



Planning & Transportation Commission Action Agenda: October 10, 2018

Council Chambers
250 Hamilton Avenue
6:00 PM

Call to Order / Roll Call

6:03 pm

Chair Lauing: [video started mid-sentence] Transportation Commission and we'll have the clerk call the order. Thank you.

Oral Communications

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

Chair Lauing: We'll move onto oral communications and I have now one card for oral communications. That's Mark Weiss and you can speak on, as you know, any subject that you like for 3-minutes.

Mr. Mark Weiss: Good evening Board Members -- Commissioners, my name is Mark Weiss, I live in Downtown North and I wanted to speak about 980 Middlefield, known as a mortuary but in recent years it was purchased by a Palo Altan. A well-known person with high net worth and this did appear at Council recently. I'm not sure if for whatever reason it's been through this room before, I apologize if I didn't speak then but my concern – in fact, I wanted to speak at the last Council meeting but the public hearing was cut off at 30 speakers and I think I was 33, so

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1 there were three of us who wished to speak and weren't allowed to. So, I'm going to make up
2 for here if you will indulge me on that because I think this issue has some issues – excuse me,
3 has some themes that come up again and again in some more recent land use debates. I think
4 the project is laudable, there's a proposal to turn it into a community amenity, a clubhouse for
5 families and women. I think there's other laudable goals but what was bothering me about the
6 proposal and that I'm still kind of tracking, I wanted to compare it to 456 University. And if you
7 guys have been in leadership long enough you might remember that project from a few years
8 back and it's the Varsity Theater but it's also known now as SAP Hannah House or the Blue
9 Bottle Coffee. And my comparison is that I tracked very closely the 456 University and I was
10 part of a relatively small group of people who wanted it to revert back to its original use which
11 was a theater. And there were at least two windows where leadership could have saved it as a
12 theater and did not and the well-known rich applicant there and owner he had at a certain
13 point promised that live music would be an element of the Hannah House. And recently I tried
14 to book a jazz concert and go to that room and they told me live music was not something they
15 do there anymore. And so, my point is that sometimes people who do not have a history of
16 public service, you have to really, I think not give them the benefit of the doubt when they say
17 there's this great public benefit for their private club so I think we have to look carefully at 980.
18 I'm not blaming 980 for what happens at 456 University but I think when you get a chance to
19 review these changes in usage and changes in zoning I think we should proceed cautiously, so
20 thank you for your time tonight.

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Chair Lauing: Ok thank you very much. I have no other speaker cards for oral communications.

Agenda Changes, Additions, and Deletions

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

Chair Lauing: Are there any additional – any additions, changes or deletions from the agenda or rearrangements? No.

City Official Reports

- 1. Assistant Directors Report, Meeting Schedule and Assignments

Chair Lauing: Ok City official report, Acting Director Lait?

Mr. Jonathan Lait, Assistant Director of Planning: Thanks Chair. Nothing to report other than the transmittal that was included in the Packet.

Chair Lauing: The transmittal on the items?

Mr. Lait: [unintelligible – off mic]

Chair Lauing: Ok.

Study Session

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1 Public Comment is Permitted. Five (5) minutes per speaker.1,3

2

3 **Action Items**

4 Public Comment is Permitted. Applicants/Appellant Teams: Fifteen (15) minutes, plus three (3) minutes rebuttal.

5 All others: Five (5) minutes per speaker.1,3

6

7 2. PUBLIC HEARING/QUASI-JUDICIAL. 285 Hamilton Avenue [18PLN-00006]:

8 Recommendation on Applicant's Request for a Text Amendment to Title 18 of the

9 Palo Alto Municipal Code to Allow for Minor Increases in Floor Area to Provide Access

10 to Roof-Top Decks on Existing Structures in the Commercial Downtown (Community)

11 CD-C Subdistrict, as well as a Conditional Use Permit to Allow an Outdoor Activity

12 Area in Excess of 2,000 Square Feet on the Roof of the Existing Commercial Building

13 Located at 285 Hamilton Avenue. The Application Includes a Request for

14 Architectural Review of a Roof-Top Deck at 285 Hamilton Avenue That Is Subject to

15 the Architectural Review Process. Environmental Assessment: Exempt per Sections

16 15301 and 15305 of the CEQA Guidelines. Zone District: CD-C(GF)(P).

17

18 **Commission Action: Motion to accept staff's recommendation made by Commissioner**

19 **Alcheck seconded by Vice Chair Monk. Motion passed 4-2 (Lauing, Summa) (Riggs**

20 **absent)**

21

22 Chair Lauing: Ok so we'll then take a look at the first Action Item which is a public hearing,

23 quasi-judicial on 285 Hamilton, applicant request for a text amendment and we'll have a Staff

24 report on that and then go to the public.

25

26 Mr. Graham Owen: Thank you Chair Lauing, Graham Owen with the Planning Staff, I've been

27 working with the applicant on the text amendment and the CUP that are before you today. So,

28 this is 285 Hamilton Avenue, it's a request for a text amendment to the Municipal Code,

29 specifically Section 18.18.60 and 18.18.120. This would be to allow for areas that are used to

30 access a roof -- so rooftop access areas basically is what we're considering, staircases, elevator

31 enclosures and kind of related amenities bases on non-conforming buildings that are located in

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1 the Downtown Zone, specifically CD(C). Compared with this we also have a request for a
2 Conditional Use Permit to allow for the roof deck and other activity areas that's an excessive
3 2,000-square foot which is an existing code provision.

4
5 So just as a little bit of background, text amendments and those sorts of applications, if the
6 request by an applicant we have the applicant go before the Council in a pre-screening to get
7 non-binding direction on the application. So, the applicant did do that in November of last year,
8 had a pre-screening in a public hearing before the City Council. So as a bit of background on the
9 way things are now, roof decks are a permitted use whenever they're in conjunction with a
10 permitted or conditionally permitted land use. They do need to meet all applicable
11 development standards with regards to the height and Gross Floor Ratio and FAR. A couple of
12 physical attributes of rooftop patios, you know access to the roof is critical, in most cases the
13 fire department is going to require elevator shafts and covered stair enclosures in order to
14 access anything that's on the roof and then as well there's got to be code compliant safety
15 railings and then amenities that might be included; furniture; there might be – excuse me –
16 patio covers such as trellis and that like. And then there are potential issues that are associated
17 with these sorts of features including noise and lighting and glare. Just as a bit of background,
18 285 Hamilton is the – the major tenant there is Houzz and the owner is Thoits Brothers and the
19 existing building was built in 1971. [unintelligible] of 1971 and is considered non-conforming for
20 both height and FAR.

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This is a rendering of the proposal, so 285 Hamilton Avenue, it is across the street from City hall, so most folks in this room know about it. But it's a 5-story building and it also has a penthouse suite on the top. So, the proposal would add 159-square feet of floor area and that's largely the area that you need to access the roof that is required for Building Code and Fire Code standards so that's elevator and covered stair enclosure. In addition, they would be proposing safety railings, they are going to have a kitcheny kind of area for the use of the primary tenant which is Houzz as well as a trestle feature. The application doesn't increase the total height of the building but it does increase the bulk, so the FAR with the associated increase of 159-square feet.

11

12 So, the text amendment, I'm not going to go through the whole thing [unintelligible] but it is in
13 the Packet but basically what the text amendment would do is it adds a new floor area
14 exception. So, it says if you're adding some incremental floor area that's associated with just
15 accessing a roof that's otherwise unenclosed and uncovered, that can be permitted with a
16 Conditional Use Permit and the qualifying sites need to be located with – outside a 150-foot
17 radius from a residential zone. It also amends the Section 18.18.120 which is regarding a non-
18 complying facility to allow for this specific floor area exception. This isn't showing up as well as I
19 had hoped but this is a map showing the CD(C) Zone in the green so that's the only zone that's
20 been requested for this specific Floor Exception. And then the blackish greyish areas are a 150-

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1 foot buffer from the residential zones that are abutting it, so the application of this specific
2 exception as far as we can tell would only apply to six buildings; 525 University which is the –
3 that’s the larger office tower in the City or largest office tower in the City, President Hotel, the
4 Chase Bank building which is across the street -- across Bryant, 250 Hamilton, the Birge Clark
5 building which is adjacent to it across Centennial Way as well as the Epiphany Hotel and then a
6 smaller mixed-use residential building on High Street. I’m not – I’m forgetting the name off the
7 top of my head.

8
9 So, as I mentioned this is a – we are proposing that the application should be subject to a
10 Conditional Use Permit. In all instances regardless of the total square footage but the existing
11 code requires a CUP for whenever you’re in [unintelligible] to 2,000-square feet. So, these are
12 the quired findings for approval, Staff’s analysis of the application with regards to these findings
13 is included in the Staff report.

14
15 Environmental Review thought the project is exempt, text amendments – we’re just modifying
16 a low whole land use limitation in a minor way so it’s exempted under 15305. And then the
17 CUP, as conditioned, we believe is exempted from CEQA as well via 15301 which is via Existing
18 Facilities Exception.

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1 So, we recommend approval of both the text amendment and the associated CUP and that the
2 Planning Commission make a recommendation to the City Council. And I think that the
3 applicant is here and has a presentation as well but if you have any questions for me I can take
4 them now or at any point.

5

6 Chair Lauing: Probably better to hear from the applicant than segue back. Is that 5-minutes,
7 counsel?

8

9 Mr. Albert Yang, Senior Deputy Attorney: The applicant gets 15-minutes here.

10

11 Chair Lauing: Ok. Yeah, 15.

12

13 Mr. John Shenk: Are we ready?

14

15 Chair Lauing: Yes, thank you.

16

17 Mr. Shenk: Here we go. Good evening Chair Lauing, Vice-Chair Monk and Members of the PTC
18 and Staff. Thank you, Graham, for all your work on this. My name is John Shenk, I represent the
19 Thoits family, the owners of the building. The Thoits family I proudly share with you has been
20 contributors and involved in the downtown for over 120-years. We own I think about 20

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1 buildings today in the downtown, the Thoits family was involved in the writing of the City's
2 Charter, etc. We believe strongly in doing things that are beneficial to the downtown,
3 supportive of the community, and we have a very long view. We don't sell our properties and
4 hope to redevelop 285 Hamilton someday when the time is right.

5

6 What's before you tonight in this text amendment is a logical evolution of I think the way we
7 live, the way we work and of some of the great goals that we all share that aim at making the
8 downtown – making our downtown the best it can be. The bringing together of healthy
9 lifestyles and healthy a workplace environment and creating a vibrancy is really synergistic. And
10 I think as you're tackling on your second Agenda Item and the Council's encouraging and
11 candidly we're encouraging and trying to find opportunities within our portfolio to bring some
12 more housing into the downtown. As I've been to other probably more developed urban
13 centers, the vibrancy of a roof deck is holy compatible with such environments and the things
14 we want to have.

15

16 I'm going to switch slides here real quick. Roof decks are traditionally designed as if nobody
17 could ever see them except the maintenance people who venture up there to change out the
18 filters or something on the HVAC units. And I think our CD Zone ought to be no only facilitating
19 but encouraging roof decks where possible. It's not often that they come up and some of the
20 other sites if there was interest we could dive into, is this going to spur the five other properties

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1 that are going to be affected by the text amendment to run out and do this as if it were a bad
2 thing. I wish that they would but the realities of those other properties are there is no space for
3 a roof deck for better or worse. You know 525 University is full of rooftop equipment and the
4 floor plates aren't very big. We're – we benefit here at 285 because there is enough roof deck
5 where this use or this improvement can happen. Let me see if I can – so that a little bit of the
6 ugly roof there on the left-hand side and a peek at the right-hand side, along with a patio which
7 obviously is akin to a roof deck.

8

9 Chair Lauing: Could you stand closer to the mic, please?

10

11 Mr. Shenk: Absolutely or kind of – maybe a little lower or there we go. Alright, yeah there's
12 some roof decks that – well that's ours but it's -- at least it's clean. In – I just want to touch real
13 quick on one of the concerns that was raised during the Council hearing that we had on this,
14 doggone, almost a year ago in that related to noise. And I think we discussed there and
15 resolved there and I'd like to emphasize that the Noise Ordinance that's already in the
16 Municipal Code covers impacts of noise from one property to another. We recently completed
17 the building at the corner of Cowper and University. We call it the 500 University project that
18 has a substantial rooftop deck. It's been used a lot since the tenant took occupancy back in
19 February. Not a single note, comment, anything from the public or the neighbors and we have
20 525 University and the President Hotel taller than we are looking down on it. I have been

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1 thanked by the owners of 525 and the President Hotel when it was coming online because it
2 was so much better to look at for people than a traditional roof so I wanted to share that. The
3 project did win the Silicon Valley Best Urban Infill Project of The Year and I think some of that
4 had to do with the – not only the beautiful architecture but the piece of it that was the roof as
5 it provided some really photos from up above.

6

7 I want to bring up one thing that while Houzz, who's really the applicant in a way here and
8 certain subject to the CUP etc., the – and they don't expect to this one piece or one condition. I
9 wanted to bring it up because I don't think it's best for the long haul. There's an added
10 condition that there won't be any amplified music that can be heard by a neighbor, I'm
11 paraphrasing probably not well. Given that we have the Noise Ordinance I think it's – it cuts
12 down on future confusion and bickering and where did the noise – a code compliance person
13 trying to figure out in hindsight where did the noise come from? Was it a loud person and the
14 noise was with the Noise Ordinance limits or was it amplified and still within the Noise
15 Ordinance but therefore a problem on this specific property? I think it becomes something that
16 in the future code compliance, building owners, Houzz, the future tenant may struggle with so I
17 wanted to bring that to your attention. I think the Noise Ordinance is sufficient in and of itself
18 and that we ought to not have a – especially the first time we do this and have it be sort of a
19 precedent-setting way of going about complying with noise standards. I'll stop there, turn it
20 over to the architect Bob Giannini who is a great architect.

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Mr. Bob Giannini: Thank you, John, my name is Bod Giannini from Form4 Architecture, and I wanted to just point out a couple of the more technical aspects of this that came up and were discussed in the study session with the City Council. First, just some sightline studies, not that there's a rule that you can't see the roof deck from the ground but in fact, you can't. So, this just happens to be a sight line study from Bryant looking up and the roof deck as you can see is the little slightly blue shaded glass rail on the left-hand side. This is the view from Hamilton, across the street of Hamilton and there again we pushed the roof deck back just a little bit so that even the rail of the roof deck wouldn't be visible. There was also right so a lot of concern about light pollution from the roof deck and we've designed all the lights so it's all cut off fixtures. There's no way to see a light source and in fact, the footcandle level at the perimeter of the roof is zero. So, there's no light spillage out of the glass handrail and finally, as John mentioned we – relative to noise there is the City's Noise Ordinance. We did check with folks at the City and it is enforced so again, as John said, with the Noise Ordinance in place we were hoping not to have any additional bits added onto it. That's all I have, happy to answer any questions.

Chair Lauing: Ok is that the end of the applicant presentation?

Mr. Giannini: Yes, thank you, that concludes.

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Chair Lauing: Ok, alright let's welcome public comment now and then we'll move to Commissioner comments and the first speaker is Jeff Levinsky for 3-minutes.

Mr. Jeff Levinsky: Good evening Commissioners. Sorry that the Packet didn't include the minutes from the Council meeting on this because I think you would have seen quite a bit of skepticism expressed by a number of Council Members about this whole concept. Among those were the notion that this is spot zoning, as you heard it only will apply to a handful of buildings and maybe not even those buildings would want this. Another is the issue of equity, why does – we have a law that gives a special benefit to buildings that don't conform with the law but we're not giving the benefit to buildings that actually do conform with the law. We're basically giving extra rights to those who are -- already have too much. An odd way of doing government. A big concern was about noise and the impact on residences and I want to read you something from the Staff report which didn't show up this time. It says, roof decks on non-conforming buildings near residential land use, especially single-family zoned properties, are inappropriate. That's the Staff's own words and we wondered about that. Why does Staff care about protecting single family residences but not other residences in town? And in fact, why does the ordinance say that it's going to – it protects things that are 150-feet -- a residential district that's 150-feet from where this roof deck would be but not residences? Because as you know we're trying to add more and more residences downtown. There could well be residences

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1 right across the street from this building after some redevelopment. So, the point is that if
2 we're willing to protect single-family residences and we're willing to protect residential
3 districts, why not protect all residences and why not, in fact, encourage residences downtown
4 by giving them the same rights as others?

5

6 I'd finally like to talk about enforcement. With all due respect to what you just heard noise
7 enforcement in this City is a travesty. I have known people who are in tears, they've called
8 repeatedly trying to get protection from the City and have been unable. They have late night
9 trucks, there's been development projects that go, that pumping noise and things like that. It is
10 frankly a catastrophe. If those people came in here and testified, you would be appalled by
11 what happens. Wynne Furth on the ARB, for a similar project that was proposing a corporate
12 roof deck near residences, said it's unenforceable. You can put all these conditions on and the
13 residences will never get the protection that these ordinance and conditions represent.

14

15 And finally, I'd just like to point out that the – when this came before they talked about this was
16 for watching the sunset go down; a few in employees would use it. That actually got printed
17 and yet we're talking about being able to use this from 6 am in the morning to 11 pm at night,
18 7-days a week. That's what the condition would be, that's not exactly when sunset happens.

19 Thank you.

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1 Chair Lauing: Thank you. Next speaker is Mark Weiss and so far, that's the last card I have.

2

3 Mr. Mark Weiss: Hello again, I'm Mark Weiss, I live in Downtown North. I have a suggestion,

4 maybe it's too late or too weird but I'm wondering about allowing the roof deck but conditional

5 on turning it into a public amenity. For example, could the average person, average Palo Alto

6 go up there and sit during certain hours? We have seen in our history a lot of – for example, PC

7 Zoning which is sort of like spot zoning where there's a public benefit that over time the public

8 benefit sort of disappears and it becomes privatized. I don't think any of the Thoit's buildings are

9 like that but there's a couple. One is I believe where the Times-Tribune used to be at behind

10 Lytton and Emerson, there's a garden and I'm not sure it's open when it's supposed to be.

11 Another one is the Italian restaurant near California Avenue in the courthouse where they sort

12 of annexed the plaza. Again, I don't want to blame this applicant for those cases but it might be

13 in their interest and a win-win too – it sounds like a great startup. The applicant and obviously

14 the Thoit's are – have done a lot for Palo Alto so maybe they could take the lead in offering this

15 as a public accessible benefit amenity. And maybe you could have something where the

16 elevators are keyed so that only employees can get to floors two through three or whatever it is

17 and that the public may be in certain hours, if not always, can get to the roof deck and enjoy it

18 as well. That's my split the baby suggestion, thanks.

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1 Chair Lauing: Thank you. Ok seeing no further cards I think it might be good for maybe the
2 applicant to take any questions first and then Staff. Is that alright with you guys?

3

4 Mr. Owen: That's fine.

5

6 Chair Lauing: Do we have questions for the applicant?

7

8 Mr. Owen: I think that the – excuse me, I think the applicant actually typically gets a chance for
9 rebuttal if they so would like.

10

11 Chair Lauing: Oh sure. If you'd like – I'm sorry, yeah, if you'd like to rebut any of the public
12 comments.

13

14 Mr. Shenk: Sure, just really quick on the first comment, I just want to reiterate that I think that
15 roof decks and activating roofs is something we're trying to do throughout the entire
16 downtown. This is picking up a few of the locations, this would allow it to happen in a few
17 locations where it can't, and emphasize again how compatible I believe roof decks are to a
18 residence that are also in a downtown. I think people who want to live in an urban downtown
19 are choosing the downtown as their neighbor and desire that. There's a different kind of

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1 lifestyle than that one chooses when you choose to live in a single-family residence and I think
2 that's what Staff's picking up on appropriately. I'll stop there.

3

4 Chair Lauing: Ok thank you.

5

6 Mr. Shenk: One more thing.

7

8 Ms. Barbara Simons: Hi, I'm Barbara Simons, I'm with Houzz in office operations, I've also lived
9 in Palo Alto as a resident for 8-years and I daughter will be attending Addison Elementary. I just
10 wanted to talk about the usage for the roof deck. I was sort of paraphrased but not all of my
11 comments were mentioned during the comment period. And when we looked at what we
12 would be using this roof deck for it would be for employees to be able to go up and have a cup
13 of coffee, to have an Ad Hoc meeting, maybe to have a lunch or/also I said to watch the sunset
14 go down. So, there would be multiple things that we would be using the roof deck through the
15 course of the day. That said it is a smaller roof deck so it would not hold all of our employees up
16 there. At one point there was worry that we would have huge events up there but really, we're
17 limited in size and so it wouldn't even hold our entire office up there so that's not what we
18 would be using it for. Thank you.

19

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1 Chair Lauing: Ok. Thank you. Yes, since this is quasi-judicial we'll do any disclosures. Can we
2 start on my left, Commissioner Alcheck? Was that none?

3

4 Commissioner Alcheck: Yeah.

5

6 Chair Lauing: Commissioner (interrupted)

7

8 Commissioner Summa: (off mic) No, I don't have anything.

9

10 Chair Lauing: I don't have any.

11

12 Vice-Chair Monk: Nothing.

13

14 Chair Lauing: No?

15

16 Commissioner Gardias: None.

17

18 Chair Lauing: Ok, thank you. Alright, so if there are questions that one would like to address to
19 the applicant would you light up? Commissioner Alcheck is your light on for that? Ok.

20

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1 Commissioner Alcheck: Ok I have a couple questions for Staff and then a couple comments. Do
2 you guys know the age of the building?

3

4 Mr. Owen: It was built in '71.

5

6 Commissioner Alcheck: Do you know when it became non-conforming?

7

8 Mr. Owen: I'm not sure but it was either in the 70s or early 80s. We use to have a different
9 zoning designation for the site and it wasn't CD(C), it was specifically kind of a – it was a civic
10 center.

11

12 Commissioner Alcheck: When did we lower the height?

13

14 Mr. Owen: 250? I'm not entirely sure.

15

16 Commissioner Alcheck: Ok and then let's say a new property owner wished to develop the
17 property and include a rooftop deck. How does our current code provide for that?

18

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1 Mr. Owen: It does, they would just need to meet FAR and height for those rooftop access
2 elements as we're calling them. So, the staircase, the elevator enclosure, if you have a trellis or
3 anything like that, that would need to be below 50-feet.

4
5 Commissioner Alcheck: Ok and then sort of a follow-up question to that and I know this is
6 related to our next agenda item but is it accurate to say that we are considering changes to our
7 code to encourage rooftop decks in our downtown?

8
9 Mr. Owen: I think that's accurate, sure. Yeah, it would be for – and we already allow roof decks
10 if you're below the height limit. There's no provision in the code that says that you can't have
11 one and they're permitted. So, this would be to allow for rooftop decks and specifically just
12 those elements that are required to access it above the 50-foot height limit.

13
14 Commissioner Alcheck: I didn't compare this language one for one with the language that
15 allows rooftop decks on conforming parcels. So, my question is, is the rules related to elevators,
16 trellises, outdoor furniture, railings, lighting, noise, are those the same rules that we apply to
17 roof decks on any other project that is not considered non-conforming?

18

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1 Mr. Owen: Well the – with the key distinction that rooftop decks currently don't require any
2 sort of Conditional Use Permit. So, everything needs to be within the development standards so
3 Noise Ordinance certainly (interrupted)

4
5 Commissioner Alcheck: But the rules that we're creating for this particular set of applicable
6 parcels if you will, are they different in their standard from the rules that we apply elsewhere?

7
8 Mr. Owen: They are, so having the residential buffer for example. We've said that you need to
9 have a 150-foot buffer from any residential zone which we define in this ordinance specifically
10 as being the R-1. So, the low density as well as the multi-family, SOFA Districts, and PC
11 Residential Zones.

12
13 Commissioner Alcheck: So those restrictions don't apply to newly constructed rood decks?

14
15 Mr. Owen: No.

16
17 Commissioner Alcheck: So, in some regards, this is – you've created stricter standards – just so I
18 understand, is it planning's view that the stricter standards have been applied because of the
19 building's height?

20

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1 Mr. Owen: Correct.

2

3 Commissioner Alcheck: Ok so essentially roof decks are permitted throughout our downtown
4 but because certain parcels exceed – certain buildings exceed rooftop height you’re more
5 concerned with their proximity to residential?

6

7 Mr. Owen: Correct.

8

9 Commissioner Alcheck: So, in theory, there could be a parcel next door to a residential under
10 our current code that has a rooftop deck?

11

12 Mr. Owen: In theory, yeah.

13

14 Commissioner Alcheck: Ok so (interrupted)

15

16 Mr. Owen: I mean it would need to go through the architectural review process and we would
17 look at that application relative to the design standards that we have. and a lot of those,
18 specifically the Performance Criteria, deal with that specific issues so they don’t create a privacy
19 concern or something like that.

20

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1 Commissioner Alcheck: No, I get – I’m just trying to understand the reason why we created the
2 buffer, the reason why we’re having this conversation? Is it necessarily because we have strong
3 concerns about rooftop decks within 150-feet of residential [note- or] we’re concerned about
4 having rooftop decks within 150-feet of residential because they’re taller than 50-feet?

5
6 Mr. Owen: Sure, so to answer the first question, the applicant, Houzz in this case, they
7 proposed the 150-foot buffer so it’s coming from Houzz (interrupted)

8
9 Commissioner Alcheck: But that seemed reasonable to Staff?

10

11 Mr. Owen: Yeah, that seemed reasonable.

12

13 Commissioner Alcheck: So, I guess my last – my follow up question then would be – to Staff
14 would be if they’re – I’m just trying to understand this concept of amplified music. There’s sort
15 of degrees of amplified music in my mind, right? There’s a ten-piece band with their whole set
16 up and there’s a blue tooth speaker. And so, is it permissible for – is it possible in your – within
17 our code for a property owner 50-feet away from our R-1 parcel to erect a building with a
18 rooftop deck and have amplified music? Is there an amplified music rule for (interrupted)

19

20 Mr. Owen: No.

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Commissioner Alcheck: Ok.

Mr. Owen: Specifically, to amplified music, no.

Commissioner Alcheck: Yeah so how do you (interrupted)

Mr. Owen: For noise, certainly, yes.

Commissioner Alcheck: Right noise – we’re trying – we are – have strong feelings about noise, that makes sense. I’m just trying to understand why that was included – it seems to me like you’ve created a 150-foot buffer – I’m struggling to understand why our Noise Ordinance wouldn’t sufficient to protect a residential property dweller from certain noises -- not noises above our Noise Ordinance? I want to understand Staff’s rationale for including a specific amplified music provision above and beyond our Noise Ordinance for this – when you included a buffer?

Mr. Owen: Sure, so there’s a couple thing to that. I think when we were looking at the application we thought that if you have – you have the potential to have a lot of people up on a roof. And the Noise Ordinance does certainly control but you have the ability otherwise to have

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1 something that going to be generating activities that are amplified and then that could
2 potentially create a nuisance. With regards to what we've done in the past for other
3 Conditional Use Permits recently, it seemed like it was in line with those conditions as well. So
4 most recently we had 999 Alma which is the gym where we recommended a similar condition
5 for amplified music so it's consistent with what we've done in the past for relatively similar
6 applications.

7

8 Commissioner Alcheck: Ok so it is – is the rationale that it's the size of the rooftop deck that
9 made you concerned about amplified music? I guess what I'm trying to say is, is Staff – if we
10 made a recommendation tonight to delete this amplified music restriction from our
11 recommendation based on the notion that why would we be more concerned about amplified
12 music 150-feet away from a residential parcel than we would be right next a residential parcel
13 where we don't restrict amplified music? Would that be a concern for you guys or are you sort
14 of indifferent to a change like that?

15

16 Mr. Jonathan Lait, Assistant Director of Planning: So, thanks Commissioner, I think you've
17 raised some good points and you know we'll continue to think about it further. We welcome
18 the Commission's feedback on that issue. I think (interrupted)

19

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1 Commissioner Alcheck: I just want to know if there's something that I'm not getting here. Are
2 we concerned about something that could happen here that couldn't happen on any other
3 rooftop deck?

4

5 Mr. Lait: No, what we're I believe trying to balance is this is something new that would apply to
6 non-conforming buildings that yes, exceed the height limit but in exceeding the height limit
7 they probably exceed floor area and exceeding floor area there's more occupants of the
8 building, employees, more potential for people to be on the roof deck. And so, we're just trying
9 to find that balance between we're doing something new for these non-complying buildings –
10 facilities. And we want to just ensure that we're having a regulatory scheme set up that
11 provides for a layer of protection to surrounding uses. You've raised some good points and
12 again we're welcome to hear the Commission's feedback if we've gone too far on that issue,
13 then that's feedback that we'd welcome.

14

15 Commissioner Alcheck: Ok, no, I just want to make sure that we're -- ok, that – those are all my
16 questions for Staff.

17

18 Chair Lauing: Other Commissioners with questions? Commissioner Waldfogel.

19

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1 Commissioner Waldfogel: Thanks. Excuse me I was just trying to get some of my thoughts
2 organized. Just as a starting point is there a way to do this roof deck without a texted
3 amendment? I mean in terms of either dimension the FAR dimension or the height dimension.

4

5 Mr. Owen: Could you – I’m sorry could you rephrase the question? I’m not sure (interrupted)

6

7 Commissioner Waldfogel: Well what’s the – so would the applicant have any way to move
8 forward on this if we don’t make any text amendment or what’s the smallest text amendment
9 that we could make that would (interrupted)

10

11 Mr. Owen: No because it’s an existing non-complying building if they were to do a roof deck it
12 would require access, it would require the railing, it would require the – everything that’s going
13 to be excess of the existing height standards as well (interrupted)

14

15 Commissioner Waldfogel: So, height, impossible. What about in term of FAR? Is it possible to
16 remove the (interrupted)

17

18 Mr. Owen: No.

19

20 Commissioner Waldfogel: To remove some space in exchange for (interrupted)

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Mr. Owen: Yeah cut and paste so to speak, no we wouldn't support that.

Commissioner Waldfogel: That's not a possibility?

Mr. Owen: No.

Commissioner Waldfogel: And then just one other technical question on this, does the CUP expire if the tenant changes? I mean the tenant is the applicant so what happens if a new tenant rents the space?

Mr. Lait: Yeah so CUPs do run with the land so if a next tenant comes in they would be – they would have that entitlement as well.

Commissioner Waldfogel: Ok that's –tilting on that is bit odd.

Chair Lauing: Sorry?

Commissioner Waldfogel: Titling on that is a bit odd that it's originating from the tenant.

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1 Mr. Lait: Yeah, I mean it's – the tenant has filed the application [unintelligible – shut off his mic]
2 support. It's ultimately an entitlement that runs with the property itself.

3

4 Commissioner Waldfogel: Yeah ok. I think you elude to this in the Staff report but we haven't
5 really discussed our public policy around roof deck open space. I mean I think there are a lot of
6 questions. I guess one of the questions -- this is a question for Albert -- we heard from one
7 public comment from Mark Weiss's suggestion of public access. I mean I've seen public spaces
8 in New York and San Francisco that are contained within private buildings that are publicly
9 accessible. Is that something that we can do? Is that a possibility for us?

