



Planning & Transportation Commission Action Agenda: October 30, 2019

Council Chambers
250 Hamilton Avenue
6:00 PM

Call to Order / Roll Call

6:05pm

Vice-Chair Alcheck: Full house tonight. Can we take roll?

Oral Communications

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

Vice-Chair Alcheck: We've got one action item to do today and we'll be getting to that in a second. I have no cards for oral communications.

Agenda Changes, Additions, and Deletions

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

Vice-Chair Alcheck: So, we're going to quickly move through agenda changes, additions, and deletions. I think Staff wants to highlight the meeting schedule for this year. Is that right?

Ms. Rachael Tanner, Assistant Director of Planning: Yes, we do want to talk about the meeting schedule for the year. So, normally what we would do for the meeting schedule is talk about any proposed cancelations that we know are coming ahead of time and then have them removed from the agenda. The agenda is on Packet Page 5. Vinh did remove some of the

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1 proposed meeting removals already so we're proposing to cancel the meeting the week of
2 Thanksgiving. Then also there was another meeting that was going to be in late December
3 which I think fell near Christmas or New Year's holidays. So, they're already removed from the
4 calendar but I wanted to make sure that we just verbalize that here. So, folks would know that
5 our regular... second regular meeting in November and then our second regular meeting in
6 December are proposed to be canceled. Unless there's other reasons that we won't have a
7 quorum for the other meetings on the 13th and the 11th we would go forward with those
8 meetings.

9

10 Vice-Chair Alcheck: I would suggest though that you put them in and then just write canceled.

11

12 Ms. Tanner: Yeah.

13

14 Vice-Chair Alcheck: I think that at least gives people an (interrupted)

15

16 Ms. Tanner: Helps to clarify.

17

18 Vice-Chair Alcheck: Impression what was... what happened.

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20 Ms. Tanner: Agreed.

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Vice-Chair Alcheck: That way people know which one (interrupted)

Ms. Tanner: The day of the canceled meeting I believe is December 25th. I believe we're on the second and last Wednesday of the month so that would be December 25th. The date of the meeting in November would be the 27th, November 27th.

Vice-Chair Alcheck: If the 25th is a Wednesday then the 1st is a Wednesday. Oh, but that doesn't (interrupted)

Ms. Tanner: That's true but it's the first (interrupted)

Vice-Chair Alcheck: It's the first – no, you're right.

Ms. Tanner: Wednesday but yes, you're [unintelligible – crosstalk]

Vice-Chair Alcheck: [unintelligible – crosstalk]

Commissioner Lauing: I don't think these were originally scheduled.

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1 Ms. Tanner: You're right.

2 Vice-Chair Alcheck: [unintelligible] holidays. That's the only two (interrupted)

3

4 Commissioner Lauing: I don't think these were every originally scheduled, the ones you're
5 talking about canceling but anyway.

6

7 Ms. Tanner: Oh, ok well maybe then that's why they're (interrupted)

8

9 Commissioner Roohparvar: The 25 applies. I have the original... the 27th of November was, the
10 December one was (interrupted)

11

12 Vice-Chair Alcheck: I assumed (interrupted)

13

14 Ms. Tanner: Was already canceled, ok.

15

16 Vice-Chair Alcheck: 11/27 was, yeah.

17 **City Official Reports**

18 1. Directors Report, Meeting Schedule, and Assignments

19 Vice-Chair Alcheck: Alright and then we'll just segue right into your report.

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1 Ms. Rachael Tanner, Assistant Director of Planning: Great, Commissioners, thank you. Good to
2 see you all this evening on this Halloween Eve. Hopefully, you'll be out tomorrow and having
3 some fun in our community.

4
5 We'll give a report, at the end hopefully Commissioner Summa will talk a little bit about the
6 NVCAP project that has kind of restarted and give some more details on that. We just want to
7 report that we did go to Council on October 21st to get the contract with Perkins and Will our
8 consultant, for that approve and that was approved for two and with one Council Member
9 absent on the Consent Calendar. So, we have restarted and we're happy to share more news
10 about that.

11
12 We're also excited that we have been hiring and onboarding new Staff. We have fully Staffed
13 for the most part Development Center which is great. We have two new Managers there in the
14 Permit Center and then also our Inspection Manager. One a promotion from within and one a
15 contractor who's worked with us for several years promoted and will kind of becoming a full
16 City Staff. So very knowledgeable folks who know our department and know our work and
17 know our City. So, we're very, very fortunate in that regard and then also in our planning team,
18 we have hired one new Planner who started a few weeks ago and two Planner Techs who work
19 at the Development Center. And then also we have another Planner coming on next month so
20 we're very excited to be getting that work Staffed up. So, hopefully in the near future we will no

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1 longer say well we don't have the Staffing, our capacity is low. We will be firing on all cylinders.
2 Sam will no longer be at the counter and our Planners can be doing their work so we're very
3 excited about that.

4
5 We were also fortunate in being able to promote some of our Planners too from Associate
6 Planners to Planners and Sam is one of those Planners who was promoted as well as Scott
7 McKay who works at our Development Center helping to answer a lot of the public's questions.
8 Really a leader in his field and especially serving the public so we're very excited about that and
9 that's the end of my report. I'm open of course for questions if you have any.

10

11 Vice-Chair Alcheck: Any questions? Go ahead.

12

13 Commissioner Waldfogel: Thanks. Congratulations on getting Staffed up. Is enforcement also
14 Staffed up?

15

16 Ms. Tanner: Unfortunately, we actually lost one of our Code Enforcement Officers we had
17 hired. As you may know, we have Brian Renalds who's been there for some time. We had two
18 vacancies which we went out to hirer. We did make one hirer during that recruitment round
19 and unfortunately that person, Mike Calaso [note – spelling], had some health issues and he
20 passed away a few weeks ago from those issues. So, it was quite tragic, he was very excited to

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1 work here, really loved even in the short time he'd been here since July working in Palo Alto.
2 So, we're very sorry to lose him. We do hope to be posting soon and making sure that we can
3 recruit early in the new year and get those positions filled.

4
5 Commissioner Waldfogel: Great. I'm sorry to hear about that and I wish you luck in recruiting
6 and then just one other question. Is the contract that you mentioned at the beginning of your
7 report, the Downtown Parking Contract?

