkin: I will let Amy answer that question.

11
12 Ms. Amy Bartell, Law Clerk: Basically the bill doesn't address putting a single antenna
13 anywhere at all. It is only talking about if you want to collocate an antenna on an existing
14 wireless facility. It says that you have to approve collocation antennas if they are applying to put
15 one on a wireless facility that has already got one. They use the language that you have to
16 administratively approve it and it is taken out of the permitting process all together.

17
18 Mr. C. Williams: If I could just add back to Commissioner Burt's last question before. Julie was
19 pointing out one of the major constraints is that those boxes are typically in the right-of-way
20 which is not governed by the Zoning Ordinance. So it would have to maybe be something we
21 put in some of the Public Works sections of the Municipal Code.

22
23 Commissioner Burt: One final quick question for Clare. I was trying to envision the different
24 stealth concepts. We have the fake trees and then we have them embedded in crucifixes and
25 other things. Are there other examples that you can think of?

26
27 Ms. Campbell: There could be face façades on building. Like in the hotel they have the roof
28 equipment rooms or those types of facilities and what they do is actually extend the wall out
29 maybe another two feet or something like that. So basically from your perspective it looks like it
30 is the same room, the same space, but it is a faux wall that is a fiberglass wall and they can put
31 the antennas behind that to shoot out do what they need to do. That is another example.

32
33 At 850 Webster they have a fake chimney-looking structure and it kind of matches what is there
34 already. So there are a variety of different ways. You can be really creative with getting these
35 projects done.

36
37 Chair Holman: I have a question about collocating. I know the lobby is very strong but is there
38 no limitation? To this point in time it seems like – well, I know that we can't address any safety
39 issues or any safety perspective of the public or ours as well but is there any limitation to the
40 number of facilities that can be collocated? Is that being discussed? Is it just hands off for the
41 communities? What is being proposed?

42
43 Mr. Larkin: I let Amy answer the specific question. I can tell you that one of the areas where we
44 still have some level of discretion is in the Environmental Review and then the location of the
45 collocation facility itself. The collocation facility is still subject to all of the standard permitting
46 processes and all the discretionary review and also all of the environmental requirements. So we

1 still have to do CEQA, it still might require an EIR or a Mitigated Negative Declaration for the
2 facility itself. My understanding and Amy can correct me if I am wrong is that once the
3 collocation facility has been approved the only limitation is the technological limitations of how
4 many can you fit on the site.

5
6 Chair Holman: Let me add this before you respond if there is any additional response to that,
7 let's say there is are continual applications for the same site and I don't know if this would
8 happen but perhaps let's say there were five proposed collocations but they have a physical
9 detrimental impact. Do we have still no way to say no to that as well? It has been stated that
10 there needs to be sometimes some space between them so you can see there could be a lot of roof
11 acne if you will no matter how well they are designed, it could look pretty strange.

12
13 Ms. Bartell: The bill doesn't say anything about an upper limit on how many they can put on a
14 particular site. It does, like Don was saying, the permit for the new additional collocation
15 antenna has to be completely consistent with all the requirements that went through for the
16 original wireless facility. So I think going forward after the bill takes effect you can really only
17 affect this by if somebody wants to put in a whole new wireless facility. As far as new
18 collocation antennas I don't think there are a lot of options for the design review.

19
20 Mr. Larkin: That would likely be something we would handle on the front end when the initial
21 application comes forward and we do the initial design review we would be able to condition it
22 on some of the physical and design criteria that would preclude roof acne, to use your phrase.

23
24 Chair Holman: Just one other question. That has to do with we are talking about this now but
25 time is going to pass and there are going to be improvements made to technologies and how this
26 all gets done is going to change over time. What about abandoned antennas? Do we have any
27 mechanism by which those have to be removed or how would Staff address that?

28
29 Ms. Campbell: That is a standard that we could write into the code. We could write something
30 in to say that if it is not used, I think I put it in as a condition of approval before that if the
31 facility hasn't been utilized for 12 months or something like that that the facility needs to be
32 removed or taken down or something to that effect. We can include that language.

33
34 Chair Holman: Okay, I think Vice-Chair Lippert had a question.

35
36 Vice-Chair Lippert: Actually, Dan had a follow up first.

37
38 Chair Holman: I'm sorry. Commissioner Garber.

39
40 Commissioner Garber: So in a circumstance where there is an existing area with an equipment
41 box and there has been a defined, for instance in a PC where there is a defined, area for the
42 equipment to exist and another carrier wants to collocate and their equipment does not fit in the
43 footprint that has been outlined for the first one would that require an amendment to the PC if it
44 was initially created as a part of the PC?

1 Ms. Campbell: Aside from the collocation regulations affecting it currently right now we would
2 require that they amend the PC unless in the original approval of that, like we did with 850
3 Webster, we just made it a permitted use and then you just need to come forward with additional
4 architectural review applications. We would review it based on that review.

5
6 Mr. Larkin: We will need to look at how this new legislation would affect that practice. I don't
7 have an answer for you now.

8
9 Chair Holman: Vice-Chair Lippert and then we have one member of the public Denny Petrosian.

10
11 Vice-Chair Lippert: Actually I have two questions and they are quite in opposite extremes. One
12 has to do with roof screening. Currently not all roof screens are 15 feet high but we allow the
13 extension of these antennas to go up to 15 feet high on a building. Would we require that the
14 roof screening be extended to that point or be replaced? How would we administer that?

15
16 Ms. Campbell: Typically what we wanted to do is look or fit with the existing building. So if
17 everything on that rooftop is only ten feet above the roofline, if we are just going through the
18 architectural review process and aesthetically as long as we typically say this is the highest you
19 can go and you need to make it work with the existing height. If for some reason the additional
20 height was feasible and aesthetically it works with the existing building then if they wanted to go
21 through the process of increasing the height of the existing roof screens then they could do that
22 as well as long as it looks good.

23
24 Vice-Chair Lippert: Okay. Then the other extreme is out in the Open Space where we currently
25 might not have trees. How are we handling the aesthetic issues?

26
27 Ms. Campbell: Honestly, I don't have a standard answer to that. We would have to look at each
28 project as it comes forward just to see what is most appropriate. We don't really have too many
29 applications that are that far up. Typically they are by the major roads. We would just have to
30 look at that situation. If there isn't a good place for that antenna to go then it would not a
31 feasible location.

32
33 Chair Holman: Okay, I would like to go to the public. We have one card, Ms. Denny Petrosian
34 and you will have five minutes.

35
36 Ms. Denny Petrosian, Palo Alto: I would like you to not adopt the streamlining suggestions by
37 the Staff by and large because I really am worried that this would not be in the hands of our
38 elected representatives, the Council, the ARB and the Planning and Transportation Commission.
39 I think it is just too important to have Staff be making these decisions. I think that too many
40 horses are being let out of the barn. I think that what is important is we have no clue as you
41 mentioned Ms. Holman, as to how this technology is going to develop and we need to keep all
42 the control that we can. The citizens need to have as much access to this technology as possible.

43
44 I think there is going to be deluge. If Staff approves a forest full of towers in Palo Alto then at
45 that point it is too late. What can the Council and the Transportation Commission do about that?
46 So please keep it in your hands and the Council's hands. There is nothing that is not

1 controversial about this. Radiation is radiation and it is proliferating everywhere. I know we
2 can't do the health effects argument at this time but please reserve your authority in case the
3 FCC regulations should change and permit localities to decide on health issues. Please reserve
4 that in the elected officials domain.

5
6 In any case 150 feet notification for what is going on is really not adequate. It should be at least
7 500 feet because the effects of the radiation are projected out that far and even farther. A lot of
8 this research is being done in Europe not here.

9
10 Also Los Altos is kind of taking a bigger picture approach to this as I understand. They are
11 deciding on a high-speed connection with low radiation antennas. The big towers I have a
12 feeling are going to become dinosaurs almost immediately. Why not start out with the micro-net
13 which again is smaller and lower power with a fiber optic component connection there? Why
14 not do that? Why not start out with what is really at everybody's best interest.

15
16 You can decide on broad public benefit. That is something that is permitted for you to take into
17 account. A lot of these installations do not provide a broad public benefit they are just a benefit
18 for a small group of people or one company or one church that gets \$1,000 a month or whatever
19 that is. What broad public benefit is being considered here?

20
21 The health effects are pretty awful so I hope that you will be a lobbying group and the Council
22 will be a lobbying group to permit localities into the health arena. The FCC adult exposure is
23 100 percent higher than allowed by Europe. It is 1,000 percent higher than allowed by
24 Switzerland and this is adult exposure. Children's brains are much more sensitive and children's
25 bodies. The most vulnerable time for radiation effect is in cell division when cells are dividing
26 and there is a lot of evidence that this already impacting children in a worrisome way. Again, the
27 researchers are mostly not in this country.

28
29 So please take a big picture look at this. Don't make decisions prematurely on how many big
30 cell towers and so forth. Step back and take a broad look about what you want Palo Alto to have
31 just like we did with cable television. We didn't allow every cable television company in the
32 world to come in and install stuff. We took a really good study of that and chose a very
33 deliberate system. So I hope we will do that with wireless.

34
35 Please notify the public as much as possible about this again because yes, the health effects are
36 the most worrisome but at some point we may be able to make decisions on that. Please don't
37 put the burden of appealing a Staff decision on the citizens. It is hard enough to appeal an ARB
38 decision or a Transportation Commission decision or a Council decision it is not appropriate to
39 put the burden on for appealing a Staff decision on this.

40
41 You have pretty broad leeway to make decision on technology under the Comprehensive Plan
42 and wireless is not in the Comprehensive Plan policy so take all of the jurisdiction that you have
43 on that, please. Thank you.

1 Chair Holman: Thank you. Staff, Ms. Petrosian brought up some questions about Los Altos and
2 how they are dealing with this. Would you care to comment on that or what knowledge you
3 have of that?
4

5 Ms. Campbell: I am actually not aware of the current policy specifically addressing that. We
6 can take a look at it and bring it back.
7

8 Chair Holman: Commissioner Sandas.
9

10 Commissioner Sandas: Another topic that Ms. Petrosian raised I am curious about and that is
11 who is remunerated? For example if a church says yes you can put a tower in our steeple they
12 are paid a fee by the cellular carrier for basically renting the space, is that correct? So whoever
13 owns the property on which the cell tower is placed would be the one getting a fee.
14

15 Ms. Campbell: That is typically the arrangement. It is a lease agreement just like the City would
16 get revenue for some of the flagpoles that we have. Even existing carriers like Sprint owns the
17 flagpole and if they get another carrier to come in then they are renting out space on their
18 flagpole.
19

20 Commissioner Sandas: Right, subleasing it.
21

22 Ms. Campbell: Yes, it is a lease agreement between the parties.
23

24 Commissioner Sandas: Okay. This is a tax question so I don't even know if it is relevant. Does
25 the City benefit in any way from the placement of cell towers?
26

27 Ms. Campbell: Not that I am aware of, only if it is on a City property.
28

29 Chair Holman: Commissioners, shall we go around with comments then? Commissioner Tuma
30 you look like you are ready.
31

32 Commissioner Tuma: The first comment that I have has to do with separating these into two
33 separate processes. It sounds like the scope of the issue is a couple a year if there are four to five
34 a year that come before us there may be a couple a year that dividing it this way would go under
35 a more streamlined process. As you are probably becoming aware and you will be more over
36 time this is always going to be an issue for me, taking the public out of the process is something
37 that I don't – there are occasions when I think it is valuable, helpful, and maybe I am just not
38 seeing the scope of the issue here but it doesn't seem to me that that's something that we would
39 want to do from a policy perspective. I understand that sometimes these are a little bit more
40 difficult, I understand people raise issues that can't really impact the decision, but for the policy
41 that seems to be going behind this is to reduce the workload when it is not necessary. This isn't
42 resonating with me.
43

44 The other thing is if we were to divide it I would like to see some of these expanded a little bit.
45 For example it says, "proposed on a residentially zoned parcel," I think Commissioner Garber
46 alluded to this but it should be, "or abutting a residential," some thing that is going to impact

1 residences or within 150 feet is sort of expanding the scope. A similar comment with respect to
2 the range of the notice, 150 feet seems short to me. I don't know what the right number is but it
3 just seems a little bit small.

