City of Palo Alto (ID # 6156)

Planning & Transportation Commission Staff Report

Report Type: **Meeting Date: 10/28/2015**

Summary Title: First Annual Planning Codes Update Ordinance Recommendation

Title: Planning Code Update: Review and Recommendation of an Ordinance to Amend Land Use Related portions of Titles 16 and 18 of the Palo Alto Municipal Code. The purposes of the code amendments and additions are to: (1) improve the use and readability of the code, (2) clarify certain code provisions, and (3) align regulations to reflect current practice and Council policy direction. The affected chapters of Title 16 include but are not limited to Chapters 16.20 (Signs), 16.24 (Fences), and 16.57 (Fees). The affected chapters of Title 18 include but are not limited to 18.01 (Adoption etc.), 18.04 (Definitions), 18.08 (Designation etc.), 18.10 (Low Density Residential RE, R2, RMD zones), 18.12 (Single Family Residential R-1 zones), 18.13 (Multiple Family Residential, RM15, RM30, RM40 zones), 18.14 (Below Market Rate Housing Program), 18.15 (Density Bonus), 18.16 (Neighborhood, Community, and Service Commercial CN, CS, CC zones), 18.18 (Downtown Commercial CD zones), 18.20 (Office, Research and Manufacturing, MOR, ROLM, RP and GM zones), 18.30C (Ground Floor, GF), 18.31 (CEQA – new chapter), 18.34 (Pedestrian Transit Oriented District, PTOD), 18.40 (General Standards and Exceptions), 18.52 (Parking Required), 18.54 (Parking Design), 18.70 (Nonconforming uses and Noncomplying facilities), 18.76 (Permits), 18.77 (Process), and 18.78 (Appeals). Environmental Review: Amendments are considered exempt from further environmental review per California Environmental Quality Act Section 15305 (Minor Alterations in Land Use Limitations).

From: Amy French, Chief Planning Official

Lead Department: Planning & Community Environment

Recommendation

Staff recommends that the Planning and Transportation Commission (PTC) recommend Council

adoption of the attached ordinance.

Executive Summary

This report transmits a draft ordinance containing proposed amendments to planning codes contained within the Palo Alto Municipal Code (PAMC) Titles 16 and 18. These changes represent an effort to annually update the Planning Codes to:

- Improve administration and readability
- Clarify code provisions
- Align regulations to reflect current city policy or past practice
- Introduce some new, non-controversial, policies

The attached ordinance (Attachment A) provides specific code language to implement the changes identified in the Tier 1 matrix the Commission previously reviewed. The ordinance cites the item numbers of the Tier 1 matrix (provided with the September 30, 2015 staff report, viewable at the link shown in the page two footnotes).

A second matrix containing Tier 2 amendments will be posted online and provided to the Commission on Monday, October 26th. These items are not included in the ordinance due to the complexity of the issues, the need for Council direction or public outreach, and some items are standalone tasks that would need to be considered outside of the annual code update process.

Once acted upon by the PTC, this ordinance will be transmitted to the Council for final action.

Background

Planning and Transportation Commission Review

As noted in the two September PTC reports, the intent of these changes is to improve the use and readability of the code, clarify certain code provisions, and align regulations to reflect current practice and Council policy direction. These changes are not intended to be controversial or create significant new policy initiatives, though some new policies are proposed. It is anticipated that this effort will be a recurring annual project and items not addressed this year can be addressed in the following review cycle or sooner if directed by Council.

The PTC was introduced to this topic and discussed proposed changes at three public hearings; the excerpted meeting minutes of the PTC hearings on September 9th and 30th and October 14th are provided (Attachment B).

The Commission identified a few items it believed were not appropriate for Tier 1 and those have been noted on the attached ordinance. Council, in its review of the ordinance, will make final adjustments to the ordinance, formally pulling or adding items it deems appropriate.

Discussion

The prior staff reports provide information about this amendment effort and the Tier 1 changes matrix. Links to the online reports are provided below[1]. The Tier 1 matrix highlighted the code section to be changed, the section title, the reason the change was desired, how the change would be made and, generally, what type of change did staff consider it be (i.e. administrative, clarification, and new policy). This report relies on those previous discussions and transmits the draft ordinance that provides specific language to address the proposed changes. The Tier 1 matrix continues to be a resource to provide background as to why the change is being proposed, and is intended to be used in conjunction with the draft ordinance.

Tier 2 Matrix

This matrix includes a list of possible code amendments that may be desired to address a planning issue or concern. Some changes are staff initiated and relate to administering the code, better defining certain policies, or recommended new policies. Others however, come from different sources, are believed to be more substantive, and have policy implications that require Council direction or increased public awareness. Some of the items on the Tier 2 matrix represent wholly independent work efforts, such as the Accessory Dwelling Unit discussion, recently directed by Council. There will be a need over time to better identify which items are part of the department's work plan and which items are part of the annual update effort.

The items the PTC pulled off the Tier 1 matrix are reflected in the Tier 2 list. The PTC is invited to provide comments on the Tier 2 list and may suggest items be added; however, the focus of the meeting relates to the ordinance. Moreover, staff anticipates engaging the PTC in discussions in the Spring of 2016 to discuss the next annual update, including possible amendment topics, a schedule and public outreach.

Proposed Ordinance

The ordinance is divided into sections. The sections that relate to the actual code amendments are grouped by chapter and progress in numerical order as it appears in the code. The format of the ordinance may change as it advances to the Council; however, no substantive changes are anticipated. If substantive changes are needed those will be discussed in the accompanying Council report.

The PTC recommended modifications will be incorporated into the ordinance or addressed in the Council report. It is anticipated that a commission representative will be present when this item is heard by the Council, which is tentatively scheduled for December.

Regarding the ordinance, there are some key provisions that staff believes are important to

[1] September 9, 2015: https://www.cityofpaloalto.org/civicax/filebank/documents/48870
September 30, 2015: https://www.cityofpaloalto.org/civicax/filebank/documents/49236
October 14, 2015: https://www.cityofpaloalto.org/civicax/filebank/documents/49404

retain, which the PTC placed as Tier 2 items. These include refinement to the definition of 'footprint' as it relates to basements (Tier 1 Matrix Nos. 33, 37), and addressing Seismic Bonuses (Tier 1 Matrix No. 40) and Appeal Fees.

The latter two adjustments noted above were directed by Council. Staff believes the attached ordinance is in line with Council's expectations.

The change to the basement definition is intended to clarify what staff believes is the intent of the code, which is to limit basements to the footprint of the building. Over time, the footprint has been interpreted to include an entry porch. Recent projects have sought to expand that application further in order to maximize basement floor area. While staff believes there is an important policy discussion that may be needed regarding basements, the aim of this effort is to simply reiterate the original intent of the code. Below is an excerpt of the code that is not changing, but sets forth the restrictions on basements:

> Permitted Basement Area (18.12.090)
> Basements may not extend beyond the building footprint and basements are not allowed below any portion of a structure that extends into required setbacks, except to the extent that the main residence is permitted to extend into the rear yard setback by other provisions of this code.
>
> The code further defines 'footprint' as:
> Footprint means the two-dimensional configuration of a building's perimeter boundaries as measured on a horizontal plane at ground level.
>
> The proposed ordinance includes the following clarification:
> Footprint means the two-dimensional configuration of a building's perimeter boundaries <u>(exterior walls)</u> as measured on a horizontal plane at ground level.

If the PTC still considers these Tier 2 items, staff will forward that recommendation to the City Council.

Additionally, staff has included three other items not previously included in the Tier 1 matrix. These items include:

- Home Improvement Exception Finding #4 (new finding)
- Height Exceptions – Rooftop Equipment Screens (modification)
- Noncomplying Facilities – Substantial Remodel of Single Family Residences (new section)

These changes are reflected in the draft ordinance and staff will provide further detail during the public hearing.

Policy Implications

The proposed changes are intended to improve the administration of the zoning code. Staff anticipates that this and future efforts can be used to ensure implementation of the planning codes better reflect city policy, provide greater transparency and clearer expectations when applying these codes to projects.

Resource Impact

Other than staff time, no additional fiscal or economic impacts are anticipated.

Timeline

It is anticipated that a draft ordinance will be presented to the City Council in December.

Environmental Review

Staff has evaluated the changes with respect to the California Environmental Quality Act, and determined the proposed amendments are exempt from further environmental review per Section 15305 (Minor Alterations in Land Use Limitations).

Attachments:

- Attachment A: Draft Ordinance (PDF)
- Attachment B: PTC Excerpted Minutes of 09.09.15, 09.30.15, 10.14.15 (PDF)

Not Yet Approved

NOTE MATRIX NUMBERS REFER TO 9/30 PTC REPORT MATRIX

Ordinance of the Council of the City of Palo Alto Amending Palo Alto Municipal Code (PAMC) Title 16 (Building Regulations), Chapters 16.20 (Signs), 16.24 (Fences), and 16.57 (In-Lieu Parking Fees for New Non-Residential Development in the Commercial Downtown (CD) Zoning District)), and Title 18 (Zoning), Chapters 18.01 (Adoption, Purposes and Enforcement), 18.04 (Definitions), 18.08 (Designation and Establishment of Districts), 18.12 (R-1, Single Family Residence District), 18.13 (Multiple Family Residential (RM-15, Rm-30, RM-40) Districts), 18.14 (Below Market Rate Housing Program), 18.15 (Residential Density Bonus), 18.16 (Neighborhood, Community, and Service Commercial (CN,CC and CS) Districts), 18.18 (Downtown Commercial (CD) Districts, 18.30 (C) (Ground Floor (GF) Combining District Regulations), 18.31 (CEQA Review - a new chapter), 18.34 (PTOD Combining District Regulations), 18.40 (General Standards and Exceptions), 18.52 (Parking and Loading Requirements), 18.54 (Parking Facility Design Standards), 18.70 (Nonconforming Uses and Noncomplying Facilities), 18.76 (Permits and Approvals), 18.77 (Processing of Permits and Approvals), and 18.78 (Appeals)

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1 (MATRIX #1, 30, 31) Sections 16.20.010 (Definitions), 16.20.070 (Inspections), 16.20.140 (Projecting Signs), 16.20.180 (Classification of Signs), 16.20.210 (Abatement of Nonconforming Signs), 16.20.240 (Unsafe and Unlawful Signs), and 16.20.270 (Enforcement Citation Authority), and Tables 1, 2, and 3 of Chapter 16.20 (Signs) of Title 16 (Building Regulations) of the Palo Alto Municipal Code (PAMC) are amended to read as follows:

16.20.010 Definitions

(a) The following words and phrases whenever used in this chapter shall be construed as defined in this section:

. . .

(17) "Wall sign" means any sign posted or painted or suspended from or otherwise fixed to the wall of any building or structure in an essentially flat position, or with the exposed face of the sign in a plane approximately parallel to the plane of such wall. Any sign suspended from or attached to, and placed approximately parallel to the front of a canopy, porch, or similar covering structure shall be deemed to be a wall sign.

16.20.070 Inspection

The ~~building official~~ Director of Planning and Community Environment or ~~his~~ designee (PCE Director) may, at any time, make such inspection as may be necessary or appropriate to ascertain whether any sign will comply or is complying with this chapter and other applicable laws. If required by the building official, an inspection shall be called for the permittee upon the completion of the structural portions of every sign and before the structural connections to the building or structure are concealed or covered.

16.20.140 Projecting signs

Every projecting sign shall comply with the requirements of this section.

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(a) Projecting signs in the GM zones and on El Camino Real frontage in the CS and CN zones. (1) Area. No such sign shall exceed five square feet in area. (2) Height. No part of any projecting sign shall exceed the height of the building's adjacent parapet upon or in front of which it is situated, or in the case of buildings having sloping roofs, above the roof ridge. Any such sign which projects over public property shall have a clearance of ten feet above the ground. (3) Location. No such sign shall project more than one foot over public property.

(b) Projecting Signs in Other Zones. (1) Area. No such sign shall exceed three square feet in area. (2) Height. No part of any projecting sign shall exceed a height of twelve feet, nor shall any part of such sign extend above the top level of the wall upon or in front of which it is situated. Any such sign over any public or private sidewalk or walkway shall have a minimum clearance below the sign of seven feet. ~~(3) Location. No such sign shall be placed over or above any public sidewalk or other public place unless the sign is situated under a marquee, porch, walkway covering or similar covering structure.~~

16.20.180 Classification of signs

Every sign erected or proposed to be erected shall be classified by the ~~chief building official~~ PCE Director in accordance with the provisions of this chapter. Any sign which does not clearly fall within one of the classifications provided herein shall be placed by the ~~chief building official~~ PCE Director in the classification which the sign, in view of its design, location and purpose, most nearly approximates. Such classification by the ~~building official~~ PCE Director shall be final.

16.20.210 Abatement of nonconforming signs

Nonconforming signs shall either be made to conform with the provisions of this chapter or be abated within the applicable period of time hereinabove set forth. In the event they are not, the ~~building official~~ PCE Director shall order the sign abated by the owner of the property and any other person known to be responsible for the maintenance of the sign. It is thereafter unlawful for any such person to maintain or suffer to be maintained on any property owned or controlled by him any such sign. Unless some other mode of abatement is approved by the building official or PCE Director in writing, abatement of nonconforming signs shall be accomplished in the following manner:

(a) Signs painted on buildings, walls or fences: by removal of the paint constituting the sign or by permanently painting over it in such a way that the sign shall not hereafter be or become visible;

(b) Other Signs. By removal of the sign, including its dependent structures and supports; or pursuant to a sign permit duly issued, by modification, alteration or replacement thereof in conformity with the provisions of this chapter.

16.20.240 Unsafe and unlawful signs

(a) Public Property. Any sign posted on public property contrary to the provisions of Section 16.20.100 may be removed by the division of inspectional services or the police department.

(b) Unsafe or Abandoned Signs. Any sign deemed by the police department or the ~~chief building official~~ PCE Director to be (1) unsafe, due to interfering with the public's health, safety, welfare or convenience, or (2) abandoned, including but not limited to election signs posted more than six days after the election to which they relate, may be removed by the division of inspectional services or the police department.

(c) Whenever a sign, other than those on public property or those deemed to be unsafe or abandoned, is found to be erected or maintained in violation of any provision of this chapter or of any other ordinance or law, ~~the~~ ~~building official~~ PCE Director may order that such sign be altered, repaired, reconstructed, demolished or removed as may be appropriate to abate such condition. Any work required to be done shall, unless a different time is specified, be completed within ten days of the date of such order. Failure, neglect or refusal to comply with such order of the ~~building official~~ PCE Director shall be sufficient basis for the revocation of any permit or approval granted under this chapter and shall constitute a separate offense. In addition to any other remedies provided by law, the building official may remove, or cause to be removed any such sign erected or maintained in violation of the provisions of this chapter.

16.20.270 Enforcement - Citation authority

Persons employed in the following designated employee positions are authorized to exercise the authority provided in Penal Code Section 836.5 and are authorized to issue citations for violations of this chapter: PCE Director (or designee), chief building official, assistant building official and code enforcement officer.

[Note: Insert contextual language for codifier]

Chapter 16.20 — Table 1

Allowable Sign Area for Freestanding Signs up to Five Feet High

NOTE: THESE ARE MAXIMUM DESIGN DIMENSIONS, AND MAY BE REDUCED IN THE DESIGN REVIEW PROCESS PURSUANT TO CHAPTER ~~16.48~~18.77 (Processing of Permits and Approvals)

Chapter 16.20 — Table 2

Allowable Sign Area for Freestanding Signs Over Five Feet High

NOTE: THESE ARE MAXIMUM DESIGN DIMENSIONS, AND MAY BE REDUCED IN THE DESIGN REVIEW PROCESS PURSUANT TO CHAPTER ~~16.48~~18.77 (Processing of Permits and Approvals)

Chapter 16.20 — Table 2

Allowable Sign Height for Freestanding Signs Over Five Feet High

NOTE: THESE ARE MAXIMUM DESIGN DIMENSIONS, AND MAY BE REDUCED IN THE DESIGN REVIEW PROCESS PURSUANT TO CHAPTER ~~16.48~~18.77 (Processing of Permits and Approvals)

- Applicable to nonresidential properties in the GM zone and El Camino Real in the CN and CS zones: also for service stations, restaurants and shopping centers in other zones.

SECTION 2 (MATRIX #1). Section 16.24.010 of **Chapter 16.24 (Fences)** of Title 16 (Building Regulations) of the PAMC is amended to read as follows:

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16.24.010 Definitions

Throughout this chapter, the following definitions shall apply:

(a) Height Measurement. Except as otherwise provided in this chapter, height of fences or walls between the setback line and lot line shall be measured from natural grade, as determined by the chief building official or Director of Planning and Community Environment (PCE Director) or designee.

. . .

16.24.080 Violations - Penalty - Enforcement

(a) No person shall erect, construct or maintain any fence, wall or structure in the nature of a fence which does not meet the requirements of this section.

(b) Violation of any provision of this chapter is an infraction, punishable as provided in this code. Each day of violation constitutes a separate offense and may be separately punished.

(c) Persons employed in the following designated employee positions are authorized to exercise the authority provided in Penal Code Section 836.5 and are authorized to issue citations for violations of this chapter: chief building official, assistant building official, PCE Director or designee, and code enforcement officer.

SECTION 3 (MATRIX #2). Section 16.57.010 (Applicability) of **Chapter 16.57** (In-Lieu Parking Fee for New Nonresidential Development in the Commercial Downtown (CD) Zoning District) of Title 16 (Building Regulations) of the PAMC is amended to read as follows:

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16.57.010 Applicability

The in-lieu parking fee regulations set forth in this chapter shall apply only to nonresidential development within the University Avenue parking assessment district which meets the eligibility criteria set forth in subsection (d) of Section ~~18.49.100~~ 18.18.090 of this code. In accordance with subsection (a) of Section ~~18.49.100~~ 18.18.090 of this code, payment of the fee established by this chapter shall be a condition of the approval of or permit for any new development, any addition or enlargement of existing development, or any use of any floor area that has never been assessed under any Bond Plan G financing pursuant to Title 13 of this code.

SECTION 4 (MATRIX #3). Title 18 (Zoning) Table of Contents of the PAMC is amended to add the HD Hospital Districts, Chapter 18.36.

SECTION 5 (MATRIX #4). Section 18.01.025 (Zoning Code Interpretation) is added to Chapter 18.01 (Adoption, Purposes, and Enforcement) of Title 18 (Zoning) of the PAMC to read as follows:

18.01.025 (Zoning Code Interpretation)

Whenever in the opinion of the Planning and Community Environment Director (PCE Director) there is any question regarding the interpretation of the Comprehensive Plan or the planning and land use provisions of Titles 16, 18 or 21 to any specific case or situation, the PCE Director shall interpret the intent of the planning Codes. When in the opinion of the PCE Director a formal written decision is warranted, the Director shall make the written decision available to the public by posting on the City's website. The interpretation shall become effective fourteen consecutive calendar days from the date of posting unless appealed under this section. The interpretation shall become the standard interpretation for future application of that provision of this Chapter unless changed by the Council on appeal. In accordance with the provisions of Section 18.77.070(f), any person may appeal the PCE Director's written interpretation prior to its effective date. All final written interpretations made under this section shall be made publicly available on the City's website.

SECTION 6 (MATRIX 32-35, 42-45). Section 18.04.030 (Definitions) of **Chapter 18.04** (Definitions) of Title 18 (Zoning) is amended to read as follows:

18.04.030 Definitions

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

. . .

(11.5) "Amenity, on-site for employees" means a desirable and useful feature or facility of a building or place of work that provides space for an ancillary use to the building's primary use, and allows employees to remain at work to handle personal matters, rather than leave the workplace. Such features when used in the context of this Title will generally reduce employee vehicle use. **(MATRIX #32; PTC RECOMMENDED ITEM BE DEFERRED TO TIER 2.)**

(53) "Facility" means a structure, building or other physical contrivance or object.

. . .

(B) "Noncomplying facility" means a facility which is in violation of (i) any of the site development regulations or other regulations established by this title, but was lawfully existing on July 20, 1978, or (ii) any amendments to this title, but was lawfully existing prior to ~~or~~ the application of any district or regulation to the property involved by reason of which adoption or application the facility became noncomplying. Sometimes this Code interchangeably refers to "noncomplying facilities" as "legal noncomplying", "grandfathered" or "grandparented" facilities. (For the definition for "nonconforming use" see subsection (143)(B)). **(MATRIX #6)**

(57.5) "Footprint" means the two-dimensional configuration of a building's perimeter boundaries (exterior walls) as measured on a horizontal plane at ground level. **(MATRIX #33)**

. . .

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

(A) Non-residential & Multifamily Inclusions: For all zoning districts other than the R-E, R-1, R-2 and RMD residence districts, "gross floor area" means the total area of all floors of a building measured to the outside surfaces of exterior walls, and including all of the following:

(i) Halls;

(ii) Stairways measured at each floor; **MATRIX #34**

(iii) Elevator shafts measured at each floor; **MATRIX #34**

. . .

(viii) Rooftop eating and drinking uses; **(MATRIX #43; PTC RECOMMENDED DEFERRAL TO TIER 2)** and

~~(viii)~~ (ix) In residential districts other than the R-E, R-1, R-2 and RMD residence districts, all roofed porches, arcades, balconies, porticos, breezeways or similar features when located above the ground floor and substantially enclosed by exterior walls.

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

. . .

(iv) Except in the CD District and in areas designated as special study areas, minor additions of floor area approved by the director of planning and community environment for purposes of resource conservation or code compliance, upon the determination that such minor additions will increase compliance with environmental health, safety or other federal, state or local standards. Such additions may include, but not be limited to, the following:

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

b. Areas designed and required for hazardous materials storage facilities, disability related ~~handicapped~~ or seismic upgrades. For the purposes of this section disability related upgrades are limited to the minimum extent necessary and shall be subject to the Director's approval not to exceed 500 square feet per site. Disability related upgrades shall only apply to remodels of existing buildings and shall not qualify for grandfathered floor area in the event the building is later replaced or otherwise redeveloped. **(MATRIX #44 AND #55)**

(v) In commercial and industrial districts except in the CD District and in areas designated as special study areas, additions of floor area designed and used solely for on-site employee amenities for employees of the facility, approved by the director of planning and community environment, upon the determination that such additions will facilitate the reduction of employee vehicle use. Such additions may include, but are not limited to, recreational facilities, credit unions, cafeterias (excluding break rooms), **(PTC RECOMMENDED DEFERRAL TO TIER 2)** day care centers, automated teller machines, convenience stores, and on-site laundry facilities. ~~dry cleaners.~~

(C) Low Density Residential Inclusions and Conditions: In the RE and R-1 single-family residence districts and in the R-2 and RMD two-family residence districts, "gross floor

area" means the total covered area of all of all floors of a main structure and accessory structures greater than one hundred and twenty square feet in area, including covered parking and stairways, measured to the outside of stud walls, including the following:

(i) Floor area where the distance between the top of the finished floor and the roof directly above it measures seventeen feet or more shall be counted twice;

(ii) Floor area where the distance between the top of the lowest finished floor and the roof directly above it measures twenty-six feet or more shall be counted three times;

(iii) Carports and garages shall be included in gross floor area;

(iv) The entire floor area ~~(footprint)~~ of a vaulted entry feature that extends above 12 feet measured from grade, whether enclosed or unenclosed, shall be counted twice in the calculation of gross floor area;

(v) The footprint of a fireplace shall be included in the gross floor area, but is only counted one time;

(vi) All roofed porches, arcades, balconies, porticos, breezeways or similar features when located above the ground floor and more than 50% covered by a roof or more than 50% enclosed shall be included in the calculation.

(vii) Recessed porches on the ground floor extending in height above the first floor shall be included once in the calculation.

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

. . .

(v) Open or partially enclosed (less than 50% enclosed) porches, whether recessed or protruding, located on the first floor, and for R-1 zones porches reaching a height of less than 12 feet measured from grade as set forth in Section 18.12.040(b), shall be excluded from gross floor area, whether covered or uncovered. Recessed porches located on the first floor with a depth of less than 10 feet shall be excluded from the calculation if the exterior side(s) of the porch is open. **(MATRIX #7)**

. . .

(142) "Usable open space" means outdoor or unenclosed area on the ground, or on a roof, balcony, deck, porch, patio or terrace, designed and accessible for outdoor living, recreation, pedestrian access, or landscaping, but excluding parking facilities, driveways, utility or service areas. Usable open space may be covered if at least 50% open on the sides. Usable open space shall be sited and designed to accommodate different activities, groups, active and passive uses, and should be located convenient to the intended users (e.g., residents, employees, or public). **(MATRIX #35)**

SECTION 7 (MATRIX #8). Section 18.08.080 (Interpretation of Land Use Classifications) is added to **Chapter 18.08** (Designation and Establishment of Districts) of Title 18 (Zoning) to read as follows:

18.08.080 Interpretation of Land Use Classifications

The PCE Director shall have the authority to interpret whether a land use is similar to other permitted or conditionally permitted land uses listed in any Zoning District. Such interpretations may be appealed in accordance with Section 18.77.070(f).

SECTION 8 (MATRIX #5 and 9). Sections 18.10.040 (Development Standards) and 18.10.060 (Design of Parking Areas) of **Chapter 18.10** (Low Density Residential RE, R-2 and RMD Districts) of Title 18 (Zoning) of the PAMC are amended to read as follows:

18.10.040 Development Standards

. . .

(h) Location of Noise-Producing Equipment

All noise-producing equipment, such as air conditioners, pool equipment, generators, commercial kitchen fans, and similar service equipment, shall be located outside of the front, rear and side yard setbacks. Such equipment may, however, be located up to 6 feet into the street side yard setback. All such equipment shall be insulated and housed, except that the Planning Director may permit installation without housing and insulation, provided the equipment is located within the building envelope and where a combination of technical noise specifications, location of equipment, and/or other screening or buffering will assure compliance with the City's Noise Ordinance at the nearest property line. Any replacement of such equipment shall conform to this section where feasible; replacement of equipment for which permits were obtained prior to these restrictions is allowable in the same location provided the replacement equipment complies with the City's noise ordinance. **(MATRIX #5)** All service equipment must meet the City Noise Ordinance in Chapter 9.10 of this code.

18.10.060 Parking

. . .

(f) Design of Parking Areas

Parking facilities shall comply with all applicable regulations of Chapter ~~18.83~~ 18.54 (Parking Facility Design Standards). **MATRIX #9**

SECTION 9. (MATRIX # 10, 36, 37, 46, 47, 48) Sections 18.12.040 (Site Development Standards) (Tables 2 and 3), 18.12.050 (Permitted Encroachments, Projections and Exceptions), 18.12.060 (Parking), 18.12.070 (Second Dwelling Units), 18.12.090 (Basements), 18.12.100 (Regulations for the Single Story Overlay (S) Combining District), 18.12.110 (Single Family Individual Review), 18.12.120 (Home Improvement Exception) of **Chapter 18.12** (R-1 Single Family Residence District) of Title 18 (Zoning) of the PAMC is amended to read as follows:

18.12.040 Site Development Standards

. . .

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TABLE 2
R-1 RESIDENTIAL DEVELOPMENT STANDARDS

	R-1	R-1 Subdistricts				Subject to Regulations in Chapter:
		R-1 (7,000) *	R-1 (8,000) *	R-1 (10,000) *	R-1 (20,000) *	
		* Subdistricts based on minimum lot size (sq. ft.)				
Minimum Site Specifications						
Site area (sq. ft.)						
All lots except flag lots [1]	6,000	7,000	8,000	10,000	20,000	
Flag lots Site	As established by Section 21.20.301 (Subdivision Ordinance)					
Width (ft)	60					
Site Depth (ft)	100					
Maximum Lot Size						
Lot area (sq. ft.)	9,999	13,999	15,999	19,999	39,999	18.12.040(d)
Minimum Setbacks	*Setback lines imposed by a special setback map pursuant to Chapter 20. 08 of this code may also apply*					18.12.040(e) 18.12.050
Front Yard (ft.)	Contextual [2]					
Rear Yard (ft.)	20					
Interior Side Yard (ft.)	6	8				
Street Side Yard (ft.)	16					
Maximum Height (as measured to the peak of the roof) (ft.)						18.04.030(a)(67) 18.12.050
Standard	30 [3]					
Maximum Height for buildings with a roof pitch of 12:12 or greater	33 [3]					
With (S) Combining	17 feet; limited to one habitable floor [4, 5]					18.12.100
Side Yard Daylight Plane (Excludes street side yards)						18.04.030(44) 18.12.050
Initial Height						

Angle (Degrees)	10 feet at interior side lot line (6) 45 (6)	
Rear Yard Daylight Plane Initial Height Angle (Degrees)	 16 feet at rear setback line (6) 60 (6)	18.12.050
Maximum Site Coverage: Single story development With (S) Combining Multiple story development Additional area permitted to be covered by a patio or overhang	 Equivalent to maximum allowable floor area ratio (7) Equivalent to maximum allowable floor area ratio (7) 35% (7) 5%	18.04.030(a)(86A)
Maximum Floor Area Ratio (FAR) First 5,000 sq. ft. of lot size Square footage of lot size in excess of 5,000 sq. ft.	 .45 .30	Table 3 18.04.030(a)(65C) 18.12.040(b)
Maximum House Size (sq. ft.)	6,000 (8)	
Residential Density	One unit, except as provided in Section 18.12.0~~9~~70	
Parking	*See* Residential Parking, Section 18.12.060	Chs. 18.52, 18.54

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

Description	Included in GFA	Excluded from GFA
Accessory structures greater than 120 sq. ft.	√	
Second floor equivalent: areas with heights >17'	√ (counted twice)	
Third floor equivalent: areas with heights > 26'	√ (counted three times)	
Third floor equivalent, where roof pitch is > 4:12		√ up to 200 sq. ft. of unusable space
Garages and carports	√	

Porte cocheres		√
Entry feature ≤ 12' in height, if not substantially enclosed and not recessed	√ (counted once)	
Vaulted entry > 12' in height	√ (footprint counted	
Fireplace footprint	√(counted once)	
First floor roofed or unenclosed porches		√
First floor recessed porches <10' in depth and open on exterior side		√
Second floor roofed or enclosed porches, arcades, balconies, porticos, breeze-ways	√	
Basements (complying with patio & lightwell requirements described in Section 18.12.~~070~~090)		√
Areas on floors above the first floor where the height from the floor level to the underside of the rafter or finished roof surface is 5 or greater	√	
Bay windows (if at least 18" above interior floor, does not project more than 2', and more than 50% is covered by windows)		√
Basement area for Category 1 & 2 Historic Homes or contributing structure within a historic district (even if greater than 3')		√
Unusable attic space for category 1 & 2 Historic Homes		√ (up to 500 sq. ft.)