10

11 Mr. Yang: That's something I'd have to look into further but I would have some concerns about
12 the City mandating that – sorry, mandating that sort of condition.

13

14 Commissioner Waldfogel: So how does San Francisco do it?

15

16 Mr. Yang: I – it's likely tied to the development of the property as a whole as opposed to the
17 addition of a minor feature like this.

18

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1 Commissioner Waldfogel: So, it's not something that we could condition a CUP on? I mean I
2 just – I would like to see some public benefit. I'm trying to figure out if there's some public
3 benefit that we could get from a CUP.

4

5 Mr. Owen: Staff had some earlier discussions with the applicant about that so I think that they
6 might actually have a response if you're – if you like to entertain it.

7

8 Commissioner Waldfogel: Yeah, I'd be open to that, I mean even – it's a building that doesn't
9 even have retail on the ground floor so there's – I could imagine a whole – a number of possible
10 public benefits.

11

12 Mr. Giannini: Right thank you for the opportunity. There's a couple of reasons why it wouldn't
13 be feasible. The first is one of the biggest concerns about the roof deck is we were working
14 through this process is, is this going to generate more traffic and more people in the building?
15 What if this was a restaurant and all of sudden you had this roof deck up there that people
16 could use. So, it was actually kind of a key element of the project that it can only be the
17 applicant or the occupants of the building now so it's not adding any trip generation or anything
18 to the project. So, there's that concern with it and also just the logistics concern. We can't
19 actually add to the elevator that's already there so the elevator that goes up to the 5th floor
20 right now goes to the fifth floor. Then you walk over to another small little shuttle elevator right

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1 next to it and that's the one that brings you up to the roof. So, you'd have to enter the tenant's
2 space, there'd be no way to lock off or there's no direct access like occurs in some of the
3 buildings in the City or whatever where you can sort of get in on the ground floor and go right
4 up to the roof. It's a 2,600 – about 2,600-foot roof deck, relatively small so the notion of sort of
5 – it wasn't designed really to sort of handle the capacity of the access on all those kinds of
6 issues for the public.

7

8 Commissioner Waldfogel: Great thank you.

9

10 Chair Lauing: Commissioner Summa.

11

12 Commissioner Summa: Thank you. So, I had a question about the penthouse, is that on the roof
13 or on the top floor and is that actually one residential penthouse?

14

15 Mr. Owen: On the existing building at 285?

16

17 Commissioner Summa: Yeah.

18

19 Mr. Owen: Yeah no it's just a mechanical penthouse as far as I've heard.

20

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1 Commissioner Summa: Ok so you're not – it's not a residential penthouse?

2

3 Mr. Owen: No, no, no.

4

5 Commissioner Summa: Ok. I was – ok, I just wanted to make sure, clarify that and then what is
6 the maximum occupancy of the roof deck? I would assume there one established for Fire Code?

7

8 Mr. Owen: There is, it's actually in the plans that were provided in the Packet, hang on one
9 second.

10

11 Mr. Giannini: It's per code so the seating on the top of the roof deck is going to be fixed so it's
12 15-square feet a person and the roof deck is about 2,600-feet – 2,660 so it's about 177 people
13 would be the maximum. That would be if you were packed up there per code.

14

15 Commissioner Summa: Thank you. Oh, and also, I just wanted to express a little concern, I think
16 a member of the public mentioned it, we're not talking about protecting within 150-feet of a
17 residential parcel but a 150-feet of a residential district. We have a residential parcel very close
18 at 240 Hamilton and I know that one of the places we really want to put more multi-family
19 residential is in the Downtown District. So, I would assume that we can expect more residential

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1 close by rather than less so I was kind of concerned about that being a 150- feet of a residential
2 district not of a residential use. Ok, that's it for now, thank you.

3

4 Chair Lauing: Commissioner Gardias.

5

6 Commissioner Gardias: Thank you. So, thank you very much for your presentation and thank
7 you very much, Staff, for your report and I have a question to Staff. Why did we take this route
8 of code amendment? We could have taken a different route of a variance, couldn't we?

9

10 Mr. Owen: I mean the applicant could have requested a variance. What you have for a variance
11 is required findings and one of the critical findings is a hardship. That the lot as it exists presents
12 a hardship that necessitates the approval of a variance. In this case, this is an amendment, it's
13 not a way in which the applicant or the owner is – it doesn't necessitate the use of the
14 property. It's not like building a house on a lot that's substandard and you need to give them a
15 set variance so they can enjoy their property in any way. So, we didn't feel as -- a variance was
16 kind of the appropriate venue for something of this sort. Plus, there are policy implications and
17 the potential for other applicants to come forward if they so choose too, however, limited that
18 list is.

19

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1 Commissioner Gardias: So, the point that I'm trying to make and we could have taken some
2 different route than just amending the code. The point that I want to make is pretty much that
3 there are apparently some other affected properties. I don't remember the number, 5 or 6,
4 right?

5

6 Mr. Owen: It's actually seven, I misspoke earlier, it's seven total.

7

8 Commissioner Gardias: Exactly, thank you very much, so – and then because we are just taking
9 the route of amending the code we have no information about other properties that could have
10 shed a different light on this specific revision if we looked at the other properties at par with
11 the Houzz property. So – and this is not the first time that pretty much we are just taking this
12 route which I don't find the proper one. I'd rather see a different route or if Staff really wants
13 us to amend the code I'd like to see the information about the rest of the properties and study
14 them equally with this one. Because I don't really know what other things would come out of
15 having a rooftop deck on the other seven. So, it just pretty much puts me in this uncomfortable
16 zone that I can tell you straight that I think that they should have this deck. I have nothing
17 against this and then if it was presented differently I would have no problem with supporting
18 this. However, I am put in this position that is not very comfortable because you want me to
19 support the ordinance that's going to be applicable to eight total – eight buildings total,
20 however, I will have only partial information to address it.

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Chair Lauing: Clarification Commissioner Alcheck. I'm sorry Commissioner Waldfogel.

Commissioner Waldfogel: Just a point of clarification, I'm just looking at your map again and you have 150-foot zone around a building that just touches – I think just touches this but I think your 150-feet is from the centrode of that parcel, not from the edge of that parcel or is it from the edge?

Mr. Owen: It's from the edge.

Commissioner Waldfogel: Ok, great, thank you.

Chair Lauing: Commissioner Alcheck.

MOTION #1

Commissioner Alcheck: Ok alright so I'll just say a few comments. I want to start off by saying that I'm not familiar with the Thoits family but I am intrigued after hearing you describe just how long they've been in Palo Alto. You used the word – used the term long view owners and I'm touching on that simply because in the real estate industry there are typically two types of

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1 owners. There's those who buy to sell, it's a short-term sort of view and then there are those
2 who hold and operate. And in my short decade of experience in the real estate industry, I have
3 found that owners who take that long view, as you described, are overwhelmingly aligned with
4 the overarching themes of our Comprehensive Plan like improving standards, enhancing
5 vibrancy, building community. So, I'm intrigued, I want to learn more about this family that's
6 been here forever but it's, I think, nice to see an owner getting behind the concept of
7 reinvesting in their existing assets.

8

9 I sort of share the perspective that Staff has here that a variance wouldn't be appropriate.
10 There's just definitely not – it's not a hardship to not have a roof deck, it's just it isn't. I'm sure
11 that Staff would have informed you guys if you had asked them that. I think one of the things –
12 let's – I don't want us to be the Planning Commission in sunny California that doesn't embrace
13 the concept of roof decks. We're going to have a conversation about them in an hour and it
14 revolves around the idea of encouraging them. I think this notion that they are somehow
15 incompatible with residential is sort of baseless and I say that because our current code allows
16 properties to have roof decks next to residential properties; right next door. So, there is no –
17 there's nothing in our code that would support the suggestion that we currently have some
18 concern about rooftop decks in close proximity to residential properties. In fact, I think they're
19 highly compatible. I think that this notion of utilizing the outdoor space, and this is something
20 that we're going to talk about in the next hour when we talk about how to embrace rooftop

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1 decks in an effort to encourage housing, it makes them really compatible. I think the only
2 reason why -- and this is sort of to Commissioner Gardias's, I think the only reason why they've
3 decided to do this buffer zone is because we're talking about a non-conforming property and
4 when we say non-conforming it's not a property that was somehow built illegally. It was a
5 property that was built to the standards that existed at the decade that it was built and at some
6 later date we lowered the height and now -- and the floor area. And so now it's technically non-
7 conforming so does that mean we don't want to allow a commercial property owner to create
8 an amenity that would get their employees outside for a little sun every day? I think not. I think
9 -- it's not surprising to me that Houzz brought the application. I think it's really common for a
10 tenant to bring a TI. There's a lot of this that comes through our Building Department that
11 requires planning and building approval. In fact, 999 Alma was a tenant improvement and so it's
12 actually really common for the applicant to do this with the support of the owner. I think we
13 need to decide, in my -- I think our code already provides the direction here. Rooftop decks are
14 permissible. If you feel that rooftop deck on a building that's a little older is not permissible
15 simply because the building is a little too high, I think Staff has created this 150-foot buffer to
16 address that.

17

18 I think the question about the noise is important, we don't want any rooftop nuisance. I'm
19 uncomfortable with the added requirement that there can't be music up there and not because
20 I have any desire to see that become a music venue but I guess I'm concerned with the notion

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1 that our Noise Ordinance wouldn't be sufficient. And I am also of the mind that if you – if a tree
2 gets cut down in a forest and you don't hear it, this idea that if there is music up there and
3 nobody can hear it, is it really a problem? We're talking about a – the Houzz tenant and the
4 Thoits family are a community member and so I think approaching them with the expectation
5 that they'll somehow violate our Noise Ordinance is approaching them with a little bit too much
6 skepticism which is why I asked the question about did this happen? Are we concerned? Is
7 there a reason why we're – that's why I was asking those questions. And if there isn't, if there
8 isn't some kind of concern we have about it then I don't think we need to approach them with
9 the view that they are going to somehow become a nuisance which is what it would be by the
10 way. If you violate our Noise Ordinance you're creating a nuisance and there are significant
11 enforcement options. There's a – I think there's a view that we don't enforce violations
12 frequently enough or severely enough and I honestly can't comment on that because I'm just
13 not familiar with our enforcement operation. But I can say that if we're ok with amplified music
14 42-feet from a residential parcel then this seems arbitrary and I accept the 150-foot buffer if it's
15 – if it helps us get over the finish line for the 50-foot height limit exceptions situation with this
16 grandfather non-conforming use.

17

18 I'd say the last thing I want to sort of respond to base on the comments I heard some other
19 Commissioner's make would be that I don't – I really don't like the suggestion that an
20 amendment like this should be traded for public access. I'm a big fan of public amenities but

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1 making commercial property owners give up property when they approach us to improve it in a
2 such a minut way seems like a receipt for just encouraging existing property owners to walk
3 away from these reinvestments. And I think these reinvestments demonstrate a belief that our
4 community is thriving and worth the investment. I – so – I think – I just – there’s some – it’s –
5 every time a residential property owner wants to double the size of their 1951 ranch home,
6 we’re not like well you donate the first 10-feet of your lot for gardening – for public access
7 gardening. I think this notion that when the property comes up and spends a significant amount
8 of time working with Staff to come up with a solution that we’re going to spend the next hour
9 talking about encouraging we shouldn’t sort of suggest that they owe more.

10

11 So, with that, I’m going to make a motion right now to recommend that Council approve the
12 text amendment and I will not make a suggestion that we delete the – I’d like to sort of
13 bifurcate it. So, I’d like to make a motion that we recommend that Staff approve the text – the
14 Staff’s text here on Page – Packet Page 15 and 17 and (interrupted)

15

16 Chair Lauing: Is there a second to that?

17

18 Commissioner Alcheck: And I’m going to wait and make a second motion to recommend that
19 they delete the amplified music restriction in an effort to keep those two issues separate.

20

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1 Mr. Owen: Commissioner Alcheck? I just wanted one point of clarification, we do have an At
2 Places Memo where the updated version of the referenced ordinance is. You're referring to
3 Packet Page 15 so we gave a modified version of the ordinance At Place and the ordinance
4 change is to require a Conditional Use Permit regardless of the size of the roof deck.

5

6 Commissioner Alcheck: Ok I'm sorry, so the – where's the memo?

7

8 Mr. Owen: It's Memo Number Two, version to Item Number Two.

9

10 Commissioner Alcheck: I don't have this memo. I have it now. So, this red – the redline, any
11 request for rooftop [unintelligible] acceptance of this section shall be subject to a Conditional
12 Use Permit. So, is the idea here is you want us to go through this process every single time one
13 of the four other buildings applies?

14

15 Mr. Lait: So actually, if I can answer that, so it wouldn't be this process. It would be a
16 Conditional Use Permit which is reviewed by the Director and if I can just take a moment
17 because this also relates to a comment that Commissioner Gardias had about what you were
18 speaking about at the beginning of your comments. Staff does not believe that a variance or the
19 other mechanism in the code is the Design Enhancement Exception is applicable to the subject
20 property based on the purpose of those two discretionary permits and the standards that need

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1 to be met to approve those. So, to do this we believe that the only way to do it is through a text
2 amendment and the reason we've added this other language which we had intended to include
3 in the Packet that was transmitted to you is that there are these other properties that are
4 shown on the map that do not have the same level of analysis that you've seen for the subject
5 application. And by requiring the Conditional Use Permit the Director will have the ability to
6 conduct that site-specific review in the event one of those seven other properties come
7 forward seeking to do a roof deck.

8
9 Commissioner Alcheck: Ok so in recommending that included language is it safe to assume that
10 Staff has – if this process was complete then Staff would then rereview this and then provide us
11 Director level CUP process?

12
13 Mr. Lait: So, if this goes forward as we're proposing, a future applicant would just go to submit
14 a Conditional Use Permit application. It wouldn't come before the Planning Commission unless
15 somebody had requested that.

16
17 Commissioner Alcheck: Right, no I'm asking – I understand that 100 percent, I'm just curious
18 will you be processing a CUP in conjunction? Ok, it's not like this is different – we're not doing
19 one and then four or five (interrupted)

20

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1 Mr. Lait: That's right.

2

3 Commissioner Alcheck: Different – you would – this would follow that guideline?

4

5 Mr. Lait: Right and then, in fact, part of your motion I believe was a reference to the Conditional
6 Use Permit which the applicant is seeking as well. So, there's two actions that are being
7 requested (interrupted)

8

9 Commissioner Alcheck: That's in the memo?

10

11 Mr. Lait: One is the updated language for the ordinance and the other action is to recommend
12 approval of the Conditional Use Permit.

13

14 MOTION #1 RESTATED

15

16 Commissioner Alcheck: Alright, let me reiterate my motion then if I may? I'd like to make a
17 motion that City Council approve the text of the amendment that Staff has brought forward in
18 this memo along with – hold on I got to pause. Would with be a City Council approved CUP or
19 would this – do I need to recommend approval of a CUP?

20

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1 Mr. Lait: Yes, we're seeking the Commission's recommendation on this because another aspect
2 of our code says that when one action is required by the City Council, all applications are
3 grouped.

4
5 Commissioner Alcheck: Yep, alright sorry, alright so then, in that case, the first part you got, the
6 second part would be to recommend the granting of the CUP in conjunction with the approval
7 of this text amendment. Sorry.

8
9 Mr. Owen: And just for clarification did you have a recommendation about the CUP and
10 amplified music condition as well?

11
12 Commissioner Alcheck: I'm going to keep – I'm going to make a second motion after we're done
13 about that just so I can see which Commissioner – I don't want to a – I want to keep this sort of
14 on a – I want to work for unanimity here.

15
16 Chair Lauing: Is there a second to this motion?

17
18 SECOND

19
20 MOTION AMENDMENT

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2 Vice-Chair Monk: I'll second the motion. Are we – is this a combo motion with the CUP
3 incorporated within? Ok, this is the first time that I'm aware that the CUP is being incorporated
4 into the motion because our action tonight was just to recommend a text amendment and
5 exemption from CEQA. So first I'd like to add the CEQA exemption and adopt Staff's
6 recommendation into the motion.

7

8 Commissioner Alcheck: That's fine, I accept that addition.

9

10 Vice-Chair Monk: And then was the applicant notified that we're decided on the CUP tonight
11 because they didn't speak that much to it.

12

13 Mr. Lait: Yeah so, I'll – sorry Graham, I'll just – so yeah, I appreciate that the Planning
14 Commission doesn't get too many Conditional Use Permits. You saw one not too recently – not
15 too long ago with the First Baptist Church. That was a Conditional Use Permit that were the
16 Director – that might have actually been maybe not a great example but typically what happens
17 is the Director makes a decision on the Conditional Use Permit. And then if somebodies
18 aggrieved with that decision they request a hearing and that hearing is held before this body.
19 And then the recommendation on the CUP goes to the City Council for ratification if you will on
20 Consent and if the Council or three Members of the Council do not support that decision that's

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1 been recommended by the Planning Commission, then they can pull it up and have its own
2 public hearing and make a final decision on the Conditional Use Permit. A CUP is required for a
3 discreet list of items in our Zoning Code and the idea here is – so Alcohol Permits require a CUP,
4 day care centers require a CUP, some auto-related uses may require a CUP and the idea is that
5 there are some uses and activities that take place that our basic zoning standards may not be
6 sufficient to address or mitigate potential impacts. And so, for this discreet list of Condition Use
7 Permits we set up this discretionary review process where the Director can review those
8 applications after we do a notice to affected properties I believe it's within 600-feet. It may be
9 less for a CUP but we do that notice, we receive the feedback and the Director makes the
10 decision. So, the notice on the agenda today is complete and that it specifies the different
11 action that the Commission will be taking this evening and its recommendation on the
12 ordinance and recommendation on the Conditional Use Permit. However, the Staff report, I see
13 in our recommendation we did not include that CUP component so the CUP is subject to
14 findings with Graham noted in his PowerPoint presentation and they are also addressed in the
15 Staff report on Page 4 of the Staff report. I'm sorry, I don't have the Packet Page Number,
16 Packet Page 10 I'm told, where we begin to talk about the Conditional Use Permit and on
17 Packet Page 19 there's the draft Record of Land Use Action which has the Staff recommended
18 findings to support the CUP.

19

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1 Vice-Chair Monk: Thank you Assistant Director. Is the CUP that we're looking at in our Packet
2 one that was mutually discussed and agreed upon with the applicant?

3

4 Mr. Owen: They had the concern about the amplified music condition which we included.

5

6 Vice-Chair Monk: And that was the only concern that I heard from tonight. Where there any
7 other concerns that you're aware of?

8

9 Mr. Owen: I don't think that there are any other concerns, no.

10

11 Vice-Chair Monk: Applicant? Ok and then under the new language that I'm looking at that was
12 on our Packet tonight, it mentions any request for rooftop access exception. I don't see where
13 you would be asking for a request for the – for an exemption. Is that somewhere else in this
14 code that we're not looking at?

15

16 Mr. Owen: That's the section that's in blue. So, the (interrupted)

17

18 Vice-Chair Monk: Well it's not asking – it doesn't say that they're asking for something just the
19 way it's drafted. It's just telling you which types of uses are exempted. It doesn't say you need
20 to go and ask for it in some capacity.

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Commissioner Alcheck: [unintelligible – off mic]

Vice-Chair Monk: The last line says any request so (interrupted)

Commissioner Alcheck: [unintelligible – off mic]

Mr. Owen: Right so I think that for our purposes if somebodies going to be proposing any sort of increase in floor area they need to come forward with a Building Permit Application and Architectural Review Application. And as a part of the planning process, they would also need to include a Conditional Use Permit when they submit plans to the Planning Department.

Vice-Chair Monk: So, it's clear to someone who wants to build or develop that they need to make a request (interrupted)

Mr. Owen: Right.

Vice-Chair Monk: Under this? Ok. Not just for the CUP but to actually build the roof deck because it's – it doesn't look like it. And then do you want the CUP requirement to be in there for any roof deck or would you want to consider limiting it to a certain square footage?

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Mr. Owen: So, the way that we wrote it was for any square footage.

Vice-Chair Monk: Does that seem reasonable to Staff?

Mr. Owen: Whenever you're in excess of the height and FAR standards because you're already allowed to have a roof deck if you're (interrupted)

Vice-Chair Monk: Below.

Mr. Owen: Below.

Vice-Chair Monk: Ok, alright, I'd like to speak to my second and just make sure that I don't have any other additional questions. Well yeah, I guess I do, on the noise abatement, I mean we already have a Noise Abatement Ordinance, it's also mentioned in the ordinance under Number Five and then you have this amplified music. Why is there – it's like triple kill to me, what's that all about? Why doesn't our existing zoning and our code sections address this?

Mr. Lait: Well so the Zoning Ordinance – this reflects back on the early conversation that Commissioner Alcheck had brought forward. And we acknowledged that there's an opportunity

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1 for a conversation with the Commission about whether or not we've overdone it relative to all
2 these different standards. Again, we were being in an abundance of caution establishing these
3 different checks and balances. But if the Commission feels like we've gone too far and that
4 amplified music is something that ought to be just enforced relative to the Noise Ordinance
5 that's feedback that we welcome.

6

7 Vice-Chair Monk: Alright so perhaps we'll do a separate motion – discussion and motion after
8 this is finalized because I think that's what Commissioner Alcheck had intended. I agree that it
9 doesn't seem like we should have to amend our code to allow for a roof deck but on the other
10 hand the fact that our code is preventing it and yet our Downtown Urban Design Guidelines
11 encourage active use of roof space in this area suggests that perhaps the time is right for this
12 text amendment. And I trust that Staff explored all the options and all the alternatives to
13 achieve the applicant's goal of a roof deck. So, I'm confident that this is the best solution to
14 achieving this objective. I live nearby, I see the building regularly, I don't think they're impactful
15 to the neighbors and the neighborhood. I trust they will be good – continue to be good,
16 respectful neighbors. I don't think this would be problematic in any capacity, it's a dense area,
17 and in fact, the adjacent property which was Three Seasons used to have amplified, very loud
18 live music quite regularly. Now they are going under construction so it's not there so I'm not
19 worried about any impacts because of noise or otherwise. I'm also a little concerned about the
20 photometric – the enforceability of the photometric plan and I think we're going to talk about

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1 that a little bit more. I don't know if they have that in here or if that's required but if that's
2 something that's not of a concern to the applicant then I guess I don't need to speak to it. And
3 so yeah, that's all I have to say for my second.

4
5 Chair Lauing: Commissioner Gardias's light was on before the motion was made so I'm going to
6 go there first. I still have a couple of very small comments but carry on, thanks.

7
8 Commissioner Gardias: Yes, thank you, so I'd like to somehow maybe clarify my position on this
9 because I don't have a problem with any of those properties having – use their rooftops. What I
10 wish that we – that happened here that we approached it differently and then presented the
11 full evidence. And then maybe this ordinance would have turned out to be a different
12 document that it is right now. If you imagine a different solution then perhaps there would be
13 an opportunity to -- as opposed to a street that usage or roof usage the way that you restrict
14 which is 150-feet from the residential boundary, then maybe we would have this restriction
15 done a different way and maybe even just offer the owners greater use of their rooftops. So, I
16 think that this is the opportunity lost and I just wanted to make this clear because maybe I
17 wasn't clear the first time I spoke about this. And then maybe if we looked at the other
18 properties maybe we could have got away with the Conditional Use Permit and the Director's
19 review as additional steps towards granting them what pretty much others don't have to go
20 through because of a different height. Thank you.

-
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2 Chair Lauing: Yeah, I just had a couple quick comments and then we'll continue to debate this.

3 And the couple comments that the applicant made is that this is beneficial to downtown and

4 the vibrancy of the roof deck. You know we actually don't get that benefit because it's just a

5 closed off roof deck so I'm not sure that those arguments are in favor. And I'm – just also the

6 item that was cited on Page 10 from the Policy L-2.11, encouraging new development or

7 redevelopment to incorporate greenery and natural features such as green rooftops,

8 [unintelligible], plazas, and rain gardens. That wasn't for 177 employees, that's for the public,

9 so to the extent that these or any other roof decks can be filled with trees and hanging vines

10 and sometimes when it fits, this one doesn't, access to the public. That would make more sense

11 and of course, it's also noted that the Comprehensive Plan is totally silent on policy and design

12 considerations here. And I do concur with concerns raised by Commissioner Gardias that this is

13 a whole lot of work and effort and so on to deal with potentially making a policy that effects six

14 non-conforming buildings. I wish there was an easier way. So, let's continue, Commissioner

15 Summa is up next.

16

17 Commissioner Summa: Yeah this is a hard one for me because I have nothing against roof

18 decks. I like roof decks but the idea of – it feels like spot zoning which is something that I'm not

19 very comfortable with and it feels like we don't have any other information on the other seven

20 properties other than knowing their location. I think 177-people is a lot of people to be up there

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1 6 am to 11 am [note – pm] 7-days a week so I’m hoping that the makers might be open to some
2 amendments regarding that. And I also – this is a question for Staff, there’s a lot of unknowns in
3 the future here since CUPs go with the building, not with a tenant, and is there any way to
4 restrict it to this tenant? And to – it seems like in the past CUPs did go with tenants instead of
5 with parcels and so I can see another tenant that might be more problematic in this location
6 with those hours and those people – at that number of people.
7

-
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1

2 Mr. Lait: Yeah so, we're not able to tie the Conditional Use Permit to a tenant but in
3 furtherance to your comment and the earlier comment from Commissioner Waldfogel. You
4 could time limit the Conditional Use Permit such that it comes up for renewal after x number of
5 years. That's not our recommendation or preference but that's one way to effectively have a
6 check-in.

7

8 Commissioner Summa: Thank you.

9

10 Chair Lauing: Commissioner Waldfogel.

11

12 Commissioner Waldfogel: Let's see, I think we're getting close to a vote so I just wanted to
13 make some comments before we vote. I'd have to say I'm kind of unenthusiastic about this. I
14 mean I think the timing on this is really awful because we're – one of the reasons we're
15 struggling to get housing built is all the bonuses that we keep offering for offices and I think this
16 is just – it's really awkward timing. Also, the housing discussion about open space standards has
17 made me think quite a bit about roof decks the last few weeks and I've realized that we need to
18 do – we have a lot of work ahead of us to figure out how to balance our policy goals for roofs in
19 the commercial districts. So, I mean this I more complicated than I thought it was, with that said
20 I'll support the motion for tonight. I mean I just don't think that it makes that much difference. I

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1 won't support removing the amplified music condition, I would potentially support time limiting
2 it or requiring a check in after 5-years but I will support the base motion.

3

4 Chair Lauing: Commissioner – excuse me – Commissioner Alcheck.

5

6 Commissioner Alcheck: Yeah so, I just want to – in an effort to create broader support for this
7 just -- I want you to consider the notion that when commercial property owner creates an
8 amenity in a commercial building that may not have public access, it does have an impact on
9 the vibrancy of the downtown because it enhances the appeal of the asset to tenants. So, in
10 theory, there is a tenant out there who's comparing two places and one of them is a lot
11 expensive than the other but it has more amenities and so they may justify the cost. Those
12 amenities being in Palo Alto for example and those amenities could also be having a rooftop
13 deck for the employees who will have the opportunity to get a little sunshine, may make their
14 lives better [note -and], they may be happier employees. And what benefit is it to a Palo Alto
15 residence that our commercial buildings are appealing? The benefit is that the people who will
16 work every day in our community are sort of representative of the – are essentially tenant – are
17 employees of tenants who are looking for wonderful places for their employees to work. So, we
18 want the kind of employers who value access to sunshine, we want that kind of employer in our
19 downtown. We have the kind of employer in our downtown who will spend the money on
20 providing that kind of amenity. So, it's indirect but we should be thrilled every time a

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1 commercial property in the downtown doesn't just demolish their building and build something
2 new. We should be thrilled when they invest money for the improvement of their existing
3 tenant. You know the perfect example is President's Hotel. There's a property owner who is not
4 investing money in there – improving their current tenants and it was devastating to a lot of
5 people. So, I just want to throw that out there, just sort of encourage sort of a broader view of
6 why this is sort of beneficial.

7

8 I would only suggest in an effort to create more support from Commissioner Gardias, while
9 there are different ways to approach this problem and I appreciate your sort of sentiments on
10 them. I think one of the things that we – I shouldn't say we – that is sometimes easily
11 unappreciated is that there's a time component. So, there's a tenant who's there now, maybe
12 they have a 10-year lease, they've been their 5-years, they have 5-years left, they want to
13 continue to operate but they may not have the bandwidth to wait for the Staff to conduct a
14 really thorough analysis and maybe it wasn't even on Staff's radar because we know how busy
15 Staff is all the time. And I think a lot of these things come to us by applicants like this who are
16 investing the time with Staff to come up with an approach that will give them access to an
17 amenity that we already allow on a lot of other buildings but not theirs and so they're going to
18 figure out a workaround. I don't think that the process is always pretty but I think that
19 suggesting that it came at the wrong time or that it didn't follow the right path is valid but there
20 are costs to taking more time and waiting and those costs are money and interest and so I think

-
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1 that's a tradeoff. You're right we could have done this in a different way and it could have been
2 more thorough and I think that's one of the concerns you raise a lot. My response is I'm not – I
3 don't disagree with that but I also think there's always a cost to that. And the cost is that we've
4 failed to meet the needs of our current residents and business community, so there's a tradeoff
5 there that I just want to throw out.

6

7 Chair Lauing: Ok I just want to make one other comment in terms of the motion. I think the
8 timing does happen to be awful because the next five hours we're going to be spending on
9 trying to figure out how to get more housing in the City. So that's unfortunate, nobody's fault
10 but as I said we're spending all this time to figure out how to get eight non-conforming
11 buildings who have too much FAR to have more FAR. I don't know why and if we're going to do
12 that I do think that there should be some consideration, potentially just some redesigns as I
13 mentioned a while ago to have taller trees so somebody walking by outside can get some
14 benefit from it. So, in that regard I would suggest that we pause on this, would be my
15 preference, to get a little bit more comfortable that the public that's walking around down the
16 street get something out of it besides the 177 people in the building. So, roof decks are great,
17 I've been in on them in offices, there's hundreds of buildings in town that could put them on
18 right now that don't need any work from Staff or from us. So, it just feels kind of odd that we're
19 putting more FAR on a building that is non-conforming and we've known that for years and just

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1 kind of is as it is but I'd be amenable to it if there was some other benefit so as is I would be
2 voting against it. Commissioner Gardias.

3

4 Commissioner Gardias: Yes, so I only pressed the button because Commissioner Alcheck spoke
5 to me. So, I just – I'm not sure if I was clear so maybe let me say this again so I would support
6 further expansion of the deck's use. Was I clear when I spoke before? Maybe I wasn't, so I
7 would support further expansion of the deck use had the Staff approached it differently
8 because I don't really think that boundary or the distance 150-feet. And thus, setting aside a
9 portion of the deck that could have been used by the owner for just an enjoyment purpose is
10 the proper restriction if it doesn't – if there are different means of protecting residential
11 properties from looking at other people's windows. So, I think that had we had this written –
12 had we had written this differently we could have allowed owners greater use of the decks.
13 Those owners that are higher than the height restriction but they are closer to the residential
14 properties than this ordinance proposes.