4
5 Chair Holman: Commissioner Burt.

6
7 Commissioner Burt: Curtis, this seems like we might be walking into a little bit of a landmine
8 here in that we have almost no participation from the public on the broad policy issue whereas
9 we have had very extensive participation by the public when we would have specific cell towers
10 located. My sense is that the public isn't really aware that these changes are being considered
11 tonight. It is hard to get the word out. We all know that people become engaged when
12 something is happening very adjacent to them and that is what gets their attention. We can put
13 this in the *Weekly* and very few people might respond nevertheless we have seen times where the
14 Commission will go through and hear and consider from the Staff and the members of the public
15 who are aware of it and then it gets up to City Council and suddenly a storm erupts. I am just
16 apprehensive that something like that might be occurring despite everyone's best intentions to
17 have this be an open publicly noticed process. So I don't know what to do about that but I do
18 have that concern. Any thoughts on it?

19
20 Mr. C. Williams: We will have to check and see who all we sent notice to but I do think we
21 could do an expanded notice before we come back to you with anything and see and maybe offer
22 a time to meet with people if there does seem to be a level of interest there that we are not
23 capturing. Typically on our study sessions we have sent our notice out to our 'friends of zoning
24 list.'

25
26 Ms. Campbell: Zariah said that she did send to the 'friends of zoning list.'

27
28 Mr. C. Williams: Which is like 1,000 people or something like that. We have also now got
29 better access to PAN and some other folks so we can make sure that they know as well and they
30 get it out to all of their membership and do some other things.

31
32 Commissioner Burt: Our history of when the public engages at a late stage isn't necessarily
33 anyone's fault it is not Staff's fault or the public's fault it is just a reality that it sometimes takes
34 awhile for an issue to percolate and somehow we have to try and figure out how to engage
35 everyone as early in the process as possible.

36
37 Chair Holman: Commissioner Garber to be followed by Commissioner Sandas if that is
38 agreeable.

39
40 Commissioner Garber: A couple of comments. I would like to support Commissioner Burt's
41 comments relative to the public and the need to know there.

42
43 In general I don't have much problem with the way that Staff has proposed the organization into
44 the two parts. Although, Commissioner Tuma's points are well taken in that this isn't going to
45 be something that takes up a lot of Staff's time presumably over the course of a year, although
46 that is presumptuous of me to say and for you to tell me. So that said, conceptually I don't have

1 a problem with the two-part approach. It makes perfect sense to me that on a topic that cities
2 in general have very little say about other than the aesthetic impacts that trying to focus in on the
3 portions, the zones, that are going to have the largest potential impacts and creating notice, etc.
4 around those and streamlining the other ones makes a lot of sense to me especially when we talk
5 about issues of collocation because the technologies have already been reviewed, all the issues
6 about alternative sites have already been reviewed, all of the issues of adjacencies, etc., have
7 already been reviewed so why should we be dragging the public through that yet again? The
8 only risk there is that if technology changes dramatically. Presumably I don't want the City to
9 think of itself trying to fill a gap that the FCC should be filling because that is an awful big hole
10 to fill. Yet, if there is some eminent danger then obviously we should be.

11
12 I am very curious about the larger question of are there other technologies out there, I am
13 certainly not aware of them, that are potentially less invasive or potentially perceived to be less
14 invasive but they may have other impacts as well to create additional network to them, to create
15 additional technologies, there may be many other costs that I simply don't know about but the
16 larger question is an interesting one if there are other technologies out there that Los Altos or
17 some other communities have it would be worth knowing that if for no other reason it would be a
18 technology that we haven't then zoned for.

19
20 Commissioner Sandas: One thing that I wanted to talk about a little bit is I think that it is kind of
21 tricky that the Telecommunications Act of 1996 according to that a city can't deny a project
22 based on potential environmental or health risks due to the radio frequency emissions as long as
23 the facility complies with the Federal Communications Commission regulations regarding such
24 emission. Well, I don't know what those guidelines are. I don't know what the Act says. I think
25 one of the things that I heard Ms. Petrosian say was that there are noted health risks. I think that
26 if that is the case or according to the FCC maybe that is not the case but it is not up to us, I know
27 that. It is not up to the City to do that but I think it might be helpful in our outreach to maybe
28 address what the FCC regulation is and how it fits in with what we are allowed to do or we are
29 not.

30
31 Chair Holman: Vice-Chair Lippert.

32
33 Vice-Chair Lippert: I see this whole thing a little bit differently and what I see is the
34 proliferation of antennas or the potential proliferation of antennas. The issue is how do we really
35 minimize the impact of all of these cell towers and at the same time establish a network in which
36 we get adequate coverage in the city. I think that is really what the issue is here. I know we are
37 writing an ordinance as to how to review these projects but I think with a little more proactivity
38 and looking at where these current cell sites are located we might be able to actually generate
39 some sort of a plan that says we have some cell sites here and collocation and consolidation is
40 potentially a good thing and would prevent us from putting in one cell tower next to another cell
41 tower and visible from another cell tower. In addition to that I think we have the potential of
42 opening up the whole thing with maybe working with the City of Palo Alto Utilities to identify
43 certain city sites which we would make available to, I want to use the word vendors but they are
44 not they are carriers, that would sites that would be ultimately more desirable and take it out of
45 the private domain and have them disguised as trees or church steeples or even just behind roof

1 screens, which would be even more problematic I think. So I just have a slightly different take
2 on this than other people.

3
4 I do see that the roof screen issue is going to be problematic and I would really hate to see a roof
5 screen at a certain height that is covering the building equipment all of a sudden jarringly leap up
6 to cover or obscure a cell antenna. I think that might be problematic or raising a roof screen up
7 and making it look top-heavy on top of a building like a certain medical facility not located far
8 from here has roof screens that go up pretty high. I still don't like the whole notion of disguising
9 these cell poles as trees. I don't think that they work particularly well. I think that there is one
10 other aspect that is not covered here which is that as we move closer and closer towards cell sites
11 as being parts of essential services they are going to need backup generators. The carriers are
12 going to say well, we require a backup generator to be part of this cell site and we deem that as
13 being part of the whole infrastructure that is there and I think that that's going to be problematic
14 in terms of screening and obscuring that. So those are basically my comments. I don't have
15 much more to add to that.

16
17 Chair Holman: I would associate myself with the comments of Commissioners Tuma and Burt.
18 While I can appreciate absolutely that any time savings on the part of Staff is in a way a public
19 good of its own I also think that as we, no pun intended here, underground some of these
20 processes that without intention it effects actually the public trust. While there is no negative
21 finding that the City can make because of the Telecommunications Act I still think the public is
22 better and the city is overall better served if the public has this notification. Again, I appreciate
23 why Staff would want to streamline this but I think the measured gain is not worth the cost of
24 that.

25
26 I also would like to go back to Commissioner Sandas' comments earlier about the boxes on the
27 ground and while that is a Public Works issue because they are usually in the public right-of-way
28 if we could have any look-see at what that would be. Also, the checklist wasn't included here so
29 when it comes back if we could get the checklist. Is it? I totally overlooked it then. I am sorry,
30 my apologies.

31
32 Then also having to do with the collocation, I am taking this to an extreme but I don't know that
33 it couldn't happen. If there is no limitation on how many antennas could be put on the same site
34 and we are going to screen all of them I sort of in my mind's eye could see that a 50 foot
35 building suddenly has the appearances of a 65 foot building, which is sort of what Commissioner
36 Lippert was referring to but he was referring to it as a top-heavy building. So I think those are
37 my comments. If I didn't say I am also interested in how Los Altos might be handling this in
38 some other fashion.

39
40 Commissioner Burt.

41
42 Commissioner Burt: Well, just a few comments. One I would concur with Commissioner
43 Tuma's concern that we perhaps should have a greater radius of notification. Second, I am
44 intrigued by Commissioner Lippert's concepts on the collocation although I can see that there
45 can be certain pros and cons to it. Maybe what we need to look at is trying to describe some
46 guidelines about those sites where collocation is really a good idea and those where we may have

1 antennas already and collocation, adding more antennas to the same site, may not be such a good
2 idea after all. So maybe we can try to differentiate and have some guidelines on preferable sites
3 for collocation. Then finally as far as the concept of dividing this between those approvals that
4 would be ministerial and those that would go through a full conditional use permit and
5 Architectural Review Board process I am impressed that the development standards for
6 ministerial approval are more clear and more well defined and more stringent I believe than what
7 we have previously had as standards. So on the one hand we are moving to a more streamline
8 process but it is a more rigid streamline process where we have clear guidelines that are less
9 discretionary. I remember a lot of times where previous Commissions had gone back and forth
10 and debated subjectively well, I don't think that is so bad and I kind of like it and another
11 Commissioner says well, I think it is terrible. I think that we have something here that begins to
12 attempt to define what is good. We may still have some tweaking going on but I think it is
13 pointed in the right direction and my gut feeling is that it is close to on target in terms of what
14 sorts of restrictions we want to guard the aesthetic aspects of these approvals.

15

16 Chair Holman: Commissioner Garber.

17

18 Commissioner Garber: I would just like to thank Commissioners for their discussion. I wanted
19 to add one more thing to it and it is really per the discussion for them as opposed to specifically
20 the Staff. I wanted to come back to my concern that surrounds the topic of public notice
21 specifically here. The Commission and the Commission's meetings are one of the few times that
22 the public can become educated on what rules are, what regulations are, the limitations of the
23 Commission to have control over the various issues that are in front of it. Because of that and
24 because it is in this setting it often raised the expectations of the public that they can actually
25 effect issues in ways that rules, regulations and other laws will not allow. So I am really coming
26 back to one of the comments that Commissioner Sandas made which was that the educational
27 piece is critical here. The more education that can occur outside of these chambers will set the
28 right expectations for what it is these chambers can actually officiate on.

29

30 Chair Holman: Well stated. Staff?

31

32 Mr. C. Williams: I was just going to suggest that it is five after seven and we were going to try
33 to keep this whole study session to an hour and a half. I think the other item is probably a bigger
34 one than this one for your discussion. So we do have a good sense. These are very good
35 comments. We have some work to do and we appreciate that input and we will come back to
36 you with some changes and some more information after Mr. Lippert's comments.

37

38 Chair Holman: Vice-Chair Lippert says he has a burning question.

39

40 Vice-Chair Lippert: On page five, point three at the top of the page, developing requiring a CUP
41 in the R-1 zone. Do we have the ability to prohibit cell towers in R-1 completely?

42

43 Mr. Larkin: A limited ability. If the carrier could show a gap our ability would be somewhat
44 limited to preclude a site if it was required in the R-1 to fill that gap.

45

46 Vice-Chair Lippert: Okay.

1
2 Chair Holman: Okay, so we will move on to the creek discussion. Would Staff like to make a
3 presentation?
4

5 Mr. Joe Teresi, Public Works Engineer: Good evening, I am here this evening to talk to you
6 about two separate but related items. One we are calling the Extreme Side Development
7 Standards. They have come out of a group process known as the Santa Clara Valley Water
8 Resources Protection Collaborative which I will talk about a little bit more in a moment and the
9 second are the measures for storm water quality protection which come out of the storm water
10 permit that is issued to the City by the Regional Board to discharge our storm water into the
11 creeks.
12

13 I wanted to give you a little bit more background on what the Water Resources Protection
14 Collaborative is all about. Currently the way the regulations work is that any time an application
15 is doing work within 50 feet of a stream under the jurisdiction of the Santa Clara Valley Water
16 District then the applicants are required to obtain a permit from the district. Unfortunately that
17 doesn't always happen. There is a not a real good way for us to make sure that that happens so
18 sometimes there are gaps when things aren't reviewed properly. Secondly, the water district
19 doesn't really have any land use powers so sometimes things that they want are at odds with the
20 cities' rules. Back a few years ago the water district actually wanted to expand their sphere of
21 influence to say that instead of 50 feet they wanted to go 150 feet. When the cities caught wind
22 of that they didn't like it much. They thought it was too broad so they agreed to work together in
23 this collaborative process to work together to come up with a set of goals and policies that both
24 the cities and the county and the water district could all agree upon but it would keep the land
25 use powers in the hands of the cities and have less in the water district. Yet if everyone agreed to
26 the same set of guidelines then things would be done in a consistent manner throughout the
27 county. So over the last few years the cities and the water district and the County of Santa Clara
28 and environmental groups, homeowners groups, other stakeholders worked together to come up
29 with a set of guidelines and standards for land uses near streams. The plan is now that each city
30 or agency is coming back to its governing board asking them to adopt either policies or
31 ordinances or whatever mechanism is appropriate to regulate these land uses near streams and
32 the water district in the future is only going to require permits if an applicant is actually a
33 working within a right-of-way or easement owned by the district and all the other adjacent land
34 uses are going to be regulated by the city or county as the case may be.
35

36 So let me just go through quickly some of the materials. First of all there would be an
37 establishment of what is called a Streamside Review Area and this is kind of the first net that
38 would capture the parcels that would be subject to these requirements. It would include all
39 properties abutting a stream or located within 50 feet of a top of bank of a stream. At this point
40 the guidelines and standards are established but each city and each agency is going to adopt their
41 own specific sets of rules, they might be slightly different but they are all based on the same
42 principles. For us right now we are recommending at least as a starting point to only regulate
43 development in the non-R-1 zone except for certain applications in the R-1 zone that do require a
44 discretionary review, those would also be captured by this. There are certain things that by their
45 nature aren't permitted typically so these kinds of activities are going to be exempted from the

1 standards. They are minor things that again don't typically require any kind of a permit from the
2 City.