18.12.040 Site Development Standards

. . .

(c) Substandard and Flag Lots

The following site development regulations shall apply to all new construction on substandard and flag lots in lieu of comparable provisions in subsection (a).

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(B) Flag Lot Development Standards:

(i) The maximum height shall be 17 feet, as measured to the peak of the roof.

(ii) There shall be a limit of one habitable floor. Habitable floors include lofts, mezzanines, and similar areas with interior heights of five feet (5') or more from the roof to the floor, but exclude basements and exclude attics that have no stairway or built-in access. The chief building official shall make the final determination as to whether a floor is habitable.

(iii) Front Setback: 10 feet. Flag lots are not subject to contextual front setback requirements.

~~(iv) Flag lots are not subject to contextual front setback requirements.~~**MATRIX #13**

. . .

(e) Contextual Front Setbacks

The minimum front yard ("setback") shall be the greater of twenty feet (20') or the average setback, if the average front setback is 30 feet or more. "Average setback" means the average distance between the front property line and the first main structural element, including covered porches, on sites on the same side of the block, including existing structures

on the subject parcel. This calculation shall exclude flag lots and existing multifamily developments of three units or more. For calculation purposes, if five (5) or more properties on the block are counted, the single greatest and the single least setbacks shall be excluded. The street sideyard setback of corner lots that have the front side of their parcel (the narrowest street-facing lot line) facing another street shall be excluded from the calculations. For blocks longer than 600 feet, the average setback shall be based on ~~the~~ no more than ten sites located on the same side of the street and nearest to the subject property, plus the subject site, ~~but~~ and for a distance no greater than 600 feet. Blocks with three (3) or fewer eligible parcels are not subject to contextual setbacks. Structures on the site in no case may be located closer than twenty feet (20') from the front property line. **(MATRIX #14)**

(f) Contextual Garage and Carport Placement **(MATRIX #36; PTC RECOMMENDED DEFERRAL TO TIER 2)**

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

. . .

(l) Location of Noise-Producing Equipment

All noise-producing equipment, such as air conditioners, pool equipment, generators, commercial kitchen fans, and similar service equipment, shall be located outside of the front, rear and side yard setbacks. Such equipment may, however, be located up to six feet into a street sideyard setback. All such equipment shall be insulated and housed, except that the planning director may permit installation without housing and insulation, provided the equipment is located within the building envelope and where a combination of technical noise specifications, location of equipment, and/or other screening or buffering will assure compliance with the city's Noise Ordinance at the nearest property line. Any replacement of such equipment shall conform to this section where feasible, except the Director may allow replacement of existing equipment in a non-complying location, if such equipment had prior building permit(s), with equipment that meets the City's Noise Ordinance. All service

equipment must meet the city's Noise Ordinance in Chapter 9.10 of the Municipal Code. **(MATRIX #11)**

18.12.050 Permitted Encroachments, Projections and Exceptions

(D) Special Setbacks. In cases where a special setback is prescribed pursuant to Chapter 20.08 of the Municipal Code, and the existing setback is less than the special setback distance, and at least 14 feet for the front setback or at least 10 feet for the street side yard setback, the existing encroachment may be extended for a distance of not more than 100% of the length of the encroaching wall to be extended, provided that the total length of the existing encroaching wall and the additional wall shall together not exceed one-half the maximum existing width of such building. **(MATRIX #15)**

(3) Allowed Projections

(A) Cornices, Eaves, Fireplaces, and Similar Architectural Features

For cornices, eaves, fireplaces, and similar architectural features, excluding flat or continuous walls or enclosures of usable interior space, the following projections are permitted:

(i) A maximum of two feet into a required side yard. Fireplaces in a required side yard may not exceed five feet in width. Fireplaces not exceeding five feet in width may project into a required side yard no more than two feet.

(ii) A maximum of four feet into a required front yard.

(iii) A maximum of four feet into a required rear yard.

(B) Window Surfaces

(i) Window surfaces, such as bay windows or greenhouse windows, may extend into a required rear yard a distance not to exceed two feet, into a required street side setback a distance not to exceed three feet, or into a required front yard a distance not to exceed three feet. **(MATRIX #46)**

(ii) Window surfaces may not extend into required interior side yards, with the exception that one greenhouse window with a maximum width of six feet, framed into a wall, may project into the interior side yard no more than two feet. The window surface may not extend into any yard above a first story.

18.12.060 Parking

Off-street parking and loading facilities shall be required for all permitted and conditional uses in accord with Chapters 18.52 and 18.54 of this title. The following parking requirements apply in the ~~R-E, R-2 and RMD~~ R-1 districts. These requirements are included for reference purposes only, and in the event of a conflict between this Section 18.~~10~~12.060 and any requirement of Chapters 18.52 and 18.54, Chapters 18.52 and 18.54 shall apply, except in the case of parcels created pursuant to Section ~~18.10.130~~ 18.12.140 (c) (subdivision incentive for historic preservation). **MATRIX #16**

18.12.070 Second Dwelling Units MATRIX #17

(d) Development Standards for Detached Second Dwelling Units

Detached second dwelling units are those detached from the main dwelling. All detached second dwelling units shall be subject to the following development requirements:

(1) The minimum site area shall meet the requirements specified in subsection (b) above.

(2) Minimum separation from the main dwelling: 12 feet.

(3) Maximum size of living area: 900 square feet. The second dwelling unit and covered parking shall be included in the total floor area for the site, but the covered parking area is not included within the maximum 900 square feet for detached unit. Any basement space used as a second dwelling unit or portion thereof shall be counted as floor area for the purpose of calculating the maximum size of the second unit.

(4) Maximum size of covered parking for the second dwelling unit: 200 square feet.

(e) Development Standards for Attached Second Dwelling Units

Attached second dwelling units are those attached to the main dwelling. Attached unit size counts toward the calculation of maximum house size. All attached second dwelling units shall be subject to the following development requirements:

(1) The minimum site area shall meet the requirements specified in subsection (b) above.

(2) Maximum size of living area: 450 square feet. The second dwelling unit and covered parking shall be included in the total floor area for the site, but the covered parking area is not included in the maximum 450 square feet for attached unit. Any basement space used as a second dwelling unit or portion thereof shall be counted as floor area for the purpose of calculating the maximum size of the second unit.

(3) Maximum size of covered parking area for the second dwelling unit: 200 square feet.

18.12.100 Regulations for the Single Story Overlay (S) Combining District (MATRIX #47)

(c) Application for a Single Story (S) Combining District

(1) Application to create or remove a single-story overlay district may be made by an owner of record of property located in the single-story overlay district to be created or removed.

(2) Application shall be made to the director on a form prescribed by the director, and shall contain all of the following:

(A) A written statement setting forth the reasons for the application and all facts relied upon by the applicant in support thereof.

(B) A map of the district to be created or removed that includes the address location of those owners whose properties are subject to the zoning request. Boundaries shall correspond with certain natural or man-made features (including, but not limited to, roadways, waterways, tract boundaries and similar features) to define an identifiable neighborhood or development. For creation of a single-story overlay district,

the area shall be of a prevailing single story character, such that a minimum of 80% of existing homes within the boundaries are single story.

(C) For creating a single-story overlay district, a list of signatures evidencing support by: (i) 70% of included properties; or (ii) 60% of included properties where all included properties are subject to recorded deed restrictions intended to limit building height to a single story, whether or not such restrictions have been enforced. For the removal of a single-story overlay district, a list of signatures evidencing support by 70% of included properties, whether or not deed restrictions intended to limit the building height to single story apply. "Included properties" means all those properties inside the boundaries of the district proposed to be created or removed. The written statement or statements accompanying the signatures must state that the signer is indicating support for a zone map amendment that affects his or her property. One signature is permitted for each included property, and a signature evidencing support of an included property must be by an owner of record of that property.

~~(D) A fee, as prescribed by the municipal fee schedule, no part of which shall be returnable to the applicant.~~

18.12.110 Single Family Individual Review (MATRIX #48; PTC RECOMMENDED DEFERRAL TO TIER 2.)

. . .

(b) Applicability

The provisions of this Section 18.12.110 apply to the construction of a new singly developed two-story structure; the construction of a new second story; or the expansion of an existing second story, including balconies and similar outdoor areas above the first floor, by more than 150 square feet in the R-1 single family residential district. All second-story additions on a site after November 19, 2001 shall be included in calculating whether an addition is over 150 square feet.

18.12.120 Home Improvement Exception

(a) Purpose

A home improvement exception ("HIE") enables a home improvement or minor addition to an existing single-family or two-family home, or accessory structure, or both, to be consistent with the existing architectural style of the house or neighborhood, to accommodate a significant or protected tree, or to protect the integrity of a historic structure in conformance with the Secretary of the Interior's *Standards for Historic Rehabilitation*. By enabling adaptive reuse of existing buildings, the home improvement exception promotes retention of existing houses within the city.

(b) Applicability

A home improvement exception may be granted as part of a proposed improvement or addition to an existing single-family or two-family structure, or accessory structure, or both, in the RE, R-1, RMD, or R-2 district, as limited in subsection (c). A home improvement exception may be granted as described in subsections (1) through (14) of subsection (c), but may not

exceed the limits set forth in those subsections. In order to qualify for a home improvement exception, the project must retain at least 75% of the existing exterior walls, including exterior siding or cladding. **MATRIX #45**

SECTION 10. Sections 18.13.010 (Purposes), and 18.13.050 (Village Residential Development) of **Chapter 18.13** (Multiple Family Residential RM15, RM30, and RM40 Districts) of Title 18 (Zoning) of the PAMC are amended to read as follows:

18.13.010 Purposes

This section specifies regulations for three multiple family residential districts.

(a) RM-15 Low Density Multiple-Family Residence District [RM-15]

The RM-15 low-density multiple-family residence district is intended to create, preserve and enhance areas for a mixture of single-family and multiple-family housing which is compatible with lower density and residential districts nearby, including single-family residence districts. The RM-15 residence district also serves as a transition to moderate density multiple-family districts or districts with nonresidential uses. Permitted densities in the RM-15 residence district range from eight to fifteen dwelling units per acre, with no required minimum density. **MATRIX #39**

(b) RM-30 Medium Density Multiple-Family Residence District [RM-30]

The RM-30 medium density multiple-family residence district is intended to create, preserve and enhance neighborhoods for multiple-family housing with site development standards and visual characteristics intended to mitigate impacts on nearby lower density residential districts. Projects at this density are intended for larger parcels that will enable developments to provide their own parking spaces and to meet their open space needs in the form of garden apartments or cluster developments. Permitted densities in the RM-30 residence district range from sixteen to thirty dwelling units per acre, with no required minimum density. **MATRIX #39**

(c) RM-40 High Density Multiple-Family Residence District [RM-40]

The RM-40 high density multiple-family residence district is intended to create, preserve and enhance locations for apartment living at the highest density deemed appropriate for Palo Alto. The most suitable locations for this district are in the downtown area, in select sites in the California Avenue area and along major transportation corridors which are close to mass transportation facilities and major employment and service centers. Permitted densities in the RM-40 residence district range from thirty-one to forty dwelling units per acre, with no required minimum density. **MATRIX #39**

18.13.050 Village Residential Development (MATRIX #18)

Table 3:

Maximum Site Coverage RM-15 development standards apply to entire site

Landscape Requirements 18.~~14~~40.130

SECTION 11. Section 18.14.030 (Below Market Rate Housing Bonus Requirements) of **Chapter 18.14** (Below Market Rate Housing Program) of Title 18 (Zoning) of the PAMC is amended to read as follows:

(a) Developers of projects with five or more units must comply with the requirements set forth in Program ~~H-36~~ H3.1.2.of the City of Palo Alto Comprehensive Plan. The BMR Program objective is to obtain actual housing units or buildable parcels within each development rather than off-site units or in-lieu payments. **MATRIX #23**

SECTION 12. Section 18.15.020 (Definitions) of **Chapter 18.15** (Residential Density Bonus) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to add the following definition: **MATRIX #49 [Note: Staff will be bringing forward subsequent amendments to reflect AB 744 containing new mandate requiring cities to relax parking requirements for density bonus projects located within ½ mile of major transit stop.]**

18.15.020 Definitions

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

. . .

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

(1) If any dwelling units described in 18.15.030(h) are occupied on the date that the application is submitted to the City, the proposed housing development shall provide at least the same number of units of equivalent size or type, or both, to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. For unoccupied dwelling units described in 18.15.030(h) in a development with occupied units, the proposed housing development shall provide units of equivalent size or type, or both, to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category in the same proportion of affordability as the occupied units. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years.

(2) If all dwelling units described in 18.15.030(h) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size or type, or both, as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, then one-half of the required units shall be made available at affordable rent or affordable housing cost to, and occupied by, very low income persons and families and one-half of the required units shall be made available for rent at affordable housing costs to, and occupied by, low-income persons and families. All replacement calculations resulting in fractional units shall

be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years.

(~~s~~t) "Restricted affordable unit" means a dwelling unit within a development which will be available at an affordable rent or affordable sales price for sale or rent to very low, lower or moderate income households.

(~~t~~u) "Senior citizen housing development" means a Development consistent with the California Fair Employment and Housing Act (Government Code Section 12900 et. seq., including 12955.9 in particular), which has been "designed to meet the physical and social needs of senior citizens," and which otherwise qualifies as "housing for older persons" as that phrase is used in the federal Fair Housing Amendments Act of 1988 (P.L. 100-430) and implementing regulations (24 CFR, part 100, subpart E), and as that phrase is used in California Civil Code Section 51.2 and 51.3.

SECTION 13. Section 18.15.030 (h) (Density Bonuses) of **Chapter 18.15** (Residential Density Bonus) of Title 18 (Zoning) of the Palo Alto Municipal Code is added and the old (h) is re-numbered to (i) and the remainder of the section renumbered accordingly:

18.15.030 Density Bonuses

. . .

(h) An applicant (or project) shall be ineligible for a density bonus or any other incentives or concessions under this chapter if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through the City's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed housing development replaces those units, and either of the following applies:

(i) The proposed housing development, inclusive of the units replaced pursuant to this paragraph, contains affordable units at the percentages set forth in Section 18.15.030.

(ii) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

SECTION 14. Section 18.15.040 (Development Standards for Affordable Units) of **Chapter 18.15** (Residential Density Bonus) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows: **MATRIX #50**

18.15.040 Development Standards for Affordable Units

. . .

(b) Moderate income restricted affordable units shall remain restricted and affordable to the designated income group for a minimum period of 59 years (or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program). Very low and lower restricted affordable units shall

remain restricted and affordable to the designated income group for a period of ~~30~~ 55 years for both rental and for-sale units (or a longer period of time if required by a construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program).

. . .

SECTION 15. Section 18.15.100 (Regulatory Agreement) of **Chapter 18.15** (Residential Density Bonus) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows: **MATRIX #51**

18.15.100 Regulatory Agreement

. . .

(d) The regulatory agreement shall be consistent with the guidelines of the city's Below Market Rate Program and shall include at a minimum the following:

. . .

(iv) Term of use restrictions for restricted affordable units of at least 59 years for moderate income units and at least ~~30~~ 55 years for low and very low units;

SECTION 16. Sections 18.16.050 (Office Use Restrictions), 18.16.060 (Development Standards) and 18.16.100 (Grandfathered Uses) of **Chapter 18.16** (Neighborhood, Community, and Service Commercial CN, CC, CS Districts) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows:

18.16.050 Office Use Restrictions MATRIX #52

"The following restrictions shall apply to office uses:

(a) Conversion of Ground Floor Housing and Non-Office Commercial to Office Medical, Professional, and Business offices shall not be located on the ground floor, unless any of the following apply~~such offices either~~:

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

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

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

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

(5) Are located in new or remodeled ground floor area built on or after March 19, 2001 if the ground floor area devoted to housing, retail services, eating and drinking services, personal services, and automobile services does not decrease;

(6) Are on a site located in an area subject to a specific plan or coordinated area plan, which specifically allows for such ground floor medical, professional, and general business offices; or

(7) Are located anywhere in Building E or in the rear 50% of Building C or D of the property at the southeast corner of the intersection of Park Boulevard and California Avenue, as shown on sheet A2 of the plans titled "101 California Avenue Townhouse/Commercial/Office, Palo Alto, CA" by Crosby, Thornton, Marshall Associates, Architects, dated June 14, 1982, revised November 23, 1982, and on file with the Department of Planning and Community Environment.

SECTION 17. Sections 18.16.060 (Mixed Use) of **Chapter 18.16** (Neighborhood, Community, and Service Commercial Districts) of Title 18 (Zoning) of the PAMC are amended to read as follows:

18.16.060 Mixed Use

(1) Residential and nonresidential mixed use projects shall be subject to site and design review in accord with Chapter 18.30(G), except that mixed use projects with ~~four~~ nine or fewer units shall only require review and approval by the architectural review board. **MATRIX #53**

. . .

(9) Residential densities up to 20 units/acre only on CN zoned ~~H~~housing ~~i~~nventory s~~S~~ites identified in the Housing Element.~~2007-2014 2014 Housing Element~~ **MATRIX #19**

SECTION 18. Sections 18.18.060 (Development Standards), 18.18.070 (Floor Area Bonuses (**MATRIX 40; PTC Recommended as Tier 2**), 18.18.080 (Transfer of Development Rights), and 18.18.120 (Grandfathered Uses and Facilities) of **Chapter 18.18** (Downtown Commercial CD District) of Title 18 (Zoning) of the PAMC are amended to read as follows:

18.18.060 Development Standards

(a) Exclusively Non-Residential Use (Table 2) entry for Maximum size new or expansion project:

"25,000 square feet of gross floor area or 15,000 square feet above the existing floor area, whichever is greater, provided the floor area limits set forth elsewhere in this chapter are not exceeded **(MATRIX #20)**

(b) Mixed Use (1) Residential and nonresidential mixed use projects shall be subject to site and design review in accord with Chapter 18.30(G), except that mixed use projects with ~~four or fewer~~ nine or fewer units shall only require review and approval by the architectural review board. **(Matrix #53)**

. . .

(e) Exempt Floor Area **(MATRIX #55)**

When an existing building is being expanded, square footage which, in the judgement of the chief building official, does not increase the usable floor area, and is either necessary to conform the building to Title 24 of the California Code of Regulations, regarding disability related~~handicapped~~ access, or is necessary to implement the historic rehabilitation of the building, shall not be counted as floor area. For the purposes of this section disability related upgrades are limited to the minimum extent necessary and shall be subject to the Director's approval not to exceed 500 square feet per site. Disability related upgrades shall only apply to

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remodels of existing buildings and shall not qualify for grandfathered floor area in the event the building is later replaced or otherwise redeveloped.

18.18.070 Floor Area Bonuses (MATRIX #40, PTC RECOMMENDED DEFERRAL TO Tier 2)

(b) Restrictions on Floor Area Bonuses

The floor area bonuses in subsection (a) shall be subject to the following restrictions:

(1) All bonus square footage shall be counted as square footage for the purposes of the 350,000 square foot limit on development specified in Section 18.18.040.

(2) All bonus square footage shall be counted as square footage for the purposes of the project size limit specified in Section 18.18.060 (a).

(3) In no event shall a building expand beyond a FAR of 3.0:1 in the CD-C subdistrict or a FAR of 2.0:1 in the CD-S or CD-N subdistrict.

(4) The bonus shall be allowed on a site only once.

(5) For sites in Seismic Category I, II, or III, seismic rehabilitation shall conform to the analysis standards referenced in Chapter 16.42 of this code. To qualify for a bonus under this section the building shall be rehabilitated and not demolished. ~~and the existing building shall be retained~~.

(6) For sites in Historic Category 1 or 2, historic rehabilitation shall conform to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (36 CFR §67,7).

18.18.080(h) Transfer Procedure MATRIX #21

Transferable development rights may be transferred from a sender site (or sites) to a receiver site only in accordance with all of the following requirements:

(1) An application pursuant to ~~Chapter 16.48~~ Chapter 18.76 of this code for major ARB review of the project proposed for the receiver site must be filed. The application shall include:

(A) A statement that the applicant intends to use transferable development rights for the project;

(B) Identification of the sender site(s) and the amount of TDRs proposed to be transferred; and

(C) Evidence that the applicant owns the transferable development rights or a signed statement from any other owner(s) of the TDRs that the specified amount of floor area is available for the proposed project and will be assigned for its use.

(2) The application shall not be deemed complete unless and until the city determines that the TDRs proposed to be used for the project are available for that purpose.

(3) In reviewing a project proposed for a receiver site pursuant to this section, the architectural review board shall review the project in accordance with ~~Section 16.48.120~~ Chapters 18.76 and 18.77 of this code; however, the project may not be required to be

modified for the sole purpose of reducing square footage unless necessary in order to satisfy the ~~criteria~~ findings for approval under Chapter ~~16.48~~18.76 or any specific requirement of the municipal code.

(4) Following ARB approval of the project on the receiver site, and prior to issuance of building permits, the director of planning and community environment or the director's designee shall issue written confirmation of the transfer, which identifies both the sender and receiver sites and the amount of TDRs which have been transferred. This confirmation shall be recorded in the office of the county recorder prior to the issuance of building permits and shall include the written consent or assignment by the owner(s) of the TDRs where such owner(s) are other than the applicant.

18.18.120 Grandfathered Uses and Facilities (MATRIX #41)

(a) Grandfathered Uses

(1) The following uses and facilities may remain as grandfathered uses, and shall not require a conditional use permit or be subject to the provisions of Chapter 18.70:

(A) Any use which was being conducted on August 28, 1986; or

(B) A use not being conducted on August 28, 1986, if the use was temporarily discontinued due to a vacancy of 6 months or less before August 28, 1986; or

(C) Any office use existing on April 16, 1990 on a property zoned CD and GF combining, which also existed as a lawful conforming use prior to August 28, 1986, notwithstanding any intervening conforming use.

(2) The grandfathered uses in subsection (1) shall be permitted to remodel, improve, or replace site improvements on the same site, for continual use and occupancy by the same use, provided such remodeling, improvement, or replacement complies with all of the following:

(A) shall not result in increased floor area;

(B) shall not relocate below grade floor area to above grade portions of the building~~shift the building footprint~~;

(C) shall not result in an increase of the height, length, building envelope, building footprint or any other increase in the size of the improvement. For purposes of this section "building envelope" shall mean the volume of space that is occupied by an existing building. It is not the maximum, buildable potential of the site;.

(D) shall not increase the degree of noncompliance, except pursuant to the exceptions to floor area ratio regulations set forth in Section 18.18.070; or

(E) in the case of medical, professional, general business or administrative office uses of a size exceeding 5,000 square feet in the CD-S or CD-N district that are deemed grandfathered pursuant to subsection (1), such remodeling, improvement, or replacement shall not result in increased floor area devoted to such office uses.

(F) The Director may approve minor changes to the building's footprint, height, length, and the building envelope through Architectural Review of minor aesthetic architectural improvements and to improve pedestrian-orientation provided there is no increase to the degree of any non-complying feature.

(3) If a grandfathered use deemed existing pursuant to subsection (1) ceases and thereafter remains discontinued for 12 consecutive months, it shall be considered abandoned and may be replaced only by a conforming use.

(4) A use deemed grandfathered pursuant to subsection (1) which is changed to or replaced by a conforming use shall not be reestablished, and any portion of a site or any

portion of a building, the use of which changes from a grandfathered use to a conforming use, shall not thereafter be used except to accommodate a conforming use.

(b) Grandfathered Facilities

(1) Any noncomplying facility existing on August 28, 1986 and which, when built, was a complying facility, may remain as a grandfathered facility and shall not be subject to the provisions of Chapter 18.70.

(2) The grandfathered facilities in subsection (1) shall be permitted to remodel, improve, or replace site improvements on the same site, for continual use and occupancy by the same use, provided such remodeling, improvement, or replacement complies with all of the following:

(A) shall not result in increased floor area;

(B) shall not ~~shift the~~ relocate below grade floor area to above grade portions of the building;

(C) shall not result in an increase of the height, length, building envelope, building footprint, or any other increase in the size of the improvement.

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(D) shall not increase the degree of noncompliance, except pursuant to the exceptions to floor area ratio regulations set forth in Section 18.18.070;

(E) The Director may approve minor changes to the building's footprint, height, length, and the building envelope through Architectural Review of minor aesthetic architectural improvements and to improve pedestrian-orientation provided there is no increase to the degree of any non-complying feature.

SECTION 19. Section 18.20.040 (Standards for GM, MOR, ROLM, RP Zones) of **Chapter 18.20** Office, Research and Manufacturing (MOR, ROLM, RP and GM) Districts of Title 18 (Zoning) of the PAMC shall be amended as follows:

	MOR	ROLM	ROLM (E)	RP	RP(5)	GM	Subject to Regulations in Chapter:
Minimum Site Specifications							
Site Area (sq. ft.)	25,000	1 acre		1 acre	5 acres	1	
Site Width (ft.)	150	100		100	250		
Site Depth (ft.)	150	150		150	250		
Minimum	Setback lines imposed by a special setback map						

Setbacks	pursuant to Chapter 20.08 of this code may apply.						
Front Yard (ft)	50(3)	20		20	100	(1)	
Rear Yard (ft)	10(3)	20		20	40		
Interior Side Yard (ft)	10	20		20	40		
Street Side Yard (ft)	20(3)	20		20	70		
Minimum Yard (ft) for site lines abutting or opposite residential districts	10(3)	20		20	. 10		18.20.060(e)(1)(D) 18.20.060(e)(1)(E)
Maximum Site Coverage	30%	30%		30%	15%		
Maximum Floor Area Ratio (FAR)	0.5:1	0.4:1(4)	0.3:1(4)	0.4:1 W	0.3:1(4)	0.5:1	
Parking	See Chs. ~~18.40, 18.42~~ 18.52, 18.54						Chs. ~~18.40, 18.42~~ 18.52, 18.54
Landscaping	See Section 18.20.050 (Performance Criteria)						18.20.050
Maximum Height (ft)							
Standard	50	35(4)		35(4)		50	
Within 150 ft. of a residential zone(5)	35	35		35		35	
Within 40 ft. of a residential zone(5)	35	25		25		35	
Daylight Plane for site lines having any part abutting one or more residential districts.							
Initial Height	(2)					10	

Slope	(2)					1:2	

SECTION 20. Section 18.33.050 of Chapter 18.23 Performance Criteria for Multiple Family, Commercial, Manufacturing and Planned Community Districts is amended as follows:

. . .

(B) Requirements

(i) Walls facing residential properties shall incorporate architectural design features and landscaping in order to reduce apparent mass and bulk.

(ii) Loading docks and exterior storage of materials or equipment shall be screened from view from residential properties by fencing, walls or landscape buffers.

(iii) All required interior yards (setbacks) abutting residential properties shall be planted and maintained as a landscaped screen.

(iv) Rooftop equipment or rooftop equipment enclosures shall not extend above a height of 15 feet above the roof and any enclosed rooftop equipment nearest residential property shall be set back at least 20 feet from the building edge closest to the residential property or a minimum of 100 feet from the residential property line, whichever is closer. Roof vents, flues and other protrusions through the roof of any building or structure shall be obscured from public view by a roof screen or proper placement. See Section 18.40.090 (height limit exceptions) for further restrictions.

SECTION 21. Chapter 18.31 (CEQA Review) of Title 18 (Zoning) of the Palo Alto Municipal Code is adopted as a new chapter to read as follows:

18.31.010 Delegation of CEQA Authority

The PCE Director or other decision maker as delegated in this Code shall have authority to make California Environmental Quality Act (CEQA) decisions relating to planning and land use entitlements, except that any Environmental Impact Report requiring a statement of overriding considerations shall be considered by the City Council.

18.31.020 Incorporation of State CEQA Guidelines

Resolution No. 6232 is hereby repealed and the full text of the State CEQA Guidelines adopted as 14 California Code of Regulations, Title 14, Section 15000, *et seq.*, and any subsequent amendments thereto, are hereby incorporated by reference into this Chapter. If there is a conflict between the procedural provisions of the State Guidelines and this Chapter, the more restrictive provision shall apply.

18.31.030 CEQA Appeals

Any person may appeal to the City Council from the decision of a non-elected decision-making body of the City to certify an environmental impact report, approve a negative declaration or mitigated negative declaration or determine that a project is not subject to Public Resources Code Section 21080 et seq. (California Environmental Quality Act) if that decision is not otherwise subject to further administrative review. Any such appeal must be filed on a form specified by the Director within fourteen consecutive calendar days of the date that the decision is made. The appellant shall state the specific reasons for the appeal. The appeal must be accompanied by the required filing fee.

SECTION 22. Section 18.34.040 (Pedestrian and Transit Oriented Development (PTOD) Combining District Regulations) of **Chapter 18.34** (Pedestrian and Transit Oriented Development (PTOD) Combining District Regulations) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows:

18.34.040 Pedestrian and Transit Oriented Development (PTOD) Combining District Regulations (MATRIX #23)

. . .

(e) Density, FAR, and Height Bonus Provisions

The following provisions are intended to allow for increased density, FAR, height, and other development bonuses upon construction of additional below market rate (BMR) housing units. The bonus allowances shall be allowed subject to the following limitations:

(1) Bonuses are only applicable where below market rate (BMR) units are provided in excess of those required by Palo Alto's BMR program as set forth in Section 18.14.030(a) and ~~stated in~~ Program H-3.1.2~~6~~ of the Housing Element ~~adopted on December 2, 2002~~. Key elements of the BMR Program ~~H-36~~ include:

(A) Five or more units: Minimum 15% of units must be BMR units;

(B) Five or more acres being developed: Minimum 20% of units must be BMR units; and

(C) BMR units shall meet the affordability and other requirements of Program ~~H-36~~ H3.1.2 and the city's BMR Program policies and procedures.