15

16 Commissioner Alcheck: [unintelligible – off mic]

17

18 Commissioner Gardias: Sure, yes.

19

20 Commissioner Alcheck: Are you suggesting (interrupted)

-
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Chair Lauing: Wait, Staff has a comment.

Commissioner Alcheck: Are you suggesting that you would support (interrupted)

Chair Lauing: But I didn't recognize you yet. Does Staff have a question?

Mr. Lait: I'm sorry I just – the Commission's got other items on the agenda and I think you've got a motion on the table. I think it's worth voting and moving forward. I mean we can be in this discussion point all day.

Chair Lauing: Commissioner Alcheck, could you do that in like 60-seconds?

Commissioner Alcheck: Yeah, I guess my question is are you – it sounds like you're suggesting you'd support a more lenient ordinance and I would suggest to you that we may find no support of that one. And so, we kind of have to take what we get and, in that regard, I hope you support this motion.

Chair Lauing: Commissioner Monk [**Note- Vice-Chair Monk**] I think you have a question.

-
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1 Vice-Chair Monk: I'm not clear on what – what's the amendment?

2

3 Chair Lauing: There's no amendment yet.

4

5 Commissioner Alcheck: (off mic) There's no amendment.

6

7 Chair Lauing: So, it's just the regular motion which you've seconded.

8

9 Vice-Chair Monk: Alright I just have some questions on the text itself before we move to a
10 vote.

11

12 Chair Lauing: Ok.

13

14 Vice-Chair Monk: I haven't looked carefully at the plans, is there ingress or egress issues with
15 regards to accessing the deck and where does that fall within the exception to FAR as well as
16 related elevator equipment?

17

18 Mr. Lait: There's no issue with access.

19

-
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1 Vice-Chair Monk: Ok. Same for – so I would just suggest that you might – if you are going to
2 change this language, I don't know whether you can or not, but you talk about elevators and
3 other similar features. I would maybe say or related equipment because it may be elevator
4 equipment, I don't know. I think there's already – they said there's one existing elevator, I'm
5 not sure.

6
7 Mr. Lait: We believe the language is sufficient. If the Commission feels like we need to modify it
8 then we can do so.

9
10 Vice-Chair Monk: Well if this – if Staff feels that the language is sufficient to accommodate all
11 the needs as written.

12
13 Mr. Lait: We drafted this.

14
15 Vice-Chair Monk: Ok. Other similar features is pretty vague, I would think that language
16 suggesting related equipment would be more specific and less ambiguous for future applicants.

17 So, I don't know would I propose (interrupted)

18
19 Mr. Lait: Yeah you would ask (interrupted)

20

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1 FRIENDLY AMENDMENT

2

3 Vice-Chair Monk: A separate (interrupted)

4

5 Mr. Lait: You would make a friendly amendment asking the maker to support an edit to the
6 language that's presented in the At Places memo.

7

8 Vice-Chair Monk: Ok and does counsel agree that that might be a cleaner language or not?

9

10 Mr. Yang: I think that either approach would be fine.

11

12 Vice-Chair Monk: Commissioner Alcheck would you approve a slight language clean up there?

13

14 Commissioner Alcheck: I think – are you suggesting the word equipment as opposed to
15 feature? My – I really don't love (interrupted)

16

17 Vice-Chair Monk: Other similar features or related equipment.

18

19 Commissioner Alcheck: You want to add or related equipment?

20

-
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1 Vice-Chair Monk: Yeah.

2

3 Commissioner Alcheck: Ok, will we be losing your support if we don't add that?

4

5 Vice-Chair Monk: Would that change anyone's (interrupted)

6

7 Commissioner Waldfogel: (off mic) I'm just not sure why we need to mess with text right now. I

8 mean Staff [unintelligible] comfortable [unintelligible].

9

10 Vice-Chair Monk: Ok.

11

12 Commissioner Alcheck: If it meant losing your support I would make the change but I don't

13 know that we need too and I think we have a shot here at getting through this.

14

15 Vice-Chair Monk: Ok so the second question for Staff what – if this comes out 3-3 here, does

16 this still move onto Council? What's the next step?

17

18 Mr. Lait: Yes, we would still advance it to Council.

19

20 CALL THE QUESTION

-
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1

2 Vice-Chair Monk: Thank you. I'd like to call the question then.

3

4 VOTE

5

6 Chair Lauing: Ok the question has been called, that's not debatable. Alright so do we need to
7 restate the motion? I think we all understand what the motion is. It's been moved and
8 seconded, ok all in favor of the motion please raise your hand and opposed? Two; 4-2, 1 absent.

9

10 MOTION #1 PASSED 4(Alcheck, Monk, Gardias, Waldfogel)-2 (Lauing, Summa)-1 (Riggs absent)

11

12 Mr. Lait: Great and we typically offer the dissenters an opportunity to speak.

13

14 Commissioner Summa: Thank you very much. Well, I don't oppose roof gardens, I was
15 uncomfortable with the spot – what I consider to be the spot zoning aspect of this project and I
16 think that was a big concern of Council's last November when they reviewed this project. I was
17 also concerned with the hours and a few other aspects of this. And also, that we hadn't really
18 had a chance to review the impacts with regards to other – the other buildings this would
19 affect. And also, that I felt that the 150-foot buffer should be for residential uses, not just for
20 the residential district but other than that I think roof decks are great. I also have a slight

-
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1 preference in general when we talk about roof decks and expanding their use or allowing them
2 to take the place of other development standards. We require that we concentrate on living
3 roofs which – green roofs which can provide a lot of environmental benefits that just a terraced
4 roof does not, so I hope we will consider that in our discussions, thank you.

5

6 Chair Lauing: Yeah, I have no comments to add. That concludes this item. Oh sorry?

7

8 Commissioner Waldfogel: (off mic) Can I make another motion relating to this?

9

10 Chair Lauing: Oh sure.

11

12 Commissioner Waldfogel: (off mic) See if there's any support for (interrupted)

13

14 Chair Lauing: Mic, please.

15

16 MOTION #2

17

18 Commissioner Waldfogel: Sorry about that. Just see if there's any support for a 5-year review
19 on this CUP.

20

-
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1 Chair Lauing: 5-year limitation on the existing CUP?

2

3 Commissioner Waldfogel: Yeah that this CUP – that the CUP expires in 5-years with an option to
4 reapply. I’m sorry what’s the (interrupted)

5

6 Mr. Lait: Yeah, I guess it’s the function of where do you want to put that responsibility? Do you
7 want it to automatically expire or (interrupted)

8

9 Commissioner Waldfogel: I mean I’m not trying to complicate this but I think you had
10 mentioned there’s a possibility to (interrupted)

11

12 Mr. Lait: Yeah so, it’s the – it’s a question of does it just expire which is one option. Another is
13 that there be a review – that the Director does a review in 5-years and if there’s some problems
14 that are identified we could hold a hearing before the Commission or something.

15

16 Commissioner Waldfogel: I mean I’d be satisfied with the second, I’d probably prefer the first
17 but I’d be satisfied. I mean what I’d like to – I’d like to have some way that if there are issues
18 there’s a format for some review.

19

-
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1 Mr. Lait: So that exists presently in the code where there's a Conditional Use Permit that's been
2 granted if we feel like we are getting complaints and we need to address that we will – we can
3 do that. Specifically, on the subject application on Packet Page 21 there's Conditions 11 and 12
4 that specifically relate to this property and if there's any issues or problems we would be having
5 discussions. Actually, I'm not even sure this – this says the Director impose additional
6 conditions to mitigate those impacts, any changes that the Director makes is subject to appeal,
7 so we feel like we've got that embedded.

8
9 Chair Lauing: Commissioner Waldfogel it seemed like you were asking for that even if there
10 weren't any complaints just to evaluate it but up to you.

11
12 Commissioner Waldfogel: (off mic) I was trying to pull up this [unintelligible]. I really don't want
13 to belabor this point tonight though.

14
15 Chair Lauing: Ok.

16
17 Commissioner Waldfogel: But it's just something that I would like to see on commercial CUPs is
18 this concept of a proactive review.

19
20 MOTION #2 DIES DUE TO THE LACK OF A SECOND

-
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Chair Lauing: Ok then I think that concludes this item.

Commissioner Alcheck: (off mic) Actually I had my light on and I had mentioned earlier (interrupted)

Chair Lauing: Oh sorry.

MOTION #3

Commissioner Alcheck: Ok so I'd like to make a second motion to see if there's support among the Commissioners for eliminating the language in the CUP regarding amplified music. I'll – can I get a second?

Chair Lauing: Second for that?

SECOND

Vice-Chair Monk: Second.

-
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1 Chair Lauing: Second Commissioner Monk [note-Vice-Chair Monk].

2

3 Commissioner Alcheck: Ok I'll speak to it really quickly. We allow rooftop decks everywhere on
4 this map and we don't have this requirement. What is it that we're worried Houzz is going to do
5 that everybody we're not worried about? I think this approach – I don't know if it's something
6 that Staff is putting in because they're sensitive to the community's sensitivity about tech
7 employment. But it just strikes me as overly conservative considering we have a standard
8 already known as our Noise Ordinance and it applies to every other roof deck. And I – this is
9 sort of similar to one of Commissioner Gardias's comments earlier which is that maybe he
10 would have been more comfortable with a larger amount of the pad being available. If we don't
11 – if we can't articulate a good reason for why someone couldn't enjoy something then we
12 shouldn't stop them from enjoying it. And so, if there isn't a – if there is a possibility that
13 someone could enjoy amplified music on this terrace and not violate the Noise Ordinance and
14 not bother other residents then why is it there? I don't think we heard one tonight articulated
15 and so that's why I support this idea.

16

17 Chair Lauing: Moved and seconded, any comments light up your lights? I would only comment
18 that I would support the Staff's conservatism, which was their stated intent, as they've done on
19 another CUP we had recently so I appreciate the idea of going cautiously. Any other comments?
20 Oh, sorry go ahead.

-
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Commissioner Gardias: I would second it. I don't see any apatite in the Commission but just for the procedural, I would second it because I think it's a reason – there is a reason behind this so I would support it.

Chair Lauing: You would second the motion?

Commissioner Gardias: This motion, yes.

Chair Lauing: Commissioner Monk [note-Vice Chair Monk] already did that.

Commissioner Gardias: Oh, she did that?

Chair Lauing: Yeah.

Commissioner Gardias: Sorry I just didn't hear that. Then I withdraw my support.

Chair Lauing: Ok so Commissioner Monk [note-Vice-Chair Monk] did you want to speak?

Commissioner Alcheck: (off mic) Don't withdraw your support.

-
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1 Chair Lauing: No, ok.

2

3 Commissioner Alcheck: Don't withdraw your support.

4

5 Vice-Chair Monk: Yeah, I'd rather you second it than withdraw (interrupted)

6

7 Chair Lauing: Ok so all in favor of that motion to essentially allow amplified music.

8

9 Vice-Chair Monk: To strike Number Five of the CUP Item.

10

11 Mr. Owen: Condition Four.

12

13 Vice-Chair Monk: Condition Number Four.

14

15 Chair Lauing: Yep Commissioner Monk [Note-Vice-Chair Monk] has a question. I'm sorry,

16 Commissioner Summa has a question.

17

18 Commissioner Summa: It's a question for Staff, even if they are prohibited from having

19 amplified music as a Condition of Approval could they apply for a special event permit for

20 amplified music?

-
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Chair Lauing: I think they could.

Commissioner Summa: Yes.

Mr. Lait: You know I don't believe that's the case because the CUP is being explicit in this. You know I – actually Albert stepped out and I'd probably want to consult with him before landing on a specific answer on that but I'm not entirely sure.

Commissioner Alcheck: It might be appropriate for me to clarify my motion which would be transmitted to Staff – I mean Council which is that I am not suggesting that I would be – I would find acceptable some kind of concert. What I am suggesting is ambient sounds that were of a level that you would literally not hear on the street.

Chair Lauing: Just the existing Noise Ordinance.

Commissioner Alcheck: Yeah like amplified music would not be – that's not what I'm getting at.

VOTE

-
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1 Chair Lauing: We got it, ok, so all in favor of that signify by raising your hand? And opposed? So
2 that doesn't pass.

3

4 MOTION #3 FAILED 3(Alcheck, Monk, Gardias)-3(Lauing, Summa, Waldfogel)-1 (Riggs absent)

5

6 **Commission Action:** Motion to accept Staff's recommendation made by Commissioner Alcheck,
7 seconded by Vice Chair Monk. Motion passed 4-2 (Lauing, Summa) (Riggs absent)

8

9 3. PUBLIC HEARING. The Planning and Transportation Commission Will Consider an
10 Ordinance Amending Various Sections of Title 18 to the Palo Alto Municipal Code
11 Related to Development Standards Including Minimum and Maximum Unit Density,
12 Unit Size, Floor Area Ratio, Height, and Open Space; Parking Requirements, Including
13 but not Limited to Regulations Related to In-Lieu Parking for Downtown Commercial
14 Uses and Retail Parking for Mixed-Use Projects; Exclusively Residential Projects;
15 Ground-Floor Retail Provisions; the Approval Process, and Other Regulations
16 Governing Residential and Mixed-Use Development; All to Promote Housing
17 Development Opportunities in Multi-Family Residential and Commercial Zoning
18 Districts, in Furtherance of Implementation of the Comprehensive Plan. CEQA:
19 Determination of Consistency with the Comprehensive Plan Environmental Impact
20 Report (EIR) Certified and Adopted on November 13, 2017 by Council Resolution
21 No.9720. For More Information, Contact (CONTINUED FROM SEPTEMBER 26, 2018)

22

23 Chair Lauing: Now we're going to move onto the next agenda item. I think we need to change
24 chairs for Staff.

25

26 Mr. Lait: Yes.

27

28 Chair Lauing: Right.

-
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Mr. Lait: If you want to just give us a minute to (interrupted)

Vice-Chair Monk: Do you want to take a 2-minute break?

Chair Lauing: Fine take a 3-minute break, something like that? We have right now by the way two speaker cards on this, Mr. Baron and Ms. Burt. So, if there's anybody else that doesn't have a speaker card we need to get it. Oh great, there were some in the basket over there.

[the Commission took a short break]

Chair Lauing: Ok I'd like to reconvene the hearing on Item Number Three and we'll have a Staff report and then go to a number of speaker cards.

Ms. Jean Eisberg: Good evening Chair, Members of the Commissioner, so we're back tonight talking about the Comp Plan Housing Ordinance for 2018. That's the end of the presentation, ok, back to the beginning.

Chair Lauing: Thank you very much.

-
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1 Ms. Eisberg: So again, I'm Jean Eisberg, a Consulting Planner for the City, so I'm just going to
2 briefly run through the timeline, the key components of the ordinance, how it is organized by
3 district or geography and then some Citywide regulations. And then I'm going to talk about
4 some other regulations for your consideration, so those are ideas that are not in the ordinance.
5 Some of which we talked about 2-weeks when we were here and that you may want to
6 consider taking forward or not and then briefly review the CEQA requirements for the project.

7

8 So, this is our 6th meeting tonight, there's very little new in the ordinance although it appears
9 new because you haven't seen the actual redline strikeout ordinance until now. But I'm going
10 to run through the few key changes that were implemented since we met a couple weeks ago
11 and again we're looking for you to take action tonight. So, the Council hearing, we're planning
12 to go for a first reading at the end of November, so we've had study sessions to this point but
13 are looking for an action tonight.

14

15 So just reviewing, these are our key affected districts so we're looking at the CD(C) downtown,
16 the CC(2) near Cal Avenue, and then along the El Camino Corridor, the CN, and the CS. Lastly,
17 we're also looking at changes to the RM-30 District which is more scattered throughout the City
18 but it's really used as a transition zone between the El Camino commercial mixed-use districts
19 and the lower density residential districts on either side. So, these are the key concepts that
20 are within the ordinance that we've been talking about over the last several months and these

-
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1 are really the key levers to facilitate housing production and affordability in the City. So,
2 density, and we're including within density this idea of a Housing Incentive program, open
3 space standards, parking requirements, the review process with the Planning Commission, the
4 ARB, and the Council, and then looking at use regulations. So where 100 percent residential use
5 may be allowed versus where a mixed-use is required and then lastly just some more
6 straightforward administrative cleanup items.

7

8 So, a few changes since the – our September meeting, first just clarifying that (interrupted)

9

10 Vice-Chair Monk: Sorry can I ask you to pause for a minute?

11

12 Ms. Eisberg: Yes.

13

14 Vice-Chair Monk: It appears that my Packet might be stapled out of order.

15

16 Ms. Eisberg: You this is the PowerPoint, it's in – it's stapled with the staple on the lower left-
17 hand corner if you hold it that way. It's it just stapled (interrupted)

18

19 Vice-Chair Monk: Mine says it starts are Page 22.

20

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1 Ms. Eisberg: Yeah if you flip it over and put the staple lower left that's the front.

2

3 Vice-Chair Monk: Oh, thank you.

4

5 Ms. Eisberg: It's just – it's a little – it just got stapled in the wrong place.

6

7 Vice-Chair Monk: Thank you. Sorry to interrupt you.

8

9 Ms. Eisberg: That's ok so lower left orientation on the staple. So, we were talking about
10 changes since our last meeting, so changes that were not included in the concept of the last
11 meeting that are included in the ordinance now. So first there's a non-conforming provision
12 allowing redevelopment of RM sites to redevelop at the densities that they are now if they
13 were to redevelop and just clarifying that such a project could not be eligible for State Density
14 Bonus Law. Second, last time we presented the idea of a maximum unit size downtown. This
15 was not well supported by the Commission and we're now suggesting a maximum average unit
16 size so that's weighted by unit type. And so we looked some projects to see what the unit mix –
17 the unit size was for multi-family developments and none of them came in above this 1,350-
18 square feet figure and so that's what we established as the average unit size cap. Third,
19 previously we had identified rooftop open spaces to be eligible for up to 75 percent of the total
20 usable open space requirement for residential and now we've tiered that. So, a higher standard

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1 for downtown and a slightly lower standard for Cal Ave and El Camino. Fourth, there's a
2 provision existing in the code in the RM District that requires that even on RM sites that 1,500-
3 square feet of retail be provided and we're suggesting to exempt that for affordable housing
4 projects. And then lastly, we've eliminated this node and corridor concept on El Camino Real
5 where 100 percent residential projects could be located between these two retail nodes.
6 Again, that was not well supported by the Commission.

7

8 So, I'm not going to spend too much time on this because we've been through this already and
9 this is where things have not changed. And if we want to come back and use this PowerPoint as
10 a guide, we can do that but first, we have a set of Citywide revisions. And this includes updating
11 the definition across the board for what useable open space is and making sure that it doesn't
12 include areas that include mechanical equipment, drive aisles, driveways, things like that.
13 Revising the open state [note -open space] standard to standardize it across all multi-family
14 uses, revising the review process just to require Architectural Review by the ARB and eliminate
15 Site and Design Review Process. So, this would bring multi-family uses in line with how the City
16 regulates and reviews commercial projects and residential and mixed-used projects fewer than
17 10 units. And then lastly exempting 100 percent affordable projects from the Retail
18 Preservation Ordinance to help facilitate their financing and reduce their costs. Also, Citywide
19 we are looking to reduce parking based on the parking study that Fehr and Peers did of
20 occupancy rates throughout the City and again this is what was presented at our last meeting.

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In the RM Zones we're establishing a minimum density so that parcels couldn't be underutilized with respect to the number of units that where on – placed on the site, allowing residential only developments for affordable projects, again this idea that I mentioned about allowing non – sites with non-conforming densities to redevelop at those densities, and then standardizing the common open space requirement at 75-square feet per unit.

Moving on to the CD(C) downtown, so same ideas here around establishing – excuse me, eliminating a maximum density. Again, I mentioned establishing this maximum average unit size, exempting the first portion of ground floor retail from parking requirements so that's 1,500-square feet and then precluding curb cuts on University Avenue to maintain – in order – so that we can maintain that street wall and maintain that pedestrian orientation on University. In terms of use, allowing residential only develops except where the Ground Floor Overlay is required and where Retail Preservation Ordinance requirements are in place. And then lastly allowing rooftop open space to qualify for a portion of the usable open space requirement and then adopting a series of design standards to make sure that the space is really usable, that's it's an amenity for the residents, and that it doesn't create impacts on neighboring properties and also for other tenants that may be on site in their units. And so, I just mentioned some of those, so those open space standards talk about exceptions to the height limit for things like elevator, penthouses, and stair access to provide ADA access. Clarifying that this would just be

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1 – sorry, so for a mixed-use building that the rooftop open space would only be accessible for
2 residents and not for ground floor office or commercial tenants in terms of making sure that
3 the access and egress is away from the building edge so it's not visible from the ground level.
4 Additional standards for lighting, putting them on timers, making sure they are cut off fixtures
5 so we don't have spillover impacts. A requirement that the rooftop landscaped with at least 20
6 [note- 25] percent landscaping and that's slightly higher than what was presented last time at
7 20 percent. And then the last two about screening and noise mitigation of both mechanical
8 equipment but also this requirement that there be no amplified sound. Lastly in downtown this
9 idea of the Housing Incentive Program, so this is really a vehicle to provide a real incentive for
10 housing through a Local Density Bonus Program. So, this would be a real alternative to State
11 Density Bonus Law where you could receive additional FAR in exchange for sort of signing up
12 for this waiver program where you're willing to go through the architectural review process.
13 Whereas if you were to go through State Density Bonus Law or combine that with SB-35
14 streamlining you would be exempted from such requirements so in this case those – that FAR
15 standard could be waived by the Director. So just a little clarification on what that might look
16 like, so how does SB-35 streamlining which is the state law compare to this Housing Incentive
17 Program that we're proposing here. So, going down the list SB-35 doesn't require any parking if
18 the site is near transit and under the Housing Incentive Program you would have to park the
19 project per the code or per the new code the way that we're recommending it in the ordinance.
20 In terms of Discretionary Review, none is allowed or required as part of SB-35 but the Housing

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1 Incentive Program we would have the ARB review, Architectural Review. SB-35 exempts or
2 projects are exempt from CEQA whereas we would have to go through some CEQA review
3 process with your Housing Incentive Program; whether that's an exemption or tiered off the
4 General Plan. It could be – it could still be a streamlined process but there would have to be
5 some CEQA review. SB-35 projects are required to be 2/3 residential and the Housing Inceptive
6 Program would not have such a requirement. The major two differences are the last two rows.
7 So right now, the way that it is in Palo Alto and based on the annual report that the City
8 submitted to the Housing Community Development Department at the state last year, Palo Alto
9 is subject to a 50 percent threshold. So, an SB-35 project has to come in with 50 percent of its
10 units affordable whereas through the Housing Incentive Program – that's a very high bar for a
11 market rate developer to achieve. Obviously, an affordable housing developer would likely
12 come in with 100 percent affordable project but the Housing Incentive Program, you would just
13 need to comply with the City's Inclusionary Ordinance at 15 percent. And then lastly in terms of
14 the maximum residential FAR, so under SB-35 streamlining even if we were to pass this
15 ordinance and the Council passed it as proposed today, the base FAR is still 1.0. And under
16 State Density Bonus law if you combine that with SB-35 you can get a 35 percent bonus, so in
17 this downtown example you could get to 1.35 FAR. With this Housing Incentive Program this is
18 where we're talking about bumping up the FAR and so you could get 3.0 FAR which is a
19 significant increase in density allowed. And so that's why we think that this is a real potential
20 local alternative to the state law.

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Mr. Lait: [unintelligible – off mic]

Ms. Eisberg: And yes, thank you, so to clarify right now today – so this is really a downtown example, we’re still on that part of the presentation, 3.0 FAR is permitted today with a commercial development. It’s just that you can’t do a residential project at 3.0 FAR but you can do a mixed-use commercial project at 3.0 FAR today.

Ok so moving onto California Avenue, CC (2), very similar to what I just presented on would for downtown in terms of density, parking, use and open space. I’m not going to repeat those here. And a very similar program in terms of the Housing Incentive Program but lower FAR. So same thing here with the FAR for residential would increase from .6 to 2.0 and again a 2.0 is achievable now for some types of commercial and commercial mixed-use developments.

Things look just a little bit different for El Camino, specifically in terms of uses. So again, allowing residential only developments except where Retail Preservation Ordinance applies but clarifying that ground floor units wouldn’t be permitted to face onto El Camino. And then having a set of standards to clarify what a residential development would look like fronting onto El Camino since it is a much busier street. And similar Housing Incentive Program here, increasing the residential FAR from .5 or .6 in the CS to 1.5 FAR which is close to – well in the CS

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1 you can achieve a 2.0 for hotels today so that's a little bit – still a little bit higher but similar to
2 what is allowed today for commercial development. One key difference here in the Housing
3 Incentive Program is that sites would be eligible to eliminate the 50 percent lot coverage
4 requirement. So, all the other standards would still apply in terms of daylight plane and
5 setbacks but this would give a developer or an architect a little more flexibility in how to build
6 out the envelope on an El Camino site.

7

8 So, this next slide is showing what's outside of the ordinance, so none of these items are in the
9 ordinance but we did talk about them a couple weeks ago. So first this idea that the
10 Commission was interested in removing the legislative requirement to establish the Affordable
11 Housing Overlay. So essentially making that by right for certain types of projects, perhaps just
12 for projects below 60 percent AMI. Secondly, the Commission was concerned that we had a
13 couple different parking standards throughout the code. So right now, the Affordable Housing
14 Overlay has a standard of .75 spaces per unit and that you would receive if you go through the
15 legislative action to receive the overlay. What we're proposing in the ordinance is a standard
16 based on bedroom count and so that changes depending on what level of affordability and so
17 this is really how your code is organized today. And instead of going through a waiver process
18 we've just made it by right, so if you're proposing an extremely low-income development then
19 you get this 40 percent reduction by right. So, it's two slightly different standards, one that
20 would be permitted by right, one that you would go through this AH Overlay legislative action

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1 and we want to see if you want to make changes to that or allow those two standards to go
2 forward. Third, this is another Affordable Housing Overlay item, right now in the overlay you
3 can – you only have to do 50 percent – excuse me 50-square feet per unit of usable open space.
4 Whereas I mentioned the standard across the board that we’re proposing is 150-square feet.
5 So, is that a standard that we want to apply across all affordable projects by right? And then
6 lastly, Number Four, this was an idea that received mixed feedback at our last meeting, this
7 idea of eliminating the parking in-lieu fee option for office developments. And the idea here
8 was that it just gave an incentive for office that residential could not take advantage of and it
9 would be a way to level the playing field.

10

11 So just graphically, you know I showed that side by side table of how SB-35 compares to the
12 Housing Incentive Program and this is just showing graphically. So today you can – let’s use
13 downtown as an example, you can do 1.0 residential FAR, you could get up to 1.35 under State
14 Density Bonus Law, with this Housing Incentive Program you could go up to 3.0 and then so
15 thinking about other ideas -- other regulations for your consideration. What if we had a
16 standard that allowed you to get more FAR for 100 percent affordable projects so something
17 you may want to consider?

18

19 So Environmental Review, we expect that this ordinance is consistent with the Comp Plan Final
20 EIR and so that would be covered under that. Again, the Comp Plan EIR included a number of

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1 mitigation measures as well as project improvements that would be implemented along with
2 any new housing that was built over the next 20-years. So, Staff's recommendation is to
3 conduct the public hearing, recommend approval of the draft ordinance for the Council and
4 then consider or make any recommendations about these other ideas that we've brought
5 forward on additional regulations. Thank you.

6

7 Chair Lauing: Ok, great, thanks. Those slides clarified a number of items that we'd talked about
8 in the pre-meeting and in pre-meetings as well. Just before we go to public comment I want to
9 make an overall, just kind of set the stage for the ordinance discussion tonight. As you know
10 we've been at this for six meetings now and I'm sure we can get through it in another six
11 meetings, if not tonight, but I think it's been very productive and very thorough. The initial
12 impotence for this is the Housing Work Plan that Council passed in January and this is the
13 February draft that I am holding here. There's a lot of detail in there that Staff worked on
14 laboriously and many, if not most, of the things that are in that Housing Work Plan, have some
15 place in the draft ordinance that's in front of us. And of course, we also have some state laws
16 that were mentioned here that changed the rules in the state and in the community. And
17 bottom line all of this is intended to get more housing in the state and also here in Palo Alto
18 and so that's – I know that's kind of redundant but that's the direction that started this. And I
19 just wanted to mention that in all of our prior meetings we kept asking ourselves and publicly
20 as well privately, is this change we're making really going to incent new housing? And I know

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1 Staff did that before they even wrote anything down and then we discussed it. And on the
2 other side, we also said what are the downsides or the collateral damage if you will? And I think
3 we have fairly looked at both of those and nothing is going to change tonight except that now
4 we see it in writing for the first time. So, it's crucial that we make sure the words match with
5 what we need to get done. And I know that of the six of us here tonight there's things in there
6 that some of us squirm about and there's something that aren't in there at all but the idea is,
7 tonight particularly, is which some of these downsides can we live with for the greater goal of
8 accelerating the housing development in Palo Alto. So that's kind of the task in front of us in the
9 next few hours. So, with that, I'd just like to start off on the public comment and the first
10 person is David Baron.

11

12 Mr. L. David Baron: Good evening, I – as I said the last – at the last meeting I support the goal of
13 great density in downtown and that we should be increasing the density in both commercial
14 and residential in dense areas near transit. And I 'd like to see that eventually go further but I
15 would like to see this moved to the Council. I'm – so on a few other points I'm – I think I
16 opposed the elimination of the in-lieu parking options for commercial development. This seems
17 like a pretty big change and it seems like it would result in basically encouraging construction of
18 more parking which doesn't seem like the right – it doesn't seem like what I would want for a
19 transit-rich downtown area. I'd rather not encourage more parking right next to transit
20 downtown. If that's needed to tip the scale in favor of encouraging more housing development,

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1 I'd rather – I would much rather see other ways to tip that scale. I support the proposal for
2 higher density for 100 percent affordable projects. I think it's great to see more density
3 wherever we can get it. I'd love to see more density in other places. The one other comment is
4 that when I was reading the proposal I did not understand what the weighted average
5 residential units size business was because it was not clear what the averages were weighted
6 by. But in any case, I encourage you to send this to the Council and thank you.