3
4 As far as what the guidelines say we have kind of broken it into two parts. The first part is things
5 that would be implemented as requirements and the second group is things that would just be
6 things that would be considerations or recommendation. So within the requirements realm there
7 is the concept of establishing a slope stability protection area. The problem here that we are
8 trying to address is that in some cases folks build things too close to the top of the bank of a
9 stream and streams have a tendency to change and move as the banks erode. Then what happens
10 is if someone builds too close to that top of bank and the bank starts to erode then there is all of a
11 sudden a need to harden that bank with some kind of either concrete or some kind of a wall or
12 rock or something. So in order to avoid that this idea would be to set things back away from that
13 top of bank so that even if the bank did move somewhat it wouldn't put these structures and
14 things like pools, large decks or parking lots at risk since they would be set back away from the
15 top of bank.

16
17 Another concept is management of the vegetation along streams. We want to encourage the
18 retention of native riparian vegetation along these streams and to prevent the planting of invasive
19 species, which tend to spread and crowd out and take over from the native vegetation.

20
21 Then lastly there are a number of things that address things like loading docks and trash
22 enclosures and lighting and things that you want to keep away from the streams in order to
23 minimize their impact.

24
25 Lastly there is kind of a general reference to this user manual for the guidelines and standards
26 that you were given a link to and I hope some of you had a chance to take a look at it. It is the
27 product of this three-year process that was gone through to identify the kinds of things we want
28 to see put in place in order to protect these stream resources.

29
30 Then there were also a couple of considerations that were listed that aren't as prescriptive but are
31 more general concepts about right things to do to minimize impacts to the streams.

32
33 Now, the second set of considerations is broader. In our Storm Water Discharge Permit there is
34 a requirement that is something that is actually overdue for us, we should have done this awhile
35 back but we are just now getting around to it. It requires the City to look at its design standards
36 to look for ways to encourage site design measures that help to both reduce storm water runoff
37 and protect the quality of that runoff. So these are all sets of general concepts that we would like
38 to add to Section 18.88 so that applicants consider each of these when they are putting their
39 projects together. They are all rather general. They aren't the kind of things that you can put
40 into an absolute requirement. They are more concepts that need to be thought of as the applicant
41 is going through the design process. I won't go through them at this point in the interest of time.
42 I think with that I will just open it up for your questions.

43
44 Mr. C. Williams: Madam Chair, could I ask Joe, maybe if you could explain to them what
45 requirement we do have right now. They probably don't understand what someone has to do

1 from a storm water standpoint that comes through right now under our existing regulations and
2 the review of a [swip] and when that threshold is and that kind of thing.

3
4 Mr. Teresi: Okay. We do have a chapter in the Municipal Code, Chapter 16.11 that regulates
5 development as far as its impacts on storm water. Currently there is a regulation in place that
6 says that if a project is going to create or replace 10,000 square feet or more of impervious
7 surface or hardscape then they have to implement storm water treatment measures that will treat
8 that water either through filtration or infiltration or other means to treat the water before it is
9 discharged into the storm drain system.

10
11 Then also typically on most construction projects they are also required to prepare a storm water
12 pollution prevention plan which covers the temporary impacts that occur during construction and
13 things to keep sediment on the site and out of the storm drains and other materials in place.

14
15 Chair Holman: Okay, Commissioners I have no cards from members of the public. So do
16 Commissioners have questions for Staff? Commissioner Burt. Okay, Commissioner Garber.

17
18 Commissioner Garber: So help me with a scenario here just so I can try and understand some of
19 the impacts. Right now, if I build a building that is adjacent to a stream, as opposed to abutting,
20 that is more than 50 feet from the top of the stream bank the permit that I would need to get
21 would be from the city but not from the county?

22
23 Mr. Teresi: Yes, it is not the county it is the water district but yes. If it is at least 50 feet way
24 from the top of bank then no permit is required at this point from the water district.

25
26 Commissioner Garber: That would still be the case if this were adopted.

27
28 Mr. Teresi: Yes because under this new set of rules you would only need a permit from the
29 water district if you were working within the right-of-way or an easement that they have over the
30 property.

31
32 Commissioner Garber: Which would be within the 50 feet?

33
34 Mr. Teresi: Yes.

35
36 Commissioner Garber: Okay. So in a circumstance, once again let me just follow through here,
37 where that same building has to run a sewage line across or under that creek that sewage line
38 would then need to go through the county but the city would not see that. Is that true?

39
40 Mr. Teresi: I am not sure that there is a – I don't know. He is asking is there any kind of a city
41 permit required for installation of a utility.

42
43 Commissioner Garber: Over or under a creek.

44
45 Mr. Teresi: Over or under a creek. I don't know.

1 Mr. Larkin: I don't think there is a specific city permit for under the creek but under current
2 water district ordinance you would need one.

3
4 Commissioner Garber: I guess what I am hearing though is that there would be no change if
5 there this was adopted. This doesn't address that sort of circumstance. You are reporting this is
6 an agreement that the City has come to with its adjacent communities and with the Santa Clara
7 Valley Water District and it doesn't really change the permitting situation that is in place right
8 now.

9
10 Mr. Teresi: I wouldn't say that.

11
12 Commissioner Garber: Does it condition that permitting that is existing now? Is that the real
13 impact there?

14
15 Ms. Campbell: When we put this into 18.88 all of the projects that are not in the R-1 zone would
16 need to comply with all of the regulations. For the storm water we are putting them as
17 considerations. So unless we actually put them in as solid conditions of approval for the projects
18 – they are considerations so we would condition them as part of the project approval we can
19 write those in conditions. In the R-1 zone there are a few circumstances listed, Home
20 Improvement Exception, Varian, Individual Review for a new two story home, or Individual
21 Review if you are adding a second story and changing the footprint of the first floor then you
22 would need to comply with the other regulations for the near creek regulations. So does that
23 help?

24
25 Mr. Teresi: Maybe if I give an example it might illustrate the change. Under the current rules
26 let's say that someone wants to build an accessory structure in the rear setback of the property
27 and it is essentially right up to the creek. That is allowable to my understanding under the City's
28 zoning rules but since they are working within 50 feet of a creek they would have to go to the
29 Santa Clara Valley Water District to get a permit. Now the water district would say we don't
30 think that's a good idea but they don't have land use powers so since that accessory structure
31 meets the City's zoning rules in some cases it gets built anyway because the water district
32 doesn't have any power to stop it. Under these new rules we would adopt a rule that says no
33 accessory structures shall be within 20 feet of the bank and we have the authority to enforce it so
34 that building would not get built.

35
36 Commissioner Garber: Great, thank you.

37
38 Chair Holman: Vice-Chair Lippert.

39
40 Vice-Chair Lippert: San Francisquito Creek is not really operated by the Santa Clara Valley
41 Water District. That is under the purview of the Joint Powers Board is that correct?

42
43 Mr. Teresi: All the creeks over a certain size are under the jurisdiction of the Santa Clara Valley
44 Water District including San Francisquito.

45
46 Vice-Chair Lippert: Okay. That wasn't clear.

1
2 Chair Holman: Commissioner Burt.

3
4 Commissioner Burt: I just wonder if Staff could review. On page four we have the items for
5 discretionary review which have to do with a house that is under IR review, a new second story
6 home or a second story addition or a variance or an HIE. If we have a new single story structure
7 could Staff review what restrictions we have that govern the construction of just a regular single
8 story structure? Then the other question I have is could you briefly review the relationship
9 between or the comparison I should say between the criteria that we have here and the Comp
10 Plan guidelines on streamside setbacks and compatibility?

11
12 Ms. Campbell: I will answer the first part of that. Right now if a project were to come forward
13 with a single story single family home in the R-1 zone they would not be subject to these new
14 standards. It is only if they had to go through a discretionary process then they would be subject
15 to the new regulations.

16
17 Commissioner Burt: Can I ask then is there a reason that we are not including regular single
18 story homes in the context of these guidelines and constraints?

19
20 Ms. Julie Caporgno, Advance Planning Manager: This was first discussed at the collaborative.
21 The various cities had a lot of concern for requiring it for all single-family development. So
22 what was decided was that cities did not have to incorporate these requirements for properties
23 under 10,000 square feet. Palo Alto has decided that since we have discretionary review for
24 these various types of projects that were identified in the Staff Report we wanted to incorporate
25 them for those types but for properties that just came in through the building permit process we
26 wouldn't require it at least as far as this collaborative process will go. In the future given the
27 Comprehensive Plan policies we may come back and the Council may direct us when they hear
28 this that they want us to come back and expand that but as far as the collaborative process we
29 didn't want to include it. In addition to what the requirements are we are making a commitment
30 as far as the collaborative process that we will be monitoring this and having a fairly extensive
31 reporting program for the collaborative so we didn't want to get bogged down in a lot of
32 bureaucracy for those types of projects also. So if the City elects to do that it would be done
33 independently and then we wouldn't have this collaborative relationship.

34
35 Mr. Teresi: That being said I want to add as well that the collaborative is also planning to do
36 outreach to R-1 single-family homeowners to at least encourage these same kinds of things even
37 if they are not in fact enforceable. We certainly want to promote the same concepts and plan to
38 put out some educational outreach materials that will help in that regard.

39
40 Commissioner Burt: It is my recollection that our Comp Plan language may go beyond the
41 restrictions of the collaborative process although our Comp Plan language is conceptual in nature
42 and this is more specific. So I had assumed as this was coming forward it was to fulfill two
43 objectives. One was the countywide collaborative process and at the same time be the vehicle to
44 implement that aspect of our Comp Plan as it pertained to the Zoning Ordinance Update on creek
45 side setbacks. It sounds like to not muddy the waters we are separating these two for right now if

1 that is the case when would we see that the aspects of our Comp Plan come forward in our ZOU
2 process?

3
4 Ms. Caporgno: Curtis may want to add to this but I think some time ago the ZOU team had
5 made the decision given the heavy workload that we needed to accomplish the ZOU even before
6 we decided to streamline the ZOU so that we could proceed with the Comprehensive Plan
7 Amendment that that was one of the items that was going to be done kind of in phase two, the
8 streamside ZOU work, but we knew then that we had this collaborative work that had to be done.
9 We at one point weren't even going to address the collaborative work for single family homes,
10 we were considering not addressing the collaborative work for single family homes and for the
11 ZOU we were going to try to work it through the Individual Review guidelines. Then we felt it
12 wouldn't be rigid or stringent enough so then we decided to use the ZOU process to accomplish
13 that. I think for some time now it has been understood that we wouldn't be able to accomplish
14 the Comp Plan direction through the ZOU process.