(2) The following BMR bonuses shall be considered and may be approved upon rezoning to the PTOD district:

(A) Density Increase: Density may be increased above the maximum base density allowed (40 units per acre), such that at least one additional BMR unit is provided for every three additional market rate units constructed. The resultant density may not exceed fifty units per acre. Density shall be calculated based on the gross area of the site prior to development.

(B) FAR Increase: For projects with a residential density greater than thirty units per acre, the allowable residential FAR may be increased. The FAR increase shall be equivalent to 0.05 for each additional 5% (in excess of the city requirements) of the total number of units that are proposed as BMR units, but may not exceed 50% of the residential FAR prior to the bonus, and may not exceed a total FAR of 1.5.

(C) Height Increase: For projects with a residential density greater than 30 units per acre, the allowable project height may be increased. The height increase shall be equivalent to one foot above the maximum for each additional 5% (in excess of the city requirements) of the total number of units that are proposed as BMR units, but may not exceed a maximum height (50 feet).

(D) Other incentives for development of BMR units, such as reduced setbacks and reduced open space, may be approved where at least 25% of the total units constructed are BMR units and subject to approval by the architectural review board.

~~(3) The provisions of this section are intended to address the density bonus requirements of state law within the PTOD District, and the maximum bonus density, FAR, and height may not be further exceeded.~~

SECTION 23: Sections 18.40.030 (Measurement), 18.40.060 (Permitted Uses and Facilities in Required Yards) and 18.40.70 (Projections into Yards) of **Chapter 18.40** (General Standards and Exceptions) of Title 18 (Zoning) of PAMC is amended to read as follows:

18.40.030 Measurement. Distances between buildings, or between any structure and any property line, setback line, or other line or location prescribed by this title shall be measured to the nearest vertical support or wall of such structure. Where one or more buildings do not have vertical exterior walls, the distances between the buildings shall be prescribed by the building official. ~~In the application of measurements specified by this title in both English and metric measure, metric measure shall be applied for all new construction; provided, that where existing structures, uses, areas, heights, dimensions, or site improvements have been based upon English measures, the exact metric equivalent of the English measures prescribed by this title may continue to be used for improvements, extensions, and revisions to such facilities or uses. It is the purpose of this title to facilitate conversion from English to metric measures with minimum impact on property and improvements and changes thereto, and the building official, director, director of planning and community environment and other persons responsible for interpretation and enforcement of this title shall, in case of conflict or difference between English and metric measurements, apply the provisions of this title in the less restrictive manner of this section~~ **(MATRIX #24)**

18.40.070 Projections into Yards

~~The director may grant a temporary use permit authorizing the use of a site in any district for a temporary use, subject to the following provisions.~~ **(MATRIX #26)**

18.40.090 Height Limit Exceptions. (NEW ITEM)

Except as provided below, ~~in OS, RE, R-1 and R-2 districts~~, flues, chimneys, exhaust fans or air conditioning equipment, elevator equipment, cooling towers, antennas, and similar architectural, utility, or mechanical features may exceed the height limit established in any district by not more than fifteen feet; provided, however, that no such feature or structure in excess of the height limit shall be used for habitable space, or for any commercial or advertising purposes. ~~In OS, RE, R-1, and R-2 districts, flues, chimneys and antennas may exceed the established height limit by not more than fifteen feet.~~

Exceptions

(i) In the CC, CD, CN and CS districts exceptions above shall not exceed the height limit by more than eight feet (8')

(ii) In OS, RE, R-1, and R-2 districts, only flues, chimneys and antennas may exceed the established height limit by not more than fifteen feet.

SECTION 24: Sections 18.52.060 (In Lieu Fees) and 18.52.070 (Assessment District Parking Regulations) of **Chapter 18.52** (Parking) of Title 18 (Zoning) of the PAMC shall be amended to read as follows:

18.52.060 Parking Assessment Districts and Areas - General

(a) Definitions

(1) "Parking Assessment Areas"

"Parking assessment areas" means either:

The "downtown parking assessment area," which is that certain area of the city delineated on the map of the University Avenue parking assessment district entitled *Proposed Boundaries of University Avenue Off-Street Parking Project No. 75-63 Assessment District, City of Palo Alto, County of Santa Clara, State of California*, dated October 30, 1978, and on file with the city clerk; or

The "California Avenue area parking assessment district," which is that certain area of the city delineated on the map of the California Avenue area parking assessment district entitled *Proposed Boundaries, California Avenue Area Parking Maintenance District*, dated December 16, 1976, and on file with the city clerk;

(b) In-lieu fees

~~Except as provided in subsection (c) below, w~~Within any parking assessment district established by the city for the purpose of providing off-street parking facilities, all or a portion of the off-street parking requirement for a use may be satisfied by payment of assessments or fees levied by such district on the basis of parking spaces required but not provided. **(MATRIX #27)**

18.52.070 Parking Regulations for CD Assessment District With respect to on-site and off-site parking space requirements for nonresidential uses within an assessment district wherein properties are assessed under a Bond Plan G financing pursuant to Title 13, the requirements of this Section 18.52.040 shall apply in the CD Assessment district in lieu of comparable requirements in this Chapter 18.52. Requirements for the size and other design criteria for parking spaces shall continue to be governed by the provisions of Chapter 18.54. **(MATRIX #28)**

SECTION 25: Sections 18.70.080 (Noncomplying Facility Enlargement), 18.70.090 (Maintenance and Repair), and 18.70.100 (Replacement) of **Chapter 18.70** (Nonconforming Uses and Noncomplying Facilities) of the PAMC shall be amended to read as follows:

18.70.010 General application.

Except as provided by this ~~chapter~~ Title or otherwise provided by law, a nonconforming use may be continued, and a structure containing or used by one or more nonconforming uses may be maintained, or a noncomplying facility may be maintained. A nonconforming use is a use which existed legally under the provisions of its zoning classification prior to a rezoning action or annexation which rendered such use not in conformance with the provisions of such new zoning classification. A noncomplying facility is a facility which existed legally under the provisions of its zoning classification prior to a rezoning action or annexation which rendered such facility not in compliance with the provisions of such new zoning classification.

18.70.080 Noncomplying facility - Enlargement. (MATRIX #29)

(a) Except as specifically permitted by subsections (b) ~~and (c)~~ hereof or by Section 18.12.050(a), no enlargement, expansion, or other addition or improvement to a noncomplying facility shall be permitted which increases the noncompliance. This section shall not be construed to prohibit enlargement or improvement of a facility, otherwise permitted by this title, which does not affect the particular degree of or manner in which the facility does not comply with one or more provisions of this title.

(b) Except in areas designated as special study areas, the director of planning and community environment may permit minor additions of floor area to noncomplying facilities in the commercial CC, CS and CN zones and in the industrial MOR, ROLM, RP and GM districts, subject to applicable site development regulations, for purposes of on-site employee amenities, resource conservation, or code compliance, upon the determination that such minor additions will not, of themselves, generate substantial additional employment. Such additions may include, but not be limited to, the following:

(1) Amenity space area designed and used solely for providing on-site services to employees of the facility, such as recreational facilities, credit unions, cafeterias (excluding break rooms), on-site laundry facilities, and daycare facilities. **(MATRIX #29; PTC RECOMMENDED DEFERRAL TO TIER 2.)**

(2) Area designated for resource conservation, such as trash compactors, recycling and thermal storage facilities; and

(3) Area designed and required for hazardous materials storage facilities, handicapped access, and seismic upgrades.

18.70.100 Noncomplying facility - Replacement.

A noncomplying facility which is damaged or destroyed by any means except ordinary wear and tear and depreciation may be reconstructed only as a complying facility, except as follows:

(a) When the damage or destruction of a noncomplying facility affects only a portion of the facility that did not constitute or contribute to the noncompliance, said portion may be repaired or reconstructed to its previous configuration.

(b) When the damage or destruction of a noncomplying facility affects a portion of the facility that constituted or contributed to the noncompliance, any replacement or reconstruction to such damaged portion shall be accomplished in such manner as not to reinstate the noncompliance caused by the destroyed or damaged portion of the facility, and otherwise in full compliance with this title; however, if the cost to replace or reconstruct the noncomplying portion of the facility to its previous configuration does not exceed fifty percent of the total cost to replace or reconstruct the facility in conformance with this subsection, then the damaged noncomplying portion may be replaced or reconstructed to its previous configuration. In no event shall such replacement or construction create, cause, or increase any noncompliance with the requirements of this title.

(c) Notwithstanding subsections (a) and (b) hereof, a noncomplying facility in the commercial CS, CN and CC zones and the industrial MOR, ROLM, RP and GM districts, except for those areas designated as special study areas, existing on August 1, 1989, which when built was a complying facility, shall be permitted to be remodeled, improved or replaced in accordance with applicable site development regulations other than floor area ratio, provided that any such remodeling, improvement or replacement shall not result in increased floor area.

(d) Notwithstanding subsections (a), (b) and (c) ~~hereof~~ above, a noncomplying facility housing a conforming use in the R-1 and RE zones, which when built was a complying facility, shall be subject to the following, as applicable:

(i) Non-Willful Damage or Destruction: A facility which is damaged or destroyed by non-willful means (i.e., acts of God) shall be permitted to be replaced, on the same site, and in its previous configuration, without necessity to comply with the current site development regulations, provided that any such replacement shall not result in increased floor area, height, length or any other increase in the size of the facility. For the purpose of this section, non-willful destruction shall not include damage caused by termites or deferred maintenance.

(ii) Willful Damage or Destruction: The willful demolition or removal of fifty percent (50%) or more of the exterior wall elements at any time over a five (5) year period shall require the entire noncomplying facility to be brought into compliance with current provisions on this Title.

A. Exterior wall elements include, but are not limited to, the subsurface or non-decorative cladding necessary for structural support, columns, studs, cripple walls, or similar vertical load-bearing elements and associated footings, windows, doors, cladding or siding.

B. Existing exterior walls supporting a roof that is being modified to accommodate a new floor level or roofline shall continue to be considered necessary and

integral structural components, provided the existing wall elements remain in place and provide necessary structural support to the building upon completion of the roofline modifications.

C. The calculation for determining whether a structure has been demolished pursuant to this Section shall be based on a horizontal measurement of the perimeter exterior wall removed between the structure's footings and the ceiling of each story.

D. Prior to issuance of a building permit for a project where the work will result in the removal of over forty percent (40%) of the exterior walls, the applicant shall submit written verification from a registered structural engineer, certifying that the exterior walls shown to remain are structurally sound and will not be required to be removed for the project. Prior to issuance of a building permit, the property owner and contractor shall sign an affidavit to the City that they are aware of the City's requirements under this section and the penalties associated with an unlawful demolition.

SECTION 24. Section 18.76.020 (Architectural Review) (d) Findings of Chapter 18.76 (Permits and Approvals) of Title 18 (Zoning) of PAMC is amended to read as follows:

18.76.020 Architectural Review

(b) Applicability

. . .

(2)(E) Any project using transferred development rights, as described in Chapter ~~18.87~~ 18.18.

. . .

(d) Findings

Neither the director, nor the city council on appeal, shall grant architectural review approval, unless it is found that:

~~(1) The design is consistent and compatible with applicable elements of the Palo Alto Comprehensive Plan;~~

~~(2) The design is compatible with the immediate environment of the site;~~

~~(3) The design is appropriate to the function of the project;~~

~~(4) In areas considered by the board as having a unified design character or historical character, the design is compatible with such character;~~

~~(5) The design promotes harmonious transitions in scale and character in areas between different designated land uses;~~

~~(6) The design is compatible with approved improvements both on and off the site;~~

~~(7) The planning and siting of the various functions and buildings on the site create an internal sense of order and provide a desirable environment for occupants, visitors and the general community;~~

~~(8) The amount and arrangement of open space are appropriate to the design and the function of the structures;~~

~~(9) Sufficient ancillary functions are provided to support the main functions of the project and the same are compatible with the project's design concept;~~

~~(10) Access to the property and circulation thereon are safe and convenient for pedestrians, cyclists and vehicles;~~

~~(11) Natural features are appropriately preserved and integrated with the project;~~

~~(12) The materials, textures, colors and details of construction and plant material are appropriate expression to the design and function and whether the same are compatible with the adjacent and neighboring structures, landscape elements and functions;~~

~~(13) The landscape design concept for the site, as shown by the relationship of plant masses, open space, scale, plant forms and foliage textures and colors create a desirable and functional environment and whether the landscape concept depicts an appropriate unity with the various buildings on the site;~~

~~(14) Plant material is suitable and adaptable to the site, capable of being properly maintained on the site, and is of a variety which would tend to be drought-resistant and to reduce consumption of water in its installation and maintenance;~~

~~(15) ITie project exhibits green building and sustainable design that is energy efficient, water conserving, durable and nontoxic, with high-quality spaces and high recycled content materials. The following considerations should be utilized in determining sustainable site and building design:~~

~~(A) Optimize building orientation for heat gain, shading, daylighting, and natural ventilation;~~

~~(B) Design of landscaping to create comfortable micro-climates and reduce heat island effects;~~

~~(C) Design for easy pedestrian, bicycle and transit access;~~

~~(D) Maximize on-site stormwater management through landscaping and permeable paving;~~

~~(E) Use sustainable building materials;~~

~~(F) Design lighting, plumbing and equipment for efficient energy and water use;~~

~~(G) Create healthy indoor environments; and~~

~~(H) Use creativity and innovation to build more sustainable environments.~~

~~(16) The design is consistent and compatible with the purpose of architectural review as set forth in subsection (a).~~

1. The design is consistent with applicable elements of the Palo Alto Comprehensive Plan, Zoning Code (including context-based design criteria, as applicable) and any relevant design guides.

2. The project has a unified and coherent design that creates an internal sense of order and desirable environment for occupants, visitors, and the general community, preserves, respects and integrates natural features and the historic character of the area when appropriate, provides harmonious transitions in scale and character to adjacent land uses and land use designations and enhances living conditions on the site (if it includes residential uses) and in adjacent residential areas.

3. The design is of high aesthetic quality, using high quality materials and appropriate construction techniques, and incorporating textures, colors, and other details that are compatible with and enhance the surrounding area.

4. The design is functional, allowing for ease and safety of pedestrian and bicycle access and providing for elements that support the building's necessary operations (e.g. convenient vehicle access to property and utilities, appropriate arrangement and amount of open space and integrated signage, if applicable, etc.).

5. The landscape design is suitable, integrated and compatible with the building and the surrounding area, is appropriate to the site's functions, and utilizes drought-resistant plant material that can be appropriately maintained.

6. The project incorporates design principles that achieve sustainability and green building requirements in areas related to energy efficiency, water conservation, building materials, landscaping, site planning and sensible design.

SECTION 25. Sections 18.77.060, 18.77.070, and 18.77.075 of **Chapter 18.77** (Processing of Permits and Approvals) of Title 18 (Zoning) the Palo Alto Municipal Code is amended to read as follows:

18.77.060 Standard Staff Review Process

Section 18.77.060 item (f) of the Palo Alto Municipal Code is amended to read as follows:

. . .

(f) Decision by the Council

The recommendation of the planning and transportation commission on the application shall be placed on the consent calendar of the council within ~~30~~ 45 days. The council may:

(1) Adopt the findings and recommendation of the planning and transportation commission; or

(2) Remove the recommendation from the consent calendar, which shall require three votes, and direct that the application be set for a new noticed hearing before the city council, following which the city council shall adopt findings and take action on the application.

~~(A) Discuss the application and adopt findings and take action on the application based upon the evidence presented at the hearing of the planning and transportation commission; or~~

~~(B) Direct that the application be set for a new hearing before the city council, following which the city council shall adopt findings and take action on the application.~~

18.77.070 Architectural Review Process

Section 18.77.070 items (d), (e) and (f) of the Palo Alto Municipal Code is amended to read as follows:

. . .

(d) Decision by the Director

Upon receipt of a recommendation of the architectural review board:

(1) Within ~~3~~ 5 working days, the director shall prepare a written decision to approve the application, approve it with conditions, or deny it.

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

Any party, including the applicant, may file an appeal of the director's decision with the planning division. The appeal shall be filed in written form in a manner prescribed by the director. The written request shall be accompanied by a fee, as set forth in the municipal fee schedule. An appellant who obtains and submits 25 verifiable signatures of support will pay 50% of the appeal fee. The written request shall be accompanied by a fee, as set forth in the municipal fee schedule. An appellant who obtains and submits 25 verifiable signatures of support will pay 50% of the appeal fee. **(PTC RECOMMENDED DEFERRAL TO TIER 2)**

(f) Decision by the City Council

The appeal of the director's decision shall be placed on the consent calendar of the city council within ~~30~~ 45 days. The city council may:

(1) Adopt the findings and decision of the director; or

(2) Remove the appeal from the consent calendar, which shall require three votes, and direct that the appeal be set for a new noticed hearing before the city council, following which the city council shall adopt findings and take action on the application.

~~(A) Discuss the appeal and adopt findings and take action on the appeal based upon the evidence presented at the hearing of the architectural review board; or~~

~~(B) Direct that the appeal be set for a new hearing before the city council, following which the city council shall adopt findings and take action on the application.~~

18.77.075 Low-density Residential Review Process

Section 18.77.075 items (f)(4) and (g) of the Palo Alto Municipal Code are amended to read as follows:

. . .

(f)(4) The applicant or the owner or occupier of an adjacent property may file an appeal of the director's decision by filing a written request with the City Clerk before the date the director's decision becomes final. The written request shall be accompanied by a fee, as set forth in the municipal fee schedule. An appellant who obtains and submits 25 verifiable signatures of support will pay 50% of the appeal. **(PTC RECOMMENDED DEFERRAL TO TIER 2.)**

(g) Decision by the City Council

If a timely appeal is received by the City, the director's decision on the application shall be placed on the consent calendar of the city council within ~~30~~ 45 days. The city council may:

(1) Adopt the findings and recommendation of the director; or

(2) Remove the recommendation from the consent calendar, which shall require ~~four~~ three votes, and direct that the application be set for a new noticed hearing before the city council, following which the city council shall adopt findings and take action on the application.

~~set the application for a new hearing before the city council, following which the city council shall adopt findings and take action on the application.~~

SECTION 26. Any provision of the Palo Alto Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 27. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 28. The Council finds that the adoption of this ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to CEQA Guideline sections 15061(b) and 15301, 15302 and 15305 because it simply provides a comprehensive permitting scheme.

SECTION 29. This ordinance shall not apply to any planning or land use applications deemed complete as of the effective date of this ordinance.

SECTION 30. This ordinance shall be effective on the thirty-first date after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

NOT PARTICIPATING:

ATTEST:

Not Yet Approved

_____	_____
City Clerk	Mayor
APPROVED AS TO FORM:	APPROVED:
_____	_____
Senior Asst. City Attorney	City Manager
	_____
	Director of Planning & Community Environment

Planning and Transportation Commission
Verbatim Minutes
September 9, 2015

EXCERPT

Study Session

Zoning Code "Omnibus": Study session to discuss First Annual "Omnibus" ordinance of changes to the Zoning Code and related Municipal Code chapters. For more information, contact Amy French at Amy.french@cityofpaloalto.org

Acting Chair Fine: Let's do it? Ok. Item Number 5, anybody need a break?

Amy French, Chief Planning Official: At least I don't have to plug anything in this time.

Acting Chair Fine: Ok, let's just do it. So our next item is Item Number 5, Zoning Code Omnibus, which is a study session, essentially staff is bringing us an omnibus of ordinance changes to the Zoning Code or the Municipal Code chapters if I understood it some of these are about issues of interpretation such as what was an average, cleaning up a few new policies, and then also fixing some references and typos. Amy are you presenting this one?

Ms. French: Yes, I am. As you may note on the first slide here the word omnibus has fallen off. We are now calling it (interrupted)

Acting Chair Fine: Oh.

Ms. French: That's all right; we did put an ad in the paper calling it that. There's a story there. So this is now we're referring to this as the first annual Planning Code Update. I say Planning Code because it's chapter Title 18 which is actually Zoning and we also are bringing forward Title 16 Building Codes where they intersect with Planning. Oops, what happened? That's the last slide. You'll see I still have the image of a bus.

So wanted to give a little bit of a background we've been collecting some suggestions from Council Members and staff. We're operating under a tier one, tier two format. We're phasing. With the tier one items coming forward again to you this year, two tier we'll discuss later on. We are targeting a Policy and Services meeting on October 13th so leading up to that we're hoping to come back to you, targeting coming back to you on September 30th with an actual ordinance annotated and a matrix that we've been working on to kind of describe why we're doing some of these changes, what we're hoping to fix. And then we have an option to come back again in October after we've done a little bit more massaging and then hoping to get to the Council by the end of the year.

So we have some goals. We would like to improve the entitlement zoning compliance processes, the flex city codes, city policies and practices. We would like to make noncontroversial changes this year so many of these are typos, references to chapters that are no longer in that location and now a different chapter. We want to improve clarity and other administrative changes. And maybe anticipate that we may need to remove some controversial items if we do get some pushback from the public. So we want to recalibrate code sections, look at our long time interpretations to support customer service, review code sections that we publish online. We do want to address the input we've received from Council Members, have those conversations, and then we would like to explain some of our way that we're doing this so we would like to call these different categories again administrative, clarification, interpretation, and new policy. I will give you some examples of those tonight.

Some administrative change as I mentioned typos, correcting chapter section references, and eliminating duplications. We have some clean ups. It's silly the zoning index table of contents doesn't include the

hospital district, which is a fairly new chapter. Other items are on the screen here, clean up items really, discrepancies in the code that compete with each other.

Some clarifications where we have in mind is again to those building codes that intersect with Planning, signs being one of them. The first Chief Building Official, well the Planning Director and designee are engaged in the process of reviewing signs, taking them to the Architectural Review Board (ARB). We also have some, some clarifications to how we look at wall signs, projecting signs, and so we think just strategically or surgically going in touching those two areas of the sign code will be helpful to us. We do process quite a few sign exceptions to get around the awkwardness of the code.

The fences also the first Chief Building Official and new building permits are issued for standard single family residential fences. When we do have non-residential or multi-family projects those generally are looked at by the ARB and generally those are also six feet. Most of those don't require building permits.

Here's just a list of interpretation items that we've identified. There're a number of definitions. Contextual garage and carport placement, basements under footprints, the home improvement exception is what that stands for, eligibility which is set in the code at 75 percent of the walls retained as exterior walls not being subsumed into an addition in order to be eligible for those additional 100 square feet (sf) or what have you, preserving a nonconforming feature perhaps. In the multi-family zones we want to clarify that there is no minimum density set forth in the code. There's generally a range there. There's the seismic bonus concern and that's basically Downtown where we have the ability to rehab a building and then there's a bonus to be had that can either be used onsite or transferred off the site, purchased by an interested buyer. We've had concerns that buildings have been demolished and then bonuses used onsite rather than the intent perhaps of rehabbing the seismic building in place and adding to it or transferring off. There's the grandfathered facility and this came up during the 261 Hamilton project across the street, University Arts, where the concern about a grandfathered facility not being able to change its footprint. In the case of that project it was going from the basement to above grade. We think there's a good case to be made for allowing some modifications above grade to above grade to increase pedestrian friendliness, articulation, these kinds of things, massing, to approve a building and its interaction with the pedestrians.

Here's just an example of an interpretation where we could note that a breakroom is basically not a cafeteria. So this is outside the Downtown. People have said this breakroom is helping reduce trips and so we're not going to count it as floor area, we're not going to park it. So that's an idea that has some legs and it does refer to dry cleaners, maybe onsite laundry facilities is more apt in today's laundry world.

Some new policy items have a list here so one of those is interpretations and use classifications. This would basically allow in the code the Director to make qualitative decisions regarding what type of uses since it's not listed, but it's like these and therefore as far as use classifications as far as interpretations gee, what is a contextual setback in this case and would be an example. Those could be set forth the arithmetic mean or whatever in a formal written interpretation that could be basically appealed up through Planning Commission and Council. Gives people a due process over a determination.

New definitions so again, just a couple of examples; back to this concept of amenities for employees on site. What are we after here? And then substantial remodel, we get into this what percentage are we retaining this kind of thing and how can we approve that in the code? Revising the gross foot area inclusions and exclusions both for commercial and residential, there are some areas that could be improved there. Came up tonight, delete the fee for single-story overlays. That's in there. Noise equipment is another area where we feel that that could be improved. There was an ordinance passed to be quite restrictive these days and quiet equipment is to be had and so we want to look at that, could we add some flexibility? Large second floor decks that are not having to go through the IR process that might cause privacy concerns we have that on the list. Residential density bonus I'm just going to go through these little quicker. Some of this relates to the Housing Element, extending the term from 30 to 55 years, office use restrictions, there's site and design review, there's quite a few here that we're going to be taking a look at. On the ARB findings we just met with the ARB on September 3rd and had a good

conversation there about findings. On California Environmental Quality Act (CEQA) provisions we do look forward to having a code chapter on CEQA provisions, we could do a curved path.

And then I'll just focus on the appeals and hearing requests. I visited with the Policy and Services Commission, Committee of the Council a week or so ago and there was a discussion about reducing the votes from four votes to three votes for individual reviews and home improvement exception appeals to be consistent with the other vote of three threshold for other types of appeals such as ARB. And then also looking at reducing the options there are three options now. It gets a little confusing so if they pull it, schedule a hearing, and then looking at reducing the appeal fee when there's support, verifiable support. Here's another example of process items; we're looking to increase from 30 days to 45 days to get reports prepared and reviewed, and 30 days is a little fast these days for us given the volume of work and also the 5 day turnaround on decisions is too few days.

So here's the process. Again we did visit with ARB. Tonight we're talking a bit about this. We'd love to hear some feedback on your initial thoughts and we're visiting with you again on September 30th. And Jonathan did you want to expand on that?

Jonathan Lait, Assistant Director: Yes, so just a, so there's really not a whole lot here for the Commission to react to. We're not presenting any ordinance for you this is really just a head's up that something's coming. And the list that we presented there's some of these items that were presented to you there's greater certainty in our mind moving forward than others and so this is I would qualify this as a tentative list that we're working on that we're going to be presenting to you. We're still we're working on the details. And again if something the intent here is not to create any substantial new policy, but introduce to policy where the code is doesn't provide enough guidance or to address a recurring problem we're seeing, not to do a whole sea change of policy and if we do present some code amendments where it is generating a lot of conversation or concern we're just going to simply put that one aside, it goes off the list, we'll come back to it next year, and the idea is to move the ones forward that are pretty straightforward and not controversial.

Acting Chair Fine: Thank you so much. I don't see any speakers from the public so let's turn it over to the Commission questions and comments. I think we can do this quickly, Commissioner Gardias I think you're the first up.

Commissioner Gardias: Thank you very much. It's a simple question, from the sequence perspective I mean I understand cleanup is a simple thing to do, but knowing that we will be just going through the planning process there may be more changes. They will result of course with changes in the code ultimately I presume and then we're going to get to the cleanup mode again. So I'm just asking why we are doing this when we will be doing this again.

Mr. Lait: I don't think anything that we're doing here would have a, it doesn't rise to that same level of Comp Plan policy conflict or concern. What we're really doing here is trying to improve clarity to get rid of outmoded or inaccurate references in the code. Where we are introducing ideas of new policy it's I'll just one that Amy had highlighted was the idea of substantial remodels. So we have a number of single family homes that our codes do not provide sufficient guidance's to how much remodeling can take place before it's considered new construction. And all we want and we have a practice that we've been using and what we want to do is codify that practice. So when we talk about new policy that's what we're really talking about is codifying our practice as opposed to now you can do something more than couldn't have done before.

Commissioner Gardias: Right. I totally understand this. But anyway I was just giving you the priorities. I mean knowing that if we're going to work on the Comp Plan there will be a number of other modifications to the code and I'm assume that there's just we'll just resolve many other changes so just from the perspective of just loading us with this, with this item although I know that this will be maybe clean from your perspective to pass, because those are clean up items. But if we're going to do this again in a year and a half, and this has to lead to something else. That's the (interrupted)

Mr. Lait: Well and I (interrupted)

Commissioner Gardias: That's the question.

Mr. Lait: And I would say that the value is in the daily interactions that staff has with the homeowners, architects, business community so that we can provide more certainty and clarity as to how the existing codes are today or how they ought to be and how that might apply to their particular issue or project. I mean the Comprehensive Plan is going to continue for a bit longer and then once that does get adopted there's the implementation phase which does result in code changes. So we're looking at that, that horizon is a little more longer term than where we are today and we're dealing with this on a daily basis the issues that we're talking about. So I think it just creates a better sense of predictability and accountability that people will feel more comfortable with.

Ms. French: And I would just add to that that it's the first annual omnibus so we're anticipating not a year and a half, but (interrupted)

Commissioner Gardias: It's going to be ambitious.

Ms. French: It may be less than a year (interrupted)

Mr. Lait: It's ambitious, but I think it's worthwhile because the Zoning Code hasn't been updated in a while and we're not looking to do a full scale update. I think those efforts are challenging so we're going to see what we can do to make some progress while we're able to do so.

Acting Chair Fine: Commissioner, Acting Vice-Chair Rosenblum.

Acting Vice-Chair Rosenblum: I think this is a good idea. I think it's a good idea to do it regularly so it makes sense. It'll reduce your burden and make things clearer.

Two quick things; in the area of typos and obvious the position of Chief Builder has been eliminated since 1880 and now it's called something else does that have to go in front of us or Council or anyone? Can't that just be changed so I would love for us to spend time on probably the balancing test on whether or not the other things being changed are rise to the level of probably that needs to be part of the Comp Plan it's a bigger thing versus this is obvious we've been doing it, this just gets codified. That to me is a good discussion. A less good discussion is typo by typo do we change this word? This word somehow got omitted and I would think that this is a question for the lawyers I guess that staff has the ability to fix obvious typos.

Cara Silver, Senior Assistant City Attorney: I am going to have to look into that. Cara Silver, Senior Assistant City Attorney. So there is some flexibility on the part of staff to work with our Municipal Code Codifier to fix clear typographical types of issues. However, changing titles from Planning Director to Chief Building Official that is really a giving something else an additional statutory duty so that type of change would not be entertained by the Codifier. So we'll certainly use our judgement. The typos that we're suggesting are going to be in the areas where we think we don't have the flexibility to do that at a staff level and we will group them I don't think there needs to be a large discussion about those things and it would be great if you all could just focus your attention on the non-typographical issues.