7

8 Chair Lauing: Ok thanks for your comments. Justine Burt followed by Rebecca Eisenberg.

9

10 Ms. Justine Burt: Good evening Commissioners. I was excited to see the proposed zoning
11 changes for downtown full of R-1. I would like to see greater density near transit as the
12 previous speaker said. There's a project that my family and some other families would like to do
13 together and I think it could be a model for adding housing without it being too scary to the
14 current residents. And it's based on the idea of increase obtainable housing, not necessarily
15 affordable housing but housing that middle class and upper-middle-class people could
16 potentially do. And what we'd like to do is to buy a teardown and build a condo building with
17 several units in it. So, a friend of mine who has purchased a few houses in Massachusetts and
18 then renovated them and sold them told me there's a 300 rule. So, he looks at building a
19 property that's worth \$300,000, he puts \$300,000 into it and then financing over the course of
20 the project costs about \$300,000. So multiply that by ten here for Palo Alto and you would

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1 need to find a tear down for \$3 million, not too hard, put \$3 million into it to build four or six
2 units for this condo and then financing over 2-3-years that it takes would be about \$3 million.
3 So, \$9 million total cost divided by six units would be \$1.5 million for each of the units for each
4 of the six families. Less expensive than any of the condos – lowest end condos that I’ve been
5 able to see in Palo Alto. So this – doing something like this would mean that zoning would have
6 to change and so I was excited to see the numbers, not so excited to see the R-15 to R-20
7 because that wouldn’t allow us to do that but something like the first picture that was up on
8 the slides with the two up, two down four units below market rate housing in – on Emerson
9 near Lytton is what I’m thinking of. So, it would be three-stories instead of two so six flats, so
10 1,300-square feet here and here, here, and here, here, and here, so that’s what I’m looking at
11 and so R-15, R-20 is too small. Please consider more R-30, R-45 and not just these tiny little
12 slivers of areas around town, a mile radius from each of the three train stations would be great.
13 Oh, and one last note, I’d be willing to get rid of my car if I could live in a place like this because
14 my son is going to college next year and I only really drive him around. Otherwise, I get around
15 by bike, by train, by bus, there are 12 buses and trains and shuttles that come into downtown
16 so if you allow us to do things like this near the train stations we won’t need as many cars.
17 Thanks so much.

18

19 Chair Lauing: Great negotiating. Ok, Rebecca Eisenberg and then Neilson Buchanan.

20

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1 Ms. Rebecca Eisenberg: Hey, my name is Rebecca Eisenberg, I am a resident of Palo Alto this
2 time for about 5 or 6-years but I've been a resident of California on and off since 1986 and a
3 resident of the Palo Alto area in some between the time I was at Stanford and here a decade.
4 So, I'm also a mother of two kids who are school age, I'm an attorney and I own a small
5 business. With all that said I'm here to urge the Commission to move these proposed housing
6 ideas to the next step. I think that – I speak on—I speak only on behalf of myself tonight but
7 having read a lot of the background materials, I'm confident that I speak on behalf of a lot of
8 Palo Alto residents that we're frustrated with the lack of agreement and indecisiveness in
9 movement on this Commission. Because according to formally Vice-Mayor in a memo she
10 wrote a year ago, now Mayor Kniss, that 76 percent of Palo Alto residents view the housing
11 crisis as at – or the lack of housing at crisis levels and I agree. As these to proposed initiatives, I
12 guess I have three comments. First is that all really that the department is asking is that you
13 move it to the Council and that this is a draft and for the sake of actually taking action, I think –
14 I urge the Commission to take the recommendation of the Planning Department that is now
15 amended these proposals so many times to at least move this to the next step. Because again
16 this is a draft and more analysis would be helpful by the Council itself. Second, I want to make a
17 point about parking in infrastructure. Having again read about these issues and followed I guess
18 from home and sometimes from here and reading the minutes for so many years these issues, I
19 think it's fair to say that Palo Altans don't oppose housing. What they oppose is traffic and I
20 agree with that. If you look all the – virtually if not literally all of the oppositions to these

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1 initiatives it has to do with cars on the street. I agree with that 100 percent so the question is
2 can we have more housing; can we have greater density without requiring more cars? I think
3 that putting the housing near retail and office and public transportation is one way to help
4 reduce the need for cars. But I think we also need to think about how we're going to invest in
5 that public transportation infrastructure. Following these discussions, I've been super
6 frustrated about the lack of ideas such as local shuttles. I live in Old Palo Alto where I've lived
7 for a while and if there were a shuttle to just take me here, that would be extremely helpful
8 and I wouldn't have had to drive. I think it would also be helpful for our aging population who
9 shouldn't have to drive. Ok, so I guess I'm done. The last thing is I hope that you'll consider
10 enforcing the – when – it's – residents or property owners who take units off the market. It
11 seems – and thanks for letting me continue. It seems very, very easy for developers, especially
12 those foreign, to buy up residential houses and then leave them empty. My understanding was
13 that was actually against the law in Palo Alto. At least in my neighborhood of Old Palo Alto, you
14 see empty houses all the time.

15

16 Chair Lauing: Thank you.

17

18 Ms. Eisenberg: I hope you'll stop that.

19

20 Chair Lauing: Neilson Buchanan followed by Patricia Saffir.

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1

2 Mr. Neilson Buchanan: Neilson Buchanan, Downtown North, how many minutes do I have?

3

4 Chair Lauing: Three.

5

6 Mr. Buchanan: The same, 3-minutes (interrupted)

7

8 Chair Lauing: Yep.

9

10 Mr. Buchanan: That was had given?

11

12 Chair Lauing: It's supposed to be three, yeah.

13

14 Mr. Buchanan: I just wondered what – exactly what time frame we're on.

15

16 Chair Lauing: It's 247 [note-2 minutes, 47 seconds] now so.

17

18 Mr. Buchanan: We're making a lot of assumptions that traffic and parking are going to be

19 diminished in an increasingly dense area and I'm not going to try to stand in the way of all those

20 assumptions because the state government has made some decisions that impact our density.

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1 One thing that's not been brought up in this process and I apologize for not being more active
2 in it. I had a very tough person summer and didn't spend much time on this but I want to
3 remind you that this is a parking area of about a square mile of prime real estate property. It's a
4 very, very tiny commercial core, it's less than a couple of blocks of New York City. We're making
5 some wild assumptions and what I'd like to ask is that you incorporate the principles of permit
6 parking in our considerations. Permit parking is one of the best constraints you have to control
7 vehicles. It defines how many permits are going to be sold outside the commercial core and
8 what I hope we do is maintain that limit with some reasonable degree of sharing. And I sense
9 every time I go back into the community there's pressure to expand parking into the
10 neighborhoods that I cannot believe. Lyft and the rent-a-car folks are all over the
11 neighborhood's parking, idling, waiting to get started. Dentists talk about their commercial
12 needs and they need more employees and we're making assumptions that people are not going
13 to use their cars for their foreseeable future which is about my lifetime; seven or eight more
14 years. So, I think we're going to have something – intrusions into the neighborhoods if you
15 don't grab this now and say how can the lack of parking garages, how can shuttles, how can
16 permit parking control the onslaught of the automobile? This is not going to work out. You're
17 going to have turf wars between merchants, between residents, all fighting even amongst each
18 other. We already have merchants against merchants fighting now so this is -- has not been
19 explained well to you. Staff is in a position that so much turn over -- now Jonathan is separate
20 from the parking people, you're not getting the full scope of the current conditions where

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1 there's Channing House, dentists, Water Course Way, Whole Foods, there's a turf war about to
2 start and it's only going to accelerate very slowly over the next 5 or 6-years. And you're not
3 prepared for it, you're making assumptions that are not holding true anywhere in metropolitan
4 California. Thank you.

5

6 Chair Lauing: Thank you. Patricia Saffir and then Kelsey Banes.

7

8 Ms. Patricia Saffir: Yes, Chairmen Lew – Lauing and members of the Commission I'm Patricia
9 Saffir as you just said. I'm a long, long, long time resident of Mid-Town Palo Alto. A good
10 number of citizens spent many hours of study and discussion and within put from many Palo
11 Altans arrived at our new Comprehensive Plan. The document makes clear that providing more
12 housing, especially affordable housing, is a high priority for Palo Altans. Now, our urgent need is
13 to adopt a measure to make achieving this goal more possible. Discussions with people who
14 know much more about planning and development than I do, including your own deliberations,
15 have convinced me that these proposals will indeed move us on towards advancing our goals
16 and I urge you to recommend the adoption to the Council. Let's not drag this out forever. Thank
17 you.

18

19 Chair Lauing: Thanks very much. Kelsey Banes and then Margaret Heath.

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1 Ms. Kelsey Banes: Good evening, my name is Kelsey Banes, I am a resident of University South
2 and a physiologist at the Palo Alto VA where I provide supportive services to formerly homeless
3 Veterans. I am here tonight representing myself and I'm not here in an official VA capacity. So,
4 I'll start by saying that the scarcity of housing in Palo Alto affects me both personally and
5 professionally. Professionally I'm very frustrated that our team cannot house Veterans
6 anywhere close to the hospital. The Veterans that I work with largely rely on public transit and
7 really struggle to get to their appointments at the hospital and get to work at the hospital
8 because they're coming from places like San Jose and even further south. And then personally
9 I'm unable to afford to live by myself despite a relatively high federal salary and I just have a
10 hard time envisioning a future for myself here in Palo Alto unless something changes in terms
11 of the housing. So as such, I'm generally supportive of this ordinance, I think it's stepping in the
12 right direction although it's insufficient to meeting our housing goals. So, I would support
13 increasing the density at California Avenue and on University. I wish this policy was expanded to
14 other areas including El Camino and would support increasing density for all kinds of housing,
15 not just affordable housing units because I think that all housing units are good housing units as
16 long as they're making efficient use of land. So, in that or on that note I would hope that or just
17 make the point that this plan doesn't go far enough to increase height limits which would make
18 for more efficient use of land. And I can see the concerns about parking but I think that you
19 could further reduce the parking requirements given that there's access to transit and I would
20 support regulating parking using the existing permitting system that we have. So, I agree with

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1 David Baron’s comment about not removing the commercial in-lieu fees as I have a hard time
2 seeing how this would actually suppose housing and I think it would just serve to increase
3 traffic. And I support any changes that streamline the process for developing housing because
4 the delay of housing has consequences. It means more people getting displaced, more demand
5 for parking, more traffic, and just encourage this Commission to keep in mind that an action
6 does have consequences for people and to find a way to take action on this plan and send it to
7 Council tonight. Thank you.

8

9 Chair Lauing: Thank you very much. Margaret Heath and then Jeff Levinsky.

10

11 Ms. Margaret Heath: Good evening. Well, I’m – I would like to ask you to slow down a little bit
12 and the reason is that I think you need to take all the time necessary to carefully consider the
13 impacts and ramifications of the details in the ordinance while you have the opportunity to do
14 so. We will live with this for a very long time. If the details are not carefully thought through
15 and anticipate mitigate impacts on neighborhoods in advance the likely result is the discerning
16 after the developer has invested time and money that the neighbors discover what the impacts
17 are likely to be. At which point what could have been averted with a more carefully written and
18 thoughtful ordinance is instead a development proposal primed for problems with the
19 neighborhoods. Nobody wins when the developer loses time and money and Staff and Planning
20 Commission as possibly Council time to say nothing of the inevitable band feelings that result

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1 from poorly through ordinances. More ever, without neighbors feeling that their voice is being
2 heard, they organize and then they push back. And then with the delays, we probably would
3 end up with a little bit less housing than if it is more carefully thought through in the first place
4 so that the process runs much more smoothly, thank you.

5

6 Chair Lauing: Thank you. Jeff Levinsky.

7

8 Mr. Jeff Levinsky: Good evening Commissioners. I brought a handout and I wonder if I can get
9 that to the Commissioners? So, what this will show you is I took the information we have from
10 the Fehr and Peers study on parking for multi-family housing and I compared it with the
11 standards that are in the ordinance or are currently in operation. And that's for nine projects,
12 you probably remember them from the Fehr and Peers study. Three are affordable housing,
13 three are market rate, and three are senior housing. And what I've done is shown you the grey
14 bar is the number of parking – cars parking on site or on the street nearby as measured by Fehr
15 and Peers. But in some cases, we have RPP data on how many permits have been sold to that
16 building so those are on-street parking. And what I want to -- I put a red star next to each one
17 where the grey that is the amount of parking that has been – that is there at the building is
18 greater than the blue bar which is the amount that you would require. And I put red stars next
19 to six of the nine because that's what the ordinance would do. They would remove the
20 requirement for parking to the point where these buildings would be under parked. Frankly,

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1 this is an utter disaster. It's like going -- taking nine classes in college and getting Fs on six of
2 them. By the way of the others, one is more or less a tie, that's the Tan Plaza but we don't have
3 on-street parking information for that and finally that there's the Mark and Steven's House
4 both of which are usual circumstances. So basically, what this chart is telling you is that if you
5 just look at the data you've been given, the data on parking and the data on what the
6 requirement that are proposed in the ordinance, this is going to create a disaster. And as the
7 previous speaker points out, that's not really good for producing affordable housing. There's a
8 better way and the better way is that instead of pretending that parking isn't needed -- the
9 Wilton Court neighbors can tell you how bad that situation is going to be and who knows where
10 that will end up. Instead, why not speed things up by having the City simply provide the money
11 that's needed to put in the parking? That way the project knows that it will get its parking, the
12 neighbors know that there won't be more cars on the street, it's really a good solution and one
13 thing that I want to appoint that I haven't heard made yet. When you under park a building not
14 only is that an inconvenience to the residents and a problem for the neighbors but it's actually a
15 real honest to god safety issue because people come home late at night, they can't find a
16 parking space at their building, they end up parking a block or two away. In my neighborhood,
17 some people end up actually parking many blocks away because they're from East Palo Alto and
18 obliged to go quite far to find parking. That's a horrible safety issue and of all the issues before
19 you, I think that you should really give grave concern to the point that people are going to face
20 because we're taking away their parking spaces. Thank you.

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Chair Lauing: Thank you. Kelly Stevens.

Mr. Kelly Stevens: Good evening, my remarks are going to be a little more about my personal experience and the broader housing issue. I came here 2-years ago for an opportunity, I was pretty impressed by the town of Palo Alto, it's pretty lovely, I could see myself here for an extended period but that's easier said than done. I've had various living situations, two in Palo Alto, then Mountain View, recently I moved from Palo Alto to Portola Valley because I just couldn't justify the expense to live with roommates in a fairly dilapidated apartment. That was what I could get, so while that's an annoyance to me, I can deal with it. I was not literally forced out of Palo Alto but it would be different if I didn't have economic security and I understand that my decisions have a direct impact on people with less economic means. People who are being displaced from Palo Alto to Mountain View and Mountain View to San Jose and some people who are being displaced out of the Bay Area entirely. This housing measure is not radical. I have honestly seen a few developments for example in San Carlos that you could find a lot to criticize about. I have a very little worry that that's the realistic concern here in Palo Alto given the new developments that I've seen being built and I would encourage the Commission to move forward so that we can by the end of the decade make a difference in the housing crisis. That's all.

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1 Chair Lauing: Thank you. Pratima Shah, that's the last card I have.

2

3 Ms. Pratima Shah: Good evening Commissioners, my name is Pratima Shah, I'm an architect, I
4 work with Joseph Bulimar Architects who is from [unintelligible] of mixed-use buildings. Our
5 office is at 102 University which is a mixed-use building with an office on the first and second
6 floor and third and fourth are the residents. Currently, we are working on a project on – in CN
7 District on El Camino Real and it's a small lot, 6,000-square feet and has been vacant for the last
8 30-years. So, I feel it's a golden opportunity for Palo Alto to see a good mixed-use building
9 there. We have been working with the Planning Staff and have come up with six solutions over
10 the last one year. These are all schematic designs and trying to meet all zoning and parking
11 requirements for this tiny lot. We are proposing two office spaces and three residential units.
12 The current residential density allowed is RM-15 where we can only do two residential in its –
13 by the residential – [unintelligible] residential density. And it is in a multi-family residential
14 district so we have to have a minimum of three residences here, so for this project to be
15 feasible, we need to request residential density amendment in which we are proposing in this
16 code requirement so it would be super beneficial. Secondly, parking requirement for two
17 resident – single bedroom residential units we need to park three cars so parking needs to be
18 reduced too. If you see the Baron/Ventura area of El Camino district, all lots are around 6,000-
19 square foot – feet and if there has not been many developments going on the last few years
20 and this is the only project mixed-use building we are proposing. So, if we go with these new

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1 changes it will definitely revitalize the underdeveloped CD District and it's a really good
2 opportunity for housing. So, I would request the Commission to please consider this and
3 propose these changes to the ordinance to Council. Thank you.

4
5 Chair Lauing: Thank you. That's the last speaker card I have so we'll press on. So, if we turn to
6 our Packets now. Procedurally those items that appear on Packet Page 26 that Jean recapped
7 had been added to the text of the draft that's in front of us. But we've not – we haven't
8 approved those or disapproved those, so they're just there like other items for be – for
9 discussion. And then the discussion items that are on Page 27, yes, the idea is to pick those up
10 after we get through the whole ordinance. I think it would be really, really important to try to
11 get to some of those at the end of this discussion so we can debate those and add them if we
12 can get a majority on that.

13
14 So first I'd like to start with sort of general, high-level questions to the Staff and actually not do
15 a motion but keep them relatively high level. And then we can go in and maybe take a motion
16 and then just kind of run through it from start to finish. So, anyone who wants to ask Staff some
17 of the bigger questions light them up. Commissioner Alcheck.

18
19 Commissioner Alcheck: Well first thank you for coming before us yet again. I just want to
20 suggest that I thought that the unit mixed concept that you came up with was a very creative

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1 solution to the varied feedback that you got in the last couple meetings. I am impressed. I think
2 one of the things – you know I have this view that we don't really have the expertise on the dais
3 to determine unit mix and there's a market component to that that I rely on. But I think what
4 you've done is you've created a lever that would be really easy to adjust in the future. And so, if
5 5-years from now the community of decision makers determine that the mix that we're getting
6 it not appropriate, which I don't know how they would do that but when they're there, this
7 would be a really easy lever to change. You could adjust that number and immediately the
8 product would change and so I think that was very – I'm very – I just – I – it didn't occur to me. I
9 think it's brilliant because it allows some flexibility to developers to present what they're going
10 to present and it gives you an easy way to effect it moving forward, so kudos, that was a good
11 one.

12
13 I'm a little confused – there's a slide – you know one of the things that I – based on comments
14 that we've – people have made on this dais, there's a part of me that doesn't really – there's a
15 part of me that worries that we don't really understand how powerful SB-35 is. If we don't
16 mind putting that slide back up there? This is the slide where you sort of compared it to – it's
17 on Page 13 of your PowerPoint. Are the -- the line that says 50 percent and 15 percent, is it in
18 your view that this is the same category of affordable? Because – I want to mention that
19 because it's my impression that the category that meets the 50 percent affordable requirement
20 is quite a bit more lenient for SB-35 than our 15 and so it's not really (interrupted)

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Ms. Eisberg: (off mic) No it's 80 percent [unintelligible]

Commissioner Alcheck: Oranges to oranges.

Ms. Eisberg: I can double check but I think the SB-35 requirement is 80 percent of AMI.

Mr. Albert Yang, Senior Deputy Attorney: And the City's Local Inclusionary Ordinance is a mix of 100 percent and 120 percent AMI.

Commissioner Alcheck: Right so look, I'm – I wanted to make one more point about this that occurred to me while I was preparing for tonight and I'm going to suggest this and I don't think it would be legally prudent to sort of provide a legal opinion on this. But I would suggest to you that it is not clear to me that the office cap could stand in the way of a building that met these criteria. So, if a developer came forward under SB-35 proposing a 2/3s residential project but their office component didn't qualify because it somehow exceeded your 50,000-square foot annual cap. It's not clear to me that the state – and I don't really think it makes sense for the Council to sort of take a position on this now. I think that's got to be studied but I think one of the things we really have to talk about here is the state has essentially determined they don't like the way we're doing it. And they're going to create this really big incentive and what

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1 happened in Cupertino with Valco was that the City really went through a lot of gymnastics to
2 try to create something that the developer would choose instead of the SB-35 option. And I
3 think our goal today should be too – I think our goal as a City through this process should be to
4 try to create something that we would prefer to SB-35 and so what is SB-35? That means that if
5 it's close enough to the transit there's no parking requirement; not for the commercial; not for
6 the residential; not for anything and that is a problem. And I am concerned that if we don't
7 create something appealing enough for developers who ultimately, I think would prefer to work
8 within the City's guidelines then to our risk. And so, understanding what we're comparing here
9 when you say 50 percent versus 15 percent I think is important. I think we should take note that
10 we're talking about 80 percent versus 120. Not to say that that's not appealing, just so that you
11 – we understand what we're comparing.

12
13 Ok and then to go back to the one change that I just want to understand better. What was the –
14 I was confused a little bit because I understand your recommending removal of the retail
15 requirement in the RM District but in a different page of your Packet it said allow residential –
16 this is on Page 10. Allow -- in the CD(C) District allow residential-only development accept in
17 Ground Floor Overlay and where retail preservation applies. Does retail preservation apply
18 everywhere? I was a little confused about in the CD(C) District on Page 10 where would that
19 caveat, accept where retail preservation applies, be relevant because I thought retail
20 preservation was Citywide.

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Mr. Lait: So yeah, the regulation applies – I wouldn’t go as far as to say Citywide but it’s in the commercial zones where retail or retail like uses are permitted or conditionally permitted. So that’s the bulk of the commercial zones -- all of the commercial zones and some other areas. The – so where it wouldn’t apply is say downtown where you don’t have a retail or retail like use already established and so what we’re saying is the Retail Ordinance doesn’t apply there because you don’t have any uses that are to be protected. It’s already a different type of land use. So, what we’re saying is where there is retail or retail like the ordinance applies.

Commissioner Alcheck: Ok so I read this as sort of when you say residential only you’re not being really specific about affordable. Was there any – I thought based on our – my notes from last time that there was a little bit of a discussion about considering exempting retail requirements if we achieved a certain percentage of affordable. So, I had suggested we may want to have a caveat for 100 percent affordable and then the second suggestion I had made -- and I know we didn’t really do straw voting but the second suggestion was is there a lower amount like if we got 80 percent affordable? So, is there – am I missing that? Did I just not find that?

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1 Ms. Eisberg: So, on Packet Page 52 which is the Retail Preservation Ordinance there's an
2 exemption added, Number Four, to exempt 100 percent affordable projects from the Retail
3 Preservation Ordinance. So that would apply no matter where that project was located.

4

5 Commissioner Alcheck: In all the zones?

6

7 Ms. Eisberg: In all of the zones.

8

9 Commissioner Alcheck: Ok.

10

11 Ms. Eisberg: And then separate from that, say you were in downtown but not on the GF Overlay
12 and on a site that didn't currently have retail or retail like uses on the ground floor you could do
13 100 percent residential project.

14

15 Commissioner Alcheck: Ok and then last comment on these or second to the last comment
16 would be that I think that the calc [note -calculation] that you created for the rooftop open
17 space is a good start. I – 75-60 [note – 75 percent-60 percent] – feels like a rational approach to
18 this idea of encouraging the lots to be used more efficiently because you're going to allow for
19 some open space to be utilized on the roof. I think – I don't think anybody could really
20 articulate that 60 and 40 [note – 60 percent and 40 percent] would be better but it's a good

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1 start and I think that if – regardless of whether those end up being the numbers that’s actually
2 a good place to start. Where you have the downtown a little bit more bulky if you will and the
3 California corridor being less bulky so liked that sort of thoughtful approach.

4
5 And then the last thing is I felt like the addition of this commercial in-lieu fee was not – it’s not
6 something that I don’t think deserve debate, it just seems out of place in this particular plan.

7 Again, look (interrupted)

8
9 Chair Lauing: Are you talking about Package [note – Packet Page] 28 on the discussion items?

10

11 Commissioner Summa: Yes.

12

13 Commissioner Alcheck: Yeah (interrupted)

14

15 Chair Lauing: We’re not on that yet. We might not even get to that tonight.

16

17 Commissioner Alcheck: That’s fine.

18

19 Chair Lauing: Let’s hold that.

20

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1 Commissioner Alcheck: I hope we get through all of it tonight but I just wanted to articulate
2 that because that felt new to me.

3

4 Chair Lauing: Yeah well, we'll debate that later.

5

6 Commissioner Alcheck: Ok.

7

8 Chair Lauing: Great.

9

10 Commissioner Alcheck: I think what I sort of conclude would be as we're beginning to have this
11 discussion is that there's virtually nothing in your suggestion that I don't think is worth trying.
12 And so, I would just suggest to my fellow Commissioners as we begin to create consensus on
13 this – on our recommendation that every change you make or recommend it represents a
14 compromise on my part. Because I will support this – the motion to move this forward but
15 every change we make that essentially weakens it would represent a compromise and so with
16 that I would pass it on.

17

18 Chair Lauing: Commissioner Gardias.

19

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1 Commissioner Gardias: Thank you. I am eager just to dig into this ordinance and I would like to
2 just see us going through sections by sections.

3

4 Chair Lauing: We will.

5

6 Commissioner Gardias: And I'm sure that – I also have a number of questions to the Staff but
7 because they are tying to different sections I'd like to just hold up and ask those questions at
8 the time when we're going to review the specific section.

9

10 Chair Lauing: I just want to get any big issues out on the table before we get into the things.

11 Commissioner Waldfogel.

12

13 Commissioner Waldfogel: [unintelligible – off mic] process. Are you looking for textual analysis
14 or what are you looking for tonight in terms of feedback?

15

16 Mr. Lait: What we're looking for is action on the ordinance.

17

18 Chair Lauing: So, I don't understand the context of your question.

19

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1 Commissioner Waldfogel: The context of my question is that I think that – I mean great work. I
2 think you’ve done – I think you’ve listened to comments that we’ve made. I think you’ve crafted
3 a great compromise position among a diverse group that could argue a variety of different
4 positions. I think there are some gaps, I mean if I were asked to act on this as an ordinance as it
5 sits in front of us tonight, there’s more information I would ask for. Particularly in the context of
6 massing and circulation studies that these kinds of standards would lead too. I think it’s really
7 hard to know exactly what we’ll get as a result of some of these changes but we don’t have
8 those in front of us tonight and I’m just not sure what to do. I mean one course of action is we
9 could say ok, everything in there is directionally positive. Let’s hope that that work gets done
10 sometime over the next couple of months as this goes through Council or we could say hey let’s
11 continue this until we can get that information. So, I’m sort of looking for some guidance on
12 what’s a practical way to move forward with this.

13

14 Chair Lauing: Does Staff want to comment?

15

16 Mr. Lait: Well sure so I think that if – the ordinance that we have here is a reflection of the
17 conversation that we’ve been having since the early part of the year. And we feel like we’ve
18 captured – I understand this is the first time you’re looking at the ordinance but the language –
19 I mean this is the technical part that we do without legal Staff and our planners. And so, taking
20 those – the context and we’re putting it into code language and so we don’t feel like we’ve

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1 produced anything here that's new tonight other than the four or five discreet little changes
2 that we noted. So, if there are elements of – to respond to the massing I mean we're not going
3 to – I don't know that we're going to be able to be responsive to the massing but if the – and
4 again we would – I'll comment on that maybe later. If that's something that you want us to try
5 to put together as this makes its way onto Council we can certainly endeavor it to do so. I would
6 be concerned if we pushed off action on this ordinance for that model at this point where we
7 started this on March 14th and here it's October 10th.

8

9 Commissioner Waldfogel: Yeah but I mean what we've done is we've looked at things piece by
10 piece and now we're – its really just the last two meetings where we've started to look at
11 combinations of some of the levers and knobs that we can turn and there are a bunch of issues
12 here. For example, the open space standards discussions, I have had more time to think about
13 that in depth since our last meeting and I've realized there – some of the discussions we had
14 about that trouble me a little bit. Not necessarily enough that I'm going to throw my body in
15 front of the bus but I think – I really believe we need some policy direction on open space that
16 is not at ground level because in the residential districts we do require developers to devote a
17 lot of space to setbacks. Essentially creating visual view-scapes out of private space that we're
18 not requiring here in the commercial districts and I'm a little troubled by some of the direction
19 on that. I mean there are other aspects, I think that our BMR standard is too low. I mean if you
20 do the math on the SB-35 example of 15 percent or 50 percent affordable versus the HIP 15

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1 percent. You if you look at say a hypothetical 30-unit project under SB-35 you'd have 15
2 affordable units and under 15 percent standard, you'd have 5 affordable units. So, there's a
3 pretty big gap between those two and the fact that developers are actually responding to the
4 SB-35 incentive in other jurisdictions and going after this 50 percent tells me that even a 25
5 percent would be – probably be a reasonable affordable standard. So, is the 15 percent
6 something you're proposing as a permanent fixture of this HIP or are you proposing that that's
7 something that we'll take up next year?

8
9 Mr. Lait: Yeah so, I – it's proposed – well so I'll say its not proposed at 15 percent, its proposed
10 – what is required is compliance with the City's Below Market Rate Program and the
11 Commission knows through conversation and the Work Plan that – in here right? This is one of
12 our 2019 goals is to return to the Commission and Council with a study and possible changes to
13 the BMR program to go from 15 to 20. And we're also looking at applying the fee to or applying
14 that also to rental housing. So, we're not stating that it's 15 percent, we're simply stating that
15 whatever the program is that's what compliance is, so if that goes up, the requirement goes up.

16
17 Chair Lauing: We're those your comments? I just wanted to tag on there for – just a could of my
18 big points. One of them was very similar to that which Commissioner Waldfogel brought up at
19 the last meeting and I think talked you Jean about potentially presenting some massing studies
20 because we don't have the expertise up here to draw those ourselves or do the calculations.

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1 And this is one of the areas that I'm not comfortable with because I don't know if we know
2 what we created and so I think those are necessary. I mean if I was getting this ordinance as a
3 Council Member I would not be comfortable making a vote on that unless I saw what these new
4 buildings were going to look like with the relaxed standards. I'm not opposed to them, I just
5 think there's a bit more data needed visually. So, one idea – and of course I mentioned last
6 meeting, the BMR, it's unfortunate that – I know that it was directed by Council to come in '19
7 but the inclusionary and the palmar [note -phonetics] and all that is really important for the
8 affordable. So, I know we'll get to that and it's just not going to happen now, I get that but what
9 I'm just tagging along with that is one thing we could do – I do think we need to give
10 Commissioners the opportunity to talk about sections of the ordinance that they think are off
11 or are great. But one thing we could do is go ahead and approve the ordinance not necessarily
12 with conditions but with strong recommendations, for example, that you need to see what this
13 looks like in terms of real buildings and we'd like to see the BMR as soon as we could get it
14 which I know you're already doing. There's no criticism whatsoever intended for Staff on that
15 because I know it was scheduled for next year.

16

17 Mr. Lait: Well thank you and it wasn't taken that way. It's -- we've actually advanced it
18 ourselves because we understand the importance of that issue. It wasn't even something that
19 we were going to pick up until 2019 and we're already several months into it and expecting
20 some draft reports into it. I would expect that the Commission will be having hearings on that if

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1 not toward the end of this year, early next year. So, we're well underway in working on that
2 and the massing models, we've heard that and Jean and I have been talking about that and
3 we're exploring our options. It's just going to take us a little bit more time to get that put it
4 together. We certainly couldn't endeavor to try to have something for the Council as you've
5 requested. The quality of that may not be as optimal and we don't want to produce something
6 that's not good (interrupted)

7

8 Chair Lauing: Sure.

9

10 Mr. Lait: And in flames some kind of issue or concern but we want to get it right and so we're
11 working and exploring ways to do that.