15
16 Mr. C. Williams: Actually I think that we are waiting for the outcome of this process to plug in
17 here. So if there is a desire to go beyond this again I do think it probably would take more time
18 to do that and a lot more analysis to do like 100 feet instead of 50 feet or that kind of thing. So I
19 think there has been a thorough process here with the collaborative to come to some
20 recommendations and we consider that substantively we are addressing most of what is in the
21 Comp Plan but it might not go quite as far as the Comp Plan policy does go.

22
23 Commissioner Burt: If I might make a recommendation as a follow up to this study session
24 recognizing that it may not be feasible to integrate our Comp Plan objectives on streamside
25 setbacks with this collaborative process would Staff just take a look at the relevant elements of
26 the Comp Plan and see if there are ones that could be easily folded into this without creating
27 significant workload and without opening a big can of worms. If there are ones that could be
28 naturally and easily folded in maybe we could do that.

29
30 Paula is mentioning that probably the aspects that are mentioned in page eight of Attachment B
31 probably covers all of that. So I take your word that it would add to the workload to attempt to
32 fully implement the Comp Plan objectives but if there are some that we could fold in here and
33 now maybe that would be a good idea.

34
35 Ms. Caporgno: I think that we could probably work with all of them except for Program N-7
36 that is the one with the 100 foot setback and that was the one basically that I was referring to. I
37 think that has been for some time understood that we weren't going to be able to achieve that
38 through the ZOU or that wasn't coming out the water collaborative.

39
40 Chair Holman: Vice Chair Lippert.

41
42 Vice-Chair Lippert: With regard to the construction process during a project there are certain
43 impacts on a creek area. What about the adoption or implementation of say Cal Trans best
44 management practices under the construction portion of any project?

1 Mr. Teresi: We already have fairly rigorous requirements in our grading ordinance, which is in
2 Chapter 16.28, that talk about sediment control and erosion control during construction. So we
3 do have a good set of tools already in place in the code to enforce those kinds of measures.
4

5 Vice-Chair Lippert: What about going further than that say with regard to things like temporary
6 facilities, port-a-potties, you shouldn't locate those in the setback area. With regard to dumping
7 of concrete, the concrete truck shows up they are going to pour the foundation or do whatever
8 concrete work there is and then they are going to dump whatever it is. Well, you don't want that
9 dumped in that setback area. When they go to wash out the concrete truck you don't want that
10 stuff running downhill and perhaps into the creek bed area. So I think it might be worthwhile
11 looking at what CalTrans standards are and maybe adopting some of those if not all of them.
12

13 Mr. Larkin: I would just go one better in saying that there already are best management practices
14 that have been adopted regionally that I think go beyond Cal Trans requirements. I am looking
15 for the code section and I haven't found it yet but I know it is in here because I've been involved
16 in it. We have adopted those best management practices and we may be able to firm up the
17 language but that wouldn't be as part of the ZOU that would be part of our storm water
18 ordinance.
19

20 Chair Holman: On page five of the Staff Report, number five under Standards for Land
21 Development Near Streams. I am curious why 25 feet from the top of the bank as opposed to 50
22 and especially when you consider what is being mentioned there or referenced there is loading
23 docks, trash enclosures, chemical storage areas in particular, stationary noise producing
24 mechanical equipment. Why 25 and not 50 feet?
25

26 Mr. Teresi: I think in the guidelines and standards it simply says near and we chose that as a
27 starting point but if you feel that that's too short of a distance we could certainly look at
28 increasing that.
29

30 Chair Holman: Personally I would feel much more comfortable with 50 at a minimum. Then the
31 considerations, maximize the distance for nighttime lighting in a riparian corridor and avoiding
32 bright colors and glossy or glare producing building finishes on buildings facing streams or
33 riparians. Why considerations as opposed to requirements?
34

35 Mr. Teresi: I think it is because those are hard to put into enforceable terms. They are more
36 relative in nature.
37

38 Ms. Caporgno: I was going to say something similar. I think instead of using the word
39 'considerations' we probably should be calling these guidelines similar to what we are doing
40 with the performance standards where we have the requirements and then we have the
41 guidelines. Considerations does make it sound like it is something you can consider and dismiss.
42 I think the guidelines indicate we want this to occur but we just don't have any sort of
43 quantification and real rigid regulation so that is why they are described more as in concept.
44

45 Chair Holman: If they become guidelines as opposed to requirements, considerations I agree
46 with you I think is a little too wafflely. It would seem to me also that the language could be

1 improved such that we have Open Space requirements that talk about compatibility and I think
2 that kind of language would be an improvement perhaps on what is here, with all due respect.

3
4 Then a quick comment about R-1 and structures less than 120 square feet could be within the 50-
5 foot and I can think of a project that came to us once and was going to allow an accessory
6 building of 120 feet in that setback. I guess what is troubling about that is because once it is
7 built and people start living there and time passes there is an absence of thought that that is a 120
8 square foot accessory building and what the intention is and other things get put there too. So I
9 guess I am not keen on allowing that one or make it even smaller or something of that nature.
10 I'd like to see if other Commissioners have comments about that.

11
12 Then going to storm water quality protection again, same thing with considerations. Partly may
13 question was referenced I guess but in looking at storm water quality protection there are a
14 number of things here that talk about minimizing the amount of impervious surface, and
15 minimizing land disturbance, route rainwater leaders into landscaped areas, minimize change to
16 the volume, flow rate, timing, or duration of storm runoff from the development site. From a
17 different perspective we looked at basement when we were doing the Zoning Ordinance Update.
18 As one of the Commissioners last week mentioned where you have basements now there used to
19 be in most occasions there was earth which absorbed water. So I am seeing a real inconsistency
20 with the number and size of underground development that we have and how that satisfies these
21 now considerations. So maybe Staff would like to take those as a lump sum and respond to that
22 as opposed to my going on ad nauseam on each point or not.

23
24 Mr. Teresi: I understand what you are saying but I guess considering the difference between a
25 building on a site and a building of the same size with a basement I am not sure that the
26 imperviousness is any different. You are still covering a certain percentage of the site and
27 whether or not it has a basement under it that part of the site is not going to be able to absorb
28 rainfall runoff. So I guess I am a little unclear on your point.

29
30 Chair Holman: My non-engineer perspective is that if you have more earth on a site the site
31 itself even if the lot coverage is the same that the site would be able to absorb more water. If
32 there is a basement that is fully developed to the maximum as opposed to, to use an example, a
33 half-basement it seems to me like there could be a lot more water retained onsite than sent offsite
34 during rainy season.

35
36 Commissioner Sandas did you have a question?

37
38 Commissioner Sandas: I didn't have a question I have some comments. I just wanted to follow
39 up to what you said. I am just thinking in term of R-1 at the moment. We try to keep the water
40 out from underneath our house and from going into the dirt so I am not sure what the ratio is to
41 keep the foundation secure. So I am not sure what the ratio is or the difference would be
42 between the basemented house and a house that has drainage that goes out and around it to avoid
43 getting the foundation wet. Do you see what I am saying?

1 Chair Holman: I do and at the risk of this becoming conversational I guess we all of course try
2 to keep water away from our foundations. I think it is the depth of the basement that exacerbates
3 the problem again in my non-engineer perspective that is what I am referencing.
4

5 Commissioner Sandas: Actually, I just wanted to finish up with a couple of points that I wanted
6 to mention. One is the Standards of Land Development near Streams the requirements three and
7 four I want to say hooray. Planting of nonnative invasive plant species shall not be allowed and
8 only native riparian vegetation may be planted – terrific. I am really glad that we are doing that.
9

10 I just wanted to echo Chair Holman’s concern about the loading docks and trash enclosures, etc.
11 at only 25 feet. That was a question that I had earlier that I completely neglected to ask. I also
12 wanted to echo Commissioner Holman’s concerns about the Storm Water Quality Protection
13 where we have considerations. If the word ‘guidelines’ makes them stronger I would like to ask
14 that you would consider that. Thanks.
15

16 Chair Holman: Seeing no other questions from Commissioners I do have one member of the
17 public who has just submitted a card, Trish Mullvey. Thank you and you will have five minutes.
18

19 Ms. Trish Mullvey, Palo Alto: Thank you and I don’t expect to need that long. I live here in
20 Palo Alto and I have had the privilege of serving as one of the Environmental Community
21 Representatives on the collaborative. I want to thank Joe and Julie for the lots of effort that they
22 have put into getting us this far.
23

24 There are just a couple of points that I want to make. First the water district has as of their
25 meeting last Tuesday adopting their ordinance rescinding in its entirety their old ordinance that
26 was adopted in 1983 effective February 28, 2007. So there is a timeline and timetable that Staff
27 is working towards having your ordinances or whatever in place by then.
28

29 Second I serve on the Outreach Materials Workgroup of the collaborative so we are developing
30 the kinds of materials that Staff has described for a streamside property owner outreach. The
31 collaborative is a virtual organization so any use of those materials is going to be up to the
32 member agencies. It is not like the collaborative is going to do a mailing to Palo Alto streamside
33 property owners. So that will be something we will be working with Staff and with the water
34 district on.
35

36 Lastly, I wanted to go back to a point that was made by Cheryl at the beginning of your earlier
37 discussion and that is that the section of the ordinance that you are dealing with is your catchall
38 section. So my request is to figure out how to do the right materials for applicants when they
39 come in at the beginning of your process to know that this hidden obscure catchall section
40 applies to them. One of the biggest concerns we have had over time is there hasn’t even been a
41 requirement that if there is a stream on your property that you show it on the plan when you
42 bring it in. Sometimes Staff hasn’t even known that it is creek side. They are working now and
43 we have GIS capability so your parcel number or your address will trigger that flag. So as I say
44 my request is that you figure out how to make sure that the very beginning applicants know so
45 they can plan what they need to do to be good creek stewards.
46

1 I also want to offer since I am a resident if I can be helpful to you or to Staff as you are working
2 through this with the community I appreciate though I am not on your 1,000 friends of Planning
3 Commission notices Staff was very kind to make sure I knew about tonight. I am glad to be here
4 and I really wanted to say thank you for the interest and concerns I have heard you express. I
5 really appreciate it. Thank you.

6
7 Chair Holman: Thank you for coming. I think you have experienced the new and improved
8 Staff communications thanks especially to Mr. Williams. Any other questions or comments? I
9 have one more if no one else does. Vice-chair Lippert.

10
11 Vice-Chair Lippert: I appreciate the work that Staff has done along with Public Works on this. I
12 think it is a really good example of how the two departments can work together and also you
13 have another entity that you have to deal with as well. My only caution here or the concern that I
14 have is that we do have this riparian corridor, this creek bed area, the one thing I would want to
15 be very careful about is that I don't want these regulations to extend what that corridor is. The
16 whole purpose here is to protect the corridor and even though the corridor may over time change
17 and widen, etc., it hasn't widened. So I would just want to make sure that the protections that we
18 put in place aren't putting undue regulations or burdens on property owners. That is really my
19 biggest concern here.

20
21 Ultimately if you look at the big picture these streams they flow down to the Baylands and the
22 idea is that we don't want this garbage or junk or whatever or this impact that is on that corridor
23 and a potential natural resource to again impact that and flow down to the bay. So again I don't
24 want it to preclude development I just want it to just sort of protect what is there.

25
26 Chair Holman: I guess I am certainly pleased with the definition of stream because one of the
27 things that I have commented about in the past is if we have a naturalized stream but then
28 something else that has been concreted over time that we might at some point in time decide that
29 it should be re-naturalized. So I am very happy with the definition of stream as I read it.

30
31 There is a bit of an interface here also between the trees discussion that we had previously and
32 water retention and purification and this. We haven't brought that up yet this evening. So I am
33 rather hoping that when this comes back that we will have Mr. Dockter here as well so we can
34 have that coordinated discussion. It looks like we will.

35
36 At one point I wanted to make, and I won't look for an answer for it, it is just a point I will make
37 briefly. A couple of times, one time fairly recently, I had a brief discussion with Staff about
38 development that happens at times under sidewalks and alleys and streets and that again could
39 impact water quality, displacement, and also affects trees and that is where the interface also
40 comes up with trees. So I know that is Public Works but also I think it is something we ought to
41 take a look at at the Commission and see how that does or doesn't happen. So given that I see no
42 other comments by Commissioners. I am sorry Commissioner Garber I apologize.