Acting Vice-Chair Rosenblum: And so then my second thing is a request. So when this in the schedule of ruling this out comes back there's some line that you cross over that line and it's a big deal and below that line it's not such a big deal and we should just do it as part of the omnibus or part of the annual review process. So above, over the line I would say are things like parking minimums. That's a controversial item. I have a viewpoint on it and it probably will be addressed in the Comp Plan. And there are other items that seem less controversial. I think it would be really is the list of all items considered and where you drew the line. So this is approximately where people are fairly accepting and these are things we expect will be part of the Comp Plan because one of the things I could see us is say well, why don't we consider this or shouldn't this be in? I think that would be a really helpful thing

instead of I know that you're just giving examples of a couple of things that would be in or out or in in this case, but I think it would be really helpful for all of us to have a superset and then some idea of the things you're asking us to consider and then some things that will likely be part of the Comp Plan discussion. So that's my request in terms of moving this forward.

Mr. Lait: Thank you for that comment. And that's actually what we had intended to do although in your analogy our above the line are, is the easy stuff and the below the line's is more complex items, so we call that tier one and tier two and so what Amy presented tonight was sort of the tier one and some of those maybe fall down into tier two, but it is our intent to present that complete list. And you'll see something for instance like we heard a lot about single or about second units tonight. We think there's a policy discussion that needs to take place with respect to second units, but that's going to be more controversial then so that's when you'll see that kind of tiered principle.

Acting Vice-Chair Rosenblum: So as personal input if you're looking for feedback about whether or not you've calibrated tier one and tier two correctly there's nothing on the list that gave me any alarms. It looks like about the right level of stuff. It's a, it seems clarifying, fairly noncontroversial, but frequent enough to come up that it's worth our while to actually fix.

Acting Chair Fine: Commissioner Alcheck.

Commissioner Alcheck: I had a quick question. What are DU's? You refer to DU's, minimum DU's.

Ms. French: Dwelling Units (DU).

Commissioner Alcheck: Does the so this list tonight was long. The items that are under new policy items would you consider those tier two?

Ms. French: No. Everything in the PowerPoint tonight is in our tier one list at the moment, but we welcome your (interrupted)

Commissioner Alcheck: Alright, I mean I don't want to get too specific tonight. I don't think that's what you're looking for and I say that to mean that I don't really want to debate the items or why they are complex, but I would suggest that some of the new policy items I would like to have an opportunity to discuss in greater length. Minimum DU's in new mixed-use units for example stuck out.

I'm not exactly familiar with the office use restrictions loophole is. Loopholes in general I think sometimes using the term loophole suggests that the way staff is interpreting something is different or I should say it like this: loophole suggests that the way something is possible now wasn't intentional and I don't love that because if it wasn't intentional it depends if it was a misspelling that's one thing, but I think sometimes we don't always I think other I think different people can look at some of the same thing and think you know what, there are reasons why this should be interpreted in this way because it lends itself to these opportunities. There are reasons why it should be interpreted this way. It lends itself to those opportunities and you close a loophole someone might feel like you've made a decision that opportunity wasn't intentional and so I'm just I don't know what the office use restrictions loophole is. It might be really like innocuous, but some of these new policy items I think would I don't know I would suggest maybe they are tier two. Maybe they deserve a little bit more interpretation.

Look in general I love the idea of us making this easier so this notion of noise equipment the only one that stuck out to me is I mean there are some, delete the fee, but the noise equipment low density R-1 zones that's great because that suggests that the concerns that we had are being improved by technology maybe we should be a little less strict, more lenient on the placement of noise producing equipment. I like that because our community's zoning is really specific like I have a little bit of experience with building codes and we have a book that is I've never met a contractor or builder that didn't say wow, Palo Alto's really got the book on books. So in all seriousness it's like this thick. It's really specific and I just like I like the idea of us evaluating to make sure that well all the things that

we're requiring are still relevant. So in that regard I'm happy to see that in the new policy items and maybe that one isn't necessarily controversial.

In doing a touch upon the interpretation section I feel like it's there's this like notion that people who rehabilitate homes and they keep some existing walls are somehow like it's like perverse that they got away with something because they kept a couple of walls and I my assumption here is that we're trying to make it harder to get away with something. I think that will affect a lot of people and I wonder if that would rise to the level of "controversial."

And then again I don't want to get too specific, but the contextual garage carport placement today we talked about contextual setbacks. I don't want to get too specific, but this particular provision in the code I think incentivizes a very dated design element and I'd be curious to know what the rewrite looked like obviously. And I also think that we are going to experience a tremendous, like tremendous change in the way people experience car ownership in the next 15 years and the houses that are going to get built in the next 15 years will be built for 60 years and this garage placement provision has actually really significant impacts on the way people layout their homes and it causes them to make decisions about how to… anyways it's complicated. I just want to suggest that that might be a tier two item because I actually do think that there's a real question as to what are we incentivizing with that, with that specific policy and I think we owe it to ourselves to have that discussion.

So finally I want to just respond to that last statement which is I actually think this is great that we're doing this all the time. I think that this should definitely be annual because when we provide clarity we make it easier on all the parties involved. And so I actually welcome the idea of this happening as often as possible. I don't think it has to be a very convoluted process.

Acting Chair Fine: Commissioner Gardias.

Commissioner Gardias: Thank you. So the reason I spoke about this because I think it just takes our attention off the grand prize and doesn't use our and your time or schedule properly. And of course I'm proponent of any cleanup, but there is a knowing how costly the Palo Alto Municipal Code is to design or plan a building. If you see it from the planners and if you see it from the perspective of the customers they pretty much spend thousands or ten thousands of dollars for any modifications, changes. Then pretty much you would appreciate that change in the code should be going to make their life easier in interpretation and making this clear and making this readable and pretty much just making their life easier so pretty much they can focus truly on just designing great public spaces, great streets, and great houses for themselves as opposed to just spending their time just interpretation of the, of this what we write.

So I'm sorry for making this comment, but I think that of course we will help staff with any intention, but I think that just listening to what my colleague just said any of this of this items will open can of worms and pretty much will engage the Commission on just discussing items. And I can just add I would just I had to make myself a list of a few items that I could add to this and I could just make others and probably would be very long list and each one of my colleagues probably would add to this list and we would end up with just pretty much just opening restructuring of the code totally while we are in the beginning of just looking into the Comprehensive Plan. So my suggestion would be rather with full respect to this plan to rather just focus us on the planning items, just put this in the proper perspective. Thank you.

Mr. Lait: So if I could just make a couple of comments to so thank you for all the remarks. We're in accord with you on your where you're coming from and where this gets placed in the scheme of things. And I don't think we're taking our attention off the grand prize principally because Amy and myself are not engaged in the Comprehensive Plan the way that Hillary and Jeremy and other people in the Department are focused in on that effort. So we do have dedicated staff that's focusing in with our consultants and the Citizen Advisory Committee (CAC) and there's a whole effort underway and the other resources that we have at the Department is focusing in on processing those applications that you mentioned.

And part of our job, my job and working with Amy is to find opportunities to streamline and make it easier for customers and staff to get through the process because it is an old code. It hasn't been updated in a while and I think some of the controversies that we have seen have generated because of lack of clarity and interpretation over years of how the code has been used. And so when we're seeing that kind of discourse taking place in the community and we look at the code and we see that this isn't helping us I think that there is this need to address some of the problems. So in many respects I think it's focusing our attention where it needs to be placed on the critical issues that are affecting residents and neighborhoods where there's these conflicts of code interpretation and how that's taken place.

We welcome additional items to be added to the list. We want to hear what else needs to be added and part of the reason why we're making this an annual event is if we don't capture it this year we'll tackle it next year. And piece by piece slowly but surely we'll be able to have this be more of a living document. There's not enough here for the Commission to respond to right now. So you will see the language, you will see the actual strikeout underlined text being added there. You're absolutely right that there is there are some items that will drop off into tier two and that's we're ok with that. We're not saying that this all has to be tier one. If contextual garage placement is an issue ok, let's table it and we'll have another conversation about it when the time comes.

There was just one other… thank you for the comment about loophole. We'll take a look at that and make sure that the terminology that we're using is not suggestive or something like that. It's a fair comment. The comment about the minimum DU's that's more of a reflection of existing policy, but I can understand how that might evolve into a conversation.

Two more, two more comments. The we spend a lot of time at on at the staff level having planners talking to each other first one on one then groups and there's this conversation taking place about how to interpret it if you go to code section to a particular project. And that consumes a lot of our staff resources, it delays the applicant, it would be much better if we can have clarity in our regulations. And this doesn't solve all the problems, but it starts the ball rolling so that we're not having those, we're not extending the planner view process by dialogue. And also in the case of substantial remodels and there is no effort underway to make that more difficult and we're not looking at this as people are getting away from something. What we're trying to do is establish a very clear line as to what is a substantial remodel and what is not so that we're not having to place a stop work order on somebody's new home that they're trying to remodel and then have that protracted conversation about did you cross the line or not when there isn't sufficient guidance in the code to do that. So all we're trying to do is make sure that everybody understands what the playing field is and that way everybody operates or plays accordingly.

Ms. French: Can I note something about the substantial remodel? That that is particular to noncomplying facilities.

Mr. Lait: Yeah.

Ms. French: So I mean I think the goal is again not to say the word loophole, but there's this somebody already has something vested basically in the building that crosses over a property line that has more Floor Area Ratio (FAR) than you could get if you built it today. So it's kind of trying to dial that in to something that can be explained very well.

Commissioner Alcheck: I'm not familiar with (interrupted)

Mr. Lait: Right. And just a last comment. I wanted to appreciate the comment about the noise equipment because we're not we're looking at typos and clarifications, but we're trying to figure out how are people getting… are we asking for something that's not reasonable or doesn't make sense? And so you've got a lot of equipment in side yards that is existing that predates our code because now you can't put any air conditioning (AC) unit in a side yard and it's the old systems and they're 15 years old or 20 years old and they're humming pretty loudly and all somebody wants to do is replace that with a new quieter system that complies with our noise ordinance. And so the idea here is well if we told somebody

they couldn't do that they're probably not going to come to the City and pull a permit and get it done right and not have the inspections that go along with it. So we're discouraging people from doing the right thing by having this prohibition. So we're trying to recognize that and say yeah, that's fine, if you want to put in, if you want to replace your equipment, great. Pull your permit and let's get it inspected and let's make sure it's compliant with the noise ordinance and what should be the harm in that? So those are the kinds of things we're doing.

Acting Chair Fine: Commissioner Michael.

Commissioner Michael: I don't really have any comments on the particular items that you've got enumerated in your presentation made tonight, but I do think that there's just a couple of comments that might be made about process improvement relative to how the staff and the Planning Commission could work together on something as important as this. In the materials that were distributed online, we're not getting hardcopy anymore and we didn't, we didn't get this material. It was three page so, so that inherently forces us to react on the fly here with some lack of background or further analysis. So it sort of it renders our feedback to you very superficial. So that is a process defect that I would really encourage you to consider leading with the background information which may be more work for Commissioners, but at least we would have a deeper, better understanding of what you're points you're making when you make them and when you get to the next point in the analysis.

So it also impairs the validity of when you come back for our final approval because you don't get the backing material until the end of the process when we should have gotten the background material in the beginning of the process. So that is a to me a significant defect and the quality of the deliberations of the Commission and you might want to think about what the proper sequencing of that of giving information to the Commission might look like.

And I know that of late there's been a huge disincentive for the Planning Commission to constitute any subcommittees. That was not the case when I joined the Commission four years ago. A lot of work was done in subcommittee format. I think this might be an area where if you wanted meaningful interaction with the Planning Commission a subcommittee, a standing subcommittee would be particularly instrumental because this looks like it's a very important process to make Palo Alto more resident friendly and easier to do business with and reduce any costs that don't add value to the process or time delays. So I think there's sort of a disconnect between just the huge amount of time that staff spends on these very important questions and in fact that you're not really getting a meaningful interaction with the Planning Commission to provide you any assistance. So.

Mr. Lait: And just a quick comment on that. We weren't looking for a substantive comment at all and I appreciate your comments and as I noted to Chair Fine, Acting Chair Fine we're kind of working through some of these issues now. And so we thought it would just be helpful to introduce the concepts so that when September 30th when we come back you had an understanding and that's when your deliberation clock starts. It doesn't start today because you had nothing to look at. It'll start on the 30th and then you have this as just the background to that.

Acting Chair Fine: Thank you. I think we're going to wrap this up. Just my quick comments; I would encourage all of the Commissioners to email comments and questions before we come to our next meeting. So it would be really helpful if we can get the ordinance if not the staff report early just so we can all look it over and go through those things, even if it's just the ordinance. And then I'd also encourage staff to push items that will save the City time, money, and staff time. With that I think we can close this item. All good?

Commission Action: Commission took no action, provided comment and suggestions.

Planning and Transportation Commission
Draft Verbatim Minutes
September 30, 2015

EXCERPT

***Public Hearing*:**

First Annual Planning Codes Update: Discussion and Possible Recommendation of an Ordinance to amend land use-related portions of the Palo Alto Municipal Code. The purposes of the code amendments are to: (1) improve the use and readability of the code, (2) clarify certain code provisions, and (3) align regulations to reflect current practice and Council policy direction. For more information, contact Amy French at Amy.french@cityofpaloalto.org

Chair Tanaka: Let's go to Item 2, the First Annual Planning Code Update. Does staff have a presentation for that?

Amy French, Chief Planning Official: Yes, we do. Give us a moment. Ok, ready to begin.

We visited with the Planning and Transportation Commission (PTC) on September 9th to discuss the proposal to initiate changes to the zoning and building codes for land use regulations and the range of changes were discussed as a classification system at that meeting. We talked about coming back with the Tier 1 matrix, which we did come back with in the staff report. It's online and we have that to discuss tonight. The Tier 2 items are underway. Tier 2 again are items that we envision coming back with next year. We hope that you've had a chance to look at that matrix. We may or may not proceed to the Policy and Services Committee on the 20th of this next month. We do intend to come back with an actual ordinance on the 28th to the PTC.

Again there are some distinct projects that are not contained in this matrix and this effort. I put them up on the screen. These are the parking exemptions Downtown as Jon mentioned, prescreening requirements, this is a preliminary review process, hazardous materials facilities, retail preservation initiatives, office cap, and housing impact fees. Those are not part of this effort.

Again the change categories we whittled down from four to three. You see them on the screen. And then we have our matrix, which the public has copies of as well. Wanted to say that we are hoping to get into a bit of an outreach effort following tonight's discussion and we are hoping to hear from you as to items that you want us to discuss. I'll let Jon who was at the pre-Commission meeting discuss anything further. Ok. I'll let you take it then. Greg.

Chair Tanaka: Ok, so here's how I thought we could try to parse this. I thought that what we could do is go through each, oh, sorry. The Acting Vice-Chair is reminding me that we have some public comment. So let's hear the public comment first before we move on. So can you go through and I think each person has let's see, three minutes each. Oh, sorry. I'm corrected. Five minutes.

Acting Vice-Chair Downing: Ok. The first speaker is Doria Summa followed by Jeff Levinsky.

Doria Summa: Doria Summa, College Terrace; good evening Planning Commission and Chair. And I wanted to start out by thanking staff very much for doing this. I think it's a great start to what I'm hoping will be a really excellent process. And Jeff Levinsky who's also here and I took the time to go through the whole thing and send you a letter. Of course we couldn't write a detailed account of anything, everything, because there just literally wasn't time because you really have to look into each item. And some we were familiar with and some not as much. So I just want to thank you for that and I want to encourage you to do this in a timely fashion and keep on your schedule, but I think the schedule could be opened up a little more to give the public a little more time to work with it as staff moves forward with the process. And I hope you had a chance to read our comments. Thank you very much.

Acting Vice-Chair Downing: Sorry.

Jeff Levinsky: Should I start?

Acting Vice-Chair Downing: If you're ready.

Mr. Levinsky: Ok, thanks. My name is Jeff Levinsky. Good evening Commissioners and staff. I too would like to thank the staff for all the hard work to assemble and explain the many proposed changes to the code. Overall I think these changes should very much improve both the development process and the livability of our community. I do feel that the requirements should be scaled to the size of the projects. That's already the case in countless places in our City code, but the matrix introduces a few exceptions to that. For example is Item 44 and 55 suggest a one-time 500 square foot (sf) cap on the space that could be exempted from Floor Area Ratio (FAR) and parking to comply with regulations such as Americans with Disabilities Act (ADA). 500 square feet is a huge exemption for say a 3,000 sf office building while it might be much too little for a 30,000 sf building. So tying the cap to the size of the building seems like a better way to do it.

The same issue occurs on Item 54, which requires a minimum of three housing units in certain mixed-use projects. These housing units, three might be just the right number for a 5,000 sf site, but it's likely impractical for a much smaller one while it's way too few on a large site. So again, please just tie the minimum to the size of the overall project.

The same principle also applies to something not yet in the matrix, namely a penalty when Planned Community (PC) promise a grocery store such as a public benefit, but then no operating store materializes. Right now Edgewood Plaza's grocery store, which was one of the key promised benefits of that PC has been closed for over six months. My neighbors and I were told the City will be charging a $500 daily penalty, which is just $0.75 a sf per month approximately. The City says this will double at some point; however, the much smaller grocery at College Terrace Center, which is also a promised public benefit agreed to pay about $7.50 per sf per month when no store is operating. The Council approved that last December. In other words the penalty for not providing a smaller store is 5 to 10 times larger than for the larger store. That's not fair. It's like charging low income taxpayers 10 times the rate of high income taxpayers. So my neighbors and I recommend that you add an item to the matrix establishing the same $7.50 per sf per month penalty for all three grocery stores that are promised by PCs.

Let me point out that neighborhood shopping shortens or even eliminates car trips. It saves residents time. There are strong environmental and social reasons to encourage neighborhood groceries, but they only help if they're open. The $7.50 per sf per month penalty from when they're not open is good policy already supported by the Council, so please ask staff to add that to the matrix. Thank you.

Acting Vice-Chair Downing: The next speaker is Herb Borock. And that's, I think our last speaker.

Herb Borock: Chair Tanaka and Commissioners, I was around when there were yearly updates of the zoning code. That for the zoning code, for the Comprehensive Plan, for a stop sign network, there were regular updates and the people from the community who recommended changes were identified. It was not just some anonymous customer suggesting something. And so this really isn't the first update, first annual update because they may have stopped about 15 years ago with changes in Councils and City Managers, but they were a regular occurrence.

The past major changes to the zoning code were two in 2004 there were major changes to procedures for architecture, for design review and for use permits and variances. The author was supposedly the administrator, Jon Abendschein, whose career is really in the Utilities Department and the only other person in the Planning Department to sign off on it was Steve Emslie who is a lobbyist for developers now. Wynne Furth who is a candidate for City Attorney was the one who did the actual language because the Attorney's Office has to prepare the language and the week after the Council adopted those

changes Gary Baum was appointed City Attorney instead of Wynne Furth. And Wynne Furth's now on the Architectural Review Board (ARB). In 2000, around 2006 there were major changes, rewrites of the zoning code that John Lusardi planned and organized, but then he left for Scottsdale and Curtis Williams followed that up.

I had a brief actually three discussions, one by email with Senior Assistant City Attorney Cara Silver about one of the items that I had mentioned during the deliberations on the State Density Bonus Law and the City's adoption of that new chapter in the code, which I believe is 18.15 and that is that the Pedestrian Transit Overlay District (PTOD) contains language that says the density bonuses in that district are the ones that satisfy the State Density Bonus Law and you can't do any more. And I don't have a copy of the printed code in front of me so I can't go from the matrix to the printed code, but if we're talking about the same item of just deleting it essentially then you could do both the PTOD density bonuses plus the State Density Bonuses. And I think the appropriate thing to do would do what you had done in that one for the PC zone, which is to say if you're going to be using PTOD you can't use the State Density Bonus Law because there are already bonuses in there. So this would be really a policy change rather than a simple technical change.

In all the previous major revisions there were printed copies of the changes redlined versions of printed redline versions of the changes so you had both the clean code as it would be with any changes and also in context you could actually see what changes were being proposed and there was adequate time for the Commission and the public and Council Members to review them. That we don't have now with just the matrix. I briefly noticed in your previous meeting on this that Commissioner Michael I believe it was indicated concern about having printed versions of what it is you're going to be reviewing. Based on the past performance such as the code changes with the maiden procedures in 2004 in some cases in substance in 2006 it requires people to spend a lot of time reviewing them to see what's actually happening. When those changes were made we had a Council that had only been reelected once and served five years to get lifetime medical benefits and it seems that was more important than paying attention to what those code changes are, but they don't have that incentive anymore. And perhaps with changes in the Council and hope in the Commission that we will adequately review these and not just take it on faith that something is just a technical change and that is adopting a policy or an interpretation that somebody made, but rather take the time to deliberate and actually review the code and see what it really means when we're looking at these. Thank you very much.

Acting Vice-Chair Downing: Thank you.

Chair Tanaka: Ok, so let's bring it back to the Commission and during the pre-Commission Vice-Chair recommended a strategy for us to use to kind of go through this. So I'm going to divide this meeting up into two parts. So one part would be for us to, actually maybe let's do three parts. Maybe one we should just have kind of like general questions that the Commission has for staff. I think we should start off with that, but I think the second part should be for us to we'll go through page by page and for on each page we will take kind of like votes in terms of which ones we need to deliberate more on or other issues. And then the strategy the Vice-Chair or the Acting Vice-Chair recommended is that we start with the pages that have the least number of let's say contentious parts and then work our way up to the more contentious ones. And the rationale behind that is so that staff can actually get started on at least some of this while we kind of wade through the deeper topics. So that's the proposed methodology we use tonight.

And so let's, let's open it up to questions. So does anyone have questions? If so hit your lights and we'll, I'll call on you. Commissioner Gardias.

Commissioner Gardias: Thank you, Mr. Chairman. So I want to in regards to the speaker I want to ask staff the question this matrix when it was compiled was there any effort made to reach out to the public and incorporate public comments into this matrix besides the staff experience?

Ms. French: To the extent that the staff, the current Planning staff have heard from the public and have experience working with the code with the public we've received comments that way. We also did

receive some input from others that I wasn't speaking with directly, but Jonathan had conversations with. They're not identified in our matrix (interrupted)

Commissioner Gardias: There was no specific effort so (interrupted)

Ms. French: There has not been an outreach effort to meet with developer groups or architects, frequent applicants. We have not done that.

Commissioner Gardias: So the reason that I'm asking about is because it would be worthwhile to somehow solicit the comments. They learn upon the issues and some mistakes and I think that they could provide also some valuable input to the specific matrix specifically about some minor modifications. I just can bring as an experience, as an example an item that when we talk about Park Avenue 2555 I think this is the number there was some a comment the developer, Mr. Tarlton, brought up about this specific zone. And I thought I didn't make a note of this, but I thought it would be, would be beneficial just to incorporate this comment or at least just take it, incorporate it in this matrix if it's really pertinent. I thought that this would be pertinent and then this is just an example, but there could be other cases like this. So I would recommend just as you work on the second tier, because there will be a second tier if you could just please reach out to maybe recent cases or some other public that you are in contact with they will share their experiences with us and will provide benefit to this matrix. Thank you.

Ms. French: Thank you.

Chair Tanaka: Ok, so I see no other lights for questions so let's move on to the second phase which is really to go through this page by page and to indicate which ones you think that there might be some deliberation needed. So let's start with the first page, Tier 1. So there are page numbers which is great. So the very first cover sheet, are there any on this sheet that anyone wants to discuss more/deliberate?

Commissioner Michael: So as I read Items 1 through 10 most of them are administrative with the possible exception of Item 4, which is looks to be a new, newly formalized process for issuing zoning code interpretations. I would think that would be one that would possibly benefit from discussion.

Chair Tanaka: Ok, great. Any others on this page? Commissioner Gardias.

Commissioner Gardias: So just the formal question before I ask specific are we going to go page by page or we're not going to go item by item?

Chair Tanaka: No. I think that'll take us a long time. Just tell me what item you want to mark. I've marked Number 4. I actually thought that Item Number 1 might be something that we should talk about. So just tell me which ones you want to mark and we'll mark it.

Commissioner Gardias: Ok. So I'd like to just I have some questions about Number 5, Number 6, and Number 8.

Chair Tanaka: Ok. Ok, any others on this page before we move on? Ok, let's move on to Page 2, any, any on this page? Commissioner Gardias, do you have another?

Commissioner Gardias: Number 11. It's the same as the prior one Number 6 or similar.

Chair Tanaka: Ok, Page 3?

Acting Vice-Chair Downing: Number 29.

Chair Tanaka: Any others on Page 3? Commissioner Gardias.

Commissioner Gardias: Number 23, 25, and 28. 25 and 29.

Chair Tanaka: 28? Was 28 included or no?

Commissioner Gardias: No.

Chair Tanaka: Ok, just 29.

Commissioner Gardias: Just again 23, 25, and 29.

Chair Tanaka: Ok, any others on Page 3? Ok, Page 4. So this is the interpretation. So this one is where there is a lot more substantial changes. Does anyone have issues on Page 4?

Acting Vice-Chair Downing: 32.

Chair Tanaka: 32, ok. Any others?

Commissioner Gardias: 31 and 33.

Chair Tanaka: 30.

Commissioner Gardias: And 34.

Chair Tanaka: Ok, any others on Page 4? Yep, I got 33. So 30, 31, 32, 33, 34; everything except for 35. Yeah. Any others on Page 4? Ok, let's go to Page 5. Which one? Ok, 36.

Acting Vice-Chair Downing: 39 and 40.

Chair Tanaka: Ok, any others?

Commissioner Gardias: 37, 36 we already have. 37.

Chair Tanaka: Any others guys on Page 5? So far we have everything except for 38. Ok, let's go on to Page 6.

Acting Vice-Chair Downing: 42.

Chair Tanaka: Ok.

Commissioner Gardias: So if I may?

Chair Tanaka: Sure.

Commissioner Gardias: So if I may? I have not reviewed Items 42 and up which doesn't mean that I would not like to look at them as we speak. So I don't know if you could adjust somehow the cadence I don't know if everybody just prepare just to provide opinion at this moment.

Chair Tanaka: Ok, well let me ask you this, for other Commissioner Members are there do you guys need, should we go item by item? Would that be helpful at this point or should we just go by page by page?

Acting Vice-Chair Downing: Well, I think it would still be helpful to know which page has the least number of issues and start with that. Just because I would like to have the staff walk away with as much as possible. So the pages that have the least number of things that were contentious let's start there and work our way up.

Chair Tanaka: Ok.

Acting Vice-Chair Downing: Because we're not going to get though everything tonight. It's clear we can't go through 60 items.

Chair Tanaka: Ok, so maybe let's continue to go page by page. Maybe we'll go a little bit slower here, but ok, Page 6 any other, any other potential issues? Oh, just to let Commissioner Rosenblum who just arrived just so we're on Item 2 and what we're basically doing is we're going through the First Annual Planning Code Matrix, this sheet. And what we're going through is we're going through page by page to see which pages have issues that we want to deliberate. So we're now on Page 6 and basically we're just going through to figure out which ones have items that we need to deliberate. And then Vice-Chair made the recommendation that we start with pages that have the least number of issues and go through those and work our way up to the ones that have all the issues. And with anticipation that we're probably not going to finish tonight, but we'll get as far as we can. And this will let staff make some headway while we, between our meetings.

Ok, so Page 6. I thought 41 is something that we should talk about. So right now we have 41 and 42. Does anyone have issues with either 43 or 44? Ok. I thought 43 might be something that we also want to talk about.

Ok, let's go on to Page 7. So Commissioner Rosenblum if you have any potential issues on Page 7 just shout it out and we'll mark it down. 46. I think 48. Does anyone else have anything on Page 7? Ok, let's go to Page 8.

Acting Vice-Chair Downing: Item 60.

Chair Tanaka: 60. Anyone else have anything on Page 8? 54. Ok. 54. Any others on Page 8? Ok, let's go to Page 9.

Acting Vice-Chair Downing: I think I'd like to hear a little bit more about Number 62.

Chair Tanaka: Ok. Ok, so there's five items on Page 1. There's one on Page 2. There are three on Page 3, five on Page 4, four on Page 5, three on Page 6, two on Page 7, two on Page 8, and one on Page 9. So pretty much every page is covered. So the one that has the least is Page 2 and Page 9. So maybe let's start with Page 9 so we can get this one done pretty quick. I think the person that asked about it is the Acting Vice-Chair. So why don't you kick it off?

Acting Vice-Chair Downing: Ok, so with respect to Item 60, oh I'm sorry, Page 9. Ok. I think I'd like to hear a little bit more from the staff about their thoughts with regard to fee reduction for appeals and kind of what's pushing them towards this because I see this kind of in a couple different sections. So it would be nice to get some background on that.

Ms. French: This came from the Policy and Services Committee of the City Council. They discussed it last month or was it this month? I believe it was earlier this month. They had a conversation about it as to just how much it would be reduced by and roughly the number of people that would be considered a substantial support element they thought 25 would be considered substantial. If there are 25 people that sign on to an appeal then there should be this discount of an appeal fee. So the only appeals that there are are the architectural review appeals, Individual Review (IR) appeals, and home improvement exception appeals. The other ones that you see, use permits and variances, neighborhood preservation exceptions, those are not technically appeals. They do not have a fee associated with them. It's really just architectural review, IR which is the two-story homes, and home improvement exceptions.

Acting Vice-Chair Downing: Ok, I guess from my perspective I'm not necessarily a big fan of this kind of policy because I think that in all of these matters these are quasi-judicial matters, right? So any time someone appeals one of these things if you are trying to do a project you basically have to bring an entire architectural team and you have to bring in your lawyer. And every time someone appeals it costs you lots of money. And basically because there are so many different ways to hold up a project and it takes years to get a project going we're basically telling the community that there's actually there's no

penalty for slowing down that project whether or not the complaints are legitimate. Whether or not they're correct, right? And signing on 25 people it's not that hard in a city of 65,000. You could sign on 25 people who don't even live anywhere near that project, right? So I don't think it's really fair for someone to be able to appeal all the time without having any skin in the game. I'm not a supporter of these appeal reduction fees.

Robin Ellner, Administrative Associate III: Excuse me, Vice-Chair. The public is having a hard time hearing you.