12

13 Chair Lauing: Ok great. So, let's see if any other Council Members [**note -Commissioners**] have a
14 bigger picture but then we'll jump into the ordinance and we respect the fact that we're not
15 trying to wordsmith the ordinance. I think we do – well I'm asking that everybody do that.
16 Commissioner Summa was up next.

17

18 Commissioner Summa: So yes, thank you very much and I'm very sorry to have missed the last
19 meeting on this and thank you to the members of the public that came and speak. I wish there
20 had been a lot more of them but – and there's only two left. But I would associate my concerns

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1 with Commissioner Waldfogel and Chair Lauing. If I was going to make a decision on this today
2 I'd feel very unsure about what exactly what I was approving would look like. So, I – so making
3 recommendations, though not as serious, is also problematic. One of the big concerns – oh and
4 I wanted to know if you had any comments on this from a member of the public? But one of my
5 big concerns is that when we asked for Fehr and Peers to go back and redo the study, the – at
6 the end of the study the statistical analysis, the general observations, and conclusions on
7 Packet Page 100 – 106 or 5 do not make a distinction between the parking requirements for
8 affordable housing, multi-family affordable housing, and market rate housing. And actually, I
9 would say that they come pretty close to the Ad Hoc's recommendation for minimum parking
10 requirements and also a parking study that was done in 2016 for the affordable housing on
11 Homer and Alma. So, my concern is when we under park affordable housing complexes we do
12 two things, we hurt the people who live there who want to conduct their lives in pretty much
13 the same manner as the rest of us which unfortunately is very car-centric for most of us. And
14 we also hurt the existing residences nearby and this causes the opposition to the projects so I
15 would like to see a very realistic approach to parking in general. And then I agree with
16 Commissioner Alcheck that the – who knows if 60 percent for the Rooftop is the right thing. I
17 was struck when I missed the meeting last time about – and I can't remember his exact words
18 but Commissioner Gardias put it very well. And he sort of said, if heard him correctly, that we're
19 trading off – we're trading down because having open space at the pedestrian level, even if it's
20 not something people can use, it creates an urban landscape that has more emptiness in it and

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1 more light and putting it all or even 60 percent – I certainly think 60 is better than 75 but I think
2 that probably needs to be really thought about in more detail. And there was sort of a new idea
3 here about scaling AMI – scaling – parking requirements for below market rate housing based
4 on a percentage of AMI. And that may be a really, really, really good idea but I don't think the
5 Fehr and Peers studies didn't do that at all so I'm not sure if those are realistic numbers of
6 they're useful. I think that what I learned from one of the affordable housing providers that we
7 spoke to is that even if you give people passes -- and their San Jose and they surveyed their own
8 communities and they are big housing provider and I shared that with you I believe. That it's
9 only truly when you get to a certain level of income that you can truly afford to give up your car
10 because they're so necessary for people to conduct their – you know go to their jobs, go to do
11 their grocery shopping, help their children do after school things. So, my concern about under
12 parking is practicality and also fairness to the people that live near the projects and in the
13 projects. And then – so I also think the FAR jump in CN and CS is a big change, up from 1.5 to
14 basically a little under 1 or at 1. I think that's a big change and I'm not sure that I can support
15 that. And I know that this is not on the table tonight but I really would like our affordable
16 housing to not go up to 120 AMI. I mean I think it's more appropriate for it to be at the 80
17 percent AMI which is where you get the tax credits for affordable housing. So, it may not be
18 that significant that it says 120 and I know that this isn't on the table but I feel strongly about it
19 so I'll just mention it but I think it's more accurate for it to go up to the level were the funding
20 ends. Thank you.

-
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Chair Lauing: Ok Commissioner Monk [note-Vice-Chair Monk] just any broad questions and then we'll just jump into the ordinance.

Vice-Chair Monk: I had some comments and then a couple of questions. I want to at first acknowledge Jean for all of your hard work and effort and Staff. You've been at this for quite some time, this is our 6th meeting, you've been very diligent, I know you've – I've attended at least one of the meetings that you've held publicly, its been a huge undertaking and I just want to really strongly commend you and thank you for putting this together for us in such an orderly fashion; to you as well Assistant Director Lait. You know I just want everyone to be – I sent out this afternoon the Colleagues Memo as well as the Housing Work Plan. That's what we're here for, we're just here to measure up this ordinance to make sure that it meets what Council has been directing Staff to do and provide to us. We're just another piece of the puzzle to get this moving forward so I just think it's really important for us to not lose the big picture here. And the big picture here is to produce more housing in compliance with our stated goals, our Comp Plan, I can list all of the different reasons. So please look at those objectively and look at the ordinance objectively tonight.

I think what we have in front of us is a very modest proposal that will hopefully spur some housing production. It's not identified in here how much housing production we'll actually see

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1 as a result of this proposal getting implemented but I think it is a balance of competing interests
2 and I don't think this overly favorable of the maximum amount of housing that we could build.
3 So, I'm hoping that Council will actually take it a little bit further but I think for tonight it's
4 sufficient – should get – it sufficiently meets I believe all of the objectives that this Commission
5 has expressed.

6
7 I see that some of the community members have gone but we heard tonight from a couple
8 people some compelling stories about how difficult it is for them to stay here, for them to live
9 here, that they're moving, and you know I just want to alert this Commission to those voices.

10 Those are real people that are coming out here and sharing their stories with us. These aren't
11 long-term residents who've been living here for multiple, multiple years. These are renters,
12 these are younger generations, these are young professionals. We have a psychologist here who
13 works at the VA who is in risk of possibly not living here so we're at risk of losing an entire
14 generation of people if we don't take a more liberal approach to our housing production needs.

15 I really want to encourage you to please recall those stories we heard tonight and do your best
16 to make more housing a reality for everyone in this community. I think people here have a true
17 housing insecurity and I think we need to do what we can to address it. We also heard from
18 someone who said that if she could live downtown that she would ride her bicycle. I've
19 mentioned to this Commission that I rarely use my car and I only have it because I have a
20 parking space. So, I don't know why we're hearing – having a – turning a deaf ear to people

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1 who are coming and telling us that they will use public transit, that they will use their bicycles,
2 that they will walk more, that they will be less car-dependent. These are people that will do
3 those things, I am a person that does those things. I rode my bike to the gym today, it's not a
4 big deal. It's a very bicycle/pedestrian friendly transit-oriented community here so please stop
5 ignoring the pleas from people that are telling you that they will not be as car-dependent.
6 There's not one person that has come here and said please build housing for but it has to have
7 parking in it. Not one person who would be the beneficiary of this type of housing has said only
8 build housing if it comes with a parking spot. I have only heard people advocating for parking
9 that are people that are long-term residents that are build owners. I have not heard a single
10 renter or a newer member of this community saying to build housing that has parking. Not a
11 single one. That represents half of our community so we need to listen to those voices. We've
12 also heard from people who are somewhat critical of this Commission not taking a decision on
13 items. I find that rather amusing but I did take note of it and I think that it telling that we're
14 having some feedback from the community that we are not moving things forward. I hope you
15 heard those comments like I did. I think there's at least three or four people mentioned that
16 they want to see a decision made tonight and move this forward. The passage of this ordinance
17 will literally enable us to build a better Palo Alto and a better future for our residents so when it
18 comes to making motions I would like to do so later on.

19

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1 Moving onto my questions, in regards to the changes that are presented here for the
2 downtown unit size we did have a discussion on it and I know that three, possibly four
3 members did not support restricting the unit size. So, I don't know how it – the weighted unit
4 type got changed. I'm not looking to make an amendment to the ordinance but what I'd like to
5 do it just take a vote right now if people do support that because my understanding was
6 different from what was presented here.

7

8 Chair Lauing: Well that's incorporated into the ordinance so when we get (interrupted)

9

10 Vice-Chair Monk: It's already incorporated into the ordinance (interrupted)

11

12 Chair Lauing: Right.

13

14 Vice-Chair Monk: But I would like to know if there was actually majority support for that
15 because when I went back and read the transcript I did not see it in there.

16

17 Chair Lauing: Well we'll know when we get to it because we're going to talk about that one and
18 then people can say that's fine or not so we're going to get there.

19

20 Vice-Chair Monk: Sorry Commissioner Alcheck?

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Commissioner Alcheck: (off mic) Why are we waiting? Let's talk about it now.

Chair Lauing: Because – fine.

Vice-Chair Monk: I just want to clarify, just by a show of hands where their folks, if you just raise your hand, that took issue with the unit size? That folk that actually wanted it to be – we can talk about it later.

Mr. Lait: Yeah, I think (interrupted)

Vice-Chair Monk: My understanding was that we wanted some sort of a regulation against having all penthouse units and things like that and mix of percentages that wouldn't exceed a certain amount. So, I just don't recall us all agreeing to a 1,350 standard, that's just seems kind of low.

Mr. Lait: You – ok so can I say a couple words?

Chair Lauing: Yeah, please do.

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1 Mr. Lait: You did not agree to a 1,350 standard because it never came up. This is something that
2 we did after the discussion to respond to what we understood to be the concerns that we
3 heard. And so, I'd be – the conversation was complex and there was our interest for
4 establishing the standard in the first place was to you know we don't want to go through this
5 whole process of granting more FAR only to find out that we've – instead of producing 12 units
6 on a development site we got four penthouse units. I mean that's what the aim is here and
7 what we're trying to achieve so that's why we established these – the restriction. We heard
8 from your colleagues and yourself that maybe the standard isn't – maybe that's not the right
9 number, the mix of uses we're interested in, we want more family type units and so the
10 approach that we've – so we heard that. And our response to that was ok, well, yeah, let's
11 allow for more units to take place on the property, more than 1,800-square feet but that on
12 average when you weigh each unit per the square footage that they're providing, that weighted
13 average cannot exceed 1,350. So that ensures a mix of housing types within the development;
14 two-bedrooms; one-bedrooms studios; three-bedrooms; four-bedrooms. I mean all of that
15 could be accounted for in a development when you used the weighted average. So, we lowered
16 the number from 1,800 because a weighted average at 1,800 would allow for even greater
17 units.

18

19 Vice-Chair Monk: I didn't know there was a weighted average of 1,800.

20

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1 Mr. Lait: It wasn't before.

2

3 Vice-Chair Monk: I thought it was just a straight 1,800-square foot.

4

5 Mr. Lait: That's right, it use to be a straight 1,800, you couldn't exceed it and so we recognized
6 the limitations (interrupted)

7

8 Vice-Chair Monk: Later on, this evening I would probably propose just bumping it up a little bit
9 from 1,350. I mean we can get to that later. So then on the rooftop space, I don't think we
10 actually opposed the 75 percent, especially in the downtown area but there was concern about
11 applying that level of open space to the Cal Ave area because it's just a different setup. So,
12 when we get to that section (interrupted)

13

14 Mr. Lait: And so, we reduced that to 60 percent, right?

15

16 Vice-Chair Monk: You made it 60 across the board but I think (interrupted)

17

18 Mr. Lait: No downtown I think is still 75.

19

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1 Vice-Chair Monk: Ok then I must not have – the section of the ordinance on Page 14 I’m
2 looking at (interrupted)

3

4 Mr. Lait: We’ll double check that but I think the intent was to keep it at 75.

5

6 Vice-Chair Monk: It just says 60 percent. I didn’t see a distinction in the ordinance between the
7 different zones but maybe it’s by zone and I only looked at one part of it. So, Commissioner
8 Waldfoegel mentioned the SB-35 standard at 50 percent that a lot of builders are building at that
9 level, I don’t know if those are in areas that have a 50-foot height limit. Do you happen to know
10 where this would be? What Cities – what communities are taking advantage of the
11 (interrupted)

12

13 Mr. Lait: SB-35? Yeah, you can speak to that right?

14

15 Vice-Chair Monk: Yeah what communities are taking advantage of it and what’s their height
16 limit or FAR that would allow for it because – I guess because I don’t see how we could – how it
17 would work here if we increased our (interrupted)

18

19 Ms. Eisberg: Yeah so, I do also work for developers so I’m working on now my third SB-35
20 application and I can speak to a couple others that I’m familiar with. And I would say one of

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1 them is a non-profit developer so they're proposing a 100 percent affordable projects anyway
2 and so it's easy for them to meet the 50 percent threshold.

3

4 Vice-Chair Monk: I think that's in the East Bay right but it's a much taller, larger building
5 envelope.

6

7 Ms. Eisberg: This one is not. It hasn't been submitted yet so I don't want to say too much but
8 the City is aware of it (interrupted)

9

10 Vice-Chair Monk: There was something on the news about 100 percent affordable in the East
11 Bay but it sounded like it was a tall, big building.

12

13 Ms. Eisberg: This is a five or six stories medium size lot. Another project that was submitted that
14 was 50 percent affordable and proposed by a for profit developer had a large retail
15 component in a district that has a very good retail economy. And so, a very high per square foot
16 retail rate and so that's what made the project pencil in part and the other part that made the
17 project pencil is that the units were in two separate buildings. So, there was one building that
18 was affordable and one building that was market rate. And so, it could be financed separately
19 and conceivably a non-profit developer could have come in and build that other component.

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1 So, some people refer to that as a unicorn project because there's not that many projects that a
2 50 percent affordable requirement is going to pencil.

3

4 Vice-Chair Monk: And could you see any of those projects working here?

5

6 Ms. Eisberg: No. I think (interrupted)

7

8 Mr. Lait: Sorry.

9

10 Ms. Eisberg: Go ahead. I think it would be really challenging for a for-profit developer to devise
11 a proforma with 50 percent residential units given the land cost, construction costs. There
12 would have to be maybe a 1/3rd of the project was office and that was what was driving the
13 economics of the site but we haven't seen that yet. There haven't been that many projects
14 under SB-35.

15

16 Vice-Chair Monk: And then in regards to the ordinance (interrupted)

17

18 Ms. Eisberg: More likely it would be a 100 percent affordable developer, you know a non-profit
19 developer that could come in because they wanted to avoid the public process or avoid CEQA
20 or whatever it was or no parking, yeah.

-
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2 Vice-Chair Monk: Well they would still have to buy the land and I don't know if there's even
3 land available for non-profits to do that because it also has to be near transit and all the other
4 (interrupted)

5

6 Mr. Lait: Again, it's new legislation, we're – everybody – all the communities are just trying to
7 figure out how to address it. We haven't had any applications filed, we've has some inquiries
8 but nothing panned out.

9

10 Vice-Chair Monk: Ok in the ordinance that we're going to look at because it is quite lengthy,
11 can you just tell us what is different in here that we – anything in here that we hadn't already
12 previously discussed or that isn't listed in the Packet on Pages 26 and 27? And the reason why
13 I'm asking is because we've spent five meetings discussing things in depth to come up with it
14 and the theory was that it wouldn't be a lengthy process to review the ordinance itself.

15

16 Ms. Eisberg: I think that the detail about the open space standards on the rooftop haven't
17 discussed at length. It was in here, we attached the ARB report at the last meeting, and the ARB
18 did have a meeting focused on that topic specifically but we haven't gone into a lot of detail
19 about the open space standards although they were presented a couple weeks ago. Yeah, the
20 discreet changes and then one item I mentioned in the Staff report in the PowerPoint was this

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1 change to the RM District around a change in the common open space requirement but that's
2 it. There shouldn't be anything else that's new.

3

4 Chair Lauing: Is that it?

5

6 Vice-Chair Monk: Yeah and then just the last question, just looking over the housing memo and
7 the Housing Work Plan, what's your assessment Jean on how these compare?

8

9 Ms. Eisberg: I think we did well in terms of the Work Plan, I know that the Council Colleagues
10 Memo did – and it might not be in the Colleagues Memo, I think it was added during the motion
11 when that Council Member – excuse me Colleagues Memo was moved forward -- was the issue
12 of teacher housing. We got a little gummed up on that a couple of meetings ago and so we
13 haven't done anything specifically for teacher housing but that's something that was in the
14 Work Plan and in the Colleagues Memo.

15

16 Chair Lauing: Ok.

17

18 Vice-Chair Monk: Well it says in 2.4.2 to consider eliminating dwelling unit densities and relying
19 on FAR and average unit sizes (interrupted)

20

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1 Ms. Eisberg: Right so (interrupted)

2

3 Vice-Chair Monk: But we didn't really do that, we're just (interrupted)

4

5 Ms. Eisberg: We – no, we have an eliminated – we're eliminating the Maximum Density
6 Requirement in the Commercial Mixed-Use Districts.

7

8 Mr. Lait: Yes, so two – so (interrupted)

9

10 Ms. Eisberg: So FAR will be the regulating (interrupted)

11

12 Vice-Chair Monk: So, where it describing that range of RM-20 and RM-40 (interrupted)

13

14 Mr. Lait: Right so let me just interject if I may? So, 2.4.2 is under subheading 2.4 which says
15 provide incentives and remove constraints for multi-family housing in these various commercial
16 districts. So, 2.4.2 is directly addressed when we've eliminated the density, this has nothing to
17 do with RM Zoning in this section.

18

19 Vice-Chair Monk: Ok, thank you.

20

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1 Mr. Lait: And to answer your other question about the 75 percent you can find that on the At
2 Places memo ordinance on Page 19.

3

4 Chair Lauing: Ok.

5

6 Vice-Chair Monk: I see it, thank you.

7

8 Chair Lauing: Ok let's jump into the ordinance, Page 30. Commissioner Gardias since you were
9 patient the last time.

10

11 Mr. Lait: Can we use the At Places memo or is that – because that's the ordinance that we're –
12 it's got the cleaner formatting and it's got the comments to help us and I apologize if you some
13 of you have [unintelligible].

14

15 Chair Lauing: With the three, right?

16

17 Mr. Lait: Yeah At Places Memo Number Three or whatever that is.

18

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1 Chair Lauing: So, I mean I guess we – I feel like you shouldn't go through all 25 Pages so can we
2 just take the first three sections and then see if anybody else wants to comment on it? Does
3 that make sense?

4
5 Commissioner Gardias: It makes sense, so we're going to pretty much refer to this Packet and
6 Pages in this Packet as opposed to the handout that we received earlier right? So, we're using
7 this as opposed to that? Ok, good.

8
9 Chair Lauing: Right so just so – to make sure we're synced up, I think we are so Number One is
10 Page 30, correct Jean? Number One in the handout fits with Page 30, right?

11
12 Ms. Eisberg: Right.

13
14 Mr. Lait: Ok great, great. Ok, Commissioner Gardias.

15
16 Commissioner Alcheck: [unintelligible – off mic]

17
18 Chair Lauing: I hope we're not going to wordsmith it, no. We're talking about policy issues. Go
19 ahead.

20

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1 Commissioner Waldfogel: (off mic) Can I ask a question about – is this aligned with what came
2 out of the ARB hearing on open space design standards? Is this language aligned with what
3 came from the ARB? I mean because we haven't seen those minutes or any report from that
4 ARB hearing.

5
6 Ms. Eisberg: It is the next level of what came out of the ARB so we did make some adjustments
7 based on their comments.

8
9 Chair Lauing: Yeah, Commissioner Gardias.

10
11 Commissioner Gardias: Thank you, so I will skip – so before then right because everybody has
12 his speech or her speech right, so I will just add three cents only so will also align my stand with
13 everybody else. So pretty much when I'm reading all of this and listening to some of the
14 comments I'm noticing they come on team. That pretty much I heard production – housing
15 production, I hear open space reduction, I hear parking reduction, retail waiver, and then
16 reduction in a variety of different places in lieu of housing production. First of all, when I hear
17 the word production it just, in my mind, it sets me in – at par with Karl Marx-Hof, you know the
18 building that was – that has one kilometer and 100 meters length. So, I don't think that this is
19 proper wording and I think that what sets me off also is that the fear that with some of the
20 changes, we want to change Palo Alto to the City that it is not. I'd rather see -- to meet the

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1 Council's requirements, I'd rather see an increase in FAR, increase in the height limit as
2 opposed to – and then retaining other amenities that we – that our residents enjoy as opposed
3 to limiting them in order to spur more of supply. That's the word that I like to use but sure, you
4 cannot win at also I pretty much only go after those that I don't like to have it in here.

5

6 So – and I'm going to go after the big items so (interrupted)

7

8 Chair Lauing: Yeah first three sections, take the whole first three sections.

9

10 Commissioner Gardias: First three sections?

11

12 Chair Lauing: Then we'll take notes on that.

13

14 Commissioner Gardias: So, I'm going to go after the open space, I don't know if open space falls
15 under the first three sections.

16

17 Vice-Chair Monk: (off mic) Let's just knock it out.

18

19 Chair Lauing: Yeah.

20

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1 Commissioner Gardias: It does, right? So pretty much the reduction in open space, that's fine, I
2 can agree with this. I don't think it's very significant, I'd like to maybe see it differently done but
3 it's appropriate. However, trading of open space with the rooftops that's something that I will
4 not support. It's just pretty much – it's a – if you want to know the reason pretty much the
5 rooftop would be a destination, an open space (interrupted)

6

7 Vice-Chair Monk: Sorry Commissioner, what don't you support? I didn't hear you.

8

9 Commissioner Gardias: Rooftop space in lieu of open space.

10

11 Chair Lauing: I see, ok.

12

13 Commissioner Gardias: And the reason is pretty much that rooftop is a destination and then it
14 may be fun for many at the beginning when it opens but then you may find that not many
15 inhabitants would be really visiting that space and truly using it for recreation or for many other
16 uses. So, I think that we should –with as much as I support rooftop decks and I think that we
17 should have them throughout I don't think that there should be a trade-off of one onto other;
18 that's Number One.

19

20 Then the second item that I see also within those first three chapters is (interrupted)

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1
2 Mr. Lait: So, while the Commissioner – while you’re looking into that I’m going to look to the
3 Chair to see if I can’t just interject here for a moment while you’re collecting your thoughts on
4 that. So, we have introduced an ordinance and so you’re looking at the ordinance language
5 now. We did have a bit of a dialog last – at the last meeting, Commissioner Summa, of course,
6 wasn’t present, but I feel like we went through a lot of the positioning of sort of where the
7 Commissioners were relative to these different standards. And I’d be – I’m a little bit concerned
8 about – there may be new things that you see because you’ve read it and you’re seeing – you
9 have a different perspective from what you had before and seeing it in ordinance form may
10 cause you to ask different questions that we didn’t ask before – that you didn’t ask before. And
11 so, I think we should focus on those as opposed to re-debating each of the line items that we
12 had previously addressed in the – at the last meeting. Right, if we’re going to go back and – I
13 mean there’s things in here that each of you likes and things in here that each of you don’t like
14 and I feel like we’ve had that discussion. We’ve now taken that and at the end of that meeting
15 on balance, everybody was supportive of it. Yeah, I get it, this is a compromise, it’s a
16 compromise ordinance. We’ve taken that concept, we’ve made it into code language and so if
17 there’s something that the way that we’ve written it, that’s where we’d like to get some
18 feedback. Did we not capture the issue as opposed to you know I don’t agree with this point or I
19 agree with this point because you’ll be able to vote on the ordinance and make your decision
20 on that. Is that clear as far as how we might (interrupted)

-
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Chair Lauing: I guess I'm anticipating from prior experience that – with the group that they are going to want to make some amendment to this ordinance.

Mr. Lait: I don't have a problem with that, I mean I'm not saying that we got it 100 percent right but what I don't want to do is sort of relitigate each of the additions –the different points that were discussed (interrupted)

Chair Lauing: Right but this is a very important to talk about so it's worth (interrupted)

Mr. Lait: I'm not suggesting that it isn't (interrupted)

Chair Lauing: So, we could say ok, we've already brought this up before, make a suggestion on what you want versus the language and we'll just vote on it without a lot of discussions.

Commissioner Waldfogel: Well just point of order.

Chair Lauing: Go ahead.

-
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1 Commissioner Waldfogel: I mean in the spirit of this is a – this represents a lot of work to try to
2 generate a compromise position, I mean we could just – we could go straight to a motion and
3 vote and see if we have a compromise.

4
5 Commissioner Alcheck: I completely agree with that process and I would just like to also add
6 that I'm very concerned with the idea of running this meeting where everybody is going to try
7 to debate the pros and cons of each item. That seems to me like a very bad way to run this
8 meeting. I suggest that we basically see if we can do exactly what Commissioner Waldfogel has
9 suggested. I don't think any of this is new and (interrupted)

10
11 Chair Lauing: Well I – wait – there's someplace in the middle here because there are going to be
12 people who want to propose something different than what's in here. So, I'm perfectly happy
13 to take a motion and see if people want to go to a vote.

14
15 Commissioner Waldfogel: And if there's straightforward code amendments that people would
16 like to propose but why – we could do that in the framework of a motion.

17
18 Chair Lauing: Yeah, perfectly, good.

19
20 MOTION #1

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Commissioner Waldfogel: I'll make – I'll move the recommendation.

SECOND

Commissioner Alcheck: I'll second the recommendation.

Vice-Chair Monk: I do have a question.

Chair Lauing: Question from Commissioner Monk [note- Vice-Chair Monk].

Vice-Chair Monk: If we vote on this and it passes what impact if any, would the discussion items have because (interrupted)

Chair Lauing: We would pick those up next and do those (interrupted)

Vice-Chair Monk: So those were not intended to be baked into the ordinance?

Mr. Lait: They are not in the ordinance (interrupted)

-
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1 Chair Lauing: Right.

2

3 Mr. Lait: And this process that Commissioner Waldfogel is recommending I think is exactly in
4 line with our expectations.

5

6 Vice-Chair Monk: And I have one just minor possible editorial change the ordinance.

7

8 Commissioner Alcheck: At some point, I'd like to speak to the motion.

9

10 Chair Lauing: Yeah, we're still (interrupted)

11

12 Mr. Lait: I think it's proper to have the motion maker speak right and then the seconder and
13 then we can – right, then the Chair can [unintelligible – crosstalk].

14

15 Chair Lauing: So, did you want to elaborate on that at all Commissioner Waldfogel? Otherwise,
16 we'll just let you second speak and then we'll go back to (interrupted)

17

18 Commissioner Waldfogel: No, I have nothing else to say.

19

20 Chair Lauing: Ok Commissioner (interrupted)

-
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Commissioner Alcheck: Yeah, I just want to suggest that it's – I think you all know why I would support this motion.

Chair Lauing: Right.

Commissioner Alcheck: I think one of the things that I'd like us to avoid tonight is a discussion where, for example, I engage with Commissioner Gardias where I suggest well the reason why we're removing the open space requirement is to encourage housing because the housing current requirements of open space are considered overwhelming for affordable housing developer. I don't think we need to go down the line and debate it and I do think that there is some unique issues that many of us have but I don't think that a straw poll version of the discussion will be effective. And so, what I would prefer to see is – first of all maybe there's support for the motion as it is, maybe there's specific amendments that the maker will accept that I would likely accept as well which I think at this point the process should allow for so that we can vote.

Commissioner Waldfogel: Can I speak (interrupted)

Chair Lauing: Ok.

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Commissioner Waldfogel: Speak to the motion. Yeah, I mean I think this does represent a lot of work to try to reach a compromise. One thing that I would really hope is that if we do pass this or something that's substantially like this tonight with a lopsided vote in some direction that the Council looks at that pretty seriously as a deliberate work product. Not just as a starting point to start to carry this to one extreme or another. So anyhow, I would just hope that this work that we've undertaken will carry forward and in that – that's the spirit that I want to move this forward.

Chair Lauing: Yeah so, I just want to make sure that we're not disenfranchising any Commissioner that wants to speak strongly about some items. So, we would be able to -- as people speak accept amendments if we want to go there.

Commissioner Gardias: Thank you. So, in this case, I'd like to propose (interrupted)

Commissioner Alcheck: Hey wait, hold on a second, can I just the Chair something? I would really request that you process this discussion in the form of specific amendments.

Chair Lauing: That's what I just said.

-
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1 Commissioner Alcheck: I think that to sort of allow general discussion without specific textual
2 amendments to the motion would be inefficient.

3

4 Chair Lauing: Yeah, no that's right. That's what we're saying, that if you want to propose an
5 amendment to be voted on or discussed then we can.

6

7 FRIENDLY AMENDMENT #1

8

9 Commissioner Gardias: That's exactly what I was trying to do so pretty much I'd like to propose
10 a friendly amendment to remove all the text about the usage of rooftops as part of the open
11 space.

12

13 Chair Lauing: So, can you direct us to that in the next copy?

14

15 Mr. Lait: [unintelligible – off mic] details of where it is, the concept doesn't – I'm not hearing
16 any support for the maker or the seconder on the concept of removing the roof decks.

17

18 Commissioner Waldfogel: Well me just – directionally I don't disagree with Commissioner
19 Gardias but I think that there's a – there's just a broader policy discussion about open space
20 that we need to have at some point. I'm just not sure that having that – that yanking that out at

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1 this point in the discussion is timely. So, the question is do you have a thought on how we
2 should proceed with that – how we should proceed with this open space discussion in the
3 commercial districts?

4

5 Commissioner Gardias: Well, in general, I think that this ordinance should not have specific
6 exclusion or inclusion of the rooftop space as part of the open space. What we should do pretty
7 much we should have a separate discussion as we had on the house rooftops separately on the
8 Cross-City Ordinance about the open space and then we can also include the rooftops. And
9 then pretty much have another ordinance about the rooftops throughout the entire City, that
10 would be my approach.

11

12 Commissioner Alcheck: If I could respond real quick?

13

14 Vice-Chair Monk: Commissioner Alcheck you've been responding and I've had my light for a
15 while.

16

17 Mr. Lait: Can we just see if there's support from the makers because this (interrupted)

18

19 Chair Lauing: Right that's what I was just going to say. I still didn't hear from the maker that
20 (interrupted)

-
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Mr. Lait: There's no point in debating it if there's not support.

Chair Lauing: That's right, that's right, that's just where I was going is you can either accept it and then we can have a debate on whether it should be deleted or you can delete it and it doesn't go forward.

Commissioner Waldfogel: (off mic) accept at this point.

FRIENDLY AMENDMENT #1 FAILED DUE TO LACK OF SUPPORT FROM THE MAKER

Chair Lauing: Ok so (interrupted)

Commissioner Waldfogel: [unintelligible – off mic]

Mr. Lait: I mean in terms of the process the – your colleagues have heard the request and it's not supported at the moment. Ok?

Chair Lauing: Right so Commissioner Monk [note-Vice-Chair Monk] Commissioner Gardias is still (interrupted)

-
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Vice-Chair Monk: Right so on that point, I just want to remind the Commission that we do have an opportunity to present our viewpoints to Council when this before Council. They expressed that it will be coming in November so just like the last Monday's meeting, whatever it was that I had to be available for some questions, we can just – after we have a discussion on in we can advance those positions to Council. I think the fact that it's in here Council is probably going to look at it and make some changes anyway. So, I don't know that us getting involved is going to have a big effect but I think that we collectively could come up with some viewpoints on it that can be put forward to Council. So, I won't share my opinions on roof decks at this point but I just wanted to share that with you antidotally.