43
44 Commissioner Garber: I was just going to simply sum up. I think most of the points have been
45 adequately covered. I agree with a number of the things and I will just emphasize the ones that I
46 want to come back to. The 25 feet to 50 feet in general in my mind the 50 feet ideally is

1 something that really has no development and is really a part of the corridor as opposed to
2 having other things sort of begin to impinge on that. I think the image that Commissioner
3 Lippert begins to paint about that corridor is sort of the right one and the one that Chair Holman
4 has also commented on.

5
6 A comment about the guidelines, I think it's great. Below grade issues I think those are fairly
7 involved ones that have a lot to do with local conditions of what the soils are, and how they act,
8 etc. It would take somebody that is smarter than I to understand just what that dynamic is from
9 surface area to volume underneath. If the site plan issue is a real one where the site plans don't
10 have to show the streams then we should plug that hole quickly. Then I think the interface with
11 landscaping is perfect. Thank you.

12
13 Chair Holman: Have I cut anyone else off or has everyone had their say? I think that does
14 complete this item then. Thank you. We will just take a really brief five-minute break before we
15 take up item number two and we will come back with Commissioner Keller.

16
17 Okay we will reconvene our meeting this evening and take up item number two. Would Staff
18 like to make a Staff presentation on the Zoning Ordinance Update?

19
20 ***UNFINISHED BUSINESS.***

- 21
22 **2. Zoning Ordinance Update:** Review and Recommendation of an Ordinance Amending
23 Title 18 (Zoning) to Delete Chapters 18.28 (Multi-Family Residence District Guidelines)
24 and 18.64 (Additional Site Development and Design Regulations for Commercial and
25 Industrial Districts) and to Adopt a new Chapter 18.23 (Performance Criteria for Multi-
26 Family, Commercial, and Industrial Districts); Environmental Assessment:
27 Comprehensive Plan Environmental Impact Report.

28
29 Mr. C. Williams: Yes, thank you. We are back to you with a revised version of the performance
30 criteria chapter. There are a few changes that are reflected in the ordinance and then I would like
31 to run through a few kind of detailed wording changes that we have made today in response to
32 some emails that we have received.

33
34 After considering the various issues that were discussed last time and having a couple of
35 meetings with Fire Marshall Firth we have made a couple of what we think are substantive
36 changes to the ordinance. The first one is that relative to storing, using, handling hazardous
37 materials that exceed the Title 19 threshold limits we have suggested that any new facility or any
38 portion of a facility that stores or uses these materials should be located at least 300 feet from
39 any residential property line. As you recall there wasn't any distance specified previously. Then
40 we also have some language that allows the Fire Marshall to increase that distance if upon
41 review of the Risk Management Plan (RMP) there is a determination or justification he feels for
42 requiring them and it is feasible to require them to be even further separated from the residential.

43
44 Vice-Chair Lippert: Excuse me I just want to clarify that. It could be on the same property just
45 300 feet from that property line, correct?

1 Mr. C. Williams: Yes. It is on the industrial property 300 feet from that residential property line
2 boundary with the industrial property line.

3
4 Secondly, regarding particularly the fact that there is one user which is closer than that in terms
5 of existing allowances we have suggested that any increases in materials that are not currently
6 above the Title 19 thresholds would be subject to the 300 foot plus separation. So if you are
7 increasing something that isn't already above that and has an RMP for it then you are subject to
8 the 300 foot separation and secondly that if you already have materials that exceed and are
9 permitted to exceed the Title 19 thresholds that they could be increased but by no more than 25
10 percent above the levels allowed by the Risk Management Plan today. I will read some language
11 here that specifically says that and puts today's date in fact in it.

12
13 The second area of changes that was shown in the draft that was sent to you is that relative to the
14 bio-safety level four biological agents and use of those we have prohibited those entirely from
15 the City of Palo Alto. So if in the future there is someone that decides they think they need to do
16 that they are going to have to come back through and amend the zoning ordinance to allow it to
17 be done.

18
19 So those are the key changes. We have also listed some of the questions that came up from last
20 meeting and responses to those. We would be glad to answer any of your questions about those.
21 Today we did receive email from Mr. Lieberman and Mr. Balin and there were some
22 clarifications that were asked for so I would like to indicate some wording changes that we
23 would make. We tended to agree with most of those clarification points and so I can go through
24 those quickly. Also, talked to Chair Holman a bit and there is one change there and Mr. Keller
25 had some corrections that we believe are justified as well and we will incorporate.

26
27 So starting off on page one at the very last sentence on that page where the language reads that
28 the criteria may also be considered for sites abutting nonresidential zones we would suggest
29 changing that language to put the presumption that we would require, this is the revised redline
30 version we sent out yesterday to you, that would put sort of a presumption that the criteria would
31 be applied to areas adjacent to nonresidential zones. It would read, "The criteria shall also be
32 applied for sites abutting nonresidential zones except where the Architectural Review Board
33 determines the provisions are not applicable or are adequately addressed through other means."
34 So it sort of reverses, do you not have this document?

35
36 Commissioner Burt: Could you repeat where?

37
38 Mr. C. Williams: The bottom of the – not it is not the Staff Report it is the ordinance that was
39 emailed yesterday. The bottom of the page, the very last line the beginning of the sentence....

40
41 Commissioner Garber: So the revisions are not actually in what was emailed?

42
43 Mr. C. Williams: What I am reading now is not in what is emailed. The revisions I just told you
44 about, the 300-foot and that's in the version that you received previously. These are revisions
45 that we made this afternoon in response to some emails that were received today and
46 clarifications for the most part.

1
2 Chair Holman: Curtis, it might be helpful if you read that one again since now people know
3 where you are.

4
5 Commissioner Burt: I just want to make sure we are reading from the right document. It is this
6 redline version, is that correct?

7
8 Mr. C. Williams: Yes.

9
10 Commissioner Burt: Great. The bottom of page one?

11
12 Mr. C. Williams: It says "Performance Criteria" 11-1-2006 on the bottom.

13
14 Commissioner Burt: Thank you. So you are now going to repeat it for us?

15
16 Mr. C. Williams: Yes. The very last line on that page the sentence that begins with the "The
17 criteria" says "The criteria shall also be applied for sites abutting nonresidential zones except
18 where the Architectural Review Board determines the provisions are not applicable or are
19 adequately addressed through other means." So we have sort of reversed the presumption there
20 that you do need to comply with these unless ARB finds that for some reason they are not
21 applicable or they are taken care of otherwise.

22
23 Chair Holman: Appreciate that and one clarification. What standard would they use to
24 determine that they are not applicable?

25
26 Mr. C. Williams: Their judgment that this particular issue doesn't apply on this site or in this
27 instance. If the interior lighting issue is one that we are trying to protect from residential and the
28 adjacent nonresidential doesn't have any windows facing that way or something like that and the
29 lighting is minimal then they may determine that that's fine in that particular instance.

30
31 The second change, I think all the other changes are in the last section beginning on page nine
32 which is part of the section on hazardous materials, 18.23.100. On that page under small number
33 three the underlined addition there says, "or of properties with existing residential uses located
34 within residential zones." This is just a correction that Commissioner Keller pointed out. Put
35 residential properties in parenthesis behind that we have used that elsewhere in this section so it
36 is just a consistency.

37
38 The next item says item five and that should be item four not five. In about the middle of that
39 paragraph, about four lines down, most of the way through the line it says, "The City shall
40 provide written notice to the owners of all residentially zoned property." It would say, "the
41 owners and residents of all residentially-zoned property."

42
43 Then on page ten with the new paragraph, this has the most changes. Item number six, the
44 inserted language there it would say, "Notwithstanding the provisions above no new H-
45 occupancy portion of a facility, building or area, and," and this is the change, "and no conversion
46 or reconstruction of existing facilities designated for storage, use or handling of hazardous

1 materials.” It stays the same there, “above Title 19 threshold shall not be located closer than 300
2 feet to a residentially zoned property or a property with existing residential uses in a
3 nonresidential zone. The Fire Marshall may increase the separation to a distance greater than
4 300 feet if deemed feasible and necessary to assure protection of residential properties,” rather
5 than ‘areas,’ and that is just to be specific that it is properties. There is not really a definition of
6 residential areas. “These provisions shall also apply to facilities proposed a) to increase the
7 quantity of allowable hazardous materials,” and then add ‘that previously where below Title 19
8 threshold limits to levels that exceed Title 19 threshold limits or b) to increase the quantity of
9 hazardous materials that already exceed Title 19 threshold limits to a quantity in excess of 25
10 percent above allowable RMP limitations existing as of November 1, 2006.’ So the provisions
11 of that, the couple things that are changed there are first of all in addition to requiring a 300 foot
12 setback for new occupancies, new facilities, we are also requiring it for conversion or
13 reconstruction of existing facilities to exceed these threshold limits. Then secondly we are
14 clarifying that the two parts also apply if existing facilities within 300 feet take materials that are
15 below Title 19 thresholds and raise them above Title 19 thresholds they would then be subject to
16 this setback and that if the existing quantities that are permitted over the Title 19 thresholds that
17 those are limited increased no more than 25 percent above the levels existing as of today. There
18 was some confusion and understandably so I think as to whether that is what that said or not or
19 whether it meant the 25 percent could get added on and then you got a new RMP and then you
20 get another 25 percent beyond that and that is not the intent of what was said here. So those are
21 the changes we’ve made. We think that those substantively address the concerns that have been
22 raised by the public and the Commission.

23
24 Chair Holman: I think we have Commissioner Keller, Vice-Chair Lippert, and Commissioner
25 Burt who have questions in that order if you would please.

26
27 Commissioner Keller: Thank you, Mr. Williams for making these changes. I think you have
28 missed two slight ones that I assume you would agree with. One is on page nine right after you
29 said written notice to the owners and residents of all residentially zoned property, I assume based
30 on my original comment that should be residential property and not residentially zoned. It is the
31 fifth line of the new paragraph labeled four.

32
33 Mr. C. Williams: Right.

34
35 Commissioner Keller: So that should read, “written notice to the owners and residents of all
36 residential properties within 150 feet.”

37
38 Mr. C. Williams: Right.

39
40 Commissioner Keller: Secondly, I think the other thing we talked about is on the end of what is
41 now section five, the last line, affected residents are those who reside or own residential property
42 within this zone.

43
44 Mr. C. Williams: Right. I did have that down here and I just missed it.

45
46 Commissioner Keller: That is what I thought. Thank you.

1
2 Vice-Chair Lippert: I just have one question here. The properties that currently are within those
3 300 feet are legally existing non-complying.

4
5 Mr. C. Williams: Right.

6
7 Vice-Chair Lippert: Do we have anything in there that would be an abandonment clause in
8 which case if they had gone and ceased using those hazardous materials for a period of one year
9 would they in fact lose that entitlement?

10
11 Mr. C. Williams: We don't. I don't know if there is anything that loses them their RMP at that
12 point. I would suspect there probably is but we could most likely add something in here that
13 indicates that too.

14
15 Vice-Chair Lippert: Well, the idea is that I think we are moving in the direction that we are
16 probably going to see fewer of them and so if something like that should go away perhaps that
17 entitlement should also go away.

18
19 Mr. C. Williams: I don't think we would have any problem with that.

20
21 Chair Holman: Commissioner Burt.

22
23 Commissioner Burt: Curtis, as you were trying to carefully explain the clarification on that last
24 aspect of the 25 percent can you go through it one more time just so I make sure I understood
25 you correctly?

26
27 Mr. C. Williams: Okay. So that part says, "The provision shall also apply to facilities that
28 propose to increase the quantity of hazardous materials that already exceed Title 19 threshold
29 limits to a quantity in excess of 25 percent above allowable RMP limitations existing as of
30 November 1, 2006."

31
32 Commissioner Burt: What you mean by 'allowable RMP' that is the amount allowed per their
33 prior RMP?

34
35 Mr. C. Williams: Per the RMP existing as of November 1, 2006, right.

36
37 Commissioner Burt: I don't have the language that suggest to clarify it but it seems that there is
38 a little bit of potential that someone might interpret that as the minimum RMP threshold for that
39 material as opposed to the amount in a given company's RMP.

40
41 Mr. C. Williams: Would it be better to say above allowable RMP levels?