Chair Tanaka: Ok, I'll try to speak up and closer to the mike. So the Acting Vice-Chair has a position on this which is that this is maybe not fair to the process. And so what I'd like to do just so we could get a quick feel as to whether there's support or not support for this is if anyone doesn't agree with the Acting Vice-Chair on her position which is that this probably doesn't make sense, please hit your lights and speak about it. So let me clarify. So basically if you disagree with what the Acting Vice-Chair said please hit your lights and explain why you disagree. I have Commissioner Rosenblum.

Commissioner Rosenblum: Yeah, I actually agree with the substance of what Acting Vice-Chair Downing has said, but I think given the clarification that this is what Council has asked for in this case I don't know what our role is? If they specifically have asked for these fees to be removed I feel comfortable with us saying that this leads to unintended consequences so essentially frivolous attempts to block for no cost that there's an unintended consequence of this and so it could be flagged, but if staff is simply responding to what Council has already basically ordered I would say I would be in agreement to flag this as something that they should consider unintended consequences of.

Chair Tanaka: Alcheck, Commissioner Alcheck.

Commissioner Alcheck: So I think to respond I actually agree with the idea that we should not recommend this alteration and I think that there's some failed logic here. I think when an application so the first review part of this process is that staff has already made a conclusion on the item and so our City has gone through a process of reviewing the application, they made a decision, this is when somebody isn't happy with the decision and wants to hear it or wants to review the decision of our staff. And I think in a situation like that I think the argument that the fee should be reduced when the number of signatures rises is sort of a failed logic. The more people involved the more you can spread the cost. And so I don't see if you've got a hundred signatures why the fee would actually be probably very minimal and I think that the idea here is we should encourage people to get involved in an appeal when it matters to them and not encourage an appeals process that lacks sort of a significance. I appreciate that Council may have suggested or directed this review, but that doesn't necessarily mean that they anticipated it... the amendment would be brought to them this way.

I think another issue that concerns me is that it would require only three Council Member votes to pull off consent. I don't like that either. I don't think we should encourage review of our staff's hard work by I should say unmeaningful minorities. So I think both the financial fee creates a disincentive for people take it more seriously when the fee is there and I also think that the votes to pull off of consent should stay at four. I just don't think it makes sense to have it any I mean maybe when our Council goes from nine to seven as some have suggested will happen one day then three makes sense, but at nine I think four would probably be the right number. And so I agree here with Commissioner Fine, I mean sorry, Commissioner Downing.

Chair Tanaka: Ok, so on this item Vice-Chair has, Acting Vice-Chair has flagged it as a potential problem and it seems like the majority of Commissioners agree. I think Commissioner Rosenblum I guess opposes it. Well, in principle agrees, but opposes it mainly because it's directed by Council and I think Commissioner Alcheck just also spoke in favor of it. So I think that's what the conclusion of 62 is. Oh, Commissioner Michael.

Commissioner Michael: So first a comment on the process and I think echoing I think some of the public comments about the rigor with which we can approach this exercise I've been trying to pull up on my

iPad the actual language of 18.77.075 to see what we were actually trying to deliberate about and it's actually hard to pull it up in my system for some reason. So I can see what it's about, but I can't see the full, full text and I find it makes it difficult for me to think through this analytically. With that the role of the PTC is to be a recommending body to the Council and particularly here where the Council has taken the first crack at something which they believe to be in the public interest I'm curious what further recommendation they would like to have regarding their efforts to make this improvement. It looks to me like given the nature of what 18.77.075 concerns to the extent that there is an appeal fee reduction when there's a significant number of signatures it doesn't seem to be a particular raising or lowering of the bar. In one case the bar is at a level that you have to have a least a couple of signatures and a fee then the fee is less if you have more signatures so I think it's a commensurate indication of public interest. And I actually I'm not particularly concerned about how many votes on Council is required to pull something off of the consent calendar. That strikes me as something that is of not an area where the Council is interested in our recommendation.

Chair Tanaka: Commissioner Gardias.

Commissioner Gardias: Thank you, Mr. Chairman. So the comments I have are from two areas. So there's also here an item that at the end about increase of the number increased number of dates to consent calendar and I remember staff speaking to this last time and I heard the comment if I heard correctly that the reason was because there was because of the workload there was not enough of the throughput to pretty much just to meet the deadline as it's currently in the code. When I thought about this I truly understand the concern and the intent, but I think that if you flip the coin and if you think about the customer which is the public we should be rather meeting that ceiling of 30 days as opposed to trying reduce because otherwise it impacts the public. And here is our customer and the customer is the public. So for this reason I think that we should not be recommending of the increase of that of the number of days from 30 to 45. So this is one number.

Number 2 is that because this item and I think that my computer works colleague Michaels I was able to pull it out and this particular paragraph is for low density residential review process. And that's for this reason reduction of the fee makes sense because pretty much it's just although the cost per head spreads out, but pretty much it's looking at Los at our prior item, Los Robles item, if you see that if the public is engaged then pretty much it's the substantial argument to pretty much for us to pass certain policy. And then for this reason just imposing the fees, the fees because of this reason the fees may be reduced because that element engagement of the public should be the compelling argument to allow this policy or this revision or appeal in this case to accept.

So summarizing I would recommend to meet the Council and I would support a reduction of the fees with the increase of the signatures. Then in terms of the last item I would recommend not to extend the timeline. And then just there is another item about the votes about decreasing the number of the votes so I totally agree with the colleague of that was talking about that reduction from four to three votes it's not appropriate because it would override some others work.

Chair Tanaka: Commissioner Rosenblum.

Commissioner Rosenblum: Just a question for staff and I should have asked this up front. My understanding of this whole exercise is that this is a simplification so essentially these are items that are either clarifications, fixing of typos, fixing of outdated clauses, and that all of these items were being done kind of in omnibus fashion for us to zip through. And so items like this are clearly new and you even have in change category new policy per Council direction. So I'm curious why is this even part of this exercise? So I'm not sure we should be here debating the wisdom of new Council directions. And it seems if you're making zoning changes or changes that are new policies that that's fundamentally different from this exercise of the annual cleanup exercise, which we had discussed last time as I think a good idea and for the most part we should just the test that we're applying I think is are these things big deals or not? And so when I think about this one I'm reversing myself a little bit, it is kind of a big deal to be able to take something off consent calendar easily and reduce the friction with which people can oppose developments for example. That's a big deal and you can agree with it or not agree with it, but it

is a big, it is a change. And I didn't think that was the point of this whole exercise. So I'm wondering if you could address that.

Jonathan Lait, Assistant Director: Thank you, Commissioner Rosenblum. Yes, the intent is to again sort of get the, improve the clarity, the administration, you have that correct about what the intent here is and yes there are a couple of items that are on here that maybe push that envelope a little bit. And however I don't know that this is one of them. We certainly do have a couple of others that have been flagged already that we'll want to have more of a conversation about. But where we get into a for some of those other ones and maybe for this one a little bit is when staff is having a challenge either in our application of the code working with customers, conflicts of code interpretation or processing that's when we have we've put it on this list so we can make the process smoother for people.

And with respect to this one so there's three things being done on this particular amendment. One is the 30 to 45 days. We have an internal processing report review preparation that our internal system for having reports prepared and reviewed is 35 days. The draft of the report is due 35 days before the Council hearing date. So by reducing it or by increasing it from 30 to 45 we're giving ourselves a fighting chance, ten days, to prepare a response to an appeal that comes in, write a staff report, and get it to the first supervisor reviewer so that it can get into the City process. And that's the report review time for all Council reports. It's five weeks, 35 days. It's just untenable we cannot make it work under the 30 days. So we're just looking to have some time to do a thoughtful report. That's that change.

The four number there's been some confusion at the Council and at staff level as to is it three or is it four. Because I think as Amy was saying there are other permits where you can request a hearing or pull something off, but it's three votes. For these appeals it's four votes or maybe I have that backwards?

Ms. French: Correct.

Mr. Lait: And to this day we're still figuring out which one's three, which one's four. So we're just trying to create parity between all the other items that can get pulled off and heard by the Council. We just want to make it one number whether it's three or whether it's four we're fine either way. And so maybe the Commission's recommendation would be change the other ones to be four and leave this one at four. We just thought that going from three to four was... from four to three was the direction that we thought would be most palatable. That could be a conversation.

And with the appeal fee I understand all the pros and cons about that. I'll just say that the appeal fee itself is pretty low. It's $416 or something like that. So a 50 percent reduction after twenty-five signatures gets you down to $200. Some may argue that that's a barrier. I've heard that, but compared to other communities it's a pretty low subsidized fee as it is. So I appreciate your comments and I think if there's an opportunity for us to have a dialogue back and forth about why we've put some things on maybe we could explain that a little bit more. That's why this one is on and plus we had the recommendations from the Policy and Services Commission.

Ms. French: Could I just provide one more piece of enlightenment because I did attend that Policy and Services Committee? The Policy and Services Committee started off with an intent to increase from three to from sorry, from... they wanted to have two votes. Correct. They wanted to have reduce it from three to two votes to only have two Council Members to pull it off consent. And so I made the argument at that meeting to say well, everything else is three, how about three and there's just one outlier which is this four vote. I just wanted to give some context.

Commissioner Alcheck: Can you give me, I'm sorry. [Unintelligible] on this committee. Yeah. I'm just curious.

Ms. French: Council Member Burt, Council Member Wolbach, sorry. Those are two and there was a third and yeah.

Commissioner Rosenblum: So I do want to finish this question though. So I had thought again our role here is to based on our discussion in the last meeting was to make a determination about whether or not these pass muster as being essentially administrative changes. And so are these things we can kind of like push in without having to really, these aren't making new ordinances per se, they're just clarifying existing ordinance. Can I understand that is our role? And so (interrupted)

Mr. Lait: And so… I'm sorry. It's both. We want to address some clarifications and we had a great comment at the last meeting about some of these things are we can just talk to the code publishing folks and take care of some of the you know so we're going to look at that and see which ones we can pull off. But since we're going through this effort we one of the things that I've observed since I've been here is that I think what we've had is so we have a code that's been I guess most comprehensively updated about a decade ago and since that time I think there are some provisions that the way that they are written or have been interpreted over time have maybe strayed a little bit from their original intent. And so what we're seeing in some instances what we have is conflict at the counter or as we're processing development proposals. And so we're using this opportunity to realign that. And so it's not just going to be a straight, clean, yes administrative, it's what is the policy? But hopefully we're just at the margins.

Commissioner Rosenblum: So my comment here is my personal take for our mandate is I don't feel comfortable with us debating the goodness or badness of any new ordinance in this forum. I don't think we have the authority to do it. I do feel comfortable with a once a year cleanup of administrative things that have been dragging along or inconsistent language or typos. I think that's very much in the spirit of this and we should go through those, but I would personally just abstain from any discussion around goodness or badness of policy. And I don't think that's the spirit of this whole exercise or how it was originally represented. So I don't know if others would agree with that, but I feel that's a separate thing which is if you propose a new policy even if it's a minor policy I, and this one I don't actually I'm not sure it's such so minor to be able to very easily take things off consent. So moving from four to two I think is major as had originally been proposed. Four to three actually is it's not difficult to get three people to agree with you. The whole point is how easy is it to launch appeals and I think that's again you can agree or not agree with the policy, but it's certainly new.

Chair Tanaka: Commissioner Michael.

Commissioner Michael: Yeah, I'd like to echo Commissioner Rosenblum's I guess suggestions about improving the process in relationship to what our, what our purview as a Commission might be. And I think that the overview provided by Assistant Director Lait was actually extremely helpful and maybe if this had come at the beginning of our discussion we could have focused in on the areas where we might add value or where input would be most useful. And again I think that the effort the staff has gone through to lay out all the changes in terms of this matrix is obviously there's a tremendous amount of hard work that's gone into it, but just the way my aging brain works it's very helpful to go through what the language of the actual code section is which isn't in the matrix and I was having to pull those up. Then you find out what the, what it concerns.

In this case it is in fact a low density and my iPad is being a… residential review process the notion of the fee being $421 whatever to $210 does that matter? Or even the issue of the Council through its Policies and Services Committee has actually had deliberations on this. Is it important for us to redeliberate area that they've already covered or is it something where the staff has actually had substantial experience on what's working or not working and what the actual logistical problem or allocation of resources might be? And even it may be a philosophical question is to if it's more protective of the public interest to allow it to be easier to come off consent which seems to me to be more protection of the public through a more robust debate whether if it's harder to pull off consent that means it might just blow through without further airing of concerns. So anyway I would think that our time tonight might be best spent on the things where staff feels that the most input would be beneficial and if we could actually maybe have a process where we begin with a more in depth overview from staff as to what the actual open issues might be that would help me focus.

Mr. Lait: Can I just offer one comment on that? So this is last week or last meeting was just this introduction of the concept. This matrix is a further evolution of the concept. We will be coming back with ordinance language for strikeout and underline, we just didn't want to go through the process of preparing an ordinance for items that you thought were Tier 2 items or shouldn't be addressed so that we can focus in. So we saw this as kind of a step wise approach to kind of get through it and it may very well be that you say hey, this is not, we don't have to spend as much time on a particular item. You can say I want more information on fees, where do those come from? There may be things that you need a diagram say hey, I need to have a diagram. We don't have to debate the merits of each individual one. If there's a clarification we can maybe answer that clarification, but I think we can come back at the next meeting with more. There's another meeting in two weeks. We can come back. You only have one item on the agenda. So we can maybe there's a, if we can do a quick run through it somehow and then flag, we've already flagged ones that you want to talk about. Maybe some of the ones that you flagged are just clarifications. Maybe some are more in depth.

Chair Tanaka: Commissioner Gardias.

Commissioner Gardias: Thank you. Actually I just wanted to make comment that after explanation of Director's Lait, Director Lait I agree with processing this item and I don't really see it as a pretty much new policy the way that he explains it's quite reasonable and pretty much they are talking about the alignment. It's maybe unfortunate because the language that is in the matrix about the issue doesn't support the way that you describe this to us so I think that maybe some, some clarification maybe some improvement of the language would be needed to pretty much provide the reason as opposed to just simply repeat that the changes that are in certain in other columns because then the reason that you provided it's quite clear to me. I really agree that $400 whatever dollars in this community it's not substantial fee and your explanation about alignment with the other votes on other items was also reasonable to me when I heard this, which I would not know from this description. So that's addressing this item.

And if I may just turn the table and suggest something because we just spent 40 minutes or 30 minutes on this item I would recommend to go from the top of this chart because those are the easy items that would pretty much reduce our average very quickly. We can go through them, make the things going because those are probably items that are very easy just to quickly review, agree or disagree and then spend some time or more on more problematic items that are at the bottom of this matrix. Thank you.

Chair Tanaka: Ok, Commissioner Alcheck.

Commissioner Alcheck: Yes, I concur. I think that we can raise our average here by doing that, but I just want to respond to one thing Commissioner Rosenblum said. He suggested he was a little uncomfortable in this role tonight and I, look there are five items in this new policy list that are supposedly Council directed and only two or three of them we even flagged. And I agree this is a little off putting because we approach this process from the perspective of this is some sort of minor cleanups and potential interpretation issues. I'm not surprised though that our community or our staff or our City Council is sort of using the opportunity to actually inject maybe some changes that are a little bit more meaningful. That said I actually think we should feel comfortable, we should be encouraged to provide a little advice and direction from our perspective. I only say that because we were appointed from different backgrounds for the sole purpose of giving them a little backboard and to bounce these ideas off and maybe a committee of three Council Members had a discussion about this item and by reading it from a different perspective we're highlighting other issues.

Maybe 40 minutes is too long. I agree and I think Mr. Lait mentioned that we can easily say hey, this is something we really aren't comfortable with in its current state and maybe this gets jumped to Tier 2 which I think is obvious at this point and we can move on. But look this there are a lot of issues here we may only get one appointment here. This is an opportunity to participate in the process. I don't think we should feel uncomfortable with this. I'm not suggesting we take 40 minutes on each one, but it's ok to sort of give our opinion and move on quickly. I don't necessarily think anything that we see here in

new policy is going to make it to City Council exactly how it is and I think that was what Mr. Lait sort of suggested that maybe a lot of this would get rehashed.

Chair Tanaka: Ok, so I got a lot of input here. So here's what I think we should do because obviously we can't do what we're doing now because I think we'll be here for many more meetings if we keep going the way we're going. So what I think we should do is I think that we should have like a 10 minute max for every item. If it goes more than 10 minutes like I think clearly on this item there's different opinions and this one is probably above the standard of a minor cleanup. And so when it becomes clear that something's above that standard and I'm going to use this 10 minute as this as that if you're going more than 10 minutes it's not a minor cleanup. You can't get agreement within the Commission on this it should be its own separate thing than us trying to solve it today. So we're going to do a 10 minute thing. I think the other thing that we'll do is we'll I think the idea of having the staff give kind of like a rationale of like why so maybe like a one minute rationale why just to help frame it because maybe it's just a simple misunderstanding might help solve a lot of wasted time.

So in terms of a revised process what I propose we do is we'll continue as the Vice-Chair, Acting Vice-Chair originally recommended we start from the items, pages that have the least number of items to the ones that have the most. Maybe we'll even adopt the fact that we will start from the beginning the more truly administrative ones that are just typo type stuff so we could kind of make more headway on stuff that's truly cleanup versus policy changes. And then the other thing we'll do is we'll have a 10 minute. So maybe one of my fellow Commissioners can be timekeeper. So if we start spending more than 10 minutes on an item I think we should table it because it means this is not a cleanup item. This is something much more substantial that needs more rigor and discussion on. Ok? Does that sound good to everyone? Ok. So let's go back to (interrupted)

Mr. Lait: So Chair I'm sorry before we leave that conversation and the many minutes that we spent on it with my clarification as to what we're trying to accomplish with that one putting aside the conversation that we the time that we've already put into it is the Commission saying it's a Tier 1 or a Tier 2?

Chair Tanaka: Well let me see if I can summarize, well I think it's definitely a Tier 2. It's something that needs more discussion I don't think it's a, this is not I mean I just listening to different voices here we do not have consensus here at all. It's a contentious item and I don't think we can, I don't think we can solve it in this meeting. Alright.

Ok, so… so let's go to the let's start from the beginning, which will probably be a lot easier and maybe we'll do this as well. I think also it's probably not too productive to go four hours straight, so let's take a break at 7:30 as well. But let's try to get through another item and let's start with Page 2. There was an item brought up by Commissioner Gardias, Item 11. And so maybe, maybe what we could do is we could start with the process of staff can quickly say well why the heck did we do Number 11 and then Commissioner Gardias can say well what is his concern about that and what is his position. And if this turns out to be more than a 10 minute conversation we should table it for something for a time later. So does staff want to talk about Item 11?

Ms. French: Yes. Item 11 is much like Item 8. Both of them are regarding single-family homes air conditioning equipment. We have a situation where folks come to the counter, they have existing noisy equipment they want to replace with quiet equipment in the same spot. Because of our ordinance they can't do it they have to find a new spot in their home. Sometimes they don't have a spot for it so what ends up happening is things just happen out there and there are no permits. We also have a situation that we've heard from the public, gee, you allow it 6 feet from my neighbor over here, but I have to put it 20 feet from my neighbor here and so this was a loosening. This was a suggestion that maybe eight feet from the rear property line is acceptable and if there is equipment that is within the six foot setback on the side that has been existing there with a permit for years that they want to replace with quiet equipment this provides a way to do that.

Chair Tanaka: Commissioner Gardias do you have a position on this?

Commissioner Gardias: Yes, so let me understand right? So we discuss this 8 plus 8 and 11 those are the same items, right? So the question is like this so what is the reason why the code is more stringent so the items that were that were placed before were placed under different code and then they were placed closer to the fences or to the sight lines and then now because that we have a we have a setback then pretty much the prior placement it's not adequate in today's world. Is this correct?

Ms. French: Yes, so there may be existing conditions that became noncomplying facilities back in 2006 or 2005 when this new regulation was put into place to have more restrictive location for equipment for home, for pools and for air conditioning. So it made noncomplying situations out there. So we have a situation where there are noncomplying equipment in setbacks and somebody wants to come in and replace that with quieter equipment they can't do that because our code says it has to be put at 6 feet from the side and 20 feet from the rear.

Commissioner Gardias: Why can't we have one why can't we allow for grandfathering location of the equipment that new equipment should be that's modern should be at least the same size or much smaller because of the efficiency and technology (interrupted)

Mr. Lait: That's what's proposed. That's what this is attempting to do.

Ms. French: That is part of this. That's the first part. The second part is that we think that 8 feet from the rear yard is reasonable and 20 feet can be a hardship if somebody has a pool they want to put in their rear yard they need to find a place for the equipment. Maybe eight feet from the rear yard is ok because six feet is ok from the side yard.

Commissioner Gardias: Yes, but the way that it's written, right, it doesn't explicitly convey this thought. So (interrupted)

Mr. Lait: Right, so this will be a comment that I think we'll hear as we go through the matrix that we need to provide in one of these columns a little more explanation as to what we're trying to accomplish, but I think Amy accurately verbally had reported that we've got existing equipment in yards people can't obtain a building permit so they don't obtain a building permit and it gets replaced. I think we want to be not in a position where we're discouraging trades to not pull the requisite permits and if we're taking a situation and making it better with more efficient quieter units that's a positive. And then there's this question about the required yard, so no equipment is allowed in the required yards and this tension about the rear yard comes up at the counter where people say hey, this doesn't make sense to us. I can be six feet away from the side yard here, but I have to be 20 feet away from my rear neighbor over there. And so this is trying to reconcile that.

Commissioner Gardias: Ok, so I totally agree with the reason and with grandfathering. So that's not a problem.

Mr. Lait: Ok.

Chair Tanaka: So I guess Commissioner Gardias you're saying that you're ok with this item?

Commissioner Gardias: That's right.

Chair Tanaka: Ok. Does anyone have any issues on this otherwise let's, Commissioner Michael.

Commissioner Michael: So I have a question about the grandfathering. So on my house full disclosure on our kitchen range the Thermador range has a range hood which makes a certain amount of noise. I'm not sure if it qualifies as a commercial kitchen fan, but it's a pretty substantial range and range hood and whatnot. Is that the sort of thing that's covered by this Subsection L, location of noise producing equipment? And also I have a question that when we built our house we decided that we wanted a backup generator, which is on the side of the house and I think that it's probably in the six foot side

setback if I'm not mistaken. So what exactly would happen in the situation where you've got the range hood on the one side and the generator on the other side?

Ms. French: If you came in today to request a generator or a whatever that other thing was within your six foot side yard setback we would not allow you to do that based on the current code.

Commissioner Michael: Yeah ok, so you you're sort of stuck with the old noisy stuff because you can't change it.

Ms. French: Correct.

Mr. Lait: Today.

Commissioner Michael: So it would be a good idea to allow people to change it for quieter stuff.

Ms. French: That's the loosening.

Commissioner Michael: Cool.

Commissioner Alcheck: Just a clarification here, if they redevelop the home then the six foot setback would apply and if they had a heating, ventilating, and air conditioning (HVAC) unit that was two feet from their neighbor's fence it wouldn't matter because they just redeveloped their home now it's got to be six feet. So this would be there's an existing HVAC two feet from your fence that's unattached to your home and you can't possibly move it outside of the setback because your home is there and you're replacing it with a newer, better unit that's quieter. So just so we're clear. Nobody gets to put new stuff in the setback.

Chair Tanaka: So what we're going to do also I think is we're going to have like a beside the 10 minute thing I think we all should like limit our comments to two minutes. Just because I think we're going to be here really late tonight. So Commissioner Gardias.

Commissioner Gardias: One more thing Mr. Chairman. So in just in terms of the setback, rear setback so the concern is like this that if the unit malfunctions or pretty much wears out then start making noises then a it makes sense just to set it farther away from the rear fence because this is the recreational area of your neighbor on the other side. So I think that there is some logic to keep it as far away from the fence. So this is the argument to pretty much to keep it within the outline of the rear setback and I would find this reasonable, right? But in terms of the location I don't have an issue if you're going to tell me that our noise regulation would allow the neighbor to react upon the defective unit that's on the other side of the fence.

Ms. French: I would say there's another situation that you should be aware of, people come in with hot tub/spa. They want to put it in their backyards. They can't put it in their backyards because it has equipment contained within the spa, so no spa for them in the backyard.

Mr. Lait: That said you are raising the point that is sort of the counter argument to the other half of this regulation and it occurs to me that it almost maybe is not even administrative that this actually might even be a new policy category. And I think it may of actually started off there and we were fine tuning it, but the idea that you can put mechanical equipment into the rear yard, that's new. That doesn't exist today and so I think that is noteworthy and there is another side of the argument which you've just articulated.

Commissioner Gardias: Yes.

Mr. Lait: But the one thing that we think is important certainly is being able to just replace out the already previously approved now failing equipment with newer equipment with permits.

Commissioner Gardias: Right, right. And that I understand. But from perspective of just putting the new equipment that maybe just going too far so that's the reason I just try (interrupted)

Mr. Lait: That would be helpful to get the Commission's perspective on that.

Commissioner Gardias: Very good, thank you.

Commissioner Alcheck: I just want to make a quick clarification. I when I saw I thought that for a second too that this is potential new policy, but there are a significant number of individuals whose side yards are adjacent to somebody's rear yard and so in that scenario for example you could have your rear fence six feet from somebody's air conditioning, but you're not allowed to bring any of your units within 20 feet of their fence. And I think that to some extent that is the inconsistency related to where you put mechanical equipment that you can infringe on potentially your neighbor to the left's backyard, but not your neighbor to the rear. And so I don't know if this necessarily qualifies as [nec...]

Chair Tanaka: So it's funny you should say that because we actually spent 10 minutes on it. I thought this would be a very minor item, but it turns out not to be. So by the rule we just talked about this is actually I guess I ok maybe...

Commissioner Alcheck: I have no problem with this one.

Chair Tanaka: Ok, so ok I did want to find out just so if we close it ok, Commissioner Gardias actually agrees with it from what I hear. I think well it sounds like other people that talked about it agree with it. Does anyone here disagree with it? If so, hit your lights. Ok, so nobody disagrees with it so I guess this is good, but we actually hit the 10 minute limit even though all of us agreed to it. So we're going to have to pick up the pace somehow otherwise we will be here for many, many more meetings. So ok, there's only five minutes before 7:30 so I think what we should do is let's take a break now and then come back at 7:30. Thanks.

Commissioner Alcheck: But we did finish one page.

Chair Tanaka: We have one page finished, yes. That's right. So when we come back what we're going to do is we're going to keep the 10 minute limit. We're going to also now the Vice-Chair will also try to make sure that we only speak for two minutes each, no more than two minutes so that we can go through this a lot faster. Ok, thank you guys.

The Commission took a break.

Chair Tanaka: It's now 7:30 so let's get started again. Ok, so I think the next one that has only two items of contention are Page 7, Item 46 and 48. So Item 46 was brought up by Commissioner Alcheck so in the same format let's, let's have staff talk on why they did 46 and then Commissioner Alcheck can form a position. And I think just in terms of time expediency I don't think all of us need to feel compelled to speak and the way we're going to do it is if people don't agree with Commissioner Alcheck say something. Otherwise no need to second his thought. So staff do you want to talk about 46?

Ms. French: Yes. We allow bay windows currently with the code to project into a required rear setback into a required front setback. The front setback projection can be three feet into the 20 foot front setback. The rear setback can be two feet into the 20 foot rear setback. We do not have a similar allowance for street side setbacks which are typically 16 feet from the street side on a corner lot. So we've had situations where somebody wants to make that façade facing the street side yard activated with a bay window and they can't do it because we do not allow it. So we have the proposal to have it similar to the rear yard projection of two feet. In other words you could have a bay window 14 feet from the street side property line if this were to be enacted.

Chair Tanaka: Commissioner Alcheck do you have a position on this?

Commissioner Alcheck: Ok, lighting round.

Chair Tanaka: Please.

Commissioner Alcheck: I would I just think this doesn't go far enough. I would say amend the code to allow a three foot street side bay window. Reason why think of the living room in the corner of somebody's home and on one side they have a three foot bay window on the other side they have a two foot bay window. It's the street view. We will see these windows so the fact that they don't match up seems like poor design. And so what I think would end up happening is by virtue of making one side two the architect or whoever is designing this home will make both sides two because it won't relate well. And being in a room you may feel the same way. So again this is a 16 foot side setback. I don't see why anybody could potentially have a problem with three foot intrusion on the first floor. And so that was my takeaways by creating uneven standards.

Mr. Lait: No objection from staff on that.

Chair Tanaka: Ok, anyone disagree with Commissioner Alcheck, say something or hit your lights and say something. Ok. I see no objections to this so I think maybe all must agree. Let's move on to Item 48 then. So Item 48 actually that's one that I flagged. So can staff talk about it as to why they did it and the rationale?

Ms. French: Yes, I would like to do that. We've had a number of projects come through the single-family IR process that have the threshold for single-family IR, which is a discretionary review of two-story homes is if they are adding a second floor of 150 square feet or more. We have had several situations where somebody comes through and puts a 150 sf or greater second floor deck and that is not subject to the IR, but it does create privacy impacts. Imagine a large deck going in on a second floor next to your one-story home so this was a thought that if we require large second floor decks to also be subject to IR process we will mitigate that privacy concern and have some discretionary review to require landscaping, etcetera to mitigate that privacy impact.

Chair Tanaka: Ok, so I don't necessarily disagree with this. So this was one I flagged, but [unintelligible] Commissioner Rosenblum said and several other Commissioners, this is not a touch up. This is a fairly substantial policy change and so I don't know whether this belongs in our discussion tonight so that's why I flagged it because I don't, in spirit I understand what it's saying, but it's it seems like a pretty big change because it's not contemplated in the current code. It's not like a misunderstanding it's just it's not part of it. So I don't think we should be doing it tonight.

Ms. French: Yeah, the code is basically it considers living area. It doesn't so it for us to just say well we now hereby interpret that that is living area that has no walls around it is pretty much of a leap of interpretation. We would like to have it more formal in a code.

Chair Tanaka: Ok. Well I think that may be the case, but I still stand that I don't think this is something that's a touchup. It's a in my mind a pretty substantial change. So I don't think we should… I mean in the spirit of trying to really do touchups and fix broken stuff I think that's my feeling. So if you guys disagree with me hit your lights and say something. Commissioner Michael.