Chair Lauing: Ok, carry on.

Commissioner Gardias: Let me look for other items I'd like to include in the motion and you can ask the others. I will come back to you with these specific paragraphs.

Chair Lauing: In the first three sections so far?

Commissioner Gardias: Yeah, I'll come back later.

-
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1 Chair Lauing: Ok.

2

3 Vice-Chair Monk: So, I just had a clerical question or (interrupted)

4

5 Chair Lauing: Clarification?

6

7 Vice-Chair Monk: Clarification, in the heading – oh it looks like you caught it in this draft I’m

8 looking at. The title still said RM-15 but (interrupted)

9

10 Mr. Lait: So, the change is to RM-15 and the ordinance makes it RM-20.

11

12 Vice-Chair Monk: Yeah so it still says RM-15 in some instances.

13

14 Mr. Lait: In the title? Oh ok. Right so that should be (interrupted)

15

16 Mr. Yang: We’ll just take a look through the ordinance to make sure we capture those certain

17 issues.

18

19 Vice-Chair Monk: Yeah just a take look through that all those words are updated.

20

-
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1 Mr. Lait: And Chair, if I may? With this motion on the table, it seems like the sectioning of one
2 through three and beyond may not be as needed. It's more – it seems – there's a motion on the
3 table and are there any specific issues that any individual Commissioner has relative to the
4 ordinance. Might be (interrupted)

5

6 Chair Lauing: Ok but then every Commissioner might go through 23 Pages and (interrupted)

7

8 Mr. Lait: But again, we're looking for amendments to the ordinance as opposed to a discussion
9 of the (interrupted)

10

11 Chair Lauing: Ok, the next light that's on is Commissioner Summa.

12

13 Commissioner Summa: (off mic) I was going to support – sorry. I was going to support
14 Commissioner Gardias's notion about open space but I didn't get called on in time.

15

16 [note – several Commissioners started talking at once]

17

18 Mr. Lait: On your – so Commissioner just so we're clear on the process – so Commissioner
19 Gardias has the floor, he had a friendly amendment, the makers of the motions didn't support

-
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1 it, he went on to his next item which now we're moving on to see what your – so that debate –
2 there's no debate on that. I mean (interrupted)

3

4 Commissioner Summa: Right, I know but that's why my light was on.

5

6 Chair Lauing: Ok. Alright so then other people that have amendments to the ordinance?

7

8 Commissioner Summa: (off mic) Are we doing the first three sections [unintelligible]?

9

10 Chair Lauing: Staff has requested that we just now do the whole thing which means that for
11 example if you get the floor you can go through 20 Pages.

12

13 Commissioner Summa: [unintelligible – off mic]

14

15 Chair Lauing: Staff suggested that we not go to the first three section.

16

17 Commissioner Alcheck: I know but there's a motion on the floor, the motion doesn't mean that
18 you can only talk about three parts of it, anybody can amend any part of a motion.

19

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1 Chair Lauing: I appreciate your input. So, Commissioner Summa did you want to speak at this
2 point or no?

3

4 Commissioner Summa: Sure.

5

6 Chair Lauing: Ok.

7

8 Commissioner Summa: So, I don't know if you guys want to – I don't know how we're doing this
9 but my concerns I've already stated them. I do not think the 1,500-square foot exemption for
10 parking in any zone where (interrupted)

11

12 Chair Lauing: Then you can just formalize that into an amendment to see if the maker would
13 except that.

14

15 Commissioner Summa: Ok I do not think the 1,500 – I would like to remove the 1,500-
16 exemption form parking – 1,500-square foot exemption for parking wherever it exists.

17

18 Chair Lauing: Ok Commissioner Waldfogel as the maker?

19

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1 Commissioner Waldfogel: I don't want to accept that and the reason is I just see this – I see this
2 as a necessary evil that – one of the ways that we can [unintelligible] onto retail is to be flexible
3 about parking.

4

5 Commissioner Summa: Ok.

6

7 Commissioner Waldfogel: [unintelligible]

8

9 Commissioner Summa: An amendment?

10

11 Commissioner Waldfogel: (off mic) Yeah if you want to see if there's support.

12

13 UNFRIENDLY AMENDMENT #2

14

15 Commissioner Summa: Ok, I mean this is going to take a long time if we do it this way but I
16 would like to make an amendment that the 1,500-square foot exemption for parking in retail is
17 not an appropriate reduction in parking standards if anybody wants to second it.

18

19 Chair Lauing: So, counsel we're back over to an unfriendly amendment here.

20

-
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1 Mr. Yang: Yep that's still appropriate.

2

3 Chair Lauing: Right.

4

5 Mr. Yang: So, the question is just whether there's a second and if there's not then we'll move
6 on.

7

8 Chair Lauing: I didn't hear that sorry.

9

10 Mr. Yang: The question at this point is whether there's a second for that unfriendly
11 amendment.

12

13 Chair Lauing: Correct, correct, we didn't. I just want to make – I knew the answer but I wanted
14 to hear you say it. If there's a second to that?

15

16 Commissioner Alcheck: (off mic) Just so that I'm clear on the process if there was a second how
17 would you treat this? We would all vote on that immediately?

18

19 Mr. Yang: No there would be a debate if necessary and then there would be a vote on that
20 unfriendly amendment.

-
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Commissioner Alcheck: And it would affect the standing motion?

Chair Lauing: Yeah.

Mr. Yang: Right if the amendment was adopted by the majority of the Commission
(interrupted)

Commissioner Alcheck: I could totally understand.

Chair Lauing: Ok is there a second for that?

Commissioner Alcheck: But that vote would happen before the – yeah, ok just checking.

Chair Lauing: Is there a second for that.

SECOND

Commissioner Gardias: Yes, I will second it.

-
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1 Chair Lauing: ok Commissioner Gardias seconds, now we are open for debate on that as well.

2

3 Commissioner Gardias: But I would like to just offer a change to this amendment. I believe that
4 1,500 should be – that there should be a 1,500-exemption for smaller properties. That
5 exemption should not be for the larger properties.

6

7 Vice-Chair Monk: Are you talking about the Retail Parking Exemption [unintelligible]?

8

9 Mr. Lait: Ok, ok I'm sorry I do need to interject (interrupted)

10

11 Chair Lauing: [unintelligible]

12

13 Mr. Lait: You're – that's not what you seconded.

14

15 Commissioner Gardias: That's correct but I'm now proposing a change to the amendment.

16

17 Chair Lauing: That would be a different amendment.

18

19 Mr. Lait: Don't second the amendment.

20

-
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1 Chair Lauing: Right.

2

3 Commissioner Gardias: No, I second it the way it was but I'm proposing a change.

4

5 Chair Lauing: You can't do that.

6

7 Mr. Lait: Don't second the amendment and then propose your own unfriendly amendment if
8 that's how you want to proceed.

9

10 Commissioner Gardias: I want to modify the original amendment.

11

12 Mr. Lait: Don't (interrupted)

13

14 Commissioner Gardias: I believe it's permissible.

15

16 Chair Lauing: No.

17

18 Commissioner Gardias: Can we have the (interrupted)

19

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1 Mr. Lait: Well listen I don't think that the maker of this substitute or this unfriendly amendment
2 is going to accept that. Are you going to accept some – so it's a non-starter.

3

4 Chair Lauing: Right, so we need another second instead of Commissioner Gardias.

5

6 Mr. Lait: Well he hasn't withdrawn yet, are you going to withdraw your second of that motion

7 [note - amendment]?

8

9 SECONDER WITHDREW HIS SECOND

10

11 Commissioner Gardias: That's correct, yes.

12

13 Mr. Lait: Ok.

14

15 Chair Lauing: Ok, alright, so we need another second for that. Ok so hearing none then

16 (interrupted)

17

18 UNFRIENDLY AMENDMENT #2 FAILS DUE TO THE LACK OF A SECOND

19

20 Mr. Lait: And Commissioner Summa still has the floor.

-
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Chair Lauing: Summa still has the floor.

FRIENDLY AMENDMENT #3

Commissioner Summa: Ok I'll try another one and that is eliminate the FAR increase in the CS and CN Zones.

Chair Lauing: Ok everyone heard that. Is there a second for that or wait, I'm sorry, we don't need a second. We got to talk to the (interrupted)

Commissioner Waldfogel: (off mic) Which table are you referencing?

Mr. Lait: And just to be clear you're talking about the increase to 1.5 for residential uses in the CN and the CS Districts. Ok and yes that's in the Housing Incentive Program Section.

Chair Lauing: So, either Page Number or Packet Number.

Mr. Lait: Page 16 on your – right on the At Places Memo Page 16.

-
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1 Chair Lauing: 16?

2

3 Mr. Lait: 16, 16-J – letter J. Maybe that’s I, middle of the page.

4

5 Chair Lauing: Commissioner Waldfogel is studying that.

6

7 Commissioner Waldfogel: [unintelligible – off mic] I just think this is integral to this HIP, that

8 without it we’re reverting to SB-35, and the experiment here is whether we have an alternative.

9 At least that’s my understanding.

10

11 Chair Lauing: That was a no, so that would have to become unfriendly.

12

13 FRIENDLY AMENDMENT #3 FAILED DUE TO LACK OF SUPPORT FROM THE MAKER

14

15 Commissioner Summa: Clarification from Staff, please? I believe that the HIP allows multi-use

16 buildings that allow commercial so office and residential correct?

17

18 Mr. Lait: Commercial is – would be an allowed, mixed-use would be allowed.

19

20 Commissioner Summa: Yes. Is there (interrupted)

-
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Mr. Lait: But commercial couldn't extend beyond the FAR that's already permitted, residential could dip into that commercial and get an extra .5.

Commissioner Summa: But that's all commercial including office and R&D correct?

Mr. Lait: Any of the permitted commercial uses subject to the existing regulations that we have about annual office cap and etc.

Commissioner Summa: Ok and another clarification I'd like is it the affordable housing – the AH combining district overlay zone already allows for a waiver of retail protection. Do we need it again in here in a different way do you think?

Mr. Lait: So, this is a separate topic from what we were just talking about with the FAR?

Commissioner Summa: Yes.

Mr. Lait: So right the Affordable Housing Overlay provides an opportunity for a non-profit provider to ask as a part of that legislative process for a reduction from the retail preservation. And one of the challenges that we understand is that every one of the asks that housing

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1 provider needs to make for affordable housing is another challenge in getting the projects
2 moved forward because it's this request that's being made. And so, to help mitigate and
3 streamline that process we've suggested that it become a by right opportunity as opposed to a
4 request.

5

6 Commissioner Summa: So then will the Ah combining district zone be amended?

7

8 Mr. Lait: No, we're not seeking to amend the Affordable housing Overlay.

9

10 Commissioner Summa: This is just an addition.

11

12 Mr. Lait: This is – yeah, a supplemental provision for those not participating in that program.

13

14 FRIENDLY AMENDMENT #4

15

16 Commissioner Summa: Ok. I also would like to make an amendment that the table – where is
17 it? Table that has the 80 percent – that has the parking requirements based on household AMI;
18 80 percent, 50 and 30. That be removed and that instead we go with the housing per bedroom
19 suggested by the conclusion in the Fehr and Peers report; which was their second report from
20 August 29 which is expressed in the conclusions that 1.0 parking space per studio and per one

-
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1 bedroom unit and 2.0 parking space per two bedroom or larger unit for affordable housing. And
2 it's not that I don't appreciate the nuanced version, I just don't think anybody studied it yet or
3 at least we haven't.

4

5 Chair Lauing: What page are we on?

6

7 Mr. Lait: I'll help the Commission with that, so on Page 25 is the table that Commissioner
8 Summa is referring too at the top of the page and then on Page 29 – well I'll stop there but I
9 have something to add to that maybe in a minute.

10

11 Chair Lauing: So, this is just the section on affordable housing because that's what, 25 is?

12

13 Mr. Lait: So – right, understood so -- and then to just add a little more -- yeah. So, this language
14 with the 40 percent, the 30 percent, and the 20 percent, this is existing language that we have
15 in the code today. And if you go to your Packet Page or your – on this – Page 29 on this
16 supplemental At Places Memo that we gave you, on Page 29 you can see the existing language
17 that exists for affordable housing projects. And again, similar to the conversation we just had
18 about retail preservation this – when a housing – low – affordable housing provider comes in,
19 our code already provides that you can do these reductions; the 40 percent, the 30 percent,
20 and the 20 percent based on the income level that's provided for the project and – but it's an

-
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1 ask. It's another ask and we know that parking is a challenge here in the community and we're
2 not looking to not have that conversation but it makes it difficult for housing providers,
3 especially affordable housing providers, to build the projects when they have to make this
4 request. And so, we set up this model, we believe it's consistent with the – it's generally
5 consistent with the findings on the parking study and I know there's different levels of interest
6 and support on that document but more importantly I think to our interest is that it's pretty
7 consistent with State Density Bonus Law. That if you are providing any kind of housing project
8 in the City you need to meet our – a multi-family housing project you need to meet our BMR
9 Program which in compliance with that when you comply with our local program, you are
10 automatically eligible – a developer is automatically eligible for a reduced parking standard.
11 Those parking standards are the ones that we proposed in the table. These affordable housing
12 reductions reflect some further refinements but our – that exist already in the code today.
13 We're just making them not an ask but by right.

14

15 Commissioner Summa: (off mic) Ok but then – but it doesn't – but the studies that we had from
16 Fehr and Peers which were the real data that we were given did not indicate those levels of
17 parking. And one of the concerns of the Ad Hoc – one of the ideas the Ad Hoc Committee had
18 was that because the state laws allow you to exceed those numbers if you do a study; that
19 shows you need that parking. And our recommendation was then that the – because it seems
20 evident that we do need that parking in these projects for the residents themselves and for the

-
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1 neighboring – the neighbors. That it allows – the Ad Hoc wanted to use City housing funds to
2 supplement to get that kind of parking and I just – I’m very sensitive to the fact that we’re really
3 under parking these buildings and that they won’t be successful for the people that live in
4 them.

5
6 Mr. Lait: So, thank you for that and I’m going to pause there, Chair and so we understand that
7 there’s an interest to eliminate that requirement. And if there’s any Commissioners that need
8 further context from the Staff’s perspective I’m happy to provide that. But there’s a request for
9 a friendly amendment I believe to remove that.

10

11 Commissioner Summa: Yes.

12

13 Mr. Lait: Ok.

14

15 Chair Lauing: Back to Commissioner Waldfogel.

16

17 Commissioner Waldfogel: Again, look I don’t disagree with the sentiment and I think that a
18 Council in the future may have to clean up some of these standards but in the – again in the
19 spirit of compromise I just want to – I think that these are within an acceptable range. They are
20 lower than I’d like to see ideally but you know I’m -- so a long way of saying no thank you.

-
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FRIENDLY NUMBER #4 DIED DUE TO THE LACK OF A SECOND

Commissioner Summa: I think I'll stop then because I think that the spirit on this body tonight is to advance this to Council as is and to let them change it and so it may not be worth me going through all of these.

Vice-Chair Monk: I think if there's more things for you to assert you should do it. If you want to take a minute I've got one I can (interrupted)

Chair Lauing: Yeah, we can go to some other folks. Yeah, Commissioner Monk [note- Vice-Chair Monk].

Vice-Chair Monk: I guess to continue the discussion on the parking, I thought we had studies that were less than that at .8 from Peers and (interrupted)

Mr. Lait: (off mic) I didn't hear the question.

-
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1 Vice-Chair Monk: I'll just pass on the parking issue right now. What was my amendment? Ok so
2 referring to Page 21 where we talk about retail preservation. Is this – why do we have this in
3 the ordinance? Does it have to be here?

4

5 Chair Lauing: Which one is this?

6

7 Mr. Lait: What page – are you on the At Places Memo?

8

9 Vice-Chair Monk: The correlation (interrupted)

10

11 Mr. Yang: So, Commissioner Monk [note- Vice-Chair Monk] the reason that this section is
12 reprinted in here is because there's language that's added on Page 23 at the end of that section
13 of the code.

14

15 Vice-Chair Monk: Alright just so my fellow Commissioners can follow along, I'm referring to
16 Page 21 to 23 of today's handout. It has a big three on the front of it and there's new language
17 – ok so it this the full Retail Preservation Ordinance that's been put in here with this new
18 language?

19

20 Mr. Yang: That's correct.

-
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Vice-Chair Monk: So, what happens if there's a change at the Ground Floor Retail Preservation Ordinance? I mean isn't it cleaner to just that separate rather than baking it into this ordinance?

Mr. Lait: This ordinance is amending a lot of different sections of the Municipal Code.

Vice-Chair Monk: Yes, I know I understand and appreciate all the hard work. Ok so you're saying it needs to be in here because it will (interrupted)

Mr. Lait: If we're making a change it needs to be in this ordinance.

Vice-Chair Monk: Ok, will that – are you planning on it eliminating in the other ordinance then that would be redundant or are you just (interrupted)

Mr. Lait: Any change that we're making is shown here and strike out and underlined so if we're removing or striking something out, it's reflected here as a strikeout. If it's any new text that we're adding to the Municipal Code it's shown in underline.

-
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1 Mr. Yang: We don't consider the Retail Preservation Ordinance to be like its own separate
2 thing, it's just a section of our code, and so we're showing that we're changing that section of
3 our code.

4

5 Vice-Chair Monk: Ok thank you.

6

7 Chair Lauing: Was that it?

8

9 FRIENDLY AMENDMENT #5

10

11 Vice-Chair Monk: I would like to propose an amendment to Page 18 – Packet Page 47, it might
12 appear else ware, in regards to the maximum weighted average residential unit size. We talked
13 about maybe capping certain percentages of certain sizes. I don't know the best way to address
14 this so my amendment would be to change it from 1,350 to 1,500, just a modest bump. Would
15 that be acceptable to the maker?

16

17 Commissioner Waldfogel: Well I think that Staff analyzed this and found that this isn't
18 restrictive in any of the units – in any of the projects they've analyzed.

19

-
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1 Vice-Chair Monk: I think there – you specifically had expressed concern about having some
2 units available for multi-family – some three bedrooms and so I just think this might be
3 prohibitive of that and that’s where my concern is coming from.

4

5 Commissioner Waldfogel: Yeah well is – did you find this to be restrictive or what’s – how did
6 that analysis go?

7

8 Mr. Lait: Yeah, we found this be consistent with some of the more recent housing projects that
9 were approved. Including (interrupted)

10

11 Commissioner Waldfogel: But did they have mixes of two and three bedrooms?

12

13 Mr. Lait: They did. You know there’s corner units where when you get to the corner of the
14 buildings those get a little bit larger or they may have smaller units. There’s a mix that’s there of
15 those unit sizes. There’s no magic number, it’s just if you want to bump it up a little bit it could
16 be bumped up. It just means you’re going to get larger units.

17

18 Commissioner Waldfogel: What do you want to bump it to?

19

20 Vice-Chair Monk: 1,500.

-
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Commissioner Waldfogel: I mean I'm ok with 1,500. Do you have a feeling?

Commissioner Alcheck: In the spirit of compromise and the notion that this represents options for Council to consider – a bag of options I don't oppose it.

Chair Lauing: Ok was that it or did you have more Commissioner Monk [note-Vice-Chair Monk]?

Commissioner Alcheck: I'm sorry, hold on, just process-wise, does that mean (interrupted)

Chair Lauing: It was excepted.

Commissioner Alcheck: That becomes a part of the motion?

Chair Lauing: That's part of the motion.

Commissioner Alcheck: Is that clear?

Chair Lauing: That's part of the motion.

-
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1 Commissioner Alcheck: Ok.

2

3 Vice-Chair Monk: Assistant Director I was a little confused because I thought that when we
4 discussed the Affordable Housing Overlay we were going to try to incorporate some elements
5 into this ordinance because we had a pretty deep discussion on its last time we met. So, I know
6 it's listed as an item for discussion but I'm just curious why that's the case versus it having been
7 attempted to have been incorporated.

8

9 Mr. Lait: We thought that was also – that was discussed, we didn't walk away with clarity as to
10 whether that was supported and what income levels. So, we thought it'd be best to keep it
11 separate from the base ordinance but if there is support for adding that then that would be
12 done after this.

13

14 Chair Lauing: After this.

15

16 Vice-Chair Monk: Ok.

17

18 FRIENDLY AMENDMENT #6

19

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1 Chair Lauing: Ok? We can come back if you find something else. Ok. I wanted to propose one
2 but I need help. Let's say that two of these are right and you're putting up another building and
3 you say wow, we don't really need as much parking there because this looks a lot like the Mark.
4 And another one comes up and you say wow, I think we need some more parking there, this
5 one looks like Colorado. It seems to me like the Director should have discretion -- on the
6 Affordable Housing Overlay that Director had discretion for saying there's too much parking
7 and we should reduce it and at the time and now I think that they -- should have the Director --
8 discretion either way. I know what the issue is, is you don't want to hold up the developer but
9 we have to find a way to be reasonable if we know there are outliers that just look weird in
10 terms of much or too little parking. So, is there a convenient way that we could add that
11 discretion for the Director in an appropriate place here? In other words, to do a voluntary
12 parking study if we want to do it? It is referenced at one point on original Packet Page 28 in the
13 context of joint use parking facilities were the Director shall consider a parking analysis using
14 criteria and I think that the Director should have that discretion to just take a look at outliers
15 that are problems one way or the other.

16

17 Mr. Lait: Yeah, I -- so I'm sure we can draft language to legislate that. I would suggest that it's a
18 little bit less predictable for housing providers if they're not certain what the number is going to
19 be.

20

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1 Chair Lauing: That's why I said I know that's the concern.

2

3 Mr. Lait: Right so and I -- so I would be -- I don't -- so yes if that's what the Commission's
4 direction is we would do that. It's a Staff recommendation and it's not something that we
5 would support. Nothing would prevent a developer from providing more parking at this point
6 based on our regulations if they felt that was necessary for (interrupted)

7

8 Chair Lauing: No but they might not feel it's necessary and the Planning Department could look
9 at a neighborhood and say you know in this case that development standard that we worked on
10 and the parking, it just ain't going to work.

11

12 Mr. Lait: Right well (interrupted)

13

14 Chair Lauing: And you couldn't turn them down because it's in the code so it seems like there
15 should be a judgment overlay here that doesn't require an appeal to Council or something like
16 that. I'm trying to give the City flexibility to just prevent a disaster basically.

17

18 Mr. Lait: I hear you. It's not what's proposed and (interrupted)

19

20 Chair Lauing: Where would it go?

-
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Mr. Lait: Well I guess – before we start a – figuring it out it might be worthwhile to understand if there’s support for the (interrupted)

Chair Lauing: That’s fine, that’s fine.

Mr. Lait: For the motion [note – amendment]

Chair Lauing: So, I turn it back over to Commissioner Waldfogel. The issue is Director discretion on suggesting that there be or more less parking than what’s in the ordinance for a building.

Commissioner Waldfogel: What I’m trying to figure out is how you would trigger that because generally, people do parking studies to prove they need fewer spaces than a code would say. There’s – no one will commission a parking study to prove they need more spaces.

Chair Lauing: Staff would have to trigger because they see a problem beginning.

Commissioner Waldfogel: But how would that work in practice is I guess what I’m struggling over?

-
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1 Mr. Lait: I share your concern, I don't know, we'd have to define the situation.

2

3 Commissioner Waldfogel: I mean if this went to an appeal to Council, would Council have
4 discretion to make an adjustment?

5

6 Chair Lauing: What would be the bases for an appeal? If it's within the regs they would just do
7 it.

8

9 Mr. Lait: I think the conclusion would be not that they require more parking spaces but if the
10 ARB in its review of the other project wasn't able to make the findings relative to the parking.
11 That might be a decision point for them as for how they respond to the application.

12

13 Commissioner Waldfogel: I guess just the other question since we did get one public comment
14 about RPP. I mean is that a tool? I mean if developers under park their projects then can we – I
15 mean can we incent them by controlling access to parking permit because if this self-correcting
16 then I'm not going to worry about it as much.

17

18 Mr. Lait: Maybe you can – unless you have an answer right away, I'm looking at some notes
19 that I have on this.

20

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1 Mr. Yang: Yeah you know parking permit regulation is pretty complex and to some extent, it
2 depends on the context of the project. SB-35 has a different set of rules than non-SB-35
3 projects and we're not – there's some restriction in our ability to distinguish between types of
4 residents – residential housing.

5
6 Commissioner Waldfogel: But could we just make it a HIP? If you use the HIP program then
7 here's an upper bound on how many permits you'll get permanently?

8
9 Mr. Yang: I guess I'm not comfortable saying that we could certainly do that at this point. I
10 think more broadly we're responding to Chair Lauing's suggestion. Director Lait's comment kind
11 of got to the tool that we have which is the ARB has to make a finding related circulation and
12 site design. And if they feel that the way the project is designed, including the parking that's
13 proposed, doesn't allow them to make that finding. That's where the decision would be made.

14
15 Commissioner Alcheck: (off mic) I'm sorry, can I ask a question?

16
17 Chair Lauing: Sure.

18
19 Commissioner Alcheck: And the assumption is the public would be involved and have an
20 opportunity to make statements at that ARB hearing. Is that sort of – is that accurate?

-
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Mr. Yang: That's correct.

Commissioner Waldfogel: But on what basis could they make that finding?

Mr. Yang: You know it's hard to say in the abstract but there's a finding, I'm not quoting it precisely but that relates to circulation and loading on the site. And if they felt that the project as designed did not have a functional circulation that would be a reason to not make – to not be able to make the findings necessary to approve the project.

Chair Lauing: Yeah but I was sort of trying fight is an obviously under parked building that happens to fit the code because of some traffic pattern and the City doesn't have any real teeth to help out with that problem. So, you could be creating a neighborhood disaster but if there's not a way to do that in the motion (interrupted)

Mr. Lait: Yeah to that and I'd say maybe you're not satisfied with the parking standards the way that they're proposed. I mean that the way our code's set up it's got a base standard and then we create these opportunities for productions based on parking studies. To go the other way is (interrupted)

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1 Chair Lauing: Yeah but we don't want to solve for the exception.

2

3 Mr. Lait: Well if we can define what that exception is somehow then (interrupted)

4

5 FRIENDLY AMENDMENT #6 DIES DUE TO THE LACK OF SUPPORT FROM THE MAKER

6

7 Chair Lauing: I don't think we can, we're talking about some future current. Ok, the other thing
8 that I just wanted to ask you about in the context of the ordinance is that you're generally --
9 before you talked about affordable housing you're generally using the standard approach of up
10 to 120. And I think every place that I've seen it really addresses what we call true affordable
11 housing. I just wanted to make sure that you're comfortable that we're not going to get an
12 affordable housing that's 100 percent, 120 AMI.

13

14 Mr. Lait: I don't know that that's not a desirable market product that we want to have available
15 to folks.

16

17 Chair Lauing: So, will you be giving affordable housing credit for (interrupted)

18

-
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1 Mr. Lait: We have in our code in the City's affordable housing requirements we established that
2 an affordable housing project is 120 percent of area medium income. That is in Title 16 of our
3 Municipal Code, we define what affordable housing is.

4

5 Commissioner Waldfogel: And that's deed restricted 120?

6

7 Mr. Lait: That's deed restricted.

8

9 Chair Lauing: Yeah so it seems like that's – I don't know if we can address that in this context
10 but it seems like there should be some projects that aren't that way. Somebody has a question
11 here?

12

13 Mr. Lait: [unintelligible] – chair (interrupted)

14

15 Chair Lauing: Yeah Commissioner Alcheck.

16

17 Commissioner Alcheck: Yeah, I just want to sort of shed some light on something. I don't think
18 you're going to see an affordable housing project brought by a non-for-profit developer with
19 anything over 60.

20

-
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1 Chair Lauing: That's right because of financing.

2

3 Commissioner Alcheck: It wasn't consequenced last time that it was under 80.

4

5 Chair Lauing: Right.

6

7 Commissioner Alcheck: There was talk last year of changing the requirements that would allow
8 up to 80 to qualify for the same financing which is why we did our AH thing. We were starting
9 to talk about 80 because we wanted to make it amendable to maybe future changes to
10 financing. So, I think that the community of developers that would bring that affordable
11 housing project that's from a non for profit is sort of different than the developer – there's
12 wouldn't be a non non – there wouldn't be a non for profit (interrupted)

13

14 Chair Lauing: No this would be market-rate housing at 120.

15

16 Commissioner Alcheck: Right but I just – I'm not suggesting that that's the appropriate number.
17 I kind of think – I'm sort of prepared for Council to sort of deciding what they think that number
18 is. I think there's arguments on both sides for it but I will make this point which I think it's
19 interested how many people are making a good salary and can't afford to live here and 120
20 percent of the Santa Clara County incomes is what we're talking about. And Santa Clara County

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1 is quite large and can include a number of people who are not employed for retired. So, I'm not
2 – I was – I'm very curious about this. I'd love to know what 120 is in Palo Alto. What does the
3 120 in Santa Clara mean in Palo Alto? If the 120 of Santa Clara is 80 in Palo Alto, that would be
4 good information to know and I don't know that we know that.

5

6 Mr. Lait: (off mic) We can find out, [unintelligible].

7

8 Chair Lauing: I don't disagree that that's another housing type that the City wants and so that's
9 a way to get it. It's just not our highest priority.

10

11 Mr. Lait: To answer your question though before, in the discussion section there is a
12 recommendation that there be – that the Affordable Housing Overlay be extended and that is
13 limited to the Federal Tax Credit Standard. So that's a discussion that's forthcoming.

14

15 Chair Lauing: Ok. Any other amendments from anybody? Commissioner Summa.

16

17 FRIENDLY AMENDMENT #7

18

19 Commissioner Summa: Sorry I'll be quick. So, on Page 15 of the one we're working with, 9(1) I
20 would like to restore Site and Design Review to the Planning Commission. And the reason I

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1 think that is because it's – mostly it's a benefit for the public. It gives them a place to come and
2 talk about projects.

3

4 Chair Lauing: 15, right?

5

6 Commissioner Summa: Pag 15, 9 Number 1 has been redlined.

7

8 Commissioner Waldfogel: So, this was aligning the process for residential with commercial so
9 commercial projects don't go through this site and design step.

10

11 Mr. Lait: This is one of these incentives that we have in our code that helps commercial
12 development and is to the detriment of housing. We have housing projects go through this
13 process of – another 9-month process to get an approval that is twice the time that it might
14 take a commercial development to go forward.

15

16 FRIENDLY AMENDMENT #7 DIES DUE TO THE LACK OF SUPPORT FROM THE MAKER

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18 FRIENDLY AMENDMENT #8

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1 Commissioner Summa: Nobody wants to go with [unintelligible] and I would also like to restore
2 guest parking requirements where they have been eliminated.

3

4 Commissioner Waldfogel: [unintelligible – off mic]

5

6 Chair Lauing: Site and design was not accepted by the maker, is that correct? Restoring site and
7 design was not corrected – accepted?

8

9 Commissioner Waldfogel: (off mic) No because (interrupted)

10

11 Chair Lauing: Ok, I just wanted to be clear for the record. Ok so now you have another one on
12 restoring guest parking.