8
9 Ms. Tanner: No, that is... the Perkins and Will contract is for the consultants who are working
10 on our North Ventura Coordinated Area Plan. The Downtown Parking contract, I can follow up
11 with Transportation on that but I believe that also did recently go to Council as well.

12
13 Commissioner Waldfogel: I think... it was reported in the press that it did and I think it'd be
14 great if we could get a report out on that because we did see an early version of that a couple
15 years ago and it hasn't come back to us. I think there's some curiosity about what the content
16 is.

17
18 Ms. Tanner: Yeah, great.

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1 Vice-Chair Alcheck: Ok, any other questions? Alright Then with that we will move to our first
2 action item.

3 **Study Session**

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

5

6 No study session items.

7 **Action Items**

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

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

10

11 2. PUBLIC HEARING/QUASI-JUDICIAL. 470 Olive Avenue [18PLN-00148]:
12 Recommendation on Applicant's Request for a Zoning Code Text Amendment to
13 Allow an Exception to the Nonconforming Use Amortization Provisions that are
14 Applicable to the Site. The Applicant has Requested the Text Amendment to Allow an
15 Existing Office Use to Remain in a Single Family Residential Zoning District for Five
16 Years. The Existing Commercial Structure is Located on Two Parcels: 470 Olive
17 Avenue is Zoned Single Family Residential (R-1) and 2951 El Camino Real is Zoned
18 Service Commercial (CS). Environmental Assessment: Exempt from CEQA Per
19 Guidelines Section 15301 (Existing Facilities). For More Information Contact the
20 Project Planner Samuel Gutierrez at samuel.gutierrez@cityofpaloalto.org

21

22 Vice-Chair Alcheck: Which is a public hearing and it's also quasi-judicial so let me just take this
23 opportunity before we hear from the Staff to allow anyone who'd like to make a disclosure to
24 do so. Ok, seeing none, then Staff would you kick us off?

25

26 Ms. Rachael Tanner, Assistant Director of Planning: Thank you. We have Sam Gutierrez who is
27 here to walk us through the project at 470 Olive and the Staff recommendation.

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1 Mr. Sam Gutierrez, Planner: Good evening Commissioners, Sam Gutierrez, Project Planner, and
2 this is for a Text Amendment Request at 470 Olive to allow a non-conforming use Amortization
3 Provisions that would amend the existing Zoning Code and extent a non-conforming use on the
4 site for a period of 5-years. The site is zoned single-family residential.

5
6 Jumping into the presentation, here you can see that this first slide starts with an image of the
7 actual site, that's 470 Olive, viewed from Olive. That's the existing building on site and as you
8 can see it's figured in kind of a commercial configuration. Here you can see a Zoning Map and
9 there is the CS Zone towards El Camino but however, the Olive site is in the R-1 Zone which is
10 directly adjacent. And again, the applicant seeks to a Text Amendment of Title 18 to allow this
11 unpermitted office to legally occupy the 470 Olive site for 5-years.

12
13 And rolling through the existing conditions, this is the adjacent single-family residential
14 property to the 470 Olive. Here you can see 470 Olive in the rear of that photo, kind of in the
15 rear portion there, and this is from the view from El Camino. Now the El Camino property is
16 interconnected with Olive through the parking lot there. Here's just a wider view of what El
17 Camino looks like. Again, it's commercial, it's typical of what El Camino is, low rise buildings,
18 commercial and mixed types of commercial. Here's an aerial view of the sites. It gives you a bit
19 more of a view of the situation there. You can see there's kind of an L-shape that starts on El
20 Camino, heads over towards the 470 Olive site, does a 90-degree turn, and heads out towards

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1 Olive. And again, there's two commercial sites on El Camino adjacent to that kind of common
2 connecting center El Camino property and then around the 470 Olive building, you can see that
3 there is single-family residential homes that are surrounding it.

4
5 So, again the existing conditions are the last permitted use of record was an extensive retail
6 use. This is in the Staff report attachments, that there was an extensive retail piano sales use
7 previously in the 80's there. The site currently has an unpermitted office. Of course, it's R-1,
8 office uses are a new... most commercial uses period are not permitted in R-1. It's for
9 residential or some residential like or some service like uses. And again, that goes here into you
10 could do low-density residential, single-family with an ADU or a JADU or some type of religious
11 institution, community center with a CUP. You can also have a private educational facility with a
12 CUP there as well.

13
14 Moving here you can see a site plan diagram. This shows the way that the two driveways or
15 excuse me, drive isles from the 2951 El Camino parcel and how that connects to the 470 Olive
16 parcel. So, it's a commonly used driveway and you drive on through El Camino passed the
17 angled parking, turn off of Olive and exit that way.

18
19 There is another consideration on the site. Both sites there on the El Camino site and the Olive
20 site both have the COE Plume. There are wells that are used for testing. Those wells are

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1 accessed monthly for maintenance and yearly for testing. We did contact the Water Board to
2 see how many wells are still in use and there are still several wells in use. And they did indicate
3 that they would be in use for a few more decades as they monitor the plumes underneath the
4 site.

5

6 Going onto the project history we have a timeline of this project and that's in 1978 the 470
7 Olive was rezoned and its land use designation was updated in the Comprehensive Plan to
8 single-family R-1. The site became legal non-conforming and subject to an amortization
9 September 11th, 1998. That date was actually selected because or that date is listed there
10 because the type of construction within the Municipal Code it notes specifically buildings that
11 are subject to amortization. If they're not specifically called out with a specific date, so their
12 address and a specific date, then they fall into this table which has a range of dates based on
13 the construction type. So, based on this one's construction type September 11th was chosen as
14 it's amortization date. In October 5th, 1987 the City Council saw this situation and approved an
15 Acceptation from the amortization subject to conditions. However, near... a few months later
16 we did receive... the City received confirmation from the property owner at the time that they
17 would not seek the Acceptation from the amortization. This property now, the current property
18 owner, did go before the City Council for pre-screening on October 2nd, 2017 and a formal
19 application was submitted May 1st, 2018.