42
43 Commissioner Burt: I don't know. You guys are good at coming up with tweaking the wording
44 while we jabber away. See if you come up with anything.

45
46 Chair Holman: Commissioner Tuma.

1
2 Commissioner Tuma: I wanted to just make sure I understand something here. If you have a
3 facility, the last portion of the item that we are talking about here, so where they are going to
4 exceed by 25 percent the existing amount that was in the RMP that was filed as of today, does
5 that mean that all of that chemical needs to be moved back more than 300 feet or if they are
6 adding it but adding it in an additional facility that additional facility needs to be more than 300
7 feet?
8

9 Mr. C. Williams: Well, I assume I think what we are talking about here is the 25 percent could
10 still be within the 300 feet and then anything additional would have to be more than 300 feet
11 away.
12

13 Commissioner Tuma: Okay, so it is just that additional amount above the 25 percent, is that
14 what you are proposing?
15

16 Mr. C. Williams: I think that is way I would see it and that is way I would read it, yes.
17

18 Chair Holman: Commissioner Garber.
19

20 Commissioner Garber: So what are the events that trigger public notice then in this, if you could
21 just summarize that for me?
22

23 Mr. C. Williams: In this any time there is a proposed use of hazardous materials in excess of the
24 Title 19 thresholds it would trigger an RMP, which would have a public review. When the Fire
25 Department is notified it would require the RMP to be submitted to the Fire Department and we
26 would send notice to the residents and property owners for that within the affect area defined by
27 the RMP, which could be very broad. We would send notice to everyone within that area and
28 there is a 45 -ay review period. If we assume there are a few days in there before the Fire
29 Department gets it there would probably be a minimum of a 30-day review period for the public
30 by the time they receive our notice. Then comments would come to the county as well as to the
31 Fire Department and the Fire Department would then act with the knowledge of whatever
32 comments have been made or they would hold off on their action until they are satisfied with any
33 changes or require any changes at that point. That would always require notice. Then the ones
34 that are not over that threshold are the ones that we would send notice within five days after
35 approval by the Fire Department.
36

37 Commissioner Garber: So this would then include things that are new buildings as there are
38 building permits that are being processed, there would be additions to buildings or changes that
39 require building permits, but they would then also include sort of non-building events but just
40 relate to the material itself. In all these cases what triggers the City's knowledge of these is the
41 submittal of the report to the county then?
42

43 Mr. C. Williams: Yes, and particularly those situations if they didn't require a building permit.
44

45 Commissioner Garber: Does the City get those announcements today or is this something new
46 that has to be?

1
2 Mr. C. Williams: Yes, the Fire Department receives those announcements. Although we have
3 added language in here to require the applicant to submit it to the Fire Department as well as to
4 the county.

5
6 Commissioner Garber: Thank you.

7
8 Chair Holman: Commissioner Keller I think is next and then back to Commissioner Tuma.

9
10 Commissioner Keller: Thank you. I am going to suggest a way to phrase what was thought
11 about there. The way to phrase the last partial line of VI on page ten is, 'above amounts allowed
12 by an RMP in effect as of November 1, 2006.' So just think about wording like that might do
13 what you want. Do you want me to repeat that? Above amounts allowed by an RMP in effect as
14 of November 1, 2006. I think that would accomplish what you want. Thank you.

15
16 Chair Holman: Commissioner Tuma. I should state also that for anybody who was not here last
17 week we did close the public comment last week.

18
19 Commissioner Tuma: Back to the question about notice. This paragraph six, or vi, if you have a
20 situation where they are adding let's say 50 percent more than what is allowed in the current
21 RMP that would not trigger a new RMP with the county and therefore notice would not come to
22 Palo Alto.

23
24 Mr. C. Williams: Yes it would require a revised RMP is if they are exceeding the limitations of
25 the existing RMP.

26
27 Commissioner Tuma: Oh, it does. I thought that if there was a 'significant increase,' which was
28 something I think someone alluded to nearly 100 percent.

29
30 Mr. C. Williams: That was the category that is less than the Title 19. It wasn't the Title 19. I
31 think there might be some language about significant but I can't imagine that 25 percent isn't a
32 significant.

33
34 Commissioner Tuma: The process that is envisioned here under six is something that other than
35 the triggering of the RMP giving notice to residents of Palo Alto the residents wouldn't
36 necessarily be notified that the Fire Marshall was going to look at whether these conditions were
37 met under number six, is that right? There wouldn't necessarily be a public hearing on that
38 issue?

39
40 Mr. C. Williams: No there wouldn't be a public hearing on any of these issues. It is a notice for
41 input. Input can be made to the Fire Department but there still is not a public hearing process.

42
43 Commissioner Tuma: Right. I am trying to separate what with the county because I understand
44 with the county the public has the opportunity to go and comment but there is no public hearing.
45 What you are proposing here is a determination as to whether either the new proposed site or an

1 addition to a site exceeds the criteria set here. Is that correct? Someone has to make that
2 determination.

3
4 Mr. C. Williams: Right. Whether the amounts trigger this 300 foot setback or not, basically.

5
6 Commissioner Tuma: Exactly. So that process of determination is something that is made by
7 the Fire Marshall?

8
9 Mr. C. Williams: Yes.

10
11 Commissioner Tuma: Okay, and is there any notice after that process or is that simply the same
12 notice that we talked about before which is that the permit would be issued and people would
13 find out ten days after?

14
15 Mr. C. Williams: Well, no, the notice is still of the RMP and if we are sending out the notice it is
16 going to say, and I don't think it is appropriate to specify it in here but if you want to we can say,
17 that the Fire Department will act on this permit and you can make your comments directly to
18 them. What we certainly anticipate is that it is going to be coming from the City and we are
19 going to do more than just say here is an RMP. We are going to say here is an RMP that has
20 been submitted for this address and this is what that document is and if you have comments on it
21 here is the deadline and provide it to the county and to the City's Fire Department for review by
22 that deadline so they can consider those prior to issuing any permits. Then if someone is
23 interested in following up with the Fire Department before or after they could certainly do that.

24
25 Commissioner Tuma: Okay, thanks.

26
27 Chair Holman: Commissioner Burt.

28
29 Commissioner Burt: First on page nine, numeral four, about the middle of the paragraph, Staff
30 has given themselves five days to notify residents after I think it is submittal for a building
31 permit, right?

32
33 Mr. C. Williams: No, it is issuance.

34
35 Commissioner Burt: Issuance, okay. I just want to make sure you can move that quickly on
36 getting those out. Is that reasonable?

37
38 Mr. C. Williams: Actually, I would probably prefer it say ten days and trying to be as prompt as
39 possible with urging us to get the notices to the residents as quickly as possible.

40
41 Commissioner Burt: By all means, I would like to see it go out as quickly as feasible. I want to
42 make sure that you don't set yourself up to violate your own procedures because it just is quicker
43 than you can reasonably move.

44
45 Mr. C. Williams: Right.

1 Commissioner Burt: So might want to think about that. Second, from an email we have
2 comments by Mr. Balin and the third one on the bio-safety level four ban he noted that our ZOU
3 might need some corresponding language changes. Is that part of Staff's intention to address
4 that?

5
6 Mr. C. Williams: It is not because that section is not here before us now and it is basically moot
7 with this language. I understand and I have had this discussion with Mr. Balin before I don't
8 think that putting that language in the industrial zones ever authorized somebody to do
9 something they couldn't have done anyway. Here we are expressly prohibiting it. I agree that it
10 would be good at some time, at some point to go back and make that change but I don't think it
11 is enough of a priority to drop other things we are doing to make that change.

12
13 Commissioner Burt: So this language clearly supersedes that?

14
15 Mr. C. Williams: Yes.

16
17 Commissioner Burt: Okay. Then finally I think that as we have gone through this and first I
18 want to say that I think that Staff has done an excellent job in a very short period of time of
19 responding to not only concerns raised by the Commission and those raised by members of the
20 public and addressed them in ways that I think are still feasible for manufacturers to operate in
21 this zone but to do so with greater restrictions that help protect the public. There are several
22 things that we are now doing that go beyond anything the county does and to my knowledge
23 other cities in the region. It might be helpful if we had a clear list of here is the county standard
24 or the normal city standard and here is what Palo Alto is doing. I think we have done some good
25 things that are really steps in the right direction and yet they are reasonable and feasible at the
26 same time. It would be good to just have clarity on how we have gone a step above other
27 jurisdictions and frankly I think once we have done this it will be something that other
28 jurisdictions may want to look at.

29
30 Chair Holman: Vice-Chair Lippert.

31
32 Vice-Chair Lippert: I was just going to follow up on Commissioner Burt's comment with regard
33 to the timeliness of the notification and review of that document. The question I have is how is
34 that going to be handled? Will we have a copy at the Development Center? Will we have copies
35 at the library or is it possible to ask whoever the entity is to post it as PDF online where people
36 can download it and review it?

37
38 Mr. C. Williams: I don't know, it may be that they already do that. What we typically do and
39 we have done it on the Regional Water Quality Board RMPs for hazardous materials, copies are
40 kept over at the Development Center during the entire review period. So if someone wanted to
41 look at it I am sure we will find ways like that. Depending on how much interest there is we may
42 have it both there and at a library or something like that too but I am sure that at a minimum we
43 would have it at the Development Center because that is where we keep the rest of our plans for
44 public perusal.

45
46 Chair Holman: Commissioner Keller.

1
2 Commissioner Keller: To follow up on Commissioner Burt's comments about the five days I
3 could imagine that if the Fire Marshall approved something on the Wednesday immediately prior
4 to Thanksgiving you would have to get notice out on that Monday or if this happened during the
5 Christmas break you would have lots of fun trying to get things out. So perhaps something along
6 the lines of five working days might make sense.
7

8 Mr. C. Williams: Either that or ten days. I think our City Attorney is over here suggesting a
9 longer period of time. We are certainly willing to do that but we do want to be prompt with
10 getting notice out.
11

12 Chair Holman: I have a few things and then we will go back to other Commissioners.
13

14 One of them has to do with the purpose and applicability statement. When reading this for last
15 week's meeting I was impressed with the last part of the last sentence in that first paragraph. It
16 says, "and to enhance the desirability of the proposed developments for the site residents and
17 users and for abutting neighbors and businesses." That really led right into the change that I
18 appreciate being willing to make which these performance criteria would apply to all projects
19 unless. So having said that the third line says, "the purpose is to balance the needs of the uses
20 within these zones with the need to minimize impacts to surrounding neighborhoods." I would
21 suggest that that should either be 'uses' or 'neighborhoods and commercial.' I don't want to
22 wordsmith it but it needs to marry.
23

24 Mr. C. Williams: Neighborhoods and businesses?
25

26 Chair Holman: Yes, and the same thing on the next to the last line that starts with, "nearby
27 residential areas" that should be changed to also be reflective.
28

29 Then the chapter title while PCs have been integrated into the text the chapter title does not yet
30 reflect the Planned Community zones. So if someone is looking through the performance criteria
31 they might not note that this is applicable to PCs as well unless there is some reason not to put
32 them up there.
33

34 Mr. C. Williams: There is not although let's see. I guess that is fine. I see that as a little bit of a
35 hybrid but it is mentioned here so it is applicable to it but if you would prefer that in the title.
36

37 Chair Holman: It just seemed like it might be for the ease of the user is my purpose. I know you
38 have incorporated it within the text.
39

40 Mr. C. Williams: What we will be doing is when we do the Planned Community zone we will be
41 making reference to this that any development in a Planned Community zone must comply with
42 Chapter 18.23 Performance Criteria.
43

44 Chair Holman: Then in the Staff Report Staff referenced that some of the guidelines should be
45 requirements and they weren't changed in the ordinance but there were some that Staff agreed

1 with here. So maybe just quickly if Staff could take us through which ones or I can say which
2 ones I would suggest be requirements as opposed to guideline. We can do it either way.

3
4 Mr. C. Williams: Why don't you go ahead and give us what you would like to see. The ones
5 that we had were primarily in the Landscape Screening and Visual Impact section. Several of
6 those under guidelines we felt were fine to put into requirements.