13

14 Commissioner Alcheck: I just need to understand this; guest parking is a separate parking
15 requirement that use to exist in and above the parking per unit?

16

17 Chair Lauing: Not physically but additive I think is what she's saying.

18

19 Commissioner Alcheck: What was the old requirement that we would be restoring?

20

-
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1 Mr. Lait: It's one space but 10 percent of the required parking spaces is what the current
2 requirement is.

3

4 Commissioner Summa: And part of this is based on my anecdotal observations of, especially
5 affordable sites, and there's one very close to me, the lower May Field site. Every single guest
6 spot is always taken and it's taken by people living in the building. So – and it's a block from me
7 so I think it's important that we have the same standards for people who live in affordable
8 housing of those kinds of basic amenities.

9

10 Mr. Lait: And again, this is for all housing types, market and affordable.

11

12 Commissioner Waldfogel: So, your proposal is to restore it to 1 plus 10 percent or what is –
13 what guest parking standard are you (interrupted)

14

15 Commissioner Summa: I would – I mean we haven't had a discussion about whether that's too
16 much or not. I would be willing to just say explore – restore guest parking and explore whether
17 the old standard was the appropriate one. And Council could work out the details or Staff could
18 work it out (interrupted)

19

20 Chair Lauing: Or 1 plus 5 percent so it's some discount to what it was.

-
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Commissioner Summa: I don't know because I don't have any data on which to make – it would be just like guessing and pulling a number out of the air. I'm just saying I think it's appropriate to have guest parking at these sites because all the places we're talking about putting housing and rightly so, is downtown, Cal Ave and along El Camino which are the most congested areas for parking right now. So, I just think it makes sense to have people who live in these buildings, whether they're at above 100 percent AMI or below it, to have a place for people to come and visit them and put their car. As a sense of fairness to everybody across the board but also just realizing that our streets in many of these places are at capacity a lot of the time and that off-street parking for visitors is very, very important.

Mr. Lait: And just for the Commission's deliberation, again we've aligned these parking requirements with the State Density Bonus Law and any housing project that's being built in this town, multifamily housing project, has to comply with our Inclusionary Housing requirements. When complying with our Inclusionary Housing requirements they automatically get, at just my simply requesting it, a reduced parking standard. The reduced parking standard is consistent with what we're proposing in the ordinance and state law also has language that says this is inclusive of any guest parking that would be required. So, it's (interrupted)

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1 Commissioner Summa: Ok I could be wrong but it was my understanding once again that those
2 laws also allowed you to exceed those standards.

3

4 Mr. Lait: You could.

5

6 Commissioner Summa: If a parking study was done and it showed that it was needed but then
7 the City would have to kick in funds.

8

9 Mr. Lait: That's not my understanding. The state law for State Density Bonus is that if you meet
10 that standard you automatically get this reduced parking.

11

12 Commissioner Summa: Ok.

13

14 Vice-Chair Monk: Just as a matter of process so if this is accepted by the maker and the
15 seconder it's in the complete motion?

16

17 Chair Lauing: Right.

18

19 Mr. Lait: Yes.

20

-
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1 Vice-Chair Monk: So, it's it not accepted is it something that could go to a vote if its' treated as
2 unfriendly?

3

4 Chair Lauing: Right.

5

6 Commissioner Summa: Yeah.

7

8 Commissioner Alcheck: (off mic) If it gets a second.

9

10 Vice-Chair Monk: If it gets a second.

11

12 Chair Lauing: Right.

13

14 Commissioner Alcheck: [unintelligible – off mic]

15

16 Mr. Lait: But let's start with the first part of this (interrupted)

17

18 Chair Lauing: Right. Commissioner Waldfogel.

19

20 Mr. Lait: And see if there's support for the friendly amendment.

-
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Commissioner Waldfogel: Well so I'm unclear now so what are you proposing specifically? Are you still proposing some guest parking standard?

Chair Lauing: Yeah.

Commissioner Waldfogel: And I'm really torn on this because it feels like it needs more study but at the same time there's a (interrupted)

Commissioner Alcheck: May I ask her two questions?

Commissioner Waldfogel: Yes, please.

Chair Lauing: Yes.

Commissioner Alcheck: Is this the last amendment and would you support the motion if we included some language to this effect?

Commissioner Summa: I don't think it's – I don't think you should get to ask me that before we're voting. I mean I'm obviously (interrupted)

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Commissioner Alcheck: I'm interested in compromise.

Commissioner Summa: Ok I'm interested in compromise too and I – but I think one of the places we shouldn't compromise so much is on the parking standards because I do not – and I've said this so many times so I don't want to repeat myself.

Chair Lauing: Well why don't you just split the baby and discount what – something that's there so your kind of in the middle?

Commissioner Alcheck: Assuming it creates a support.

Chair Lauing: Yeah.

Commissioner Alcheck: If the ultimate decision is that you won't support the motion then I think the amendment is unnecessary in theory because it doesn't create greater consensus here.

Commissioner Summa: So, let me answer your question since you asked me directly. I very much want to be able to support sending this to the Council but with a caveat that there's

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1 much in here, I think they need to reconsider. And I don't know how to do that if I don't either
2 not vote for it or try to make amendments so that's why I'm taking the time to do this.

3

4 Chair Lauing: That seems kind of minor to me but it's up to the maker.

5

6 Mr. Lait: So just as you're contemplating this (interrupted)

7

8 Commissioner Alcheck: Hold on, just so we're clear (interrupted)

9

10 Mr. Lait: Excuse me I just (interrupted)

11

12 Commissioner Alcheck: Was the proposed amendment specific or was the proposed
13 amendment that we want Council to consider whether or not parking should be – the parking
14 should be looked at because I heard that – I heard both? And if your recommendation is that
15 the Council consider that we (interrupted)

16

17 Mr. Lait: Well let's clarify. Commissioner Summa would you might clarify your requested
18 friendly amendment.

19

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1 Commissioner Summa: I think my proposed amendments have been specific and my statement
2 that I am concerned about the parking requirements was a general one.

3

4 Mr. Lait: Ok so restore the 1 plus 10 percent is what is the request – is the request? Restoring
5 the parking requirement that we have in the code today which is 1 space plus 10 percent of the
6 required parking should be apart of any housing project.

7

8 Commissioner Summa: If a reduction is appropriate I don't know how to answer that because
9 we haven't really looked at it but I would be willing to accept a reduced standard. I just think to
10 eliminate all (interrupted)

11

12 Mr. Lait: So, but for – right – I'm sorry, just for process and I didn't mean to cut you off but to
13 help the makers of the motion they need something to respond too.

14

15 FRIENDLY AMENDMENT #8 RESTATED

16

17 Commissioner Summa: Ok explore whether eliminating guest parking standards in multi-family
18 housing is appropriate.

19

20 Mr. Lait: That sounds like an exploration for Council to respond to or – ok.

-
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Commissioner Waldfogel: That’s acceptable.

Commissioner Alcheck: I will accept that. I hope you support the motion.

Chair Lauing: Ok that’s part of the motion. Commissioner Gardias’s lights on.

Commissioner Gardias: Thank you. So please go to Page 23, before I propose the amendment I’d like to understand – make sure that I understand this exclusion paragraph and I’m referring specifically to Exemption Four which is on Page 43.

Chair Lauing: 23?

Vice-Chair Monk: We already talked about this.

Commissioner Gardias: Page 23 (interrupted)

Vice-Chair Monk: We talked about this extensively. This is under the (interrupted)

-
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1 Commissioner Gardias: Yeah you talked about this, yes, I remember but you didn't touch upon
2 it so I'm just bringing it up again because you didn't actually get to it. So (interrupted)

3

4 Chair Lauing: So which number now just so that we're all following.

5

6 Commissioner Gardias: Page 23, Paragraph Four, the blue one, the blue one underlined which is
7 a new addition to the code. So, I want to understand that this paragraph if I read it correctly
8 pretty allows 100 percent affordable housing that are built on El Camino to waive the retail
9 requirements despite that on some other paragraph it says clearly that CN, CS, and some other
10 space along El Camino should have retail. That's correct right?

11

12 Mr. Lait: (off mic) One is a development standard.

13

14 Commissioner Gardias: That's correct, one is a development standard and this one is pretty
15 much exclusion. Yes, exactly so pretty much the development standard is on Page 16 at the top
16 of it. And then pretty much it says that except on CS and CN sites on El Camion Real and I
17 probably should have included CC(N), CC (2) because there's some along El Camino in this
18 paragraph but I'm talking specifically about the exemption thought.

19

20 Mr. Lait: Right so I'm sorry I'm (interrupted)

-
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Commissioner Gardias: On Page 23.

Mr. Lait: Right, give me one more second here to read this. Ok so – can I borrow this? So, you’re on Page 23 (interrupted)

Chair Lauing: 23, Item 4.

Mr. Lait: And – ok so there’s two – ok so let me just make sure I’m understanding your question. So, you’re – our attention in on Page 23, the next text (interrupted)

Commissioner Gardias: Yes.

Mr. Lait: Where you read it 100 percent affordable housing projects are exempt from meeting the Retail Preservation requirement.

Commissioner Gardias: Yes.

Mr. Lait: True statement.

-
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1 Commissioner Gardias: Yes, yes, I could make also an argument if I compare it to Page 16 that
2 there is a contradiction but I understand that there is one because one is a subset of the other
3 one. So, when there is an affordable housing built in CS or CN Zone I don't -- it doesn't apply to
4 -- I mean it's along El Camino it doesn't have to have retail pretty much.

5
6 Mr. Lait: Can I clarify that a little bit?

7
8 Commissioner Gardias: Sure, yeah.

9
10 Mr. Lait: So, on Page 16 -- if we flip back on to Page 16 we have a provision that says exclusively
11 residential uses are generally -- it's a footnote I guess of one of the -- no it's a section,
12 exclusively residential uses. So, on the top of 16, we're saying that on El Camino regardless of
13 affordability that you can do a 100 percent housing project.

14
15 Commissioner Gardias: Yes.

16
17 Mr. Lait: Ok so there's no conflict.

18
19 Commissioner Gardias: Right but this allowed -- this waiver allows to exclude (interrupted)

20

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1 Mr. Lait: Always affordable housing to not be subject to the Retail Preservation requirement
2 which is different than a development – a redevelopment of a site on El Camino that doesn't
3 have retail.

4

5 Commissioner Gardias: No, the way that I understand this here, that pretty much it allows to
6 waiver any retail whatsoever.

7

8 Mr. Lait: On Page 23, are you?

9

10 Commissioner Gardias: On Page 23.

11

12 Mr. Lait: Yes, so not any retail, specific retail that is protected under the Retail Preservation
13 Ordinance. So, if there is retail that existed as of the date of that ordinance and I'm blanking on
14 it, like 2014 or 17 or something. If retail or retail like uses are protected under that ordinance
15 and you want to propose an affordable housing project you are exempt from that retail
16 requirement. That's different than saying on El Camino we have in some districts a requirement
17 for ground floor commercial. That doesn't necessarily mean retail but in some areas, it is but
18 the Page 16 standard says in the CN or the CS Zone if you're not subject to the Retail
19 Preservation requirement you could still do – you can do 100 percent – you can do a 100

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1 percent residential project in the CN or the CS Zone on El Camino. Two different concepts, one's
2 protected retail, one is a development standard that (interrupted)

3
4 Commissioner Gardias: Yes, but I just – lets just set aside 16 – Page 16 for now right because
5 we can come back to it, later right? I want to make sure that if there's a – this paragraph on
6 Page 23 that pretty much a – it waives – you're saying that it only waives retail if it's within
7 ground floor and retail combining districts, is this correct?

8
9 Mr. Yang: This is only available if the parcel is not in the ground floor or the retail combining
10 districts.

11
12 Commissioner Gardias: 23?

13
14 Mr. Yang: Yeah so affordable housing projects not within the ground floor or retail combining
15 districts.

16
17 Commissioner Gardias: Exactly so pretty much – so exactly (interrupted)

18
19 Mr. Lait: So, University Avenue (interrupted)

20

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1 Commissioner Gardias: That's what I was – so that's what I was talking about so I'm talking
2 about that some 100 percent affordable housing that's not within retail preservation area on El
3 Camino. Any project on El Camino that is not underground preservation or any other retail. This
4 pretty much waves this project from retail requirements.

5

6 Mr. Lait: So, there's – you know (interrupted)

7

8 Commissioner Gardias: I mean not requirements but pretty much (interrupted)

9

10 Mr. Lait: We're confusing a couple of issues. That's not precisely how it – the attorney says it's
11 close enough. I mean that's not precise but it's (interrupted)

12

13 Commissioner Gardias: Yes.

14

15 Mr. Lait: They're different concepts.

16

17 Commissioner Gardias: Yes, no, I understand but pretty much what – just allow me to finish. So
18 pretty much it allows the developer to build 100 percent affordable housing on El Camino
19 where under one of those zones, whatever the zone would be, CS, CN or any other – CC, right?
20 There would be retail, then this project because it's affordable would be allowed to be built

-
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1 without retail? Yes? That's pretty much what I'm getting – close enough? Close enough so then
2 the point that I'm trying to make is there could be many buildings on El Camino. And then if we
3 really allow – if we retain this clause with 100 percent affordable housing project we just pretty
4 much -- which could be what Chair Lauing was saying, it could be up to 120 percent of the AMI.
5 We could have many buildings that will have no retail what so ever.

6

7 Mr. Lait: Given our production history of affordable housing projects I don't think that's a real
8 concern.

9

10 Commissioner Gardias: Right but we're talking about – set this aside right because we're
11 talking about the Planning Ordinance so (interrupted)

12

13 Mr. Lait: What you're talking about is on Page 16.

14

15 Commissioner Gardias: No, no I'm talking about – I'm still on Page 23.

16

17 Mr. Lait: But what you're talking about is – yeah, I'm sorry, I (interrupted)

18

19 Mr. Yang: I think there's one other salient point here which is for a – if there's going to be a 100
20 percent affordable housing project which are – those are rare, those are most likely going to be

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1 at 60 or 80 percent of AMI. I don't think we can imagine a project that could be 100 percent at
2 120 percent AMI.

3

4 Commissioner Gardias: No, no that's fine but that's – that is speculation with all respect
5 because – and I totally agree with you. If it was me I would pretty much change the definition of
6 affordability on those developments because I hear those voices that pretty much that – and
7 also from my perspective. This is not what affordable housing is so (interrupted)

8

9 Mr. Lait: So, can I interject? So that's fine (interrupted)

10

11 Commissioner Gardias: My concern is pretty much – my concern is that pretty much with this,
12 whatever's going to happen in the future, we don't know if the past is the extrapolation of the
13 future. There may be a number of buildings that were pretty much affordable (interrupted)

14

15 Mr. Lait: Right.

16

17 Commissioner Gardias: Which are actually not affordable (interrupted)

18

19 Mr. Lait: Can I interrupt you just for a minute, please?

20

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1 Commissioner Gardias: Sure, without retail.

2

3 Mr. Lait: I don't want to debate you about it but the process that we've been taking so far is
4 you have an idea that you want to change the ordinance.

5

6 Commissioner Gardias: Yes.

7

8 Mr. Lait: So (interrupted)

9

10 Chair Lauing: What's the amendment?

11

12 Mr. Lait: This is an appropriate time for you to offer that amendment to the motion maker
13 (interrupted)

14

15 Commissioner Gardias: Yes exactly.

16

17 Mr. Lait: Ok.

18

19 FRIENDLY AMENDMENT #9

20

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1 Commissioner Gardias: I just wanted to establish an understanding on what it is. So, I'd like to
2 pretty much exclude El Camino Real from this exemption. That's the amendment.

3

4 Chair Lauing: From the exemption on Page 16?

5

6 Commissioner Gardias: Exactly. 23, 23.

7

8 Commissioner Waldfogel: The [unintelligible] objective is that new construction on El Camino
9 has a retail component.

10

11 Commissioner Gardias: Correct.

12

13 Commissioner Waldfogel: Unless it's an AH – unless it's under the AH district.

14

15 Mr. Lait: This is only dealing with affordable housing projects.

16

17 Commissioner Waldfogel: Yeah yeah but this is an affordable housing project that's not in an
18 AH District, right or does (interrupted)

19

-
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1 Mr. Lait: This is an affordable housing project on El Camino that is not subject to the Retail
2 Preservation Ordinance.

3

4 Commissioner Waldfogel: I thought AH had Director discretion on retail?

5

6 Mr. Lait: So, this has nothing to do with the Affordable Housing Overlay.

7

8 Commissioner Alcheck: [unintelligible – off mic]

9

10 Commissioner Waldfogel: What's that?

11

12 Commissioner Alcheck: The Affordable Housing Overlay wasn't included in this ordinance.

13

14 Mr. Lait: That's right.

15

16 Commissioner Alcheck: Its apart of the discussion next but technically it's not in the ordinance.

17

18 Chair Lauing: Well it exists though.

19

20 Commissioner Alcheck: Right but it doesn't apply to all of El Camino.

-
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Chair Lauing: Right.

Commissioner Alcheck: So, this is a little broader than the AH Ordinance but it only applies to parcels that are subject to the Retail Preservation Ordinance, not every parcel. It only applies to 100 percent affordable projects which by definition are likely to be from non for profits.

Chair Lauing: Are you going to try to enlighten us some more on this?

Mr. Lait: No, I just think we need to – I mean the request is to exclude El Camino from the language on the bottom on Page 23 from the Retail Preservation Waiver. So is there support for that or not and I think then if there is then we can continue to debate it.

Commissioner Waldfogel: I don't know this is a complicated one to try to process right now. In some level, I just think this discussion is moot because these are projects that will never happen.

Commissioner Gardias: Until they happen, right? That's a different story.

-
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1 Commissioner Waldfogel: Yeah well so from that standpoint – I mean from that standpoint I’m
2 open to accepting that as an amendment.

3

4 Chair Lauing: Commissioner Alcheck, we need a second.

5

6 Commissioner Alcheck: Hold on, well I think what – let me just ask for clarification here from
7 the maker. I think what Staff was suggesting was highly unlikely was the notion that there
8 would be 120 percent affordable – 100 percent – 120 percent AMI, 100 percent affordable
9 project. That would be the thing that Gardias doesn’t like so much because it sounds like
10 Commissioner Gardias doesn’t mind this particular code section – this particular paragraph
11 when it applies to 100 percent affordable sub 80 percent AMI. And so, I think what – I think
12 we’re flipping the script if you suggest that you’re accepting this because it’s highly unlikely. It’s
13 highly unlikely to see a project that would apply this paragraph over 80 percent and so the
14 concern about 80 to 120 percent AMI projects taking advantage of this is the unlikely thing. So,
15 I just want to make sure, is that (interrupted)

16

17 Commissioner Waldfogel: That is the unlikely thing but we have other code language in the AH
18 District that gives Director discretion on retail.

19

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1 Mr. Lait: It does but this is the Housing Incentive Program which is distinct from that other
2 process.

3

4 Commissioner Waldfogel: But would that repeat – are you saying that if we remove this – so if
5 we change this will that affect what we do in the AH program?

6

7 Mr. Lait: No.

8

9 Commissioner Waldfogel: Will that removes the Director discretion?

10

11 Mr. Lait: No.

12

13 Commissioner Waldfogel: So, I'm not following what you're concerned about.

14

15 Commissioner Alcheck: The AH is geographic and very narrow. El Camino is the longest road in
16 California. I mean no, I'm making a joke there but I think the point is that the – it's – basically
17 this is essentially adopting one of the AH principles.

18

19 Commissioner Waldfogel: Yeah but AH is something – I mean anybody who's doing a 60 percent
20 or 80 percent below project can apply to – can apply for an Affordable Housing Overlay.

-
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Commissioner Alcheck: I mean look, to be honest, the truth is why wouldn't they just go SB-35?

Mr. Lait: Because they don't get the same floor area incentives that we're prosing with the Housing Incentive Program.

Commissioner Alcheck: But if they don't have to build any parking it's going to be a pretty cheap production. I mean I'm not disagreeing with you. I will accept the change – if – I just want clarity that the maker is accepting this change. If he is I will accept this change in the effort to gain Commissioner Gardias's support of the larger motion. That's my opinion.

Mr. Lait: So, to be clear since this is now part of the motion, so we're going to amend on Page 23 Number Four-A.

Commissioner Alcheck: Just so we're clear, does it achieve your result if it just said 80 percent? Do you want to be more specific about affordability there? I just – what's your intent? What's your goal?

-
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1 Commissioner Gardias: Well I mean that's a different discussion so I think for right now I'd
2 rather not get into it because we're going to get sidetracked. But I think that one day we should
3 sit and just talk about the true concept of affordability.

4
5 Commissioner Alcheck: I don't support the idea but I will accept it in an effort to move this
6 along.

7
8 Commissioner Waldfogel: Yeah and I also don't want to have multiple definitions of affordable
9 scattered through this. I don't want to have 80 percent in one place and 120 percent in another
10 place.

11
12 Mr. Lait: Ok so just so we're clear on this, so Four A if would read, 100 percent affordable
13 housing – a 100 percent affordable housing project not within the ground floor GF retail or
14 combining districts or on El Camino Real. Ok? That's ok? That's (interrupted)

15
16 Chair Lauing: Ok I had a probably a procedural question on Page 9, you stuck all the language on
17 the 15 percent unit BMR. We don't need that there because it's somewhere else?

18
19 Mr. Lait: That's right, it's in Title 16.

20

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1 Chair Lauing: Ok. Other questions?

2

3 CALL THE QUESTION

4

5 Commissioner Alcheck: I'd like to call the question.

6

7 Chair Lauing: Motions? You were done right Commissioner Gardias? You weren't done with
8 your comments?

9

10 Mr. Lait: Is there a second on the call for a motion or call for a vote?

11

12 CALL THE QUESTION DIED DUE TO THE LACK OF A SECOND

13

14 Commissioner Waldfogel: (off mic) Do you have more comments?

15

16 Commissioner Gardias: [unintelligible – off mic]

17

18 Commissioner Waldfogel: One more comment.

19

20 Chair Lauing: Ok there wasn't a second so we can go back to comments.

-
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Commissioner Gardias: Yeah just one more comment and now going back to Page 16. So, I'd like to understand why CC – in the blue text that talks – again and we're talking about El Camino and this is underlined, except on CS and commercial neighborhoods CS sites on El Camino Real. I'd like to understand why CC and CC (2) were excluded from this exception relates to El Camino? Because there are a couple of properties, CC, and CC (2), facing El Camino.

Mr. Lait: There are?

Commissioner Gardias: Not many but there are a couple.

Mr. Lait: There are a couple and so what's the question?

Commissioner Gardias: (off mic) Why there were not excluded in the exception? Why there is only except on CS and CN as opposed to except on CS, CN, and CC (2)?

Mr. Lait: So is your ask it to (interrupted)

Commissioner Gardias: Include those.

-
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1 Mr. Lait: The two or three CC (2) parcels fronting on El Camino?

2

3 Commissioner Gardias: Exactly.

4

5 Mr. Lait: Yeah, I mean I think that those are at California Avenue I believe and El Camino and so

6 I guess there's just a question about at that node the commercial activities that take place there

7 and having a continuity of commercial uses. So, the CC (2) areas that we were looking to

8 regulate are beyond California Avenue where it's protected. So, we just thought that was kind

9 of a continuation of that spin of California Avenue which is why we didn't include those two or

10 three parcels that are there but if it's the Commission's will to include them then that's fine.

11

12 Commissioner Gardias: And there is also the corner that is close to the Town and Country

13 Center.

14

15 Mr. Lait: That's right, that's CC Zoning.

16

17 Commissioner Gardias: Yes exactly.

18

19 Mr. Lait: Not CC (2).

20

-
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1 Commissioner Gardias: CC Zoning, yes.

2

3 Mr. Lait: I'm sorry?

4

5 Commissioner Gardias: CC Zoning.

6

7 Mr. Lait: So, Town and Country is not part of this.

8

9 Commissioner Gardias: I'm not talking about Town and Country, I'm talking about the property
10 that is next to Town and Country that is CC Zone. There is one property on the corner.

11

12 Mr. Lait: Yeah that one is not subject to this. If it's CC – oh yeah, if it's CC Zone it's not
13 applicable to this ordinance. We did not change the CC Zoning.

14

15 Commissioner Gardias: And that's why you didn't include those (interrupted)

16

17 Mr. Lait: That's why it's not listed.

18

19 Commissioner Gardias: In this blue text?

20

-
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1 Mr. Lait: That's right.

2

3 Commissioner Gardias: Ok. Then, in this case, I have no more questions, I don't want to make
4 any more changes. Thank you for clarification.

5

6 Chair Lauing: Ok with no more comments we can go to a vote. So, everyone understands the
7 motion and the amendments or do you want to hear what the amendments are?

8

9 MOTION RESTATED

10

11 Mr. Lait: Actually, just let me restate the motion so we're moving the Staff report with two
12 changes. One is to change the average weighted unit size from 1,350 to 1,500-square feet and
13 the other change is to – actually three changes – explore whether guest parking should be
14 restored and the appropriate level of parking requirement for guest parking. And thirdly is the
15 change that we just made to exclude El Camino from the Retail Waiver Exception.

16

17 Chair Lauing: Is everybody clear on what they are voting on? Alright then (interrupted)

18

19 Commissioner Waldfogel: (off mic)

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1 Chair Lauing: It is. You earned the job of secretary tonight as one of your titles.

2

3 Mr. Lait: Fantastic.

4

5 VOTE

6

7 Chair Lauing: Alright all in favor please signify by raising your hand. Five and opposed? One and

8 one absent.

9

10 MOTION PASSED 5(Alcheck, Lauing, Monk, Waldfogel, Gardias)- 1(Summa) -1 (Riggs absent)

11

12 Chair Lauing: So, 5-1-1.

13

14 Mr. Lait: And we – as we typically do Chair.

15

16 Chair Lauing: Pardon.

17

18 Mr. Lait: Give the dissenter an opportunity to (interrupted)

19

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1 Chair Lauing: Yeah no I was just going to go there. I thought you were asking me a different
2 question. Yeah, Commissioner Summa.

3
4 Commissioner Summa: So, I'm still concerned about some of the parking requirements in this
5 and that's why I voted no just so I could get that message to Council and the public. But I very
6 much am in favor in general of moving this onto Council so they can have a deep conversation
7 about it and really appreciate all Staff did to try to take all our comments and [unintelligible]
8 them.

9
10 Chair Lauing: Yeah, I'd like to thank the three band leaders here for keeping the orchestra
11 playing for this many meeting.

12
13 Commissioner Alcheck: Chair do you mind if we continue talking about the last three items.

14
15 Chair Lauing: No, we're going to as soon as I finish my sentence.

16
17 Commissioner Alcheck: I didn't realize, I thought you were closing it up and I got worried.

18
19 Chair Lauing: No, no, not at all, not at all – because we know that was a job. Yeah so, I do want
20 to turn to these, as I looked through them I think the first one and the last one is the least most

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1 easily understood. I don't know if they will be the quickest but I suggest that we just jump in
2 and see how far we can get. It's – time check – quarter to 11.

3

4 MOTION #2

5

6 Commissioner Alcheck: If it's alright I'd just like to make a motion on them one by one and see
7 if there's consensus and if there's isn't – I really like the idea of not debating it considering
8 we've debated all these items before and I'd love to be out of here at 11. So, I'd like to move
9 the First Item, removing the legislative requirement to establish the Affordable Housing Overlay
10 and if I get a second, we can vote on it.

11

12 SECOND

13

14 Vice-Chair Monk: Second.

15

16 Commissioner Alcheck: So, I'm – there's four items – excuse me there's five (interrupted)

17

18 Commissioner Summa: Packet Page 27.

19

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1 Commissioner Alcheck: There's five items that are "left of discussion". These, in theory, are
2 additional recommendations that could go up to Council and I would like to simply – my
3 preference is we have a process where we make a motion. And I just made a motion on the first
4 one and I got a second and I did hear a (interrupted)

5

6 Vice-Chair Monk: Yeah except that I (interrupted)

7

8 Commissioner Alcheck: I'd really prefer not to debate it. I just want to (interrupted)

9

10 Chair Lauing: Yeah, I'm not (interrupted)

11

12 Vice-Chair Monk: Except I don't know why it says 60 percent AMI. It's inconsistent with
13 everything else that we've seen.

14

15 Chair Lauing: I think (interrupted)

16

17 Commissioner Alcheck: You mean you'd like to see 80?

18

19 Chair Lauing: I think that since we haven't gotten consensus on this before which is why it's not
20 in there, I think it does deserve some debate.

-
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Commissioner Alcheck: I think the best consensus we can give is an up and down on each item. I don't think we should be debating each other at nauseam for the 7th time.

Chair Lauing: Well I don't think we should be debating each at nauseam on any tonight on any issue but we had one Commissioner that wasn't even here so I'd like to be able to get her input at least.

Commissioner Alcheck: I'm just – we just went through a very efficient process. I think backtracking to our old process would be a mistake right now.

Chair Lauing: So (interrupted)

Commissioner Alcheck: Look I have a motion on the floor with a second.

Chair Lauing: I know, that's fine but I don't think we should change the procedure. We should try to have a nice brief discussion on that. So, I will start the discussion and say that the – what we're talking about here is not having what we had at the last meeting where we had a narrow purview to debate – to listen to public debate and have a narrow purview on how we would decide. And I think that there's a public benefit to that, that is wise and the decision to change

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1 it is very narrow and above our pay grade so to speak but I think there's value in that so I would
2 vote against that.

3

4 Commissioner Alcheck: I guess the question is (interrupted)

5

6 Chair Lauing: So why don't we [unintelligible]?

7

8 Commissioner Alcheck: Would you propose an amendment that could change this to make it
9 (interrupted)

10

11 Chair Lauing: No, I think we should (interrupted)

12

13 Commissioner Alcheck: If you feel this is a terrible idea then just vote against it. If you think
14 they should change it (interrupted)

15

16 Chair Lauing: I will but my expression my opinion now and see if anybody else has an opinion.

17

18 Commissioner Alcheck: So, there's nothing you would do to change this?

19

20 Chair Lauing: No.

-
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Commissioner Alcheck: Ok.

Chair Lauing: So other opinions?

FRIENDLY AMENDMENT #1

Commissioner Waldfogel: I just need a clarification on this. The AH Overlay I think believe it goes up to 120 percent in the code so is our proposal to – I mean I would support removing the legislative requirement below 60 percent or even 80 percent. I wouldn't support it above that 80 – above that financeable threshold.

Commissioner Alcheck: I'm going to treat that as a proposed amendment and accept it.

Commissioner Waldfogel: Yes.

Vice-Chair Monk: To 80 percent?

Commissioner Alcheck: To 80 percent.

-
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1 Vice-Chair Monk: Yes.