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1 So, there was a number of considerations when Staff reviewed this. One being that there was
2 an Acceptation granted in the past but it was chosen not to be sought after all. The other
3 consideration is the current owner has been forthcoming with the City and is proactively
4 seeking legalization of the existing use. The other consideration is the sites interconnection, the
5 common driveway with El Camino. The site, of course, has those COE wells that are used for
6 testing so that could be an impact to redevelopment. And the site does have some viable
7 potential with some conditional uses that could occupy the existing building. So, though the
8 existing building wouldn't be suitable for a single-family residence, there are some of those
9 conditional uses that I did go over early that could possibly occupy that. And then another
10 consideration is of course that the commercial uses are not permitted within the R-1 Zone.

11

12 So, the recommendation was developed after reviewing the history, the existing conditions, the
13 submitted request by the applicant, and Staff took the following factors really into account
14 before making our recommendation to you tonight. And it's the parcel zoning does not allow
15 the current office use in the Recommendation-1 Zone, commercial uses beyond 1998 was
16 forfeited again by the previous property owner, and the Acceptation was for a retail use, not an
17 office. And there are conditionally permitted uses that could be explored without a need for a
18 Text Amendment. So, the Staff's recommendation to the Planning and Transportation
19 Commission take the following action. Recommend denial of the proposed Text Amendment
20 enabling the continued office in R-1 Zone parcel. Alternatively, however the PTC may

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1 recommend that Staff return to the PTC with modifications to the Text Amendment. That
2 concludes Staff's presentation.

3

4 Ms. Tanner: Thank you. We also have a presentation from the applicant and I believe they have
5 up to 10-minutes if they need that time to make their presentation.

6

7 Mr. William Agramonte: Thank you. Just click that? Ok, thank you, Sam. Hello, thank you for
8 your time this evening. My name is Will Agramonte, I'm speaking on behalf of my family
9 regarding 470 Olive's application, and additionally the potential for a multi-family development
10 on the site.

11

12 I want to share a little bit about our background. Both of my brother and my parents grew up in
13 Palo Alto and we grew up spending the majority of our time here. We still have a grandmother
14 who lives here and at one point we actually had two great grandmothers who lived in Palo Alto.
15 Our mother Jessica went to high school at Cubberley and is currently a Stanford professor
16 where she runs the Motion Gait Analysis Laboratory which primarily works with children that
17 have walking disorders. Our father Bob went to Pally before becoming a veterinarian. He
18 practiced in Palo Alto for 45-years including at one of the sites which we'll be discussing tonight.
19 We are a family that cares deeply about Palo Alto and has been part of this community for 65-
20 years.

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2 Let's see, here is the aerial view of the property. You guys have already kind of seen this
3 through the last presentation so I can go through it. The view from El Camino, as you can see
4 there are two commercial loading docks on both the properties and to be noted when it was
5 originally developed it was zoned as CS status originally. Another view. The surrounding parcels
6 are commercial and the neighborhood generally speaking has a mixed-use of commercial and
7 R-1.

8

9 I would like to bring you through a brief timeline of the property and its unique situation. In
10 1968 a single commercial building spanning 470 Olive and 2951 El Camino was built and
11 permitted for commercial use. 470 Olive has always been structurally and operationally linked
12 to 2951 El Camino sharing a single building, a single drive-through parking lot, and two
13 commercial loading docks. In 1978 470 Olive was rezoned R-1 by the City of Palo Alto
14 Comprehensive Plan, however as noted by the City of... by the City Council, in the application
15 pre-screening this rezoning that divides a single building in half was quite likely a mistake. It is
16 located in an area with commercial use businesses, has always operated as commercial use. In
17 1987 the prior owner applied for Exemption from non-conforming use determination and
18 unanimously... and it was unanimously approved by the City of Palo Alto in a letter dated July
19 16, 1992 suggesting option for applying for a Zone Change to change the zoning of 470 Olive
20 from R-1 back to CS. The prior owner as was stated did not follow up and very notably did not

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1 disclose this to us when we purchased the property. So, I want to be clear that we actually were
2 not aware of the situation until later on and we are here to try to rectify that. In 1993 we
3 purchased the property, that same year Super Fun Ground Water Quality Monitoring Wells
4 were installed at 470 Olive as you can see in the site plan. The monthly monitoring by San
5 Francisco Water Quality Board is feasible for commercial use including a multi-family residential
6 property but poses serious compliance issues for a standard residence. As Sam noted it does
7 have some options but not for housing. In 2017 we became aware of the situation and have
8 since approached the City to discuss a resolution. Since then we've been proactive trying to find
9 a solution and we appreciate your time to hopefully discuss that today. On October 2nd, 2017
10 Palo Alto City conducted a pre-screening, suggested an application for a Code Amendment
11 would be the solution.

12
13 A few months ago, we learned that multi-family residential developments are of high priority to
14 the City of Palo Alto and would provide far more residential use than maintaining and R-1. Since
15 then we have moved quickly to pursue this opportunity and have assembled an expert team to
16 of which are here today. We'd be working to create a 1-acre multi-family residential
17 development that includes adjacent parcels consistent with Palo Alto priorities and regulations
18 that could provide up to probably over 70-units. Therefore, we request a 5-years extension to
19 the amortization schedule from the date of this application to allow sufficient time to design
20 and build this multi-family residential development. We also are definitely hoping to following

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1 up with an additional meeting and discussing once we have more time to develop these
2 concepts.

3
4 Our development team includes Gary Johnson from Acclaim Companies which is a very well-
5 regarded developer with multi-family properties across the Bay Area as well as John Lum. A
6 very talented and highly recommended architect... highly regarded architect who's worked in
7 Palo Alto as well as across the Bay area.

8
9 In summary 470 Olive includes... excuse me... in summary 470 Olive was originally a single
10 spanning building at least from design and both parcels were originally zoned CS. The Super Fun
11 Water Quality Wells on 470 are tested monthly and possess serious compliance issues with
12 most R-1 opportunities. Neighboring commercial use exists on all sides. We have no complaints
13 and the neighboring redevelopments have been approved. We would like to plan for a multi-
14 family residential development that would supply much more housing than if it was rezoned to
15 R-1. The City Council pre-screening recommended... the majority of the City Council Members
16 in the pre-screening recommended an extension. Thank you all for your time and yes, thank
17 you.

18
19 Vice-Chair Alcheck: Is there anyone else from your team that wishes to address the Commission
20 during their allotted time?

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Mr. Agramonte: I don't believe so.