7
8 Chair Holman: I think I had a few additional ones. So if it is okay I think I will run through
9 those and we will see if the other Commissioners agree or disagree. Under Lighting it appeared
10 to me that under guidelines that one and two should both move up. Did Staff agree with that or
11 have more, I forget? I think you didn't mention Lighting so I would suggest that one and two
12 under guidelines move up to requirements.

13
14 This isn't a guideline versus requirement but it is a question. Late Night Use and Activities, the
15 second line under purpose A, says, within 50 feet. Pretty much everything else is 150 feet was it
16 the intention of Commissioners and Staff for that to remain as 50 feet?

17
18 Mr. C. Williams: Yes because it is consistent with what we just did with the commercial zone
19 districts. You added the 50 feet as being and basically that is the measurement of trying to
20 capture if there is a small parcel in there somewhere that might be between the commercial
21 property and a residential property that we still encompass that residential property but we didn't
22 feel it was appropriate to go to 150 away particularly to start requiring use permits.

23
24 Chair Holman: Okay. Then this one is a bit of a nit but it has been troubling to me so I
25 apologize for being so anal about this one. Page four under Visual, Screening and Landscape,
26 under requirements it is the blank wall issue. If we just eliminate the word 'blank' because it
27 implies that we are putting in blank walls and then trying to make them better. So if it just says
28 walls facing residential.

29
30 Mr. C. Williams: You got it.

31
32 Chair Holman: Okay, thank you. In that section there were some of these that Staff also agreed
33 should become requirements and I think Staff actually had more than I.

34
35 Mr. C. Williams: Basically two and seven, eight, nine, and ten. We were comfortable with all of
36 those.

37
38 Chair Holman: So everybody is on the same page this is page five of the ordinance starting at
39 the top. I was actually interested in one and three as well. Does Staff have any disagreement or
40 reason for not including those two?

41
42 Ms. Whitney McNair, Consultant: The concern with one I think the component of screening
43 them is fine to have as a requirement but requiring them to be clustered it may not be physically
44 possible for those items to be clustered. Making it a requirement means that you shall do that
45 and you are almost into a variance if you can't cluster them for some fashion. So you should do
46 it as much as you can but there may be reasons that you can't do it.

1
2 Chair Holman: So then could we add a requirement that requires them to be screened and leave
3 the clustering where it is? Could we do that? I see no objection by Commissioners. Dan, you
4 have a comment on that one. On number three Dan has a comment. This is Roman numeral
5 three on page five.
6
7 Commissioner Garber: I think I would tend to leave that one as a guideline only because the way
8 the plans layout there may be valid reasons for windows to be in certain places that do
9 occasionally impact other existing buildings and there is no reason for the existing building to
10 have priority, for their plant to be any better or worse than the plan that is being proposed.
11
12 Chair Holman: Is that agreeable to Commissioners? Okay. Commissioner Garber.
13
14 Commissioner Garber: I was going to add one and I don't know if this is the appropriate place to
15 suggest this but in recent months we reviewed a project that was going into the Stanford Park in
16 one of the hilly areas and as one of the Commissioners had noted you could see the roof if you
17 were standing on top of the hill. I am wondering if there is a guideline here where we can talk
18 about the treatments that can be made to roofs that are visible from such places.
19
20 Mr. C. Williams: We do have....
21
22 Commissioner Garber: Such as the roof garden concept that has been discussed, etc.
23
24 Mr. C. Williams: You mean to supplement item two here? It does talk about equipment being
25 screened from public and if visible and feasible from overhead view.
26
27 Commissioner Garber: I see that although I am thinking this suggests that these are fences,
28 screens, etc., as opposed to landscape features or things that you could grow on a roof.
29
30 Mr. C. Williams: Okay, so you are looking at maybe a separate item here.
31
32 Commissioner Garber: Yes, if it is appropriate. I am not quite sure what the wording would be I
33 am just thinking that this is an opportunity for us to promote the environmental agenda as well
34 here in addition to the aesthetic one.
35
36 Mr. C. Williams: So rooftop treatments that can be viewed from above should be done in an
37 attractive way such as rooftop gardens.
38
39 Commissioner Garber: Exactly, living roofs, etc.
40
41 Chair Holman: Okay, then back to guidelines to requirements. How would Staff interpret on
42 page six, C-2, to at least take part of that and make it a requirement? It has to do with parking
43 areas, driveways, loading docks, mechanical equipment, trash enclosures, onsite recreation areas,
44 and similar noise generating elements should be sited as far away from residential property as is
45 reasonably possible. The language does speak as a guideline at the same time isn't that
46 something that we would want to have as a requirement?

1
2 Mr. C. Williams: I don't think so and the reason is because there may be on a lot of these
3 properties we are talking about big properties and it may be possible to locate the equipment 500
4 feet away when the building is only 100 feet away and you then don't have the proximity to the
5 building when it can be perfectly minimized as far as the noise goes to neighbors. So in some
6 cases it simply is not necessary to do that to achieve the goals that we are trying to do and we
7 wouldn't want to be putting just some equipment back in the far part of a property which is more
8 exposed in fact than if it were up right behind the building. So it is the kind of thing we don't
9 think is appropriate in every instance. That is what happens if we put something like this into a
10 requirement then they have to do that or they have to request a variance and there is not really
11 much basis for a variance for doing something like that. So those are the kind of things that we
12 would prefer to keep as guidelines rather than requirements. I agree that that's what our
13 objective is and we do have some other language about those kinds of objectives and keeping
14 them out of setbacks and screening them from view and that kind of thing.

15
16 Chair Holman: Okay. Then I think the last one that we agree on as well is on page eight,
17 Vehicular, Pedestrian, and Bicycle Site Access, B-3, late night and early morning truck traffic to
18 a site located in or near residential areas should be discouraged. Truck deliveries should not be
19 before 6:00 AM or after 10:00 PM. Staff had suggested that that could move up to a requirement
20 if I read the Staff Report correctly.

21
22 Mr. C. Williams: I think this maybe another one we would prefer to split, is that what you were
23 saying? We would make the truck deliveries the requirement because it says 'shall' already in
24 fact. The late hour and early morning truck traffic to a site located in or near a residential area
25 should be discouraged. That is not really a requirement but we are willing to put the truck
26 deliveries in a requirement.

27
28 Chair Holman: Okay, great. Thanks for you patients in going through all of these. I just think it
29 is better if we do it en mass. Any other questions or comments by Commissioners?
30 Commissioners Sandas and maybe we are getting pretty close to a motion.

31
32 Commissioner Sandas: I hope so. Actually I wasn't participating in this part of the discussion
33 last week and so from my backed off perspective I just wanted to say that I want to commend the
34 Staff for taking into consideration all the comments from the Commission and also to thank Mr.
35 Liberman and Mr. Balin for having been on this topic, right on topic, and providing some good
36 input to the Staff that you took very seriously and put into the ordinance. So from my
37 perspective I would like to say, job well done.

38
39 Chair Holman: I think we are ready for a motion. Commissioner Burt I saw you nodding your
40 head, did you care to make the motion? I have another taker over here if not. Commissioner
41 Keller.

42
43 MOTION

44
45 Commissioner Keller: Thank you. My motion is to accept the Staff recommendation as
46 amended by the comments that Curtis made that he said he was going to make plus these in

1 particular that came from the discussions just to be explicit. First being “and PC zones” or “PC
2 District” or whatever you want to be added to the title. The second is for Section 18.23.010 the
3 fourth line of paragraph A should add where it says ‘surround neighborhoods’ add ‘and
4 businesses.’ I am going to go out of order because of the order of my notes. Third is in Section
5 18.23.100, in B, Roman numeral IV or four, change five days to ten days. Fourth item is
6 18.23.030 and in that case under letter C, guidelines I and II, numbers one and two if you will,
7 become requirements. In Section 18.23.050 in requirements B, paragraph I, the word ‘blank’ I to
8 be deleted. The next one is for guidelines under Section C, guidelines number 2 or II if you will,
9 seven or VII, or eight or VIII, or nine or IX, or ten which is X become requirements and that the
10 guideline I which is the roof vents is to be split. The portion with respect to obscuring from
11 public view by roof screen or proper placement is to be a requirement and the clustering is a
12 guideline. A new guideline is to be added to Section 18.23.050 with respect to rooftop
13 treatments along the lines of what Commissioner Garber recommended with respect to rooftop
14 gardens and that discussion. Finally, with respect to 18.23.080 for Vehicular, Pedestrian, and
15 Bicycle Access, B guidelines to become C guidelines and a new section B for requirements is to
16 be added and in terms of roman numeral III which was formerly under guidelines the first
17 sentence is to stay as a guideline and the second sentence of truck deliveries shall not be before
18 6:00 AM or after 10:00 PM shall be the first requirement under that new section B of
19 requirements. I think that’s it.

20

21 Chair Holman: I think give us a second here to go through if you would before we even ask for a
22 second if you don’t mind. I think I only found one additional thing, if people have had time to
23 digest this.

24

25 SECOND

26

27 Commissioner Tuma: I will second.

28

29 Chair Holman: We have a motion and a second. Commissioner Keller, do you care to speak to
30 your motion?

31

32 Mr. C. Williams: Excuse me for just a second. I also want to clarify that that includes the
33 language you read for page ten, item VI at the end there were you said above amounts allowed
34 by an RMP in effect as of November 1, 2006.

35

36 Commissioner Keller: Thank you, Curtis. Yes, I add that as the last item to the motion and that
37 is the last line of Section 18.23.100, letter B, roman numeral VI, the last line, ‘above available
38 RMP limitations’ becomes ‘above amounts allowed by an RMP in effect as of November 1,
39 2006.’ Thank you.

40

41 Chair Holman: Would you care to speak to your motion?

42

43 Commissioner Keller: I think that everybody on the Planning Commission has spoken
44 eloquently in support of these ideas and I have been trying to be good in capturing it all so that
45 we can put it in a clear and understandable, not necessarily understandable but at least a clear and
46 complete collection of items.

1
2 Chair Holman: We are grateful. Commissioner Tuma, would you care to speak to your second?

3
4 Commissioner Tuma: I would. First I want to sincerely thank Staff for having the foresight to
5 pull the performance criteria out and give us an opportunity. We were on a path not to do that
6 and I think it was very opportune that that was done. It gave us as a Commission as well as the
7 public an opportunity to really dig in on some important issues.

8
9 I would like to thank the public in particular Mr. Liberman and Mr. Balin for their input. I know
10 that their input reflects a lot of other folks that they had talked to. I think this process is an
11 excellent example for the public to take notice of that you really can have an impact and really
12 can make a difference in how things come out. We have a terrific resource in the form of the
13 public that I am glad that we had the opportunity to take advantage of during this process. I just
14 want to continue to encourage the public to be a part of the process. I think what we wind up
15 with here tonight is significantly better and better informed and certainly will protect the public
16 in ways that simply would not have happened without the public's input. So I am very grateful
17 for that process. I think that a lot of the discussion that we have had tonight in particular around
18 the last section, the one having to do with hazardous materials, will be helpful for Council in
19 their thoughts and deliberations and also eventually in interpreting some of these sections. I
20 think that there is a lot of concern around this so having the discussion really will go to the intent
21 of what we have done and I think we will give background for any interpretations that need to
22 happen. So my main comments were to thank people involved in the process and encourage that
23 sort of participation going forward particularly from the public.

24
25 Chair Holman: Commissioner Garber.

26
27 Commissioner Garber: I just had only one piece of discussion and that is if any of the
28 Commissioners would like to reconsider item number two that was going to be moved from the
29 guidelines into requirements under Visual, Screening and Landscaping and keep that in the
30 guidelines. I would be interested to see if anybody else has concern about that.

31
32 My only concern here is that forcing some of the mechanical and equipment issues may create
33 burdens on owners, architects, etc., trying to get these things placed. The mechanical equipment
34 in particular is often very difficult to try and get to be where it needs to be and some ability to
35 interpret that is often needed in order to make the projects truly viable. If anybody has any
36 comments about that otherwise I will move on.

37
38 Chair Holman: I guess it is potentially a question for Staff. I am not aware of any situations,
39 which doesn't mean they don't exist, where the screening creates a difficulty. Would Staff care
40 to comment on that?