Commissioner Michael: So here again I think it's helpful at least for me to go and look at the actual language and Subsection B, Applicability, and just ask what would be the actual language change you would be proposing?

Mr. Lait: So we don't have the exact language, but the idea is that the 150 sf that is the trigger now for requiring IR would include open air decks.

Commissioner Michael: So as I read expansion that's not it doesn't limit you to not include decks currently.

Mr. Lait: So that's part of the clarification/new policy. So we've interpreted that our practice has not been to include open air decks.

Commissioner Michael: So for example after expansion you'd have comma including decks.

Mr. Lait: Right.

Commissioner Michael: Close comma.

Ms. French: Right, if somebody is already in the IR process for a second floor addition then of course we look at the deck, but if they aren't adding 150 sf of interior floor area they don't come into the process at all.

Commissioner Michael: Well so it just again to clarify our role here so if you're just talking about adding a phrase that would after the word expansion that would say including both interior space and decks comma I don't have any problem with that. And it's actually very helpful if you would be as specific as possible.

Chair Tanaka: Commissioner Alcheck.

Commissioner Alcheck: I have a quick question. If you're going to create a deck then the assumption is you have to create an opening in a wall. If someone adds a window or a those like faux openings where they put a fence right in front of the sliding doors on a second floor. If someone were to do that is that subject to review?

Ms. French: So we have a provision in our IR guidelines that says if you've gone through IR process and you're now going to modify that second floor to do something that increases privacy impact concern we would ask you to go back through as a revision, yeah.

Commissioner Alcheck: But if you had…

Ms. French: But if you hadn't gone through IR (interrupted)

Commissioner Alcheck: Just so we're clear, how old (interrupted)

Ms. French: We wouldn't, we wouldn't have that.

Commissioner Alcheck: How old is the IR process? Like (interrupted)

Ms. French: 2001.

Commissioner Alcheck: Ok, so any two-story home pre-2001 could theoretically modify (interrupted)

Ms. French: Correct.

Commissioner Alcheck: It's second floor.

Ms. French: Put a Juliet balcony and they wouldn't have any review process. They could put a 500 sf deck and not go through any discretionary review, just a building permit.

Commissioner Alcheck: Ok.

Chair Tanaka: Ok, I see no other lights, but it sounds like everyone's (interrupted)

Commissioner Gardias: Just a moment. You would not have a building permit, but you would have to go through the planning review.

Ms. French: You would not have planning review. You would have a building permit. Discretionary review is planning review. Building permit is simply ministerial. You walk up to the counter; you get your building permit for a 500 sf second floor deck.

Chair Tanaka: Ok, so I think Commissioner Michael disagrees with my position. My position is that maybe this is good, but I think this is a bigger topic that we shouldn't deal with today. I think Commissioner Michael disagrees, everyone else seems to agree. Ok, let's move on to (interrupted)

Mr. Lait: So that's Tier 2, just to be clear.

Commissioner Tanaka: Tier 2. Ok, so let's move on to Page 8. There are two items on this 54 and 60. So 54 was flagged by Commissioner Alcheck and 60 was flagged by Acting Vice-Chair. Can staff frame up 54 please?

Ms. French: Ok, we're on 54 then? Page 8, correct? Ok, so this one we have in the Downtown you can do a mixed-use project and you get to put FAR of 1:1 for residential plus 1:1 for commercial and then there's all that transferable development rights. We're not going to talk about that in this one, but there is nothing that says in order to get that 1:1 FAR for residential you have to put three or more units, which is considered by definition mixed-used. So what this would do would to say we for new projects that are mixed-use we want to see three or more units in that mixed-use project for residential in order to capture that 1:1 FAR. You can't come in with a new project with one housing unit that's 6,000 sf penthouse. We want to see three units to call it a mixed-use project and get that FAR that we have in the code.

Mr. Lait: And I'm sorry if I can just add more to that so I, my read of the code is I think pretty clear. It does allow in our down, in our commercial Downtown area we do allow mixed-use developments. And mixed-use is defined as multiple family housing. And multiple family is defined as three or more units. There has been a practice that has allowed less than three units for new development and you've seen them I think on top of the there's a new on Hamilton, whatever that is, Hamilton and Alma. So there's developments with one large penthouse, two units, and so what we're saying is if you're going to, Amy said if you're going to do a new mixed-use development it's three or more out of the chute. But there's also a recognition that there's existing commercial buildings where somebody might want to put housing on top of that and we have a case on Forrest right now where there's a the commercial building on the ground floor and they want to put a housing unit on top. You couldn't park the three units. There we would still continue the practice of allowing a housing unit on top of that. So we're making a distinction in this between new development and existing development and we are requiring for new development three or more units.

Chair Tanaka: Commissioner Alcheck do you have an opinion on this?

Commissioner Alcheck: So I flagged this only because not because I don't appreciate the need to raise the number, but I also think that there's a potential opportunity here to discuss the ratios. One of our community members mentioned this earlier about how the requirement relates to the size of the build… I'm a huge proponent of increasing our housing supply especially in mixed-use opportunities. I think the question is would three units be sufficient if it was the Fry's site? And I would suggest it wouldn't. And so I guess what I'm trying to say is I wonder if we could articulate this in a way that expressed a little bit more clarity on how many units in terms of the size of the mixed-use project being proposed and for that reason only I would suggest that it's Tier 2 just so we could explore those the ratio relationship if you will.

Chair Tanaka: Ok, so the proposal from Commissioner Alcheck is that this is a substantial item, Tier 2, and that we don't try to solve it tonight. I see there's three lights, four lights that I assume disagree with Commissioner Alcheck's opinion. So let's start with Commissioner Michael.

Commissioner Michael: So I don't necessarily agree or disagree with the other opinions on the Council and as I didn't agree or disagree with Chair Tanaka earlier. The question I would have is that this touches on some probably important policies in the community: importance of mixed-use, the importance of adding more housing units and so forth. But the question I would have is that expressing it in terms of number of units is probably not the best way to state it. Perhaps it should be for example if it's a 10,000 sf penthouse that may be overly large. That might be a pretty nice opportunity for five 2,000 sf units. But if it's a 2,000 sf penthouse and you want to chop it into 650 sf studios it's probably a different proposition. So I think what you want to do is put this in the alternative. If there's a target in terms of policy for what you think would be the optimal range of unit size you might say a number of unit in this optimal size or more, but I wouldn't just say it's got to be three units for any footprint of building because their quite different in terms of the potential.

Chair Tanaka: Commissioner Rosenblum.

Commissioner Rosenblum: Yeah, so I feel like staff's explanation makes this fall within the realm of clarification. So if the definition of mixed-use should be three or more residential units and we allow mixed-use developments to get mixed-use benefits by not having three or more units it seem to be an inconsistency that should be addressed.

I also agree with Commissioner Alcheck that actually would be a big change, but I understand that this is fundamentally inconsistent that we're allowing projects to be considered mixed-use, get mixed-use benefits and we have a definition of mixed-use that is not applied to those. So this one I it doesn't trouble me as much. I get the explanation. It's fixing inconsistency.

Chair Tanaka: Commissioner Gardias.

Commissioner Gardias: Same comment from my side in terms of specifying minimum as three units. I'd rather have some ratio which would be expressed differently as opposed to just specifying three. Thank you.

Chair Tanaka: Vice-Chair.

Acting Vice-Chair Downing: Yeah, I think I have similar concerns in the sense that there are some projects which are actually quite small. They might not be able to fit in three units even if they're small units and I wouldn't want those projects to switch to commercial rather than having housing there so I do have that concern. And the other concern I have is that you may not be able to park three units and I don't want someone again to choose to build an entire floor of commercial rather than two housing units instead of three. So just those are my comments, I don't, the point of this is obviously to encourage more housing units and I just I don't want to see that kind of blowback from that. I don't want to see this become an incentive to not build them. But I definitely support where you guys are coming from, what you're trying to do.

Chair Tanaka: Ok, sum it up it sounds like most think that this needs more discussion or some sort of modification. I think only Commissioner Rosenblum was ok with how it is so I think this kind of falls in to Tier 2.

Mr. Lait: So [unintelligible] offer can I? So I do think that while we have this as new policy I think what this really is doing is reaffirming what the code read, how the code reads today. And I in Tier 2 you don't have the list, but in Tier 2 we do want to have more of a housing conversation about minimum unit sizes, appropriate densities, where would we allow smaller units, are there different parking ratios for different kinds of units especially near transit, so I agree that there is a broader and perhaps proportional conversation about how many units, but in the meantime I'm concerned that we're missing out on housing units Downtown because of a way that we've been applying the code in the past. And I think this is just simply correcting the intent. But I want… but if the Commission thinks that it's a Tier 2 then that's [unintelligible].

Chair Tanaka: Yeah, so I hear staff's comment, but I think from the Commission I think the majority of the Commission, five of us actually except for one doesn't agree with you. So I think there's a lot of tuning that has to happen. This is not a simple let's do three minutes it's clear as day that we need to do it there's a lot of different opinions of how we do it and I think this would take substantial debate for us to come up with a consensus on this at this point in time.

Ok, 60. This was brought up by Vice-Chair. Can staff frame it up for us please?

Ms. French: Number 60 was about architectural review. Again it's the same the appeal fee from the Policy and Service Committee suggesting that. So another one on here is that there are currently several options once the Council pulls with a vote of three an architectural review appeal off the consent agenda then there's this conundrum, we have to schedule it for a new hearing, oh, but if we simply hear it on the record and we don't have any people speaking to it maybe we can just hear it tonight, maybe we can't. It gets confusing. So the idea is to reduce that down to one option. If it's pulled off consent it will be scheduled for a public hearing. That's one piece of that. I think the third piece of that is increasing again that 30 to 45 days. Again because of the report review calendar that we have imposed on us for Council reports.

Chair Tanaka: Ok, so before I let Vice-Chair kind of give her opinion on this I was just thinking this is very similar to 62. We spent 40 minutes on and we couldn't as a Commission come to a consensus. So I don't know whether it's achievable with 60, but I don't know if Vice-Chair has [as other] because I think [we this] should be an automatic category two given that it's the same topic.

Acting Vice-Chair Downing: Yeah, yeah, I agree.

Chair Tanaka: Ok, ok.

Commissioner Alcheck: May I make a suggestion too? Maybe we could just quickly find out if [unintelligible] I don't think very many of us, I would be interested to know if very many of us have a problem with the 30 to 45 day or the delete A and B options because those you have to bring your whole team and you don't even know if you're going to be able to like those are, those are maybe we could bifurcate this and part of it could move on and part of it could stay.

Chair Tanaka: Ok, so why don't you make an opinion about (interrupted)

Commissioner Alcheck: I'll go one at a time. I would say increasing the number of days and I would suggest this applies to both, but for the sake of ease 60, 60. I have no problem moving forward with the 30 to 45 day increment. I really do think that that is we can't effectively actually have this process without making that change and I think we should just do that one bifurcate and then we can have a second question about the other one.

Chair Tanaka: Ok. So who disagrees with the idea of increasing the number of days on consent calendar from 30 to 45? Please hit your lights. Commissioner Gardias.

Commissioner Gardias: I would like to just offer a counter argument about this. When you spoke before about increase of the numbers of days you said that 35 would suit you so [as and] this change from 30 to 45 it's and I understand the operational aspects of just processing this, but if 35 is the reasonable and doable number of days then I would just go with this as opposed to 45. Although I understand that we're just talking about the increments, equal increments of the [haps of the] months, but pretty much we have the process we need to think when we just doing this changes we need to think about the process how it we are seeing in the eyes of the public. We're pretty much we're seen that there is lots of applications that go through pretty much they take years. There is number of some items maybe not on this sheet but (interrupted)

Mr. Lait: I'm sorry, I'm sorry. So if I can just because I hear where you're going and I have an answer for you that may alter your perspective on that before (interrupted)

Commissioner Gardias: [Unintelligible] fine.

Mr. Lait: So the 35 days is when the report needs to be presented to the supervisor. So there has to be the staff work, the preparation, pulling together the attachments, writing the arguments, the pros and con arguments, doing additional analysis that comes up with the appeal. So that extra 10 days which is I would still argue probably not enough time for us to do the most thorough work that we would like to do is the bare minimum that we can do to accommodate the appeal coming in. So 35 days that you have in your mind that's when, that's when the work is done and we're saying give us 10 days to respond to the appeal so we can do our work and get it to the decision making body.

Ms. French: I would like to add to that as well. You may not know this because you're not the Council. The Council gets a full report as if it's a public hearing that night on consent. It's not a slim report. It's a big report to prepare. You as the Planning Commission have something on the books right now that allows 45 days from when a Conditional Use Permit (CUP) is requested to be heard by the Planning Commission for us to get a report to you. We're just saying we need the same courtesy time to get it to the Council as the time we have to get you a CUP report because that's already on the books, 45 days.

Commissioner Gardias: Ok, so ok good. So I totally understand it. That's fine if more time is needed I'm fine so I have no problems with this, with this explanation. But the comment that I was making that in general, right, it may not be perceived well because of the lengthy processes that we have here in the City so but I totally agree with your explanation in this case and I don't see a problem.

Chair Tanaka: Ok, does anyone else have disagreement? Otherwise it sounds like at least for this the Commission's ok with that and I assume for 60 and 62, which is the one we talked about before? Ok, so Commissioner Alcheck you had another opinion on the second item?

Commissioner Alcheck: Yeah, I think I mean staff probably knows this a lot better than we do, but if they're suggesting that we delete Options A and B then I would do that, I would suggest we bifurcate that as well because I don't think that that's, I don't think that that actually works to the benefit of the applicants or anybody else who is part of the appeal. I think it creates a tremendous amount of confusion and you don't know whether you have to prepare for that evening or not and as a result you end up double booking everyone that's involved. So I'm all for the change too and I would suggest that we bifurcate that and allow that to continue.

Chair Tanaka: Ok, does anyone have any questions or does anyone disagree with this, hit your lights. Ok guys, we're in agreement then. Let's move on.

Commissioner Alcheck: Just so we're clear and the time thing I think we also suggested that would work for 62. Ok.

Chair Tanaka: Ok, we're now on Page 3, Item 23. So this was Page 23 [Note-Item] was flagged by Gardias as was 25 and both Vice-Chair and Gardias flagged 29. Can staff start off with 23 and talk about why they did that?

Ms. French: Item 23 on the matrix is basically there's an outmoded Program H36 from the 2002 Housing Element that is no longer the correct section to reference. So that needs to be changed. Also there is it's not on your matrix, but in Chapter 18.14 there's a similar reference to Program H36 that needs to be changed to the H2.1.1 or whatever it is. I had the reference. That's (interrupted)

Mr. Lait: We're correcting a reference in the code.

Chair Tanaka: Ok, Commissioner Gardias can you state your opinion on this?

Commissioner Gardias: So the only thing that I just flagged this item was pretty much that when we're writing things like this I'd recommend just not to put, not to put hard references because we're going to

just put ourselves in this loop again and again. And I know when I read the code it's it occurs in many places. My recommendation would be when we write it just let's make this in a different way so pretty much we don't have to put the same thing in two different places because otherwise we would be correcting this every year or every time when something changes. Otherwise I'm fine with the point. Thank you.

Chair Tanaka: Ok, anyone that disagrees with Commissioner Gardias hit your lights and say something. Ok, I guess we all agree. Let's go on to 25. Can staff frame that up?

Ms. French: Yes, this Number 25 is (interrupted)

Chair Tanaka: Hold on a second we actually have a dissenter here, so Commissioner Alcheck.

Commissioner Alcheck: I don't want to take any time. I don't necessarily agree that we should be not putting references to number sections simply because if we edit the code we have to go back and change them. I think that's just part and parcel of what it's like to be in land use policy. Any kind of ordinance work, but I don't think it merits any time wasted on it, so.

Chair Tanaka: Ok, does anyone else have opinions on 23?

Ms. French: Ok.

Chair Tanaka: Ok.

Ms. French: 25.

Chair Tanaka: 25.

Ms. French: Ok, 25 is about conflicting setbacks within the same chapter. One says you can put a pool six feet away from a property line another says you can put it three feet. My goodness, we just need one standard and it should be six feet basically.

Chair Tanaka: Ok, Commissioner Gardias you flagged it. What's your opinion on it?

Commissioner Gardias: Yeah, I flagged it because I didn't understand how this is going to work. So are we going if we going to have six feet it means that there will be number of the structures that will be grandfathered? Is this correct because they were already built under this?

Ms. French: It's possible that there may be pools out there, spas that may be located closer than six feet to a property line. Yes. There could be noncomplying facilities. They are already noncomplying with one of these pieces because it already says it has to be six feet in once section of the code and then in another section it says three feet. I guess the number, which number is it? That could be debated, but the fact is there are conflicting numbers and they should be one number.

Commissioner Gardias: So the reason that I flagged it is that when you have the discrepancy and we have number of already built hardscapes or some other structures that some neighbors may be enjoying some benefit of those that were already built and they will have a right to grandfather others on the other side of the fence they will not have the same rights so that's the only thing that I just wanted to (interrupted)

Mr. Lait: And I guess the way this is written now the way that we always approach the codes is we take the more restrictive standard. So the more restrictive standard would require the greater setback of six feet. And so we got one code section that says three feet, one code section that says six feet, we have to use the six feet. All we want to do is get rid of the three foot reference. That's all we're trying to do.

Commissioner Gardias: I understand that. So my question was do we have any structures and apparently we do or we don't? That were built three feet?

Mr. Lait: Maybe, but it's irrelevant because when we apply this code section today we have to use the six foot standard so we're trying to minimize the confusion to the user of the code who says, oh, I could do three feet and we say, no, you got to do six feet because we got to use the more restrictive standard. So we're just saying let's make it six because that's what we're doing now.

Commissioner Gardias: And that's fine. I totally agree with this. so I don't have a problem, right, but you may have owners that will be applying for exemption because somebody else may already have the benefit of a closer (interrupted)

Mr. Lait: Not as a result of this change.

Ms. French: And I would like to say too there is a section of the code that says that enables us that says exactly we will use the more restrictive section in the code if there is a conflict between codes. So we're already doing this.

Commissioner Gardias: Ok.

Ms. French: It would just be nice if it didn't say it three paragraphs later in a way that confuses people.

Commissioner Gardias: Very good. I'm fine, thank you.

Chair Tanaka: Ok, so I think Gardias is actually ok with it. If anyone disagrees with him hit your lights so this is Commissioner Alcheck.

Commissioner Alcheck: Yeah, I would just sort of suggest that I would actually encourage the adoption of the three foot. So there's a difference here between an above grade hot tub gazebo. Imagine that in your head being three feet from a fence and then a below grade pool. And one of the things that I know we have in our some of you are thinking well, they're going to dig three feet from your property line, but our light well when we have a light well that can extrude close to three feet to a side property line. And so in my mind something that's below grade I don't I think there's sort of you could go either way here saying it could be consistent with the like the below grade light well question or it could be consistent with the above grade limitations on everything. And in this case I would suggest that sort of the below grade I'm not exactly sure why we would care if a swimming pool that was below grade came three feet from a neighbor's fence if a light well could theoretically come three feet from a neighbor's fence. So I wonder I don't know if that's easy to do because a hot tub that's above grade poses a totally different sort of issue, but I'm just throwing that out there because I support this change. But I sort of think we're going more restrictive in a way that doesn't make sense.

Ms. French: Yeah, I get it and there could be a conversation there that we don't want to do now, but basically if you have a pool that's three feet you're not going to put trees there, they're going to leak into the pool so sometimes having a little bit of extra space, six feet, then you could have a vegetative screen that doesn't put leaves in the pool, so one thing to think about.

Chair Tanaka: Ok, does anyone else want to comment on this item, 25? Ok, I'll comment on it. Actually I think Commissioner Alcheck's rationale in my mind makes sense. If it's below grade you can't see it, what's the big deal? So I support Commissioner Alcheck on this. Ok, let's go to 29. Can staff frame it up for us please?

Ms. French: Yeah, so there are several parts to this one. This is noncomplying facility so the first piece is there's a typographical error. It refers to a nonexistent Item C. So that's silly, we get rid of it. The second piece of it is that breakrooms outside of the Downtown district we have been, we have approved several buildings that I'm aware of a breakroom as an employee amenity that does not count as floor area or does not have to be parked. There have been several buildings that, applicants that have made

the case that this will reduce employee trips and so we give them a break for breakrooms sort of like a little cafeteria. So we've had a project 2555 Park I believe it came forward to this group because of the Environmental Impact Report (EIR) and it then went to Council. Council weighed in on this and had a concern with breakrooms as giving them a break for breakrooms. So that's why this is on there. Let's see, the third piece of this is we have other references to employee amenities and laundry facilities are referenced so we want to we want to go ahead and add that to this section too just for consistency. Finally there's the old LM zone is now RP and ROLM. So that's just a being consistent with a current zone district acronyms.

Chair Tanaka: Ok, so this was flagged both by the Acting Vice-Chair and Gardias. So Acting Vice-Chair why don't you tell us what your opinion is on this?

Acting Vice-Chair Downing: Sure, so I mean the explanation sort of made sense to me that you actually want companies to, you want to encourage them to build breakrooms and amenities for their employees. It means a greater quality of life for your employees. It means better facilities. It means fewer trips. Those all sound like good things to me so I don't get it. I don't get why we're trying to take this away. This sounds like a good thing. As a person who's actually worked here in Palo Alto I appreciate a City that creates incentives for my employer to provide me with nice facilities and I feel like without that incentive well, I don't get a breakroom at work anymore and that would be really unfortunate because I like heating up my lunch and I like getting snacks there. So from a very personal kind of point of view I don't get why we're taking it away and I don't support it.

Chair Tanaka: Ok, so the Vice-Chair has the opinion of not taking this away. So for those that disagree with the Vice-Chair please flag your lights. Commissioner Alcheck.

Commissioner Alcheck: Actually I just need a clarification I thought that we were adding a provision that said that we can exclude those from counting?

Ms. French: No it's adding to clarify that breakrooms are not considered like cafeterias are in the Research Park or what have you. Actually this is not specific to zone this particular change it's basically just saying that breakrooms are not in the same realm as cafeterias which are excluded from floor area and parking. So you'd have to park the breakroom. Yeah, it's not an employee amenity according to this.

Commissioner Alcheck: I misunderstood that when I read that when I prepared and would just add that maybe it would be helpful if there was a little bit more information regarding how we determine what rooms qualify as employee amenities. I'm caught off guard because I didn't understand that. I read it the opposite way as you were enlarging the group of employee amenity things that would theoretically I apologize, I misunderstood that. I would just I would appreciate to have more time for this one just simply because I would, I'd like to understand better how we determine which floor areas are excluded from the count because they're "amenities."

Mr. Lait: Right, well (interrupted)

Commissioner Alcheck: I sort of I would agree with Acting Vice-Chair Downing that I would tend to lean on the side of enlarging the group of rooms that don't necessarily need to be parked if those are in fact serving a purpose like a cafeteria.

Mr. Lait: Right.

Ms. French: We have a companion piece, 32.

Mr. Lait: We do. So we're adding on the next page we're adding the definition of amenity space, which maybe we get to tonight, maybe we don't. But for at this point perhaps this is another one where we can advance the typo fix and we can fix the other issue as Tier 1's and we can revisit this item when we

come back to you as a possible Tier 2 or provide more clarification as we develop the definition of amenity space as we're proposing to do on the other item.

Commissioner Alcheck: Yeah, so I guess my comment would be I'm not entirely sure that I have a position that differs from Commissioner Downing. I would just suggest it would be nice to have a little more time to review this and come back to this as a Tier 2 item for that.

Chair Tanaka: Commissioner Michael.

Commissioner Michael: so I think that the proposal that Assistant Director Lait has made is workable and I think it's an issue that is worthy of further discussion. The extension of this is in terms of amenity space, which may not require that it be fully parked are we at any point going to take up the issue of what's the parking requirement in terms of the per square foot per employee ratio which I know has come up as a major controversy almost every time a building is proposed.

Mr. Lait: So it's not part of this effort, but yes. We do have even recently the Council directed us to do some parking analysis for at least for the Cal Ave. area as it relates to the types of land uses that we see there, but as far as a citywide reevaluation of our parking codes that's not on our list right now to evaluate.

Chair Tanaka: Ok, so it sounds like although there was a couple of people who spoke about the Acting Vice-Chair's proposal I think we all agree that, agree with her opinion which is not to take it away or to have more discussion on it. So I think that's pretty clear.

Let's go on to Page 6. So on Page 6 there are three items flagged: 41 by myself, 42 and 43 by myself. So 41 can staff frame it please?

Ms. French: Yes. The grandfathered facility which is a term that is generally used in the Downtown Assessment District there are specific restrictions on replacement of a grandfathered facility or additions to grandfathered facilities. We've had discussions with Council and they've come down on the strict interpretation side of what does it mean to adjust a building footprint of a grandfathered facility. Clearly taking floor area from a basement and putting it up top where it becomes mass and seen is was not, was not ok. So that basically is documenting that interpretation also, but to have what we're calling the carve out to allow for shifting above grade to above grade to allow for as long as it doesn't increase the degree of noncompliance which can be a benefit to pedestrian friendly articulation, building mass, modifications so to loosen or allow for this to happen subject to ARB review and all of that.

Mr. Lait: Is this the shrink wrap?

Ms. French: Carve out.

Mr. Lait: The shrink wrap?

Ms. French: Shrink wrap?

Mr. Lait: So we describe this as this provision is you take a nonconforming building today, exceeds the height or floor area and this provision it basically shrink wraps it. You put on some kind of envelope and you can't budge that envelope. You can't move it. And what we're trying to do here is allow for a little bit of flexibility not to increase nonconformities or not to add more floor area, but to allow the envelope to adjust a little bit so that we can take into account a building that wants to modernize, have a little different look because that footprint is unchanging under this language there's no flexibility for somebody to take a sort of a saw tooth design element at the ground floor and smooth that out or round it out or do something different at all even though there's no floor area being added. So we're just trying to introduce a little bit of flexibility to allow buildings to evolve.

Chair Tanaka: Ok, so this was an item that I flagged. I was a little bit confused by it because I, first of all if the building's already maxed out and you're trying to move basement floor area to above ground floor area you couldn't do that anyway so what's the point of this?

Mr. Lait: So you're right. That's and there's a case Downtown where I think that was sort of brought that to a head and all we want to do is update the language to doubly ensure that that cannot happen.

Chair Tanaka: But you see but there are cases where the top, the building on top, the ground floor isn't maxed out, they can have more square footage and so you do want to allow it. So I guess I don't understand why we need I don't it seems like we already have this covered so I don't understand why we need it again. That's what I find confusing.

Ms. French: We need to be able to make a specific flexible language to allow the continuance of shaping what's above grade not to increase the floor area, but to allow differences in the massing. So it's rearranging the chairs. It's not adding chairs.

Mr. Lait: And to be clear this is for buildings that are already over FAR.

Chair Tanaka: Yeah it doesn't say that though.

Ms. French: Or grandfathered facilities which doesn't mean they are necessarily over FAR it just means perhaps they don't have the parking for the building or yeah, they might they're over 1:1 they might not be over 3:1. That's the case in some cases they're over the 3:1 max, but in most cases they're not over 3:1 they're just a noncomplying facility which is also called grandfathered in the Downtown.

Mr. Lait: So to be clear and this will read better when we have the ordinance language in front of you, this would not preclude a property owner from adding more square footage to their building if they are allowed to already add more square footage to their building today. It's not a restrict, this is not a restriction this is actually a little bit of loosening and flexibility so that when you are restricted we can adjust the building.

Chair Tanaka: Ok, well with that clarification I think I agree with it, but I it was not clear to me at all. It didn't make sense so that's why I flagged it. Ok, does anyone have comments on this or? Commissioner Michael.

Commissioner Michael: So I've heard the comments about massing and the shrink wrapping of the grandfathered facility which wasn't my question. One of the questions I have and I've actually seen this in a building that I think is occupied by Institute of the Future and a long time ago this was a ground floor retail with a bicycle shop called Wheelsmith and I know that there are pretty significant policy issues in terms of ground floor retail versus office. If there's retail sometimes the historic basement facility was a place where they had storage and inventory or maybe a repair facility or something and now you have a different use in terms of maybe there is no inventory because the modern supply chain logistics you order on the internet and it's delivered to your front door by drone or what have you. But what if you're a building occupant or building owner maybe you want to have more covert that to office they have different issues in terms of noncompliance do you have adequate sanitation, bathrooms, egress, emergency exits, so forth. And then you also have the issue of adequately parking if you change the inventory storage to a whole bunch of offices and there's there may not be adequate parking so this probably is much more complex than a number of the other items and probably [unintelligible] much further discussion.

Mr. Lait: So all of that policy thought is not implicated by this change. No, that already is addressed by the citywide moratorium on retail conversions and other proposals that are being contemplated by the City, but this one does not affect what somebody does or doesn't do with their basement. This provision does not address that and so what I'm hearing based on these two comments is that we need to give the Commission more clarification as to what it is exactly we're trying to illustrate here. And perhaps I said illustrate because I'm thinking in my mind that maybe a graphic illustration is something that might

accompany this one so that we can visually present what we're trying to accomplish. This isn't about land use, this is about giving a building that's built and likely nonconforming for some reason the ability to adjust a little bit to account for a tenant's desire to change an entry to their building or to and there's no net change in square footage and no increase in nonconformity. So if the Commissioner would allow, let us keep this on the list and let us come back to you with some more information so we can provide more clarification on that issue.

Chair Tanaka: Commissioner Gardias.

Commissioner Gardias: I totally support this change. I think it's clear. I think there are other clarification in the same paragraph that would not allow for departure from footprint and some other items. We're talking only about the shifting of the of certain parts of the building to allow for more flexibility. I support this change as is. Thank you.

Chair Tanaka: Commissioner Rosenblum.

Commissioner Rosenblum: I agree with Commissioner Gardias.

Chair Tanaka: Ok. Great. So on this item I actually I kind of changed my mind I actually agree with Commissioner Michael about this is maybe a little bit bigger deal than I thought. I think staff's [brings up] a good point that it should come back with a lot more clarity. I think people that think it's ok is everyone else. Ok, so let's go to Item 42. Can staff frame it up please?

Ms. French: You're on 42? Ok. So this is a kind of companion to the one we talked about earlier. We have no definition for onsite employee amenity and so that was in an earlier (interrupted)

Mr. Lait: Actually if I can interrupt you just for (interrupted)

Ms. French: Yep.