Vice-Chair Alcheck: Great, alright. I don't have any speaker cards for this so I think we will turn it to the Commission. I'm going to just... I'm not going to start at one end or the other. Please just light it up if you wish to talk, you don't have too. If you have questions for Staff or you have comments or questions for the applicant. We'll call you up if we have questions for you so let's do it like that. If anybody wants to begin light up your board and Commissioner Templeton, why don't you kick us off?

Commissioner Templeton: Hi, I was wondering if you can clarify if the rezoning for this parcel to R-1 was a mistake.

Mr. Gutierrez: That we're not aware of whether it was a mistake or not, no.

Commissioner Templeton: Has there ever been a home on that property?

Mr. Gutierrez: No, no.

Commissioner Templeton: Ok, thank you.

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Vice-Chair Alcheck: Commissioner DuBois. I mean excuse me, Commissioner Summa. I'm looking at the wrong list and then Commissioner Waldfogel after that. Go ahead. Sorry, its... the board has... ok Commissioner Summa then Waldfogel.

Commissioner Summa: A couple question for Staff and congratulations on your promotion Mr. Gutierrez. It does seem kind of unusual and maybe Staff can comment on it to divide... to make a new zone for a building that divides... for two parcels that are adjacent that have one building on it. Was is always really one building because it's kind of looks like two but it's... and is that a common practice?

Ms. Tanner: I think to the configuration of the building the applicant may be able to say a little bit more about the building's connection. It does appear from the imagines that the walls of the building touch 470 Olive and the adjacent parcel. I don't know if they're connected structurally or if there is passage between the two buildings. I don't know if you'd like them to answer that particular part of the question.

Commissioner Summa: If they have something to add, sure.

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1 Mr. Agramonte: So, the building was one single unit. In fact, the original use of the piano store
2 was entire filled up the entire thing at one point.

3
4 [note – unknown male speaker speaking from the audience]: You could walk through it.

5
6 Mr. Agramonte: You could walk through the entire building and the entire thing was a piano
7 shop. Thank you.

8
9 Ms. Tanner: So, there's the answer to that question.

10
11 Mr. John Lum: And may I make a comment? I'm John the architect. Normally you cannot
12 actually span a property line with a building. So presumably somehow the Building Department
13 issued this Building Permit either incorrectly or they recognized the lot as a combined lot. So,
14 it's not code complying to have a building over the property line.

15
16 Commissioner Summa: And I believe that was 1968 so there may have been different rules back
17 (interrupted)

18
19 Ms. Tanner: At the time.

20

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1 Commissioner Summa: At the time. Another question is as a very thorough Staff report with a
2 history etc. but if they need 5-years to make an application for a multi-family zoning which I'm
3 sure would be welcomed, I'm assuming they would have to keep... well, I guess they wouldn't.
4 But anyhow, is that a normal time to get an application in, one and what can they do in the
5 meantime? I understand that they have been operating without a UNO for a very long time so
6 would we let them continue the non-compliance or?

7

8 Ms. Tanner: Yeah so that... essentially the proposal that's before us and Sam jump in when I
9 start veering off the... incorrect. The proposal before us is essentially to remedy this current
10 situation. They have come forward with an application for a Text Amendment for 5-years from
11 the date of application which was in the Spring of 2018. And so, 5-years from that point or if the
12 PTC were to use choose a different date or a different time period, that would be the time
13 period in which they would be allowed to have their proposed use which is an office use which
14 was not ever permitted at this site. And so, you know Staff do feel that 3 to 5 years is probably
15 a reasonable time period to achieve entitlement for a housing project so that would be perhaps
16 a reasonable length of time. We're considering probably more towards 3 than 5 would be what
17 Staff might recommend if the Commission should want to go that direction.

18

19 Commissioner Summa: Ok and it sounds like they're at some point, not at zero but they're
20 some point further along at this time.

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Ms. Tanner: In terms of the multi-family housing proposal, we have not received an application on file such a project at this time and so that could also be part of the time period. You might be able to say over the next month there would need to be a proposal that would be submitted or application to the City could be part of what you all consider.

Commissioner Summa: So, we're not considering requiring that they find a... in the meantime whatever they end up choosing to do but, in the meantime, they find a compliant use?

Ms. Tanner: In... if the... the Staff recommendation at this point is to deny the application for the Text Amendment. That's what Staff is recommending. If that were the recommendation upheld by the PTC then they would need to find a code-compliant use which could be a home but there are also... they could apply for a Conditional Use Permit for other permitted uses that are allowed in R-1 zones. So that would be an educational facility, it could be (interrupted)

Commissioner Summa: Daycare.

Ms. Tanner: Daycare or school, after school, it could be a church or other religious facility. They could lease to other uses like that.

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1 Vice-Chair Alcheck: Ok just a quick reminder, if you wish to follow any of the people that are
2 lighting up. Just keep lighting up if you want to have a chance to speak and I'll add you to my
3 list. Ok, continue.

4

5 Commissioner Summa: That's it for now, thank you.

6

7 Vice-Chair Alcheck: Commissioner Waldfogel.

8

9 Commissioner Waldfogel: Thank you. We'll get to you in a second. Just to start out and again,
10 thank you for the presentation. It's not every day you get to do forensic planning so
11 congratulations. That's probably part of the new job. Is 470 Olive within the NVCAP area?

12

13 Mr. Gutierrez: Yes, yes, it is.

14

15 Commissioner Waldfogel: And what's the timeline currently for that... for the NVCAP to finish
16 and for zoning to come out of that?

17

18 Ms. Tanner: Well we have a grant that we need to... a grant application with the NVCAP states
19 that we will include I believe and adopt the plan by the end of 2022. So that would be hopefully
20 by 2022 or sooner.

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Commissioner Waldfoegel: Ok so that complicates this planning a bit for the applicant. One other just set up question and it seems like you and the applicant have different versions of what happened at the pre-screen so can we reconcile those?

Ms. Tanner: Do you want to talk about that Sam?

Mr. Gutierrez: Sure, I can speak to that. So, at the Council pre-screening, the Council saw... voiced different opinions on it. One of them was that yes, potentially this might have been an error done by the previous Council decades ago. The other was well, if... whether it was or it wasn't they recognize that there was an issue here and they gave the previous property owner an avenue to not have that issue any longer. All the way to their... where they approved it and then, of course, that was chosen not to be sought. So that was another consideration that Council did say but then they looked at the situation and did suggest that. I believe initially when the applicant came forward it was for rezoning the parcel rather than a Text Amendment and then with the discussion with Council it moved to Text Amendments like we'll submit that. I think the Council's a little neutral here but submitting and going through the process and let's see where it ends up coming to completion when they go before the Council again.