41
42 Mr. C. Williams: I don't generally think there is a problem with doing that. We added the
43 language if visible and feasible from overhead view because that would be more difficult to do
44 but generally some kind of screening of exterior mechanical and other types of equipment if it is
45 newly installed is not difficult to achieve.

1 Chair Holman: Commissioner Lippert you were next.

2
3 Vice-Chair Lippert: I have a friendly amendment that I would like to propose for consideration.
4 Under the Hazardous Materials section that Staff write an appropriate sunset for those RMPs that
5 are in existence prior to November 1, 2006 that are within the 300 feet of residential property
6 lines that if those are abandoned or not used within a one-year period of time that those
7 entitlements would be lost.

8
9 Chair Holman: Would the maker accept that amendment?

10
11 Commissioner Keller: Yes, I would accept that amendment. I am assuming that that language
12 would go after above amounts allowed by an RMP in effect as of November 1 and perhaps
13 something like in continuous use with gaps of no more than one year or something of that nature.

14
15 Vice-Chair Lippert: That is correct.

16
17 Chair Holman: Commissioner Tuma, would you accept that friendly amendment?

18
19 Commissioner Tuma: Yes.

20
21 Chair Holman: Commissioner Burt.

22
23 Commissioner Burt: Just a couple of quick ones. That last amendment sounds reasonable to me
24 I just want to make sure Staff also concurs that there is nothing that we are not anticipating as a
25 consequence to that.

26
27 Mr. C. Williams: We will put that in but I would also want to check with Dan Firth to be sure
28 and see what the applicability period of the RMP is and that kind of thing too just to verify. If
29 there is a concern about that we will bring it up with the Council and Council can decide that but
30 otherwise we will put that in. Don, did you have a suggestion?

31
32 Mr. Larkin: I think I am comfortable putting it in. If there is an issue we can address that when
33 it goes to Council but my understanding is that that's consistent with the hazardous materials
34 regulations as they stand.

35
36 Commissioner Burt: Just with the issue that Commissioner Garber brought up on the Visual,
37 Screening and number two under guidelines whether that is a problem being under requirements
38 I just want to clarify with what Curtis had said. Because it has 'and feasible' in it in essence
39 whether it is under requirements or not it has a guideline component to it because it has a
40 feasibility constraint. So it is kind of a hybrid.

41
42 My final question is one that Commissioner Sandas had brought up. We have had problems in
43 the community with late night truck deliveries at different facilities and things and the noise that
44 goes along with that. If we place as a requirement the no deliveries between 10:00 PM and 6:00
45 AM is that feasible in all the circumstances, grocery stores and whatnot? I know we have

1 wanted to restrict that. It is an important thing to try to make progress on and I just want to make
2 sure that we aren't overshooting.

3
4 Mr. C. Williams: Well, I can imagine that at some point in time there is going to be an issue
5 with that but I am not sure how to do it if it is saying 4:00 AM instead of 6:00 AM I think it just
6 opens the door more. So I think it is one of those things where if someone can be careful about
7 doing it and there is not a complaint there is not going to be an issue. If they are doing it on any
8 kind of regular basis in those off hours then we have some language here to enforce something.

9
10 Commissioner Burt: So what do our grocery stores go currently? Do they have late night
11 deliveries?

12
13 Mr. C. Williams: I don't know.

14
15 Commissioner Burt: Say that we are going to have a demolition of Alma Plaza and a new
16 grocery store that comes in. Are we potentially putting a constraint that would keep a grocery
17 store from coming in?

18
19 Mr. C. Williams: It may be a constraint. It may be that we try to look at some wiggle-room
20 language here that says truck deliveries shall not occur before 6:00 AM or after 10:00 PM unless
21 a plan is provided to minimize noise to surrounding neighbors or located as far from residents as
22 possible, etc.

23
24 Commissioner Burt: So then if we can count on you researching this a bit before it goes to
25 Council and that if you deem it appropriate to make any modifying language recommendations at
26 that time if that seems reasonable.

27
28 Chair Holman: Is that agreeable to the maker and seconder of the motion?

29
30 Commissioner Keller: I think that maybe perhaps the exceptions should be done through a CUP.
31 I am wondering what Staff would think about saying that truck deliveries shall not be before 6:00
32 AM or after 10:00 PM except under a CUP.

33
34 Mr. C. Williams: I think that is a good idea.

35
36 Commissioner Keller: Then I make that amendment.

37
38 Chair Holman: Does the seconder of the motion accept that?

39
40 Commissioner Tuma: Yes.

41
42 Chair Holman: Vice-Chair Lippert.

43
44 Vice-Chair Lippert: I just had one comment with regard to that. If you look at the Downtown
45 the Downtown Business District is being perhaps an exception to that because there are no real
46 residential properties abutting the Downtown Business District directly and in the case of some

1 buildings like 525 University Avenue well construction work that is noisy has to go on between
2 the hours of ten at night and six in the morning because of the tenants in that building. So the
3 materials get delivered at that hour, brought up in the freight elevator at that hour. It is really
4 limiting the number of hours that noisy construction work can go on in that building.
5

6 Chair Holman: Staff, because it is a construction project could that not be addressed during the
7 permitting of such a project?
8

9 Mr. Larkin: We have a noise exception permit in our Noise Ordinance that is issued by the
10 Police Department. We are in the process of revising some of our standard conditions for that
11 permit and it would probably get addressed that way. It is a separate permit outside of the
12 Zoning Ordinance because it is not a zoning issue per se it is a noise issue. That is designed to
13 allow for certain exceptions when it is just not feasible.
14

15 Vice-Chair Lippert: The reason I am bringing up the Downtown Business District specifically is
16 that it actually is desirable to get deliveries done during nighttime hours thereby alleviating on-
17 street parking conflicts.
18

19 Commissioner Burt: That seems like a valid issue that we may want to ponder. I would want to
20 just include within that consideration that we not only have residential abutting we have
21 residential within the Downtown District. We have actually quite a bit of residential in the
22 Downtown District. So we will have to include that in our consideration. That doesn't mean
23 that I don't agree that that's a valid concern.
24

25 Chair Holman: Okay, I only had one other clarification if no other Commissioners have
26 comments. That was believe it or not one I think you overlooked Commissioner Keller. It is on
27 page one of the ordinance under Purpose, the next to the last line says, "nearby residential and
28 commercial areas," or something to that effect. I presume that the corrections or inclusions that
29 Staff made that would include also that the criteria on the bottom of that page "shall be applied."
30

31 Mr. C. Williams: Right, I think his motion included all the things we had suggested then plus
32 everything the Commission added.
33

34 Chair Holman: I think Commissioner Keller did a great job of doing that. Commissioner
35 Garber, is there anything else you picked up? Are there any other comments, questions, friendly
36 amendments or are we ready to vote? Commissioner Keller.
37

38 Commissioner Keller: I will adopt Chair Holman's addition on line six of 'and businesses' after
39 residential if my seconder will also.
40

41 Commissioner Tuma: Yes.
42

43 MOTION PASSED (7-0-0-0)
44

1 Chair Holman: I think we want to hurry and vote here while we have a seeming consensus. All
2 those in favor of the motion, which I will not repeat but I think is adequately documented, say
3 aye. (ayes) That passes on a unanimous seven to zero vote.

4
5 Staff, congratulations and appreciation, and to the public as well. I echo the comments of
6 Commissioner Tuma earlier we are always supported and educated by not only the Staff but
7 members of the public who have such incredible expertise and commitment. I would also
8 comment that I think a number of us and we will talk about this at the Retreat perhaps but there
9 has been much discussion that the Noise Ordinance needs to be updated. It is in the Comp Plan
10 that it shall be so that would affect some of our decision here tonight. So that said, thank you all
11 very much. Staff, thank you very, very much.

12
13 That said we have some other business to take care of. Approval of minutes.

14
15 ***APPROVAL OF MINUTES***: September 27 and October 4 Regular Meetings.

16
17 Chair Holman: We have minutes from September 27 and October 11. Do Commissioners have
18 any corrections? Commissioner Garber.

19
20 Commissioner Garber: I notice that there are a couple of places where there are some words,
21 which apparently I uttered, which were not caught.

22
23 Chair Holman: I want you all to remember this for the next time that we are in the Council
24 Conference Room.

25
26 Commissioner Garber: I will have to figure out what they said and I can report back later to
27 Zariah.

28
29 Mr. C. Williams: The agenda says October 11 but these minutes are October 4. So it is
30 October 4 minutes.

31
32 Chair Holman: Thank you Curtis it is October 4 and September 27. Normally I wouldn't make
33 a one word change but I just was curious if this was what Curtis said or if it is a different word.
34 It is page three of the October 4 minutes. I'm sorry it was Vice-Chair Lippert not Curtis. Vice-
35 Chair Lippert, "The retailer could include a grocery store which we do not divine much sales tax
36 from either." I just wondered if that was actually what you said.

37
38 Vice-Chair Lippert: It is pretty close. It is close enough to hit the bar.

39
40 Chair Holman: So I was curious about that. Commissioner Keller.

41
42 Commissioner Keller: I actually think that Vice-Chair Lippert did say divine and I noticed that
43 and thought maybe he meant derive but I think you actually said divine.

44
45 Vice-Chair Lippert: I think you are right and I was thinking in terms of a divining rod.
46

1 Chair Holman: I think we have discussed this probably enough.

2
3 Commissioner Keller: I have a slight correction to the minutes of September 27 and that is the
4 footnote spells September in the most interesting way.

5
6 Mr. C. Williams: It is right between September and October so that works.

7
8 Chair Holman: Okay. I think we are getting too detailed here. Commissioner Lippert.

9
10 Vice-Chair Lippert: Before you vote on it I just want to make it clear that these minutes have
11 gone unapproved before City Council which I think is again a very big concern of mine. Not
12 that what we are going to say is inaccurate but it really needs to be reviewed by us before it goes
13 to Council.

14
15 Chair Holman: We have had a discussion about that previously and I think your point is well
16 made and well taken.

17
18 MOTION PASSED (7-0-0-0)

19
20 So we can vote on approval of minutes from Wednesday, October 4 and Wednesday, September
21 27. Commissioner Garber will be completing gaps in his minutes for the Secretary. All those in
22 favor? (ayes) That passes unanimously on a seven to zero vote.

23
24 ***REPORTS FROM OFFICIALS/COMMITTEES.***

25
26 ***COMMISSION MEMBER QUESTIONS, COMMENTS, AND/OR ANNOUNCEMENTS.***

27
28 Chair Holman: Okay, Commission representation to Council, Commissioner Garber you have
29 November and Commissioner Lippert has December.

30
31 I was handed a note to see if Commissioners are available on December 6 for a special meeting
32 for Chapter 18.88 revisions for return for review and recommendation. Are Commissioners
33 available on December 6?

34
35 Mr. C. Williams: We can cancel the December 27 meeting for you.

36
37 Chair Holman: It already looks like that has been taken care of and it is on the Tentative Agenda
38 that was at our places this evening but this says Chapter 18.18.

39
40 Mr. C. Williams: It should be 18.88.

41
42 Chair Holman: Okay.

43
44 Mr. C. Williams: We may actually may flip that around from November 29 and have the zoning
45 changes on the 6th and Chapter 18.88 on November 29 but we are not sure right now.

1 Chair Holman: So what we need to know is if Commissioners are available on December 6 or
2 they might need to email Zariah back unless Commissioners know at this point. Is anyone not
3 available that night? It looks like we have a go.

4
5 Any special reports from Commissioners or Staff or Officials? Commissioner Garber, you are
6 always good for that. No? Does Staff have any comments?

7
8 Mr. C. Williams: I would just like to comment that I neglected sort of at the end of this last item
9 to thank everyone else here at the table for their help on the performance standards and
10 particularly Whitney who spent a lot of time both compiling all this but also a lot of time
11 working with Fire Marshall Firth and trying to work out a lot of the language there. She also
12 spent some time with the Research Park folks trying to be sure that we go things that worked for
13 them as well.

14
15 ***NEXT MEETING:*** Special Meeting Retreat of November 8, 2006 at 6:00 PM.

16
17 Chair Holman: Excellent, thank you. I guess if there are no other comments or reports then this
18 meeting is adjourned. Thank you all very much.

19
20 ***ADJOURNED: 9:20 PM***