Mr. Lait: So we clearly need to come back to you with more information on this one. This is a definition. There's not enough information for us to engage in a conversation. So can we come back to you with some more?

Chair Tanaka: That sounds good.

Mr. Lait: Great.

Chair Tanaka: Let's go to Item 43. That's one I flagged. Can staff frame it up please?

Ms. French: This is the rooftop dining new policy consideration. Currently gross floor area does not address a rooftop dining area as floor area because it's not substantially enclosed and covered; however, rooftop dining area is contributing to need for parking, etcetera. So this is why we want to capture that.

Mr. Lait: And I can elaborate on that just a touch further. So our code the way our code works and the parking standards work is you have to be gross floor area and so which can be enclosed area, but could also be exterior area. For a rooftop restaurant seating area lounge that's not covered and does not qualify as gross floor area there's no parking requirement for it. So you can have a space that's 2,500 sf, 5,000 sf of restaurant dining and activity on the second, on the roof and there's no parking for it. And so what and this is clearly a new policy and we flagged it, but this is one that we thought needed to have some standards for it.

Chair Tanaka: Ok.

Ms. French: Again this is just for commercial rooftop dining; this does not include a multi-family residential housing project that might have a patio on the roof to eat their lunch. This is where they're doing table service and seating customers that are there for commercial reasons.

Chair Tanaka: Ok, so the reason why I flagged it is because I, I think the intent of trying to restrict the FAR is to prevent massing, right? So you don't have these monster buildings and walls all over the place, but the thing is if it's uncovered and it's rooftop dining it means tables you're not, people aren't going to see it from the ground floor. There's no wall, there's no massing, which is what we're trying to protect. And in fact if anything it might make it more of a pleasant, more green because people often have trees and other stuff on these kind of dining areas. So I don't know, to me it seems like this is not a simple administrative change it's something that's pretty substantial and so I think it's in my mind a Tier 2 and something that deserves more consideration. I mean to me it makes sense, but I think that in terms of like a lot of things that it's trying to protect I don't think that that's right. So folks that disagree with me hit your lights. Vice-Chair.

Mr. Lait: And I'm sorry could I just say one clarification so you're right we're not trying to address building mass and bulk and all of that. What we're trying to do, address is the intensity of land use and how parking gets addressed in these types of situations.

Acting Vice-Chair Downing: So very quickly so does this apply strictly to like retail to restaurants or would this also apply to like office buildings?

Ms. French: It applies to any nonresidential building.

Acting Vice-Chair Downing: Ok.

Mr. Lait: But that could be distinguished from cafeteria which could be considered an amenity space for an office building if (interrupted)

Ms. French: On the same site.

Mr. Lait: Yeah, on the same site.

Acting Vice-Chair Downing: Which we're also trying to kill, so I don't (interrupted)

Mr. Lait: So no. I mean what we're trying just so we're clear I mean what we need is a definition of what amenity space is because it's the lack of clarity which is creating a lot of confusion and a lack of predictability and expectation for the community and for developers. We want to create a definition of amenity space so everybody's on the same page about what is and, what it is and what it isn't, what counts for parking, what doesn't count for parking, what counts for floor area, what doesn't count for floor area. That's the whole point of us trying to bring this forward not to impart any kind of policy perspective as to good, bad, or indifferent. We need clarity. I think the community needs clarity as to what it is.

Chair Tanaka: Commissioner Gardias.

Commissioner Gardias: Just a quick question. Is there an example of (interrupted)

Chair Tanaka: Sorry, sorry, Vice-Chair did you have some, do you want to finish your thought?

Acting Vice-Chair Downing: Yeah, yeah, I do want to finish my thought.

Chair Tanaka: Ok, sorry.

Acting Vice-Chair Downing: I think it's necessary to bifurcate this between restaurants and the office space because I think you're really talking about two very different things, right? Making sure that a

restaurant is fully parked is really different then trying to park a rooftop when you've already parked all the offices for all the people who are already in the building.

Mr. Lait: I agree with that.

Acting Vice-Chair Downing: Those are two very different things so I don't want to see them lumped together like this and I also have to question this policy as this looks like a solution trying to find a problem because I can't think of a single rooftop restaurant in all of Palo Alto. So it seems like you're making a rule to prevent something which doesn't even exist. So to say that this is a problem that warrants like priority consideration troubles me.

Chair Tanaka: Commissioner Gardias.

Commissioner Gardias: The question was is there an example of such a rooftop area.

Mr. Lait: So we have a pending application that's incomplete and it's again so it follows from the same thread through all these, which is we're trying to minimize the amount of frustration at the Planning counter and through the Planning review process whether it be from community members who think that we're interpreting things too liberally or from developers who don't think we're being flexible enough. And what we're trying to do is just add a little more clear definition as to what these things mean. The policy is what the policy is; we just want to be clear so everybody understands. On this particular case which possibly could come before the Commission via appeal or something I don't want to get into the details of it, but we have communicated to the applicant what we're doing and they are aware of that and their project actually I think is going to be changed and modified so that they're not particularly implicated by this potentially anymore, but that's what got us thinking about it. And maybe it's a one off, maybe it's a trend. We don't know, but we thought we'd add it to the list.

Chair Tanaka: Commissioner Gardias did you have an opinion on it or no? Ok. Commissioner Rosenblum.

Commissioner Rosenblum: Yeah, so based on the discussion I think this is whatever Tier 2. Seems clear for the point of like in the record I don't like this, it just I think it has the effect of making it so one does not want to use the roof because you get partial space, but have to fully park or it needs to be counted as part of your square footage so it has the impact of making roof area less attractive for someone to develop. And I think roof areas are great. We live in California. It's sunny. We should take advantage of that and so I think this has the effect of not making that as attractive, but given the discussion it seems clear this is considered new item not a clarification to me. I would agree with that by the way that I think it's worth discussion.

Chair Tanaka: Ok, so I see no other lights. Oh, Commissioner Michael.

Commissioner Michael: So I agree with what Commissioner Rosenblum just said. I also agree with the concerns that Commissioner Downing [Note-Acting Vice-Chair] raised about being clear as to whether it's a restaurant or a different type of facility and echoing Commissioner Gardias I was trying to think if I could think of an example for instance from my experience. And I recently was in Carmel. We went out to dinner and there was a restaurant that walked in without a reservation and they said well there isn't any room inside, but if you want to go up on the rooftop there's an area where you can get informal service and beverages and appetizers and so forth. And it was extremely pleasant. Echoing what Commissioner Rosenblum said it's a wonderful climate and I think that that's probably something that should be encouraged. On the other hand it seems to have the exact same parking impacts as if we were eating inside. So I think this is probably worthy of a discussion probably something that might want to encourage this sort of development, on the other hand be really clear as to what the impacts are.

Chair Tanaka: Ok, to sum it up it sounds like the majority thinks that this needs more discussion. It's not a simple check box type thing. Just to add to it I think the other issue I have with it is like there's some places that use a sidewalk for extra eating area, but it doesn't mean you suddenly increase their parking.

Or at least I don't think so, but anyways different topic. I think the majority thinks that at least four Commissioners.

Ok let's go to the next item, which is I think it might be Page 1 with five items (interrupted)

Mr. Lait: Yeah, I think Page 1's got (interrupted)

Chair Tanaka: Oh no, sorry. Page 5 with four items.

Mr. Lait: Page 1 may have a few more than five, but I think Page 1's going to be pretty straightforward to get through.

Chair Tanaka: We'll keep going with what we're doing. How are you guys holding up? Do you guys feel like we could ride through or?

Mr. Lait: That's fine, I just think Page 5 may be a little more conversation because we got some bigger issues on Page 5.

Chair Tanaka: We'll do the… I think there's only one page with four and then we'll be on to the five and then we're in the home stretch at that point. Ok, so (interrupted)

Mr. Lait: I'm sorry Chair, but (interrupted)

Chair Tanaka: Page 5, Page 5, four items (interrupted)

Mr. Lait: But they're not, this is going to be a 40 minute conversation I believe and I think, well no, up to 10 minutes, right? You said. So I'm thinking there's going to be 10 minutes of conversation on that page whereas I think you could probably blast through Page 1 in 15 minutes if you're going with the construct of trying to maximize the amount of items (interrupted)

Chair Tanaka: Well, I mean let's put it this way if staff knows this much better than we do in some ways so if you guys think that this is already Tier 2 we don't even have to go there. We could just say ok, these are all Tier 2 and let's go onto the next one. We could do that too maybe, make this shorter.

Mr. Lait: Well I think we've articulated what tier we think it's on in the second column we have listed these as Tier 1. We do know that there will be some conversation (interrupted)

Chair Tanaka: No what I'm saying if the ones we flagged which is 36, 37, 39, and 40. So 36 was flagged by Alcheck and myself, 37 is Gardias and myself, and then Downing flagged 39 and 40. If you think just before you get started that these are Tier 2 items maybe we should just say they are all Tier 2 and move on to the next (interrupted)

Acting Vice-Chair Downing: I think he's just saying that we're much more likely to get through everything on Page 1 then on the other page.

Chair Tanaka: Ok let's yeah, we spend time talking… let's (interrupted)

Mr. Lait: Your meeting Chair.

Chair Tanaka: [Unintelligible] Ok, so 36. Can staff please frame it up?

Ms. French: Yes, so we have several places in R-1 so this is just for single family residential projects ok where we define a neighborhood by block length of 600 feet. There's some wording there and God I wish I had the code right here to have you stare at it and you'd see what we see. The word first of all the 600 foot language the way it is it just needs a couple of words to fix it because it's basically 600 no

longer than, blocks longer than 600 feet no more than ten properties and for a distance so anyways it's just a construct of the language. We want to fix that.

The other piece of this is the carports and garages. So right now we have a code that says the pattern is based upon the carports and garages down the street and then if it's determined that it's rear placed then what you come back with is a rear placed parking device to go along with that pattern. Well the way the code is written it uses the word garage and carport doesn't appear and so what happens is the pattern is determined oh, it's rear placed, oh, but I want to put a carport so now I get to put my carport in the front because the code just talks about garages, where the garages are placed. So there it is.

Chair Tanaka: Commissioner Alcheck you flagged it. Do you want to form an opinion?

Commissioner Alcheck: Ok, so I think there is a very sincere argument here to suggest this is not a failure to include a term. I think there is a case that could be made here that we did not intend for garages and carports to be treated the same way. And I mean I don't know if it bears the time to sort of go into the language, but I spent the time going into the through this language and there are a lot of reasons why I don't like contextual garage placement. I'll give you one example very quickly, bear with me. This is a street I know where this happened. There's 11 home, there's 9 homes on this street. The code the way it's written doesn't include in the calculation of the predominant pattern homes that are on the corner of a street. So in this diagram there's nine homes two of which have rear garages. All of the others have front facing garages and in this particular instance these two can never move their garages up front because the only two homes that count for their calculation are A and B. You can't count the home on the corner which have front facing garages and you don't count the homes across the street.

So I don't particularly love in general contextual garage placement. And for that reason I approach this issue with a little more care because what it allows right now is if you don't have a garage in the front of your home, you have a driveway that takes you all the way to the back you can in theory move your parking to the front of your lot if you build a carport, but not a garage. And in my mind a lot of people use their garages for a variety of purposes and in my mind a lot of people who have garages in the rear half of their lot actually don't park in them. They park sort of on a single lane tandem in front of their home as opposed to going all the way to the back. And so I love the idea that we're encouraging people to not pave nearly all of their lot with a garage, with a driveway, but not but the sacrifice is if that if you're going to build that carport up front it's a carport and you can't stuff it with all your boxes because that wouldn't be safe because there's literally has no sides.

So there's the language reads very specifically that if the pattern of essentially garages or carports is on the rear half of the site then an attached garage has to be in the rear. I'm not going to go into whether or not I like the idea of contextual garage placement, but I think that there I remember I sort of looked into this and I could not find any suggestion in past deliberations of the code that suggested that we treat garages and carports the same way. They are defined differently and I think there is a this provision allows you to make a change, but it's a substantial change and if we add that wording back in then we're suggesting that there was an intent here for garages and carports to be treated the same way here and I don't think you can infer that intent. And I don't think it's safe without having the greater discussion about the topic in general to make that change now because then we're essentially putting in the intent that I can't find in the code. That's the reason why I'm not excited about this one.

Chair Tanaka: Ok, so I think Commissioner Alcheck thinks that this is a Tier 2. Those that disagree hit your lights. Commissioner Gardias.

Commissioner Gardias: Well I put my light not because I disagree, but actually just to I disagree with this with this provision. So if that is this disagree that's my vote it's just to pretty much to strike it down. I don't agree with this proposal because of different reasons. I think that pretty much garages were built at the back because of different historical reasons and then pretty much they meant just to house the car and then also maintain the car and then variety of other purposes at the back of the house. A carport is pretty much just a temporary, temporary purpose where you just store your car for pretty much immediate exit from your property so for this reason they don't need to be in the same location and I

totally would disagree with equating them for the purpose of the setbacks and other reasons. So that's my argument. Thank you.

Chair Tanaka: Commissioner Michael.

Commissioner Michael: I find myself in wholehearted agreement with both Commissioner Alcheck and Commissioner Gardias. I think that the contextual garage placement policy is worthy of some controversy. As an architectural, bit of architectural history when we were constructing our house in Palo Alto 20 years ago or so I came across an article by a very distinguished architect who said that the reason for putting garages in the back was because of horses, if you had horses that's where you put them. You put the stable in the back for obvious reasons and the way people use cars is entirely different. Also there are a number of neighborhoods including one where my house is located where there's a pretty rich diversity of alleys. So some houses have access to parking in the rear because of the alley. Also some houses for whatever reason built underground parking and then other houses had their garage or what have you in front and there's even some flag lots. So the application of the contextual garage placement and I love the diagram that Commissioner Alcheck had of the anomaly of the block with the corner houses not counting and leading to an irrational result seems to me that this is something that's definitely not Tier 1.

Chair Tanaka: Seeing no other lights it sounds like resounding agreement with Commissioner Alcheck. Ok, let's go to 37. This is flagged by Commissioner Gardias. Can staff please frame it?

Ms. French: Sorry, are we on Number 37 now?

Chair Tanaka: Yes.

Ms. French: Ok. This is basement under footprints. I'm going to load this up.

Mr. Lait: So this is a provision that our code defines, our code defines where you can place a basement and a basement is permitted underneath the footprint of the building and we're talking single family homes is where this comes into play. And what is, what requires clarification is what is footprint, what is the building footprint mean to include? Is it the perimeter exterior walls of interior spaces? Does it include covered entries where you may have a raised porch and you can place the basement under that? And what we're seeing is building design being modified to accommodate more basement square footage below grade. And this is not a judgement about whether basements are good or bad, but we need clarity as far as what does footprint mean because we're seeing the definition being stretched and what we're seeing visually is buildings are being altered in a way not for building function and design, but to maximize basement square footage. The interpretation over time has included I think covered entries and there's this idea of completing the square and all these different ideas of how to address it and what the proposal is so there's clarity is that the footprint is the exterior walls of interior spaces. That constitutes a building footprint and that's where a basement could be allowed. That's the proposal.

Chair Tanaka: Ok, Commissioner Gardias you're the one who flagged it so (interrupted)

Commissioner Gardias: Yeah, that is fine. I totally understand this. The only thing that I flagged it is pretty much that there could be different interpretation of the porches. You can also have enclosed porches that serve different purpose and I've seen them around and they are all around the [unintelligible] and pretty much in this case you can have a perfect argument that the footprint also includes the area under those enclosed porches. So I'm just saying that this is not as clear and clearly white and black. I mean if you're going to talk about entry open porch yeah, I totally agree, right? But then you may have some other building configuration where this may be perceived differently.

Mr. Lait: And when you say an enclosed porch are you talking about where you would have windows that would be operable?

Commissioner Gardias: That's right, yes. There are some porches that are pretty much used for example (interrupted)

Mr. Lait: Like sunrooms or?

Commissioner Gardias: Yes, what did you say? I'm sorry.

Mr. Lait: A sunroom.

Commissioner Gardias: Yeah, like a sunroom or like a garden, interior garden or some other or they are only used in the summer for example. So there are some variety of those porches that pretty much you may open the windows they pretty much just are not inhabitable or they may just serve a temporary purpose like a summer room, something like this so.

Mr. Lait: Would it be conditioned space?

Commissioner Gardias: Not necessarily.

Mr. Lait: Ok. Ok, so yeah I mean so this is what we're getting at is there needs to be some clarification because more often than not we're struggling with where do you draw the line? And so the initial posture on this is let's draw the line at something that is clear and that's exterior walls of interior habitable space is what we're looking at.

Chair Tanaka: So it sounds like Commissioner Gardias is saying this is not such a simple thing and he thinks it should be Tier 2.

Commissioner Gardias: No, no, no. I think (interrupted)

Chair Tanaka: [Unintelligible] clear.

Commissioner Gardias: I think we're good after this.

Chair Tanaka: Oh, you think we're good. Oh, ok.

Commissioner Gardias: If we could just proceed with this I'm going to be perfectly happy. I think this explanation (interrupted)

Chair Tanaka: I stand corrected.

Commissioner Gardias: Was [unintelligible].

Chair Tanaka: So Commissioner Gardias is cool with 37.

Commissioner Gardias: It's cool.

Chair Tanaka: Anyone that's not good with 37 hit your lights. Commissioner Alcheck.

Commissioner Alcheck: Ok, so I have a there's a special problem that I have with limitations on basements because I can't conceivably understand why as a City we care too much where a basement extends. Now the section says something that maybe it's in a different one, but there was oh yeah, here "to maximize basement with adverse impacts to home design." And so I'm going to use this argument, I'm going to use this diagram for a second because this is an example of where I imagine this comes into play. This is the street, this is the home, this is a roofed porch, these are steps. You step up, there's a railing, you walk 10 steps to your front door. I don't see why we would conceivably care if the basement extended from this corner to this corner of the lot. And I don't see how this would affect any aesthetics. This is a raised patio let's say that is in line with the threshold of the home and to me I feel like if the

basement's built to code, it's one thing if your basement's protruding out the side of your home and threatens your setbacks, but if it's within the setback then I think that the instead of the instead of us saying interior walls I think we should say, I think we should use things like well… there is a definition I'd pull it up right now. I don't know if it's structure or building that I think is sufficient. For example, a porch that's covered for example is maybe a structure and if it's I mean we have rules for example on porches that say that if your porch is enclosed on more than 50 percent of its sides which is in this diagram that I drew (interrupted)

Mr. Lait: Right, so if I (interrupted)

Commissioner Alcheck: Yeah.

Mr. Lait: So your diagram is how we currently do it today. We don't have a problem with that design. Let's call it completing the square informally. And if everybody operated under that common sense approach that you've laid out then we wouldn't be having the conversation today, but what we actually have is we're seeing projects where they're pushing the envelope and jutting out a closet wall so that they can then claim credit for a lot more basement square footage and so this jutting out of the wall to get more basement area is having an effect on the quality of the design.

Commissioner Alcheck: Are you suggesting that if this space here wasn't a room, but it was a closet (interrupted)

Mr. Lait: Right, so make that a little bit bigger and you punch that out a little bit and now you're claiming all that space in front of it as basement area which isn't under (interrupted)

Commissioner Alcheck: You mean from here to here?

Mr. Lait: Yeah, so you put a porch between the front, what I think is your front in your diagram to that all the way back so now you make that a porch that's the kind of thing that we're beginning to see now on both sides of the building. And it's creating this confusion about well we're not intending to capture, I don't think we're intending to capture porch area, but I have an alternative suggestion (interrupted)

Commissioner Alcheck: Let me respond to this. I don't disagree with you that there may be an incentive to designing your home differently, but we don't have an IR process that applies to one-story homes.

Mr. Lait: Correct.

Commissioner Alcheck: And there is something very American about that because what you think of as aesthetically unpleasing like doing this with the porch could still be done, you just couldn't build a basement under it. And so the implication is that the only reason they would do this is because they get a certain amount more basement. And what I'm suggesting to you is if you don't like the way this looks then as a policy we shouldn't allow someone to build a porch from the closet to the front of the building, but it shouldn't restrict somebody's ability to build a basement which you can't see under the building. And that's sort of how I approach this.

Mr. Lait: So I'm comfortable with that as well. I don't (interrupted)

Chair Tanaka: Guys hold on, hold on. If we keep doing this we will spend 40 minutes. So I think (interrupted)

Mr. Lait: I'll come back with more clarity on this one.

Chair Tanaka: I think this is a kind of Tier 2 thing, but actually Commissioner Michael has been patiently waiting. Commissioner Michael why don't you go?

Commissioner Michael: So I agree it's a Tier 2 item. I think to the extent the completing the square methodology is something which is actually used in practice it would be helpful to clarify that when you come back. And I think if there's a structural reason in terms of the integrity of the house, the waterproofing, whatnot such that the walls of the first floor should be extend up from the basement walls that may be a reason to have a discussion about structures which are more safe or durable or seismically safe or whatnot.

Mr. Lait: If we're heading Tier 2 there's no point in talking further about it.

Chair Tanaka: Ok, ok. So I also think it's Tier 2. I saw Commissioner Rosenblum was shaking his head yes, so I think we have a majority of Commissioners that think this is Tier 2. Let's move on to 39.

Ms. French: Ok, 39 multi-family residential the code does not have in the development standards table a statement that there is a minimum number and we're ok with that. There is no minimum density [there is] a density range that is permitted and so it clarifies that it's just a clarification that we're not… this came up recently on a project was it's this many units per acre, does that mean they have to do that many units? No, it doesn't mean they have to do that many and it's because they could do that many. They're doing a multi-family project, this is how many works with the parking with the driveway access, etcetera. We don't have to make them do the that number, the minimum number (interrupted)

Chair Tanaka: Ok. This was flagged by the Vice-Chair so why don't you form an opinion?

Acting Vice-Chair Downing: Yeah, I think there's a lack of cohesion there because for the mixed-use project we're now saying oh, we want a minimum and we want to be clear, but for non-mixed-use projects where we could get even more housing now we're saying minimums don't apply. So I don't get, I don't understand this policy. This doesn't seem, it doesn't to make sense to me these two things together from a policy perspective.

Mr. Lait: Is the just so I understand so is the position that you're articulating is that development of a multi-family needs to meet, has to comply with the density range and cannot be less than the density range?

Acting Vice-Chair Downing: I'm just saying that I don't understand where the policy here is going because you're making two changes in two different directions, right? On the one hand you're saying I'm making a policy and I'm making a clarification so that we end up with more housing, but on the other hand you're saying well now we're going to do it in the other direction and we're going to make sure there's less.

Mr. Lait: So let me (interrupted)

Acting Vice-Chair Downing: So where you have a chance for interpretation I'm not sure why you're taking it in different directions.

Mr. Lait: So let me clarify that then if I may. In the commercial area where we allow mixed-use you get certain incentives for developing a mixed-use project which we've already talked about a being a defined type of housing type with three or more units and that's what we wanted to clarify. That if you're going to get these incentives for doing mixed-used you've got to at least have three units. That's the one area. In the multi-family zone we have these ranges of density of housing that could be accommodated in these areas, but we also permit single family homes, other land uses, duplexes, a triplex. And all we're saying is let's be clear so that again we're trying to minimize confusion whether it's an architect or property owner or a resident who's concerned about a project. We're trying to provide clarity that our practice has been in a multi-family zone we permit all kinds of housing densities up to the max range in that district. Our code says and I'm just picking numbers, you can do between 8 and 16 units. And so we want to be clear that that's a range, but you could also do 1 unit or 2 units or 3 units up to 8, up through 16 in that example. So it's not a diversion of policy it's a clarification of the permissive land uses, permissive densities.

Chair Tanaka: ok so I think the Acting Vice-Chair is saying that this is a type or Tier 2 and doesn't agree the diverging directions. Commissioner Michael.

Commissioner Michael: Well if this is going to be a Tier 2 then I would hold my fire, but I think Acting Vice-Chair raises an interesting point. If there's a property that might be suitable for one very nice mansion for a Palo Alto billionaire or home for 40 families who could have students in schools and use the parks and whatnot I think it raises a pretty significant policy question about land use. So.

Chair Tanaka: Ok, seeing no other lights it seems like everyone agrees with the Acting Vice-Chair. Ok, Commissioner Alcheck.

Commissioner Alcheck: It's just a quick question to staff. This is not necessarily changing anything; this is just articulating what is in the law?

Mr. Lait: That's correct.

Commissioner Alcheck: We don't currently have a minimum density.

Mr. Lait: That's right. And so if the Commission pushes this to Tier 2 (interrupted)

Commissioner Alcheck: But you probably get asked the question?

Mr. Lait: Yes, we do. And so nothing would change from a policy, from an application (interrupted)

Commissioner Alcheck: It's just continuing to publish it. By publishing that we have no minimum density. We are not creating a no minimum density.

Mr. Lait: That's correct.

Commissioner Alcheck: I think, I think there is a debate we can have, but I don't think that this allowing this change to be published actually changes anything. They I mean we could ask the City Attorney, but I don't think anybody would be stopped from building a single family, a single unit as a result of our inaction today. And to the extent that it makes staff's life easier by clarifying that their own limitation even potentially for the broader public which may be upset about potentially low development let's say then staff can say, look this is if you want to change this then this is the this is where we need to change it as opposed to maybe not being able to point to something to clarify the current legal standing, so.

Chair Tanaka: Commissioner Rosenblum.

Commissioner Rosenblum: Yeah, just quickly I support this as Tier 1. I think this is interpretation. They're not changing anything. They are clarifying that the range that they have does not include a minimum. The outside interpretation about whether or not we should have land use policies that proscribe minimums I think is a different issue. So I think this is well within the intent of this exercise which is clarifying that's a range not a minimum or is a preferred range, but not a minimum. So I think that this is fine. It gets my support.

Chair Tanaka: Ok. So actually I got persuaded by my fellow two Commissioners so I actually agree that this is also Tier 1. So I think at this point in time it's a split vote or a split feeling among the Commission unless...

Commissioner Gardias: If there is a split vote I can just pretty much argue for just having this as Tier 1. I think it's just a clarification.

Chair Tanaka: Ok, then majority says Tier 1. Ok, let's go to 40. This was flagged by the Acting Vice-Chair as well.

Ms. French: Ok, this is the seismic bonus. For many years we have allowed for buildings and its written in the code that you can replace an existing building with a new building and we've allowed seismic when you replace a building that's on a list of seismically challenged buildings you can replace that building with a new building and the incentive to do that includes bonus floor area up to a certain amount, 2,500 sf, something like that. We've had pushback on that we that from Council that they think that we should not be allowing for bonuses for a new building. That it should only be granted if you're keeping the building and reinforcing it with structural steel or what have you. Then you get the bonus. This is an interpretation of an existing code that talks about use of the bonus and so it would be more restrictive than is existing in the code. We don't, we're just bringing this forward as per request.

Chair Tanaka: Acting Vice-Chair do you want to give an opinion?

Acting Vice-Chair Downing: Sure. So I think the issue that I take with this provision is that we had a Downtown Cap Study and part of what the study told us is that in order for it to be profitable for people to tear down buildings and rebuild them for commercial space they need to be able to double their square footage in order for that to be profitable and worthwhile. For residential space they need to be able to triple that square footage for it to be profitable and worthwhile. So the City which commissioned the study and paid people for this information has that information and seems to be making policies which ensure that in fact people don't tear down these buildings and don't retrofit them which does not make sense to me. Whether or not you retrofit an existing building or you build a new building we want to encourage people to we want to encourage people to fix them. So I'm not sure why we're taking away an incentive to fix them. I mean is the Council really saying that like extra square footage and extra parking is more important than the lives of the people who live and die in these buildings? I can't, I can't really support this.

Chair Tanaka: Ok, so Commissioner Downing thinks this is a type two [Note-Tier 2] and disagrees with it. So anyone that disagrees with, anyone that supports it should flag their lights. Commissioner Rosenblum.

Commissioner Rosenblum: I completely agree with Commissioner Downing so.

Chair Tanaka: Commissioner Michael.

Commissioner Michael: I also agree with Commissioners Downing and Rosenblum, but I think that just to add another nuance I think the seismic bonus issue whether you retrofit or replace may be confused with historic preservation and in certain instances building may have no redeeming historic value and by providing a or imposing a constraint that prevents people from replacing a dysfunctional, outmoded, unattractive building with something that would be of higher quality, etcetera, I think it's going in the wrong direction and confusing preservation, seismic, and building Palo Alto of the future.

Chair Tanaka: Ok so, oh, Commissioner Alcheck.

Commissioner Alcheck: Look I'm not I wanted to just chime in here because I think that we create these incentives because we want to encourage redevelopment of buildings that potentially aren't safe, but if you don't need to encourage development because development is so appealing in general then this is an opportunity to potentially I don't think anybody suggest, I just I do think this is a policy and for that reason it's Tier 2. Whether or not the decision to not further incentivize seismic improvements I think there's something to be said for the fact that if you are tearing down the... I think this is a policy discussion and I don't know that we necessarily need to suggest that we wouldn't, whatever. It's a broader discussion. I just don't want to be silent and suggest that I don't think that we could have this change and it could be potentially something that the public wants. Not all of us feel that way. Maybe this is something that we want to do, but it's certainly more of a public policy discussion. That's all I'm going to say.

Chair Tanaka: Ok. So it seems unanimous that this is definitely a Tier 2 and it seems like myself included support Commissioner Downing's point of view on this.

Ok, so let's move on. We're down to the final stretch guys. We have two pages left. Unfortunately they're the two hardest pages. They have five items each although the first one is Page 1, which is administrative so maybe these are actually just typos and we could do this fast. So we have Item 1, 4, 5, 6, and 8. Item 1 was myself, Item 4 was Commissioner Michael, Item 5, 6, and 8 were Gardias. So can staff help frame up?

Let me just do a time check. So it is 9:00. We all have been here for three hours and so we should take a break or the other thing we could do is we could say well hey we did enough tonight and do the rest next week or next in two weeks. What do you guys feel like doing? Adjourning? Ok, well there's also Page 4. There's also Page 4 which has five items and this is an interpretation page.

Commissioner Alcheck: How about we revisit the question after we finish [unintelligible].