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1 Commissioner Waldfogel: Thank you. A question for the applicant. If there an economically
2 viable conforming use? So, if the R-1 zoning is maintained and you need to apply for a CUP for
3 some use for the duration of whatever it takes you to figure this out. Is there an economically
4 viable option?

5
6 Mr. Agramonte: So, I don't believe so. He mentioned it could be housing or excuse me, she did
7 but it can't be because of the wells essentially. So, it would not comply with housing and there's
8 never been a house there. As far as being a community center or religious space, it's a
9 challenge with that size of parking so I would say I don't believe so.

10

11 Commissioner Waldfogel: But you've studied that? I mean you've looked at all possibilities?

12

13 Mr. Agramonte: We've looked at possibilities. I... and we have certainly looked into it, yeah.

14

15 Commissioner Waldfogel: So, let me just... it seems to me that there are a couple of alternatives
16 that we can pursue with this. I just want to frame them. I mean I think that there's a pretty
17 clear legal approach with is non-conforming use, bring it into conformance and figure out what
18 happens next. I mean that's one option that we can take.

19

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1 I think there's a slightly more pragmatic approach that there's a... it's not clear there's a
2 conforming use that's economically viable but also, more importantly, we're at the nexus of the
3 NVCAP work and potentially El Camino Corridor work. So, nobody really knows what the zoning
4 for this parcel will look like in 5-years. Now I would assume it will be different than it is today
5 but it would be speculative to say what it will be 5-years in the future.

6
7 And so, I think there's a pragmatic approach where we figure out a way to allow continuation of
8 the non-conforming use but provide some incentive to move as swiftly as possible once there is
9 more certainty. And so, I toss this over to legal and say is there... what can we tee up as an
10 incentive? Could we say there's a fee of find structure for maintaining the non-conforming use
11 until we get to new certainty or just what can we do other than to say oh, this is great? Maybe
12 sometime in the future we'll see an application that we like. So, what are our alternatives?

13
14 Ms. Sandra Lee, Assistant City Attorney: Well, the applicant has requested a short-term
15 extension of the amortization period. So, the thing... if they did not move forward with the... a
16 project that is potentially compliant or that the City Council would approve. At that point, they
17 would again be in violation of the Zoning Code. So, the regular process is for taking a Code
18 Enforcement action would be applicable. So, today the applicant is trying to come into
19 conformance or taking some steps to try to come into conformance or to bring the code into
20 conformance with the activities that they're undertaking. And that's why the City hasn't taken

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1 enforcement action but to the extent that there is some sort of extension of the amortization
2 period. And then the applicant doesn't... is no longer... exceeds that period and maintains an
3 unlawful use under our code. Then Code Enforcement action can proceed at that point.

4
5 Commissioner Waldfogel: But could we extend the amortization period with a fee of some sort?

6 I mean what I'm looking for is a way to provide some certainty and incentives because
7 something we've seen a lot of is, we see zoning that doesn't lead to projects. We see project
8 approvals that don't lead to buildings being built. So, what I don't want to do is just kick the can
9 down the road, give 3 to 5-years of grace, and then see nothing happen. But if we could find a
10 way to bring some certainty to it, I'd be very comfortable providing whatever this duration is, 3
11 to 5-years.

12
13 Ms. Lee: So normally zoning doesn't mandate certain types of use, it just allows certain uses.
14 So, absent a development agreement or something like that the property owner doesn't
15 necessarily have to build a certain project.

16
17 Commissioner Waldfogel: Right but this is a case where they want to build something and we
18 just want to provide some incentive to make sure that happens. So anyhow, just hold that
19 thought and I will... I'm done for now.

20

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1 Vice-Chair Alcheck: Ok I have Commissioner Roohparvar but you want to (interrupted)

2

3 Commissioner Roohparvar: Yeah, I just have one clarifying question.

4

5 Vice-Chair Alcheck: Ok go ahead.

6

7 Commissioner Roohparvar: Can you explain the Super Fun Water Quality Testing? Where are
8 the wells and can you build multi-family development on it? Can you tell me the viability of a
9 project on this site? How does this work in practice?

10

11 Mr. Gutierrez: Sure. After contacting the State Water Board, they provided a list of information
12 because Staff had a lot of questions for them about how the wells work, how they're tested,
13 they're duration, they're... that they would be in service. And one of the questions was is this
14 typical of residential properties and the answer was there are some sites, not necessarily in
15 Palo Alto, but around the Bay, because we're not the only one with that similar type of
16 contamination underneath the ground. But there are sites that do have multi-family
17 developments near them. The wells are there and they... it is possible.

18

19 The other possibility is that they could be located inside of parking garages as well. It would just
20 have to have some type of advanced ventilation system and then the lining. It's the same way

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1 that people build in Palo Alto within the plume now and they dig underground. They have a
2 better ventilation system and they have a liner system built into the parking structure as well.
3 So, they can be moved and modified. It's not a totally easy process but it is possible to do and it
4 has been done in Palo Alto and other sites and in the Bay area. The one thing that they did tell
5 us though is it's not typical of a single-family site and then these wells are in existence because
6 of easements that the Water Quality Board has.

7

8 Commissioner Roohparvar: And then how many of them are there and where are they located
9 currently on the site?

10

11 Mr. Gutierrez: So, they're distributed (interrupted)

12

13 Commissioner Roohparvar: Oh, never mind.

14

15 Mr. Gutierrez: They're distributed across the El Camino parcel, the 2951 and then where you
16 do the 90-degree turn towards Olive on 470 in the drive aisle. They're also located there.
17 Though not all of them are in service any longer, some of them still are. So, I believe on the
18 Olive site there are five wells and only two of them are still in service. And I... the number on
19 the El Camino site escapes me at the moment but there's more on the El Camino site.

20

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1 Commissioner Roohparvar: Thank you.

2

3 Vice-Chair Alcheck: Ok Commissioner Lauing.

4

5 Commissioner Lauing: Yeah thanks. A number of comments that I had were already mentioned
6 by Commissioner Waldfogel. When you look at the idea of putting conditional uses there that
7 doesn't seem very practical. Doesn't seem like there's a lot of demand for churches and
8 community centers. In fact, we tried to turn a church into a community center and now it's
9 going bye-bye anyway so that doesn't seem real practical.