2

3 Mr. Lait: So, can I – I'd like to (interrupted)

4

5 Commissioner Alcheck: Or even better, I would just tie it to the financial (interrupted)

6

7 Commissioner Waldfogel: But do you want to speak – do you have something to say about
8 that?

9

10 Mr. Lait: Yeah, I think rather than – so the reason this isn't in here or the reason we've set it up
11 the way that we did is because there was some concern about that threshold of when this
12 would be by right without the legislative component. And so rather than stipulate 60 percent or
13 even 80 percent we should tie it to the Federal Standard that provides the low-income tax
14 credits. Because the Federal Standards, they've just changed the beginning of this year as my
15 understanding and there's an averaging that goes into this formula. But the intent is affordable
16 housing project – most affordable housing projects are going to go for those tax credits and
17 that's what we should be tiering that too if we're not comfortable with the 120 percent.
18

-
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1 Commissioner Waldfogel: Yeah if they qualify. I mean I think that the Ad Hoc Committee made
2 this recommendation back at the beginning of the year so there should be some broad
3 agreement on this.

4

5 Mr. Lait: Right, yeah so that would be (interrupted)

6

7 Commissioner Alcheck: I accept the language Staff proposed.

8

9 Mr. Lait: Ok.

10

11 CALL THE QUESTION

12

13 Vice-Chair Monk: I move to call the question.

14

15 Commissioner Alcheck: No no do you accept it?

16

17 Vice-Chair Monk: Yes.

18

19 Chair Lauing: What's the language?

20

-
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1 Mr. Lait: Well we don't have language in here but the – what we're taking away from this is let's
2 apply the Affordable Housing Overlay, let's remove the legislative requirement, it's applied
3 through a regular process only for those projects that meet this tax credit level. Which by the
4 way is (interrupted)

5

6 Chair Lauing: So, some are going to come – some will come here and some won't be is that
7 what you're saying?

8

9 Mr. Lait: Well, I guess – I don't think any of them are going to come here when you make this
10 change.

11

12 Chair Lauing: Right which is why (interrupted)

13

14 Mr. Lait: And I think the current standard is like 80 percent or something like that.

15

16 Chair Lauing: Right which means we won't have a hearing so people can talk about it.

17

18 Mr. Lait: Right ok so there's seems like there's – I mean I don't want to speak for the
19 Commissioners who haven't spoken but of those that have spoken there seems to be support
20 for it.

-
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VOTE

Chair Lauing: Yeah let's just vote on it. See who – if there's no other comments then who's in favor just raise your hand? Four and opposed? Two. Ok, great, next.

MOTION #2 PASSED 4(Alcheck, Monk, Waldfogel, Gardias) -2(Summa, Lauing) -1(Riggs absent)

MOTION #3

Commissioner Alcheck: Do you want to speak to it? Alright, I'll make a motion that we adopt the affordable housing parking requirements as written here.

SECOND

Vice-Chair Monk: I'll second that motion and I feel like we did discuss this at a prior meeting. I don't know if everyone was at that meeting but in order for there to be consistency in our code, it was off by .05 percent. And it also cleans up the language on the ordinance if you want to look at Packet Page 25 where they have those percentage reductions and all those different

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1 categories. If we were to accept this it would just be a blanket application of the AH parking
2 requirement.

3

4 Chair Lauing: So, Staff how does this change? Is that correct what she just explained?

5

6 Mr. Lait: Well I guess I would say that this (interrupted)

7

8 Vice-Chair Monk: It's the alternative options that you proposed in the Packet Page 25.

9

10 Mr. Lait: Right I guess I would say that our proposal went some distance to reduce the parking
11 demand for affordable housing. This change is aligned with where the Council was with respect
12 to the Affordable Housing Overlay which is based on a per unit basis as opposed to a per
13 bedroom basis that is included in the ordinance.

14

15 Chair Lauing: Yes, so I don't understand why we would reinvent the wheel here, I mean you did
16 go along way to come up with that bedroom analysis and that was somewhat based on the
17 parking study.

18

19 Mr. Lait: Yeah, I mean it's a question before the Commission to decide if there's support for
20 that.

-
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VOTE

Chair Lauing: Yeah, any other comments on it? No other comments? If there's no other comments we can go ahead and vote. So, in favor of the text as written at the bottom of Packet Page 27 say aye. Three – wait (interrupted)

Mr. Lait: Wait, wait, wait, wait.

Chair Lauing: Three and opposed? Three. It does not pass.

MOTION FAILED 3(Alcheck, Monk, Gardias)- 3(Lauing, Summa, Waldfogel)- 1(Riggs absent)

Commissioner Alcheck: Can I continue?

Chair Lauing: Someone can.

MOTION #4

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1 Commissioner Alcheck: Alright I would just move the affordable housing open space
2 requirement to give clarity on this item here.

3

4 Vice-Chair Monk: I just had a question on this one, do we have any guidance from Palo Alto
5 Housing or any non-profits on this?

6

7 Mr. Lait: No – oh [unintelligible – off mic]

8

9 Chair Lauing: Was there a second?

10

11 Vice-Chair Monk: I might second it depending on what Staff says.

12

13 Chair Lauing: Oh ok, fair enough.

14

15 Chair Lauing: No second. There's no second.

16

17 Commissioner Alcheck: Alright then that fails.

18

19 Vice-Chair Monk: Did Staff ever respond?

20

-
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1 Mr. Lait: Only to say that this mirrors in some way the Affordable Housing Overlay standards.

2

3 Vice-Chair Monk: Oh, it does, they have a lessened open space requirement?

4

5 Mr. Lait: Yes.

6

7 SECOND

8

9 Vice-Chair Monk: Ok, then I'll second the motion.

10

11 Commissioner Alcheck: So just so we're clear this would expand the AH Overlay to a broader
12 grouping – this would expand the AH Overlays open space requirement to 120 percent
13 affordable housing projects in other places in the City, not just where the AH Zone applies.

14

15 Chair Lauing: Right so (interrupted)

16

17 Commissioner Alcheck: And it's – you either like it or you don't.

18

19 Chair Lauing: Right so any comments on that? Yeah, Commissioner Waldfogel.

20

-
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1 Commissioner Waldfogel: I would welcome a broader discussion about open space
2 requirements but I can't support this right now.

3

4 Chair Lauing: I totally agree with that. You know how small 50-square feet of open space is?
5 Like the size of a bed so I would be opposed to it.

6

7 Commissioner Alcheck: Is the – I'm curious, the current requirement of 150-square feet, three
8 beds, would 100-square feet – I guess what I'm questioning is, is it the general idea of loss or is
9 it the significance of the change?

10

11 Commissioner Waldfogel: I'm really having – I'd like to spend some time as a group discussing
12 open space standards in general because especially in RM-40 I'm starting to think that
13 encouraging more public space or more money toward public may be more beneficial than
14 pushing for more space within the development.

15

16 Commissioner Alcheck: Alright.

17

18 Commissioner Waldfogel: I just want to understand that better.

19

20 MOTION #4 WITHDRAWN

-
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Commissioner Alcheck: I 100 percent appreciate that in light of that I'm going to withdraw this motion because I don't think it has support.

SECOND WITHDRAWN

Vice-Chair Monk: Yes, and I'd like to withdraw my second.

MOTION #5

Commissioner Alcheck: I don't think we need to vote on it, I think it's a good topic for us to discuss in the future. Alright last one or no two more, alright this is a motion for consideration for higher density and height for affordable housing projects in downtown and near Cal Ave. And it's specific, 60-feet in downtown and 50-feet in Cal Ave with 40 [note -4.0] FAR and 25 [note - 2.5] FAR respectively.

SECOND

Vice-Chair Monk: So, I'd like to second that and I'd like to speak to it. It's very specific in the Colleagues Memo that was unanimously supported by Council in a 9-0 vote to increase housing

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1 density near jobs, transit, and services. And this would really go to that item so I think we really
2 do need to support the proposal.

3

4 Commissioner Alcheck: If I spoke to this I would suggest that this is a very modest increase. It
5 sounds like Council has some strong opinions about it anyways so likely they'll have this
6 discussion but it would be interesting to see what we felt which is why I made the motion.

7

8 Chair Lauing: So other comments? Go ahead Commissioner Waldfogel. I was going to go ahead
9 but go ahead.

10

11 Commissioner Waldfogel: (off mic) Do you want to speak?

12

13 Chair Lauing: I was going to just say a couple things. One is that the vote on this plan was 9-0
14 because they want all this stuff investigated.

15

16 Vice-Chair Monk: No, no it was 9-0 on the Colleagues Memo.

17

18 Chair Lauing: Yeah, yeah, yeah but I mean we're investigating all these things so I don't think
19 that every one of these things would necessarily be 9-0. But the bigger point is, my

-
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1 understanding because I think we talked about this a bit in that the large buildings could be
2 facing right on California Avenue is how I understand this. Isn't that right Jonathan?

3

4 Mr. Lait: I'm sorry, one more time?

5

6 Chair Lauing: If we did high density and high affordable housing projects we could have 50 or
7 60-foot buildings next to the bagel store on California Avenue? That's how I understood it.

8

9 Mr. Lait: It'd be a mixed-use project on California Avenue.

10

11 Chair Lauing: So, it just feels like that area right on California Avenue itself. I mean if it was back
12 away or back in the neighborhood that'd be one thing but this is specifically (interrupted)

13

14 Mr. Lait: Right but I mean I don't think we're talking on University or California Avenue on these
15 and if that's the concern then that could be (interrupted)

16

17 Chair Lauing: I think we had a specific discussion where – it may have been in a pre-meeting
18 where we were discussing that it could be facing right on California Avenue with a 6-foot
19 setback.

20

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1 Mr. Lait: It would be mixed-use those, not 100, right? You couldn't – you'd have to be a mixed-
2 use project.

3
4 Chair Lauing: Yeah so, I mean it just feels a little early to me to do something like that and like
5 we need some more detail and maybe some master drawings like we've been talking about to
6 see what these are going to look like. I wouldn't support it today.

7
8 Commissioner Alcheck: I'm sorry, I just got confused Director Lait. This essentially expands what
9 you can currently do, my understanding, by 10-feet.

10
11 Mr. Lait: Yes and (interrupted)

12
13 Commissioner Alcheck: It doesn't change the floor plate.

14
15 Mr. Lait: Well you get more FAR.

16
17 Commissioner Alcheck: Right but that doesn't change your setback requirements.

18
19 Mr. Lait: That's true.

20

-
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1 Commissioner Alcheck: It's not like (interrupted)

2

3 Mr. Lait: That's true. I think in the California (interrupted)

4

5 Commissioner Alcheck: The floor plate would likely be exactly the same because they'd still
6 occupy as much as they possibly can on their ground floor. I understood this as simply 10-foot
7 height increase for housing.

8

9 Mr. Lait: And in California – well and increase FAR but that's it.

10

11 Commissioner Alcheck: Right but not necessarily floor plates.

12

13 Mr. Lait: I guess I'm not following you when you say floor plates.

14

15 Commissioner Alcheck: It's not like the building would be any wider as a result of this, it would
16 just simply be 10-feet taller. You have to fit your – this suggested FAR still has to fit within that
17 height limit and the standard setbacks. So, it's – even though you're increasing FAR, you're only
18 giving them 10 more feet physically.

19

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1 Chair Lauing: After 11 o'clock at night tonight I'm not ready to support that but I wouldn't rule it
2 out and I don't have any (interrupted)

3

4 Commissioner Alcheck: Yeah, no that's fine, I just want to make sure (interrupted)

5

6 Chair Lauing: I don't have any bias against having some additional height.

7

8 Commissioner Alcheck: It wasn't like this essentially going to allow a 50-foot building on
9 California Avenue.

10

11 Chair Lauing: Commissioner Waldfogel.

12

13 Commissioner Waldfogel: Yeah, a couple things, I mean my view is that something like this isn't
14 impossible but I think we're having a lot of discussions about things that are unlikely to happen;
15 these 100 percent affordable 120 percent AMI projects. I mean directionally if we get to higher
16 inclusionary standards I would support some of these – I would support higher FARs or
17 potentially some taller buildings to get actual inclusionary units. And that's probably the best
18 shot we have at getting 120 percent AMI so I'm kind of unenthusiastic about chasing after
19 something that is unlikely to happen.

20

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1 Commissioner Alcheck: I'm not going to withdraw that though, I do want to vote on this one.

2

3 VOTE

4

5 Chair Lauing: Other comments? No other comments? Ok, let's vote. Those in favor of higher
6 density and height signify by raising your hand. Two (interrupted)

7

8 Vice-Chair Monk: And this if for 100 percent affordable.

9

10 Commissioner Alcheck: 120 percent AMI, 100 percent affordable.

11

12 Vice-Chair Monk: Yes.

13

14 Chair Lauing: And opposed? Defeated 2-4.

15

16 MOTION #5 FAILED 2(Alcheck, Monk)- 4(Summa, Lauing, Waldfogel, Gardias)- 1(Riggs absent)

17

18 Commissioner Alcheck: Ok (interrupted)

19

20 Chair Lauing: Last item I'll go ahead and make that one.

-
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MOTION #6

Commissioner Alcheck: Last one I would actually recommend not including the language to remove the in-lieu parking for commercial developments in this Housing Ordinance. So, my motion would be to not remove that language in this Housing Ordinance.

Vice-Chair Monk: Could the languages be changing if from commercial to housing? I just don't know what we're talking about commercial when it is a Housing Ordinance we're updating.

Chair Lauing: There's no second and if we're going to have a debate on in-lieu parking then we have to have a motion or second.

Vice-Chair Monk: Well his motion was a little odd.

Commissioner Alcheck: Right now, there is no language removing the in lieu and I'm suggesting that we don't add language remove – my suggestion is that we do not add language removing the in-lieu parking fee for the commercial developments in this Housing Program.

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1 Vice-Chair Monk: So, you're saying to not take a – not motion – not have motion and output on
2 it?

3

4 Chair Lauing: I think it would be simpler if it wasn't a "negative" motion. So, if you would
5 withdraw that I'd make a positive motion we could [unintelligible] (interrupted)

6

7 Commissioner Alcheck: I can't make a positive motion.

8

9 Mr. Lait: So, don't.

10

11 Commissioner Alcheck: I'd rather (interrupted)

12

13 Mr. Lait: So, don't, maybe let somebody else make the motion to do it in the affirmative and
14 then let's go from there.

15

16 Chair Lauing: That's what I just said.

17

18 Commissioner Alcheck: Is there support for the affirmative that (interrupted)

19

20 Mr. Lait: Well let's find out.

-
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Commissioner Alcheck: I guess (interrupted)

Mr. Lait: [unintelligible] [note- many people talking at once]

Chair Lauing: So, I need you to withdraw that motion or else I can't make it or there's no second.

Mr. Lait: There's no second.

Mr. Lait: Right.

MOTION #6 FAILS DUE TO THE LACK OF A SECOND

MOTION #7

Chair Lauing: Ok I didn't know if you were going to second so I didn't want to jump on you there. Alright, so I would actually move that we do eliminate in lieu parking for commercial development.

SECOND

-
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Commissioner Summa: Second.

Chair Lauing: Second from Commissioner Summa and the idea is that it does put housing on a more even playing field compared to commercial. There's also the question about fees that go to commercial, they never end up creating parking spaces in front of the building, they go into a fund. So, I think this is a good incentive for housing and it's not an immediate negative for when a developer looks at housing versus commercial. Commissioner Summa if you'd like to speak to second?

Commissioner Summa: I would because I'd like to add to that, that I also think that in lieu parking – because accessible parking spaces are required as a percentage of the spaces on sight. The in-lieu spaces, I believe, has contributed to less accessible spaces and I think that's also not good but I think any time we can limit commercial we're going to really help build residential.

Chair Lauing: Is your light on? Commissioner Monk [note-Vice-Chair Monk]?

Vice-Chair Monk: I could not disagree more with my Commissioners on this one. If we want to level the playing field then we create an in-lieu parking available to developers of housing.

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1 That's how this should be presented to us. I'm completely mystified as to how we're seeing
2 something that has anything to do with commercial development. We're here to discuss
3 housing, housing development, Housing Ordinance, Housing Work Plan, Comp Plan. Nothing
4 about commercial development in the downtown. It is completely I thin beyond our scope to
5 be presented with this, I don't know why Staff put it in here, I'd love for you talk about it but I
6 just -- this is beyond what we've ever discussed, it hasn't been scoped, it's not something that
7 we should have any authority to weigh in on.

8

9 Mr. Lait: Well I appreciate your passion for (interrupted)

10

11 Vice-Chair Monk: I'm just shocked that it's in here.

12

13 Mr. Lait: Your perspective. It's – I guess without belaboring the point, in our conversations and
14 Jean can speak to this probably more directly but when redeveloping property downtown
15 developers count on that in lieu parking to not have to build sub-terrain parking spaces at great
16 cost for the development. And if you're building a commercial building with office on the
17 second or third floor spending \$5, \$6, \$7, \$8 million dollars on in lieu parking is more
18 advantageous than building the parking structure.

19

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1 Vice-Chair Monk: So why wouldn't want to pass that along to developers of residential
2 properties?

3

4 Mr. Lait: And I don't have a philosophical objection to that, I will not that we did discuss this at
5 one or two meetings ago and there was no support for the residential in lieu parking provision
6 which is why we backed off of it.

7

8 Vice-Chair Monk: By whom?

9

10 Mr. Lait: By the Commission. So, we backed off of it and – but still felt that there was a worthy
11 conversation to take place to balance the tip – begin to tip the balance toward housing
12 downtown when property owners are seeking to redevelop their properties.

13

14 Vice-Chair Monk: So, I think the issue that I have with this is that everything here has to do
15 with something related to housing. All these discussion points relate to housing, this does
16 nothing for housing and it does something for commercial development. That is not with our
17 purview, it was not in the Housing Work Plan, it was not in the Colleagues Memo.

18

19 Mr. Lait: Sure.

20

-
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1 Vice-Chair Monk: So, it's just not an appropriate topic for us to have. It was baked in here
2 because a developer sent up an email from Windy Hill -- I don't know was it two weeks ago? --
3 making this suggestion. I couldn't find the email but I know that there's an email sent from
4 Windy Hill asking for some concessions on residential parking. It was in our Packet 2-weeks ago.

5
6 Mr. Lait: Yeah, I recall the email.

7
8 Vice-Chair Monk: So, I think that prompted a discussion about it and somehow this got in here
9 in the commercial – if just got flipped around and I think this is a manipulation of what
10 developer had requested of us.

11
12 Mr. Lait: I'm sorry I just got to interrupt you here. I don't agree with the way you've
13 characterize that at all. I mean we've been very clear about this and we've had included
14 (interrupted)

15
16 Vice-Chair Monk: Well that's when it came up.

17
18 Mr. Lait: It is not (interrupted)

19
20 Vice-Chair Monk: That the was the first time it had ever come up.

-
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2 Mr. Lait: That was not when it came up, it came up before that and Staff presented it as an
3 option to include residential as a part of the in-lieu parking program and we can get you copies
4 of that report. This is not a new topic and the fact that it didn't get Commission support and
5 that is a key element of a property's owner decision on whether they're going to build a
6 commercial building or a multi-family building, we see it as directly related to this housing
7 discussion. And it's absolutely appropriate for a dialog here before the Commission when
8 you're considering these issues, so we believe it's appropriate to talk about it. We don't have a
9 strong position on it and that's why we're presenting it to the Commission.

10

11 Vice-Chair Monk: So, developers have come to you and said if you get rid of this I'm going to
12 build housing instead.

13

14 Mr. Lait: No what they've come to us with and Jean can speak to this more is it is more
15 lucrative to redevelop a downtown property with commercial development using the in-lieu
16 parking program than it is to provide housing. And so, when you say well you can't buy into the
17 parking – well so we're saying two things. One, in lieu parking, is still available for ground floor
18 commercial because we're trying to incentives retail and those types of retail uses so we're still
19 saying that would be eligible. But beyond that if a developer wants to do a commercial building
20 it begins to weigh into the decision does it make more sense to build housing at this site

-
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1 knowing that if I build commercial I have to park those commercial parking spaces on site in a
2 sub-terrain garage at depth.

3

4 Vice-Chair Monk: Are the same builders choosing between building a commercial property or
5 residential or do you have different developments doing those different things?

6

7 Mr. Lait: There are different developers doing different things.

8

9 Vice-Chair Monk: So, I don't think a developer is going to oh since I don't have to pay this I'm
10 going to do this instead. The agreement doesn't make sense but I'm going to stop belaboring it.
11 It just doesn't follow logic, if you want it to be leveled it needs to be applied to residential
12 developers.

13

14 Commissioner Waldfogel: Can I speak?

15

16 Chair Lauing: Commissioner Waldfogel.

17

18 Commissioner Waldfogel: Yeah actually I think the logic is pretty simple. We have an in-lieu
19 program that's not working very well and that puts a giant thumb on the scale favoring office

-
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1 over residential. So that's why it's completely appropriate to discuss it here and to send a
2 recommendation to Council.

3

4 Chair Lauing: Commissioner Gardias.

5

6 Commissioner Gardias: No, thank you, I think we said all. Let's vote, thank you.

7

8 Chair Lauing: Any other comments? Commissioner Alcheck.

9

10 Commissioner Alcheck: Yeah look we've made a lot of changes to commercial this year so one
11 of the reasons why I was hesitant about this particular item – first of all I do think it's legitimate
12 for discussion. I think there's clearly a very little appetite in Palo Alto for under parked
13 buildings, regardless of whether they're commercial or residential but we've done – there's a
14 tremendous number of changes have occurred in the last 12-months with respect to
15 commercial. Caps, annual limits, and there's a part of this which is a little ironic because some
16 of you find it so difficult to sort of move an item forward despite eloquent arguments from our
17 Planning Department, like the one we just heard at 11:11 at night, when we've only had barely
18 one moment to understand the ramifications. And I really wish that you guys were as
19 comfortable trying some of these alternative promoting housing policies as – I mean look, we
20 got something done tonight but all I'm saying is if it's too late in the night to talk about 10-foot

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1 for residential in a year we've had so many dramatic changes to the commercial it does seem a
2 little odd that at the 11th hour we're throwing in some in lieu parking change. Which I won't
3 suggest isn't popular maybe amongst individuals who do not like the under parked situations
4 which seems like the vast majority of Palo Altans but it does seem like we don't really – it's out
5 of context. And that is an argument that I hear so often from very many of you and so it does
6 seem odd to me that there's so much support for this, regardless of whether this has come up
7 before. It does seem a little out of place in the plan and we've been here six times and it came
8 for the first time at the end of the last meeting. So, I don't like that process considering that the
9 precedent here has been set, that these sorts of additions can even be made but that's fine.

10

11 Chair Lauing: Ok we've had six of them, this is the sixth.

12

13 Mr. Lait: (off mic) Did we vote on it?

14

15 Chair Lauing: No, I was going to say now it's time to vote. So, all in favor of (interrupted)

16

17 Commissioner Summa: (off mic) Wait wait are we voting on the (interrupted)

18

19 Chair Lauing: We're voting on the in-lieu motion that I made and that you seconded.

20

-
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1 Commissioner Summa: Ok.

2

3 Commissioner Alcheck: Recommending including (interrupted)

4

5 VOTE

6

7 Chair Lauing: Recommending the – what’s right here, right? Ok, so all in favor? Four and
8 opposed? Two – well one – did you vote?

9

10 Commissioner Alcheck: (off mic) This is the most appropriate use of an abstention.

11

12 Chair Lauing: Or you’re abstaining?

13

14 Commissioner Alcheck: (off mic) We have not had any discussion on the ramifications of this
15 topic. That’s dangerous [**unintelligible**].

16

17 MOTION PASSED 4(Summa, Lauing, Gardias, Waldfogel) -1(Monk)- 1(Alcheck abstain) -1(Riggs
18 absent)

19

20 Chair Lauing: Duly recorded.

-
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Commissioner Waldfogel: (off mic) It's been in the Packets for months.

Commissioner Alcheck: I won't not support it (interrupted)

Vice-Chair Monk: But Chair before we move onto the next item I just wanted to point out an observation to the Staff.

Chair Lauing: To the what?

Vice-Chair Monk: To the Staff on the ordinance.

Chair Lauing: Sure.

Vice-Chair Monk: Staff on the ordinance on Page 8 under B at the top under the Usable Open Space it does mention 200-square feet. I don't know if that's in conflict with other parts of the ordinance.

Chair Lauing: Oh, the new one?

-
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1 Vice-Chair Monk: Page 8.

2

3 Mr. Yang: So, Commissioner Monk [~~note-Vice-Chair Monk~~] that's about (interrupted)

4

5 Vice-Chair Monk: It might be a different [~~unintelligible~~].

6

7 Mr. Yang: It's a different sort of standard.

8

9 Vice-Chair Monk: Oh, ok and then on the requirement that an owner provides an annual transit
10 pass for the duration of a project is a little concerning to me and the enforceability of that. Is
11 that something that's legal to require? Ok. I just want to express concern.

12

13 Mr. Lait: [~~unintelligible – off mic~~] here that we believe to be illegal.

14

15 Vice-Chair Monk: Well you're expressing a pass for every unit for every project for every
16 occupant for the lifetime of the project.

17

18 Mr. Lait: Yep that's the requirement for the reduced parking standard.

19

-
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1 Vice-Chair Monk: I thought there were – ok, I thought there were limits on providing go passes
2 because certain people can't be recipients of them and things like that. I don't know.

3

4 Mr. Lait: Well we're specifying transit passes.

5

6 Vice-Chair Monk: Ok.

7

8 **Commission Action:**

9

10 **Approval of Minutes**

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

12 4. September 12, 2918 Draft PTC Meeting Minutes

13

14 Chair Lauing: Ok the next item is to take a look at – turn the page – approval of minutes of the
15 September 12th meeting.

16

17 MOTION

18

19 Commissioner Alcheck: Moved.

20

21 SECOND

22

-
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1 Commissioner Summa: Second.

2

3 Chair Lauing: Any discussion, amendments? Alright, that's approved. I don't think there's any
4 Committees.

5

6 Commissioner Alcheck: Are we voting on it?

7

8 Vice-Chair Monk: Well I just want to say that there were some minor typos like too is spelled
9 with t-o.

10

11 Mr. Lait: (off mic) Just get those to Yolanda.

12

13 VOTE

14

15 Chair Lauing: Alright all in favor of the minutes? Approved.

16

17 Commissioner Waldfogel: I'm abstaining, I was absent.

18

19 Chair Lauing: That's good.

20

-
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1 MOTION PASSED 5(Lauing, Monk, Alcheck, Summa, Gardias,- 0- -1 (Waldfoegel abstain)- 1(Riggs
2 Absent)

3

4 **Commission Action:** Motion to approve meeting minutes made by Commissioner Alcheck,
5 seconded by Commissioner Summa. Motion passed 5-0 (Waldfoegel abstained)

6 **Committee Items**

7

8 **Commissioner Questions, Comments or Announcements**

9

10 Chair Lauing: Now Commissioner questions, comments, announcements? And if not then just
11 want to point out future agenda items a month from now.

12

13 Vice-Chair Monk: Oh yeah, I just wanted to mention that I did go to a conference 2-weeks ago
14 from the Silicon Valley Economic Development Alliance. It was the Urban Plan for Public
15 Officials and it was an all-day workshop. There were mostly I would say half Council Members
16 half Planning Commissioners. They split you up in groups and they gave you modules and asked
17 you to kind of build a City. I found it very interesting and illustrative. I think it would probably
18 be a bit more useful for someone on Council than a planning person since we don't get whole
19 areas to work with except for our – I think Commissioner Gardias might have enjoyed it
20 because I know you're or Summa or who's ever involved with the North Ventura Coordinated

-
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1 Plan might have enjoyed it because you're dealing with a lot of stakeholders. So, I thought it
2 was very interesting and thank you, Staff, for – and Commissioner Alcheck was there as well.

3

4 Commissioner Alcheck: And so, was Mayor Kniss, right?

5

6 Vice-Chair Monk: Yeah and I think she wants to invite them to do a presentation to City Council.

7

8 Chair Lauing: Ok looking ahead, eat candy on the 31st and then we're back on November 14th. Is
9 this still holding, these items, Boyce Road?

10

11 Mr. Jonathan Lait, Assistant Director of Planning: [unintelligible – off mic]

12

13 Chair Lauing: This moment in time and the 28th is TBD. Nothing there yet and then could you
14 just – I've just been wondering what this neighborhood traffic impact is late in the year. Who's
15 making that presentation and (interrupted)

16

17 Mr. Lait: We'll get you some more information on it. Our Transportation Office is (interrupted)

18

19 Chair Lauing: Yeah, in flux. Ok, any other questions about that or question about agenda items?

20

-
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1 Commissioner Summa: I have a little comment.

2

3 Chair Lauing: Comment? Yeah, go ahead.

4

5 Commissioner Summa: So, I guess the North Ventura Area Plan blah blah blah, whatever it
6 called, is actually supposed to start this week but I haven't heard anything. Not this week, next
7 week, October 17th.

8

9 Mr. Lait: Thanks, yeah, next Wednesday I think is the meeting and I probably should have
10 noted this under the report but I got here too late to pull my thoughts together. But yeah, the
11 North Ventura Coordinated Area Plan is underway. We've got the contracts signed and we
12 received authorization from the necessary agencies and we have our first meeting taking place
13 next week so looking forward to getting that started.

14

15 Vice-Chair Monk: I also wanted to report back that I represented at the Council meeting on the
16 ADU Ordinance which got passed but they have another reading coming up. You're on for
17 November.

18

19 Chair Lauing: Ok we stand adjourned. Thanks very much. It's been a long haul, thanks to all of
20 us and all of you.

-
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1 **Adjournment**

2 **11:21 pm**

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Palo Alto Planning & Transportation Commission

Commissioner Biographies, Present and Archived Agendas and Reports are available online: <http://www.cityofpaloalto.org/gov/boards/ptc/default.asp>. The PTC Commission members are:

Chair Ed Lauing
Commissioner Michael Alcheck
Commissioner Asher Waldfogel
Commissioner Przemek Gardias
Vice Chair Susan Monk
Commissioner William Riggs
Commissioner Doria Summa

Get Informed and Be Engaged!

View online: <http://midpenmedia.org/category/government/city-of-palo-alto> or on Channel 26.

Show up and speak. Public comment is encouraged. Please complete a speaker request card located on the table at the entrance to the Council Chambers and deliver it to the Commission Secretary prior to discussion of the item.

Write to us. Email the PTC at: Planning.Commission@CityofPaloAlto.org. Letters can be delivered to the Planning & Community Environment Department, 5th floor, City Hall, 250 Hamilton Avenue, Palo Alto, CA 94301. Comments received by 2:00 PM two Tuesdays preceding the meeting date will be included in the agenda packet. Comments received afterward through 2:00 PM the day of the meeting will be presented to the Commission at the dais.

Material related to an item on this agenda submitted to the PTC after distribution of the agenda packet is available for public inspection at the address above.

Americans with Disability Act (ADA)

It is the policy of the City of Palo Alto to offer its public programs, services and meetings in a manner that is readily accessible to all. Persons with disabilities who require materials in an appropriate alternative format or who require auxiliary aids to access City meetings, programs, or services may contact the City's ADA Coordinator at (650) 329-2550 (voice) or by emailing ada@cityofpaloalto.org. Requests for assistance or accommodations must be submitted at least 24 hours in advance of the meeting, program, or service.

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