Chair Tanaka: Ok, so [photo] is that we will maybe blast though page, this page and then we could look at the mountain on Page 4 and decide whether we go for it or not. Do you guys want to do that? Do you guys want to try and power through Page 1 now or should we take a break? Want to take a break? Who else wants to take a break? Ok, we're going to go through Page 1 and so staff why don't you?

Mr. Lait: Thank you. So Number 1 is sort of a legacy issue of when the Development Services Department and the Planning and Community Environment were together as one department and the building official had the authority to make decisions on signs and fences and things like that. And so the reality is the Building Official is not involved in those decisions. Those are all in the Planning Department and so what we're doing here is reflecting the actual decision authority as the Director of Planning and Community Environment as opposed to the Building Official which is in Development Services.

Chair Tanaka: Ok, so I'm the one who flagged that. I guess that makes sense. It was just I forgot why I even flagged it. So let's move oh, ok well does anyone disagree with this topic or anyone have questions or comments on it? Otherwise let's move on. Ok, Item 4. This was flagged by Commissioner Michael.

Mr. Lait: Thank you. So this is one where throughout the course of our business day to day we're having to make interpretations of the code and right now we don't have a process for documenting that, sharing that with the community, and giving people an opportunity who might be aggrieved with that interpretation a process of appealing that and having it reviewed by an appeal body. So we do this today. What we want to do is memorialize the decisions that we make and give people a chance to appeal it to the Council.

Chair Tanaka: Commissioner Michael it was your item.

Commissioner Michael: So that sounds very positive and I would support that. It would be nice to see what the new provision and process would be at a subsequent meeting.

Mr. Lait: Great, something along the lines of 14 days, posted on the web, and all that kind of stuff.

Chair Tanaka: Ok, Commissioner Michael thinks, supports it. It's a type one [Note-Tier 1]. Anyone that disagrees hit your lights. Commissioner Alcheck.

Commissioner Alcheck: Ok, so I have a little question here. I imagine that when an applicant comes forward and they feel like they have a strong argument for the interpretation of their application in a certain way and I'm suggesting on a single family home for example I'm, I like the idea that in theory there's an opportunity for them to sort of have an in depth discussion with Planning Staff as opposed to Planning Staff saying look, this is our interpretation, you don't like it, appeal. I don't know that if we add this we won't have that that will eliminate this opportunity, but there's a part of me that thinks that today, today if how what would be the different result? An individual doesn't agree with the

determination that Planning Staff have made and they want to have a further debate or discussion about it or they want to have a I mean what would be today's situation?

Mr. Lait: So today let me start by saying the concern that you're beginning to articulate I don't think would happen. We're always working to solve problems and find solutions to make things work and that applies across the board for the work that we're doing. We try to be problem solvers. And where it where we come into a disagreement about a particular policy right today you're stuck with it. You're stuck with the Director's interpretation or decision about how that policy gets implemented. And what we're suggesting then is that should you be aggrieved with that, should you have your conversations and you get to an impasse we're extending now the opportunity to continue to air your perspective on that code interpretation to an appellate body where it can be heard and decided on in public forum.

Commissioner Alcheck: As opposed to what?

Mr. Lait: Well, again so (interrupted)

Commissioner Alcheck: Pursuing like legal remedies?

Mr. Lait: Yeah, if you think we're (interrupted)

Commissioner Alcheck: I mean I only say this because our current leadership is exceptional in their effort to work with applicants in my opinion. And I know other communities where they can't boast that their, that the leadership at their Planning Department is so available, let me put it that way, to have these discussions. And so in a future where it's I don't want to create a situation where your only whatever this is probably a broader discussion and we don't need to have it today. And I won't not support this as a Tier 1 item, but it is something to think about because I don't love the idea of if you don't like it take it across the street. We don't have that today and I think that's principally because our Planning Staff is, has a very open door policy with applicants and for, but I don't know. Ok. I don't know what to say about it except for I didn't realize that from your perspective that they just walked away. I figured that there was some other I mean, other meeting opportunity.

Mr. Lait: We will continue to meet and all we're trying to do is create more transparency in the process.

Commissioner Alcheck: Ok, alright.

Chair Tanaka: Commissioner Michael.

Commissioner Michael: So I just wanted to add I wonder if this is an opportunity consider making a recommendation to the City Council for a process in which the PTC would actually have some decision making authority versus simply being a recommending body and that it would be appeal would be a one step process to the Planning Commission and then there could be a further appeal if that decision was not accepted. But if you have a process that is guaranteed to be a two-step process that may be less efficient and there may be an opportunity here to inject more substance and responsibility into the duty of the Planning Commission, which I think would be a good thing.

Chair Tanaka: Ok, so it seems like that, that I think in general we agree it's a Tier 1 although there's some concern on this one from several Commissioners. Ok, so let's go to Item 5. Item 5 was Commissioner Gardias.

Mr. Lait: So this is one (interrupted)

Commissioner Gardias: We already addressed that.

Mr. Lait: Yes, we've already addressed it.

Chair Tanaka: So we're going to table that one then.

Mr. Lait: I'm sorry, we're I don't think we're tabling it, right? We're (interrupted)

Commissioner Alcheck: [Unintelligible-off mike]

Chair Tanaka: Well, that's right. Yeah. [Unintelligible] I mean (interrupted)

Mr. Lait: [Unintelligible-talking over]

Chair Tanaka: We don't need, ok. Six.

Mr. Lait: Item 6 is it's you'll know it when we see it. We'll give you the code language as it reads. You'll see how we're fixing it. It's just adding more clarity to the sentence. We're not changing anything except for how the sentence reads and it's kind of hard to talk about it in the abstract so we need to come back to you with some what the language is.

Chair Tanaka: Commissioner Gardias (interrupted)

Commissioner Gardias: So the only reason that I flagged it is because it wasn't clear to me. I totally agree, right? It looks like just a cleanup, but when I was reading this it wasn't clear to me what it means that also references a new definition for substantial remodel.

Mr. Lait: Oh right, so substantial so we have a practice... what number was that one?

Ms. French: I put it on the screen [unintelligible-off mike].

Mr. Lait: Ok, so we have a, we have a, so our code... Ok so I'll answer your question that has to do with substantial remodel, which is not about this issue. Ok? So this one is simply just fixing an awkward sentence. Your other question (interrupted)

Commissioner Gardias: Ok, and I think, I think (interrupted)

Mr. Lait: There was another question about what substantial remodel means (interrupted)

Commissioner Gardias: No, I think that I already understand once this was displayed.

Mr. Lait: Ok, ok. Thank you.

Commissioner Gardias: So let's move on unless there is some other question.

Chair Tanaka: Ok, I see no other lights so let's move on to eight. Staff?

Mr. Lait: And so Item Number 8 is just expressly putting in the code an opportunity for the Director to make a decision that this use classification that is not specifically identified in the zoning code is similar to other types of use, uses that are identified and give the Director that express authority to bridge the gap where our code is silent on a particular use. We do this today we just want to codify the practice.

Chair Tanaka: Commissioner Gardias this is yours.

Commissioner Gardias: Right, the reason that I ask about this because I understand that we're talking about the map designation. Is this correct? Because this is the section.

Ms. French: [Unintelligible-off mike].

Mr. Lait: Yes.

Commissioner Gardias: I knew this. Ok.

Mr. Lait: So permitted uses.

Commissioner Gardias: Ok. So that's so I was just wondering if there was an example of the area that may not have the designation that you could provide to us that would clarify this item. Where there could be a disagreement was there [unintelligible] could you give an example of some disagreement?

Mr. Lait: So I'll give you an example. I mean it may not have any basis on reality, but I'll just give you an example.

Commissioner Gardias: Well I mean I was just hoping for (interrupted)

Mr. Lait: It's hypothetical.

Commissioner Gardias: local, you know.

Mr. Lait: So the land so the properties are designated. That's not the question about where a property might not be designated, but you may have a commercial zone that permits recreational uses and somebody wants to put a bowling alley there. And maybe there's some question as to well is bowling alley recreation, is it social, is it a restaurant? There could be a dialogue about does it fit. And so all we're trying to do is say yeah, a bowling alley that's pretty close, similar to recreation. There might be some incidental uses, but yes that's a similar and permitted use and being able to make that decision.

Commissioner Gardias: Right, but still the question was: was there anything concrete that triggered this?

Mr. Lait: No. Was there one?

Ms. French: There's lots of examples. People walk in the counter they want to put a tutoring business. Guess what? Our code doesn't specifically state tutoring business anywhere because it's a new thing, relatively new. So how do we classify it? Well, it's kind of like these personal services. We make the call, ok? So we're making a call, we're doing it already. This is just talking about it and giving somebody a venue to challenge that if we make the call that they don't like.

Commissioner Gardias: Ok, so you're going to pretty much come to us with you're going to provide the process for resolving those conflicts?

Ms. French: Disagreements.

Commissioner Gardias: Disagreements. Ok.

Commissioner Alcheck: I get it.

Commissioner Gardias: Right.

Chair Tanaka: So Commissioner Gardias what is your opinion? Do you support it?

Commissioner Gardias: No, I think that I understand. Once I will see the so I understand that [ones] you're going to put the total the language, right, we will see the details in there, right?

Mr. Lait: Ok.

Commissioner Gardias: That's fine.

Chair Tanaka: Ok, so folks that disagree with Commissioner Gardias which is essentially what this says here, hit your lights please. I think he supports he's for this ordinance.

Commissioner Gardias: Yep.

Chair Tanaka: This change.

Ms. French: [Unintelligible] ok.

Chair Tanaka: Number 8. So if you disagree [see it] Commissioner Alcheck.

Commissioner Alcheck: So I'll just retract the previous one that I was because I couldn't foresee an… in our effort here it's the idea is to takeaway things that are ambiguous so that we eliminate interpretational opportunities and this is a really good example of something that I didn't quite so I retract my previous problem with the process for reviewing an interpretation because I didn't really appreciate what sorts of interpretations they would make.

Chair Tanaka: Are you referring to Item 6 or?

Commissioner Alcheck: Yeah, I just want to clarify that.

Chair Tanaka: Ok, ok, ok.

Commissioner Alcheck: Just in case that was a…

Chair Tanaka: Ok. Ok, does anyone have anything for Item 8?

Ms. French: We were just on 8, right?

Chair Tanaka: I know, I know. So I just wanted to close that out. Actually I had a concern which is just that I understand what staff's saying and in general I actually support it, but it's actually kind of a, a rather in my mind a rather big change. It doesn't seem like a type one or Tier 1 type change. It seems to me more of a Tier 2 because it's, it's actually a very substantial, it could be a very substantial issue. So that's my opinion. I don't want to spend too much time on it because we are, we are actually Commissioner Michael.

Commissioner Michael: I mean I would tend to support this being as a Tier 1 item; however, one of the things that I think would be of benefit to the public and maybe enhance the credibility of the work that the staff does is when the interpretation is made that it somehow be published because just in this course of this discussion I'm getting lots of new learning about what goes on and of things that aren't necessarily things that I would be able to research easily in the code. So if there's a process by which the lore and the legacy of this ongoing interpretive process be made more transparent I think that would be beneficial to the Palo Alto process.

Mr. Lait: Alright, thank you. That's the intent and if you look at number Item Number 4 under change description, the last sentence we speak to that very point which would transcend to Number 8.

MOTION

Chair Tanaka: Ok, so I think the majority supports Number 8. Ok guys we're at the time now it's 8, 9:18 and we have to make a decision. We have Page 4, which is I'm sorry, not Page yeah it is, Page 4. There's five items on that. I am I did take a quick peek at this. I do think these are substantial discussion items. I don't think that I personally think all these are Tier 2, but I think you guys might differ in opinion. We could try to power through it or we could say well look, if we tried to go through these we're probably here another hour which would take us to about maybe 10:30 or more perhaps. And so my proposal is I think we did pretty good. I think staff actually has a lot of homework to do already over the next couple of weeks and we could take this again on, on the 28th. So…

SECOND

Commissioner Rosenblum: Second.

VOTE

Chair Tanaka: Ok. All in favor, raise your hand. Ok, all not in favor raise your hand. Ok. So majority, majority says we do the rest later. Ok. So ok, ok great.

MOTION PASSED (_____, Vice-Chair Fine absent)

Mr. Lait: The next meeting is.

Chair Tanaka: Ok, great. Ok so, so we can close Item 2.

Planning and Transportation Commission
Draft Verbatim Minutes
October 14, 2015

Excerpt

Public Hearing

First Annual Planning Codes Update: Discussion and Possible Recommendation of an Ordinance to amend land use-related portions of the Palo Alto Municipal Code. The purposes of the code amendments are to: (1) improve the use and readability of the code, (2) clarify certain code provisions, and (3) align regulations to reflect current practice and Council policy direction. For more information, contact Amy French at Amy.french@cityofpaloalto.org **Continued from September 30, 2015**

Chair Tanaka: We're going to call the meeting back to order. Can the Commissioners please take your seats and can people please move their conversations to the hall? So we're now on the third item, which is the First Annual Planning Codes Update. Does staff want to give kind of a, you gave a presentation last time, but do you want to give kind of a quick review as to where we're at and where we need to go?

Amy French, Chief Planning Official: Yes, Amy French, we met with you last on September 30th after which we did pay a visit to the Architectural Review Board (ARB) to finalize those ARB findings. So those are ready now for our draft ordinance. We unfortunately do not have a draft ordinance to put at places tonight. We are still working on that. There's a few more refinements before we release that so our apologies for that.

We have the matrix that we worked on last time. The items were pulled. We have five items from Page 4 that we wanted to get through tonight. I have some fun slides if anyone wants to see those, but on the wall sign, I'm projecting sign Items 30 and 31. I do have some visuals for the footprint definition, Item 33. We have that amenity definition, which we touched a bit related to breakrooms last time and then we have Item 34, which is gross floor area inclusions. So again these are the categories and last time of course we some of those moved from interpretation and new policies, some of those moved off of the Tier 1 list onto the Tier 2 list. So that concludes our brief presentation. As I said I have slides for each of the items that you pulled for discussion if you'd like, ask me questions I'll show you some things.

Chair Tanaka: Ok, thank you. So first of all are there any of you… any members of the public that want to speak to the Commission? If so (interrupted)

Ms. French: Cleared the room.

Chair Tanaka: Bring your card to the front. I see no one in the audience and no cards, right? Ok, so let's close the public hearing.

Ok, so where we last left this was on Page 4. Does, I think everyone has their, has the big sheets of paper in front of them and we were going through and talking about issues. So on Page 4 these were interpretation issues and we had indicated Item 31, 32, 33, and 34. So Commissioner Gardias flagged 31, Commissioner Downing flagged 32, Commissioner Gardias flagged 33 and 34. So Commissioner Gardias do you want to kick it off and talk about some of the concerns you had for Item 31?

Commissioner Gardias: I was seeking merely clarification on this item. If you could just please explain the meaning of this.

Ms. French: So I had that we also pulled 31. That that had been or 30, Number 30, which is my first one on the screen here, but I'll pass that over (interrupted)

Chair Tanaka: Oh, sorry. Actually, Commissioner Alcheck actually had 30, but he crossed it out at the end of the meeting. So I don't know if, I don't know if Commissioner, Commissioner Alcheck (interrupted)

Ms. French: I didn't get the memo. Ok.

Chair Tanaka: I don't know if Commissioner Alcheck (interrupted)

Ms. French: I didn't work too hard on the slides. I'll show you my slide. There we go. That's the slide. Ok. That one's ok. We're good, above canopy signs.

Ok, so Item 31 is the projecting sign standard. So the current code language only allows projecting signs when they are placed underneath an overhang or canopy. And so I'll show you a photo for instance here there's a small sign hanging down from a canopy that was manufactured so that they could hang a sign out under it. Here are items that had to go through the sign exception process because there is no canopy over the blade signs. So that was an exception process, went to the ARB, we call those blade signs. So the item that this represents is to allow for blade signs, which is somewhat an industry standard when there is no canopy to put it under. In the case of, I'm just going to show that slide again, the vans, that's it, ok, there's like a little canvas canopy and you don't hang something from under the canvas canopy.

Commissioner Gardias: So those signs will be allowed pretty much?

Ms. French: Yes, we would still have an architectural review process, but it would not require this exception findings that says it's extraordinary circumstance.

Commissioner Gardias: Ok. So this would affect other discussion around grocery outlet on Alma, right? Because it's not under canopy, there was a large discussion back then.

Ms. French: That was also larger than allowed. So that was two exceptions, yes.

Commissioner Gardias: Ok. Good, thank you. That's what I was looking for, thanks.

Chair Tanaka: Ok, Commissioner Gardias you're not putting forward any position on this?

Commissioner Gardias: No.

Chair Tanaka: Ok. Does anyone want to talk about 31? Otherwise we'll move on to 32. Ok, Item 32 is Commissioner Downing. You're the one who put this one forward.

Commissioner Downing: Sure, I was wondering if staff could talk a little bit about the problem here that this is trying to fix?

Ms. French: Ok, so the first thing is there is no definition for onsite employee amenities. Onsite employee amenities are considered those types of amenities that are included in an office building generally. You know out in the Research Park is a good example where this happens and somebody will put a cafeteria, there might be a childcare center, there might be onsite laundry facilities, and these are things that allow for folks to not have to get in their car and leave the office to go and drop their cleaning off. We don't have a definition in our code. It's a chance to put a definition in there to talk about it as, it's an ancillary use, it's not a primary use so you can't just put a childcare facility on a property and say it's an amenity and so we don't have to park it and it's not floor area. it has to be ancillary to the primary use.

Commissioner Downing: Yo go.

Jonathan Lait, Assistant Director: So just to quickly this is one that we talked about at the previous meeting and we said that we need to come back to you with a definition of what amenity space is. You don't have that yet so you really don't have anything to respond to. So we see this as coming back to you with a definition to better react.

Chair Tanaka: Vice-Chair.

Vice-Chair Fine: So can you describe a little bit more about the purpose of these amenity spaces? Did you just say they're excluded from Floor Area Ratio (FAR) and parking requirements, things like that?

Ms. French: Correct, when it's determined that they have the function of reducing trips then it's not floor area and it doesn't need to be parked.

Vice-Chair Fine: Alright, so this might be my own personal prejudice a little bit, but given the nature of industries here, tech companies, startups, things like that, I can only speak from my own experience going to a number of startups and tech companies and my own offices up in San Francisco, these amenity spaces can take up a lot of the floor area of certain companies. In my own company I just have to guess it's probably a good 30 percent of our space in terms of snack things and little kitchenettes and stuff like that. So I'm interested to hear what others have to say, but given some of the concerns about office space, the trips they generate, how these spaces are used and employ, people talk about sardines in a tech company we should be careful with this one.

Chair Tanaka: Commissioner Gardias.

Commissioner Gardias: I this is about 33, right? So I think we already covered it.

Chair Tanaka: No, no, no. Sorry. It's 32. We're on Item 32.

Commissioner Gardias: No, I was ok with 32, so…

Chair Tanaka: Oh, ok. Then hold that thought. Let me get to Commissioner Rosenblum.

Commissioner Rosenblum: Yeah, I would prefer moving this item to Tier 2. It's basically I agree that the nature of the businesses here have a fair amount of shared employee space. I think it's a good thing. It's kind of the modern way of working and I think basically changing this is significant. So if the definition of what are things that fly through in our omnibus set of changes are clarifications and trivial this is nontrivial. My personal preference would be that if you did do this it would force the densification of offices. If you're going to have to park it anyway you may as well jam in more people and so to me it would have a negative effect on work environments.

Chair Tanaka: Commissioner Michael.

Commissioner Michael: I agree this is a Tier 2 item. In expressing that agreement I would say that the interrelationship between amenity space, which I think should be liberally construed rather than restrictively measured, is perhaps connected to having an updated sense of what's the square foot utilization per employee relative to parking. So I think that those two things considered together would give you the best result when you have the Tier 2 discussion.

Chair Tanaka: I see no other lights on this, but I also agree that this to me seems like a Tier 2 item that we should probably it's worth more detailed discussion. So let's move on to, on this item it looks like the majority of the Commission thinks that this is Tier 2.

Ok, so on Item 33, Commissioner Gardias you're the one who flagged it. Do you want to talk about it?

Commissioner Gardias: Yeah, I think we talked about this at some point of time. So I'm fine with this as an interpretation unless there is some comments from my colleagues. Thank you.

Chair Tanaka: Vice-Chair do you want to say something? Oh, ok. Ok. Staff since you prepared something do you want to just talk about it?

Ms. French: Sure. So again this modifies an existing definition to clarify for a single family home that basements would, that a footprint is what's interior and defined by walls. And under that that is where the basements can go. So and that's based on an increasing trend that we've seen. I just have a little image here that shows an example of a porch. Here's the grade and you have a porch with a covering that is a balcony and then you have a recreation room underneath in the ground and currently we call this complete the square. There's basement underneath that open porch there. Here's another example, they might put a wine room or even a bedroom under a porch that's covered. So we see kind of these porches that start to wrap around and there is no dimension that says how much porch is considered part of a footprint so we get into these discussions with applicants. You have a small room on this end and then you have a porch and you're putting the basement under the porch so what happens is the porches start to get bigger so that there can be basements underneath. So this is why we're kind of going back to a stricter reading of that to say it's interior floor area.

Chair Tanaka: Commissioner Alcheck.

Commissioner Alcheck: Look, this I mean I guess my argument that this is Tier 2 is that we're trying to affect a behavior that we don't like as opposed to modifying something because it's not clear and my response to that reasoning is how do we determine we don't like it? And I think the way we determine we don't like a certain behavior is by having a discussion that's a little bit more in depth. Frankly if we had that discussion I would say I don't see why we care where a subgrade space is if we can't see it. I think if we have a problem with the way patios or porches are designed then we should potentially have a discussion about porch size or limitations because it sounds to me like you could still create these awkward porches if you wanted to under our code, which sounds like the problem that she's, that's being raised tonight. So it's like the issue is we don't like these porches that are sort of awkward and wrap around and our, but our change here won't necessarily eliminate that. It just eliminates the assumed incentive for that awkward porch. So again I would argue I'm not necessarily in favor I think if we want to have a discussion about changing a behavior then we need to have a discussion about if it's a behavior that we don't like and we haven't had that discussion so my argument would be that would be why it's Tier 2.

And then I think the second component of that is if we're going to try to limit a behavior that we don't like we should limit that specific behavior, not an incentive or one of various incentives that cause it. Because I don't think what we would do here would actually eliminate the problem that was identified. So sort of two reasons why I think this would be a Tier 2 item.

Chair Tanaka: Commissioner Michael.

Commissioner Michael: So I'm agreeing with Commissioner Alcheck. This should be a Tier 2 issue. And since I probably won't be around for that, that discussion, let me just state my rationale for the agreement and that is I'm sensitive to the notion that the interest that the City has in structures that are below ground is probably something that we need to have a better understanding of. I wonder if from a structural engineering or other technical reason there's a superior quality of the house if the basement wall and the exterior wall are actually lined up versus if the exterior wall is over the middle of a basement room and it may respond differently in a seismic event or what have you. But the third thing that occurs to me in terms of maybe unintended consequences from what otherwise what seem to be sensible is that when people construct homes or submit plans for approval maybe they have in mind some functionality or some total floor area that they'd like to achieve and if you have the code interpretation that requires them to complete the square then you may disincentivize more generous side setbacks because they're going to try to maximize their square footage and they'll just move the wall of the first floor out as close as possible to the fence so they can maximize their basement which may not be aesthetically beneficial to the neighborhood or what have you. So Tier 2 is my recommendation.

Chair Tanaka: Commissioner Rosenblum.

Commissioner Rosenblum: Yeah, I accept Alcheck's analysis of this. this is we should be regulating the thing that we don't like, which is if odd porches are the thing we don't like instead of the incentive to make odd size porches I do agree that this is something that seems to be a change of something we don't like versus a clarification of something that just was previously unclear.

Chair Tanaka: Vice-Chair.

Vice-Chair Fine: I'm also in support of this. It seems like there's some policy purpose at play here and we should regulate that; so also in favor of Tier 2.

Chair Tanaka: So I also agree that this is in my mind clearly a type two and also I agree with other Commissioner's comment about why we care about what's below grade. So anyways enough on 33, so what the majority of the Commission agrees that Item 33 is type two.

Let's go to Item 34, which I believe is our last item. It's, it was flagged by Commissioner Gardias. So Commissioner Gardias do you want to take a…

Commissioner Gardias: Well actually I'm fine with this because like seven years ago I did the project here in Palo Alto and we actually argued just to increase the floor area because of the same reasons so I'm familiar with this so I just marked it for, I was just wondering what was going to be your recommendation, but I assume that you're going to, we're going to learn it at once you're going to provide the specific language, right? So I'm fine with this. I know there's a hole, is a hole throughout all the municipalities around so we should fix it, the others should fix it or we should also allow it and then allow some smart architects just to argue for increased area.

Chair Tanaka: Staff do you want to talk about the slide if you have it?

Ms. French: I don't know if others were interested in this item or was that?

Chair Tanaka: Why don't you go ahead?

Ms. French: Ok. Currently we interpret this inclusion to mean because it just the code just states stairs and elevators. Our interpretation is that we count them at each floor because floor area is about mass, etcetera so we count it at each floor because it doesn't say how to do it. So we get a floor plan that has four floors and we count stair each floor.

Chair Tanaka: Commissioner Michael.

Commissioner Michael: Maybe you could clarify for me, let's say I've got a room that is on the entry and the entry is 10 feet wide and 20 feet long and they're at some point in the entry there, there's a stairway that begins and it goes up to the second floor and maybe if there's a basement, there's another stairway that goes from the entry area down to the basement. If you're counting the stairs or is there double counting because you also have the area between the walls or are you single counting because you're excluding the what would be on the floor, but there's a stair above the floor. Could you explain it to me?

Ms. French: And this might be one of those ones that a diagram would be helpful to describe the nuances and different situations, but generally by counting it at each floor if there's headroom at the floor above and it's a full floor then that let's say we're going from the first floor you count the whole stair, you get to the second floor and there's a full height above it that is volume that also counts as floor area. So you count it twice. You count on the first floor; you count it on the second floor.

Commissioner Michael: But there's no double counting in the sense that the area beneath the stair tread is excluded from what you're counting?

Ms. French: Yes. We only just see if, we just squint and see the floor at each floor in the floorplan number one, floorplan number two that area counts. We don't look around it. It's just (interrupted)

Commissioner Michael: Ok.

Chair Tanaka: Commissioner Rosenblum.

Commissioner Rosenblum: This appears to be Tier 1, clarification. So I think this is one where I follow the staff recommendation.

Chair Tanaka: Commissioner Gardias.

Commissioner Gardias: I totally agree this is Tier 1. Just a clarification how to where does the floor belong to? Does it belong to the lower floor or to the upper floor discussions. Yeah, thank you.

Chair Tanaka: I do have a question because I think that a diagram would be helpful. So I'm going to draw in the air here and you tell me if I'm understanding it right. So let's say that you probably see some staircases that kind of go around like this, right? And maybe the center is open. So does that center, if we have a staircase that's going around like this, going up, going up to the second floor and going down to the basement, right, is that center of the staircase counted or is just the treads of the stairs?

Ms. French: We're not getting into that fine of grain. We have a floorplan. I'm going to do the paper version. We have the second floor, we have the first floor, there's stairs going from the first floor to the second floor. The entire area of where the stair is located as the crow flies looking down on it counts. At the next level it also counts as long as you have the headroom above it that constitutes a full floor. It's you're counting the volume as represented on a plane that's horizontal to the ground.

Chair Tanaka: Ok, but (interrupted)

Ms. French: At each floor.

Chair Tanaka: But if you have like a staircase like a curved staircase or (interrupted)

Ms. French: Yeah, you're not counting; you're not going around a stair.

Chair Tanaka: A… is it just where the treads are? Or are we talking about?

Ms. French: Picture the stair isn't there. It's that it's on the floor of that floor. It's the horizontal plane where the stair is plopped into. We're not actually counting the stairs.

Mr. Lait: So the volume space is counted and that's not a change. That's the way it is today.

Ms. French: That's how it is now.

Chair Tanaka: Ok. Commissioner Alcheck.

Commissioner Alcheck: Look I will say this, the only effect of codifying this would be that I mean it's not really an effect, but the only element here that could be different would be that in essence by measuring the stairs as they are you're essentially discouraging if someone is trying to maximize square footage any staircase larger than the minimum, right? So let's say the minimum requirement that the code would allow would be like a five foot wide staircase. I don't know what it is in a commercial building, but let's just say it's five feet wide. No one would build like a 10 foot wide staircase because there's no, if for example we only counted the volume cross section of five feet and that extra five feet wasn't counted against their square footage then in theory am I making sense to anybody? We're essentially the only scenario of this where you could potentially not want this definition is if you wanted, if we didn't, if we wanted to give individuals the opportunity to encourage them to have grander commercial staircases.

But I think other than that in the practice and the actual codification of what's up there is the same as it is right now.

So I'll throw that out there, maybe that's a discussion we could have next time we look at this. If people build larger stairwells and more airy staircases in commercial complexes whether we want to encourage that, but otherwise I think this should be Tier 1 simply because it doesn't actually change our current process. And I think that's really the rubric here, are we creating a new designation that results in some changed behavior or are we giving our code the clarity that we are that we rely on on a daily basis and in an effort making our lives easier because people don't have to ask that question about our practice.

Chair Tanaka: Commissioner Gardias.

Commissioner Gardias: Yeah, this is clearly Tier 1. It's just pretty much technical aspect how to calculate that area toward the floor area that's as simple as that. You can count it many ways and they are pretty much speaking, looking for some clear guidelines because if you're a client or you're a designer you can just argue many ways and just pretty much they don't want to have it so that's simple. Thank you.

Chair Tanaka: Ok, to be honest I'm a little bit unclear about it myself, but I think my fellow Commissioners seem to be really clear and crisp about it so the majority of the Commission thinks that this is Tier 1. So I think that's it for this.

Is there any other comments or questions that my fellow Commissioners have on this? Because I think the next step from what I understand from staff is they're going to take this and kind of write up in the zoning code and then next meeting is when we're actually, actually vote on it. Is that correct? Or vote for recommendation?

Mr. Lait: Yeah, you'll have an opportunity to vote on an ordinance.

Chair Tanaka: Ok. Great. Ok, so I'd like to close this item.

Commission Action: Commissioners provided comments