10

11 Council screenings are exactly what we heard tonight, sort of controversial because there are
12 varied opinions and they don't give us any particular directions. So, I don't feel like we have any
13 particular direction on this and we should just take a look at it fresh.

14

15 It definitely seems like Staff is saying we'd like to put housing there not only because it's R-1 but
16 because housing is necessary in this town and we get two units out of it. But the applicant is
17 disagreeing entirely and saying that we need to have sort of a multi-family there. So, I'm not
18 even sure how that fits or what the proposal is for the whole place but until we have some sort
19 of a sketch or outline of what that would be. We certainly I don't think could opine on that an
20 and we don't usually do site design types of things as well.

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So, you do have, as with all Palo Alto land, limited land and we'd like this to be productive. Is there a way that we could give them enough time to come back a rigorous multi-use design and then address that with respect to making a zoning change there as opposed to the Text Amendment?

Ms. Tanner: I think Commissioner Lauing you raise some good points. I do want to point out I think part of Staff's recommendation in our analysis is to say this should be housing. And R-1 is to... well, one brings it before you all to make the decision right and to opine what should be here and what should not be here but was to point out that the office use was never a use that was here. And so is a use that has begun to come into being and is not allowed and was not allowed. It isn't as though the piano store continued and now is trying to get its zoning but I want to say I hear the Commissioner's points around wanting to have this be productive. We certainly don't want an empty building that's sitting on the site. So some of the options as Commissioner Waldfogel suggested could be to grant the Text Amendment and have there be a certain time period whether allows... aligns with NVCAP timeline or is a 3-year time period or 5-years starting in 2018 or as you say we could say... could deny this particular request but ask that the applicant come back with a proposal for housing here. That would also need to be accompanied by zoning changes to allow that type of use as well. So, if they... if and when they do make an application for housing, whether it's before NVCAP is done or at what time, there

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1 would need to be some changes to this land to allows the housing use. So, you could... the
2 Commission has a number of decisions that they could make in kind of different directions but
3 those are a few of them.

4

5 Commissioner Lauing: Because if they could shoehorn multi-family in there and that's going to
6 be greater than the two that is perceived here (interrupted)

7

8 Ms. Tanner: Certainly.

9

10 Commissioner Lauing: And these buildings are quite unusually integrated. That said from my
11 calculations it took about a year and a half since the Council screening to even get this far. So, I
12 would say that the applicants going to have to pick up their pace if we're going to do this. So,
13 you all with the expertise can tell us but if we said they had to be back here in a year with a
14 design and for that 1-year they can continue the use. If it's acceptable to them I think that's
15 kind of the direction that would be productive here all the way around with the understanding
16 that at any circumstance the office use is going to be gone.

17

18 Ms. Tanner: I'm going to throw this a little bit to Sandy. I'm making a little thing up a little as I
19 go. One of the things that I ... Commissioner Lauing's comments making me wonder could there
20 be a 1-year extension, a 1-year Text Amendment? And then if they do meet that standard of

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1 coming with a proposal that the Commission could have another time period on the Text
2 Amendment? Would that be possible and/or advisable?

3

4 Commissioner Lauing: With a proposal on a multi-family dwelling?

5

6 Ms. Lee: There can certainly be a Text Amendment that allows for a short extension and that
7 point you would bring it back and then decide whether or not you want to extend it further. I
8 don't know... legally you could do that.

9

10 Ms. Tanner: So that could be one option. It seems kind of overall the options are to grant the
11 Text Amendment at different intervals of time with perhaps different understandings at least
12 here in the context of the meeting of what you're asking of the applicant. You could deny the
13 request as Staff recommends or there may be a third option that I'm not seeing.

14

15 Commissioner Lauing: Yeah, the problem with just approving the Text Amendment... of going
16 with the Staff recommendation is that nothing happens on that site and we're just in status
17 which doesn't... nobody wins on that one.

18

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1 Ms. Tanner: It's true nothing would be happening in terms of the office use would not continue.
2 They could still continue to pursue the proposal to develop it into a multi-family site even if the
3 office use is no longer functioning.

4

5 Commissioner Lauing: Right but they would have no rent for 5-years.

6

7 Ms. Tanner: That's true, the rent in the intervening time period wouldn't be there.

8

9 Commissioner Lauing: So, I'm just trying to be practical here. It's gone to long already in my
10 judgment but now that it's gone to long let's fix the problem.

11

12 Ms. Tanner: Yeah, understood.

13

14 Commissioner Lauing: So, I'll stop there for now.

15

16 Vice-Chair Alcheck: Ok thank you. I'm going to just jump in now and ask a few questions.
17 Would you mind if you could help fill a few blanks for me? When did the applicant take
18 ownership of the parcel or the properties?

19

20 Mr. Agramonte: In 1993.

-
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Vice-Chair Alcheck: Ok and can you provide some background information regarding the uses when you took over and how they've changed till today?

Mr. Agramonte: Yes, the use was commercial when we took over. From our understanding, it had always been commercial. As we said previously there's never been a house unit on that property. My family wasn't aware of... that there was even an extension on zoning changing. Obviously, that's something that we should have been aware of but we weren't updated about this by the person we purchased it from. And since then my father used it for his veterinarian hospital and we've rented it out to a number of tech companies and other commercial uses.

Vice-Chair Alcheck: Ok so it stopped being a retail piano store in 1992, is that right?

Mr. Agramonte: No, it was... if... for a... I think the piano store was far before that. I think [unintelligible](interrupted)

Vice-Chair Alcheck: I guess one of my questions is do you know what it was in '87 and '88?

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1 Mr. Agramonte: I should have the answer for that but I'm not sure exactly what the use was. I
2 know that they were renting it out for commercial use and from my understanding it was
3 commercial when they purchased it.

4
5 Vice-Chair Alcheck: I'm asking only because the discussion that took place in '87 and '88 where
6 those conditions were created... this action allowed the existing extensive retail. So, I'm just
7 trying to understand what's going on and so... and what is it now?

8
9 Mr. Agramonte: Right now, it's rented out to a tech company and it has been for (interrupted)

10
11 Vice-Chair Alcheck: Is it two different tenants?

12
13 Mr. Agramonte: Yes, it is.

14
15 Vice-Chair Alcheck: Ok so is it safe to assume they've separated the space or are they
16 (interrupted)

17
18 Mr. Agramonte: Yes, the space is currently separated. There's a wall but yeah.

19
20 Vice-Chair Alcheck: TI or something, ok, alright. Thank you.

-
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Mr. Agramonte: Thank you.

Vice-Chair Alcheck: So, I'll just share some of my notes and comments on this. I think... I suspect that when Council was reviewing this item, they were trying to figure out some sort of creative solution which is maybe why they suggested without sort of showing their cards in terms of decisions that you go through this process. I think the picture that you guys put up and if you don't mind will you put that back up of the parcels?

Ms. Tanner: [unintelligible – spoke off mic] aerals.

Vice-Chair Alcheck: Yeah.

Ms. Tanner: [unintelligible – off mic] to switch back to the other presentation.

Vice-Chair Alcheck: I think that's the second... yeah. Scroll up a little bit. Yeah, right there. Yeah so is there like a shed structure or a secondary roof that's behind this? Right there, yeah.

Mr. Gutierrez: That's actually the garage for the single-family home located on the other block.

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1 Vice-Chair Alcheck: Ok so the site plan that we're looking at I would just suggest that it might
2 not be a bad idea to demonstrate what's happening in that corner. It almost looks like the
3 entirety of the building on El Camino Real's facing site... parcel is butting up to the entirety of
4 the... in its entirety to the building on the Olive facing parcel. Do you see that? I don't know if
5 you guys are familiar with this map and it doesn't, right? It doesn't exactly do that. It butts up
6 to a residential property so there is this corner that's overlapping. I would suggest that when
7 they... when you... ahead of this going to Council, let's get a site plan that's a little bit more
8 accurate. That's what I would suggest because I think it's important that these buildings are
9 touching. It's almost hard to imagine requiring a residential use in this parcel right now
10 assuming that the properties aren't renovated or redeveloped. And I think it's even more
11 interesting that there's this R-1 lot that is sort of butted against both and so it might help if your
12 site plan shows actually, even if it's rough, what's happening right around your lot. I think it will
13 help give context.

14

15 I want to acknowledge something that I learned during our pre-meeting which was that this
16 effort, this process has been brought by the applicant which is unique. I understood from Staff
17 during our pre-meeting that typically we're alerted to these violations through citizen
18 complaint. Why am I noting that? I think it's worth noting because this non-conformance has
19 existed for 21-years which is a really long time for a non-conformance to exist without a single
20 complaint. Which I think suggests that maybe it's worth considering... I guess in my head I

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1 wonder what reason Council would... could possibly have for not extending the same conditions
2 that the previous Council extended to the prior owner to allow them to satisfy in an effort to
3 get an exemption and operate the premises as retail. I know in this particular situation they're
4 actually operating it not in a retail environment but there is a part of me that wonders why we
5 wouldn't essentially extend those same requirements and provide that same path considering
6 just the uniqueness of the physical site. That may not be what the applicant wants. They may
7 want office use but it would not render the site different from the way Council was presumably
8 comfortable with 21-years ago. And I imagine they wouldn't mind... I imagine it would be
9 difficult to find a reason why not to do that but that would really be up to them. I certainly
10 would support that. I would support a motion that recommended that Council consider
11 extending the same conditions that they were comfortable extending 21-year ago. Actually no,
12 26 or 7-years [note – 27-years] ago or 30-years ago to the applicant and give them an
13 opportunity to satisfy those conditions in a given time period. And then theoretically receive
14 the Exemption and be allowed to operate the premises as a retail establishment.

15

16 I think my... I really appreciate the comments that Commissioner Waldfogel raised and I think
17 that... I think my greatest concern is that and I... you know your family's story is really touching
18 but I think that you're the proud owner of these parcels in an area that's very likely to be
19 subject to very different development standards in 5-years. And I don't always think that the
20 first... it would be a guinea pig project. You'd be coming forward if you were to rush something

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1 in a year and try to bring a proposal through. Number one it would... I can't even speculate
2 about how that process would be but I think... well, let me put it to you this way. I would
3 suggest that 5-years is maybe an insufficient amount of time to both designs, receive approval
4 for, and obtain permits for a mixed-use development project in the City of Palo Alto. I haven't
5 seen that happen in my time here. That's fast and considering how dynamic the discussion is in
6 this particular area, maybe that's not... I mean that's... look those are business decisions but
7 who knows what's going to happen here. So, I am a little hesitant to support a motion that
8 would create a very strong incentive to just rush the development of this site. It wasn't so long
9 ago that the... a developer in our community put together five parcels or six parcels between
10 the AT&T store and next to Kelly Moore right on Page Mill. Those are all single-family homes
11 and I think they've... he's in the process of constructing them now. And I remember that there's
12 I think it's maybe 10-units and there may be even some below market rate unit there and so
13 there may be opportunities to create a bigger project here over time. I don't know but I think
14 rushing it would be... I would not support creating that sort of incentive.

15

16 I wonder... I don't know how I would feel about... I guess I will say this. If they've been operating
17 in some commercial capacity and I don't know if the veterinarian clinic satisfies the CS
18 requirement.

19

20 Mr. Gutierrez: I believe that would be a Conditional Use Permit in the CS Zone.

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Vice-Chair Alcheck: Ok so it sounds like for the better part of 26 or 7-years [note – 27-years] they've been operating in some sort of not quite conforming but allowable use. And I would be more comfortable supporting a motion that would extend to them the flexibility to continue to operate until they decide to redevelop at which point, they would have to be compliant, right or receive some sort of development agreement exception. I would feel more comfortable doing that than putting an aggressive timeline together requiring development under standards that I think most of us are willing to acknowledge is unlikely to remain the same within the next 5-years. So that's where I stand. I'll sort of pass the torch now that you guys are lighting up more and see what you come up with. Commissioner Templeton followed by Summa.

Commissioner Templeton: Thanks. I have another question. Were these lots sold together like at the same time from one owner to... like as a bundle?

Mr. Gutierrez: That I'm not aware of. I think that would be something for the applicant to answer.

Commissioner Templeton: May I ask the applicant?

Mr. Agramonte: Yes.

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Commissioner Templeton: Ok thank you and if I'm reading this correctly the El Camino lot is also operating out of compliance with the zoning, is that correct?

Mr. Gutierrez: The El Camino lot? The 2951 that's commonly owned? No, that is not out of compliance.

Commissioner Templeton: Ok so they can have an office use there?

Mr. Gutierrez: Yes.

Commissioner Templeton: And the... ok.

Mr. Gutierrez: It was not subject to the retail preservation because the use that was there was there prior to when we started the (interrupted)

Commissioner Templeton: So, kind of grandfather (interrupted)

Mr. Gutierrez: City-wide retail preservation so it wasn't subject to that. That was also noted at City Council at the pre-screening.

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2 Commissioner Templeton: So, I'm inclined to side with some of the comments that
3 Commissioner or the Vice-Chair Alcheck just said. That I would like to find a way to make this
4 work until the North Ventura plan has come together. I think this parcel... these two parcels
5 could be interesting and complementary to what's going to be happening there. So as reluctant
6 as I am to push back on with the Staff recommendation, I do want to see a way to make it work
7 until we can bring them into the fold. And I would also encourage the applicant to get involved
8 if you haven't already and... with the North Ventura NVCAP Program and attend it and speak to
9 it and get a sense of what's going to be happening in that space. Thank you.

10

11 Vice-Chair Alcheck: Commissioner Summa and then Commissioner Waldfoegel.

12

13 Commissioner Summa: So, I forget what's the maximum amount of office you can have in CS or
14 is there not a maximum? I know in CN there is but.

15

16 Mr. Gutierrez: I would have to refer to the Code so I could look that up and come back to you.

17

18 Commissioner Summa: I know it's very limited in CN and CS is broader so I was just curious
19 about that. So, I'm very troubled by granting the Text Amendment because a very... it's ... why
20 wouldn't everybody ask for one to get a more profitable use for the land they purchased? So

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1 that doesn't seem... in that sense, I am very much in... I agree with Staff that that's not the right
2 solution. I also am troubled by the length of time that this property has been out of compliance
3 and the coincidence that it's being studied now as part of the NVCAP. I actually... maybe I heard
4 wrong but I think the applicant said they were planning on a multi-family 1-acre property but
5 these properties together unless my math is wrong which my math is real bad, don't add up to
6 1-acre.

7

8 Ms. Tanner: I think their intention is to try to acquire several other parcels in order to bring a
9 proposal that might yield greater housing.

10

11 Commissioner Summa: Ok so that's a fairly speculative plan so it's not... I would say it's not
12 even as far along as we had earlier thought and I don't know if anybody is going to be selling a
13 lot of land there until the NVCAP. There's a lot of moving parts so a Text Amendment doesn't
14 seem fair to everybody else who doesn't get a Text Amendment to me.

15

16 I'm troubled by the length of time it's been out of compliance. I mean once again it's a fairness
17 issue. Other property owners are requested to come into compliance or there can be penalties
18 that are ensured. I understand its kind of a difficult situation owning these two adjacent
19 properties but after all they have separate APN numbers and would have... they'd be paying tax
20 on them separately so I'm kind of confused about that.

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2 I guess I have no desire to be punitive but I guess that the loss of retail and I think it was most
3 recently the veterinary office, the bulk of the building, if not... maybe not the back. The loss of
4 the retail is troubling as that was the intention of the Council in '78 or whatever these dates. So,
5 I don't think a Text Amendment is appropriate at all in this location. I'm not sure what the right
6 thing to do is. Maybe one of my colleagues can or Staff can offer a compromise that I would
7 find to be fair to everybody and all the other people that own property nearby. But I certainly
8 would be comfortable moving Staff recommendation, to not allow a Text Amendment as a
9 solution to this issue and that would leave Council open, I think to find a different solution
10 unless we can craft a recommendation for that.

11

12 Ms. Tanner: Commissioner Summa, if I may respond to some of your comments that you made?
13 One of the benefits of a Text Amendment is the... is that it doesn't run with the property. And
14 so, with the time limitation that would be proposed it does create a shorter window but
15 definitely understand your other comments in terms of what might be... the Commission might
16 consider fair or equitable to other property owners in the City.

17

18 The use that's contemplated now requests that office was not contemplated by Council and has
19 not been contemplated through other normal land use planning channels. And so that would be

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1 somewhat of a departure from the way that we would normally pursue those types of changes
2 or considerations.

3
4 Extending the previously permitted retail use which was expired due to the previous property
5 owner might be something. It sounds like something that some of the other Commissioners are
6 considering. We certainly as Staff look to the Commission to direct us. If you did want to have a
7 solution that wasn't denial of the request, then Staff would come back with that proposal to
8 bring before you. Should it be a Text Amendment or another avenue to allow a use that is not
9 the R-1 or R-1 permitted uses on this property.

10

11 Commissioner Summa: Thank you.

12

13 Ms. Tanner: I think Sam also did find the answer to your question regarding the retail uses.

14

15 Mr. Gutierrez: It was the office question.

16

17 Ms. Tanner: Oh, sorry.

18

19 Mr. Gutierrez: So, the CS Zone office is permitted up to 5,000-square feet. However, once it
20 exceeds 5,000-square feet a CUP would be required to occupy that building.

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Commissioner Summa: Do they have a CUP for... the building on El Camino is almost 6,000-square feet and the one behind on... that would... 470 Olive is 3,7000. So, do they have a CUP (interrupted)

Mr. Gutierrez: Together there would be approximately 8,000-square feet. There's no CUP.

Commissioner Summa: Right. They don't have a CUP?

Mr. Gutierrez: No.

Commissioner Summa: Ok, thank you.

Vice-Chair Alcheck: Commissioner Waldfogel.

Commissioner Waldfogel: Question for the applicant. I mean I'm hearing a couple of possible avenues and I'd just like to explore if any of them are more or else attractive to you. And I know this is putting you on the spot a bit but one option that's being discussed is reverting the back section to retail for the duration of whatever it takes to develop the plan. Possibly a longer period while NVCAP gets resolved. Another option might be a Text Amendment but with a

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1 shorter duration than 5-years. You know 1 to 2-years with some intent to show progress at the
2 end of that. And just do you have any high-level response to which of those would be more
3 proactive?

4

5 Mr. Agramonte: Yes, so we feel that retail would be a challenge in this area as almost
6 everywhere in Palo Alto and we would like to push forward with making progress on this
7 project. However, I think that the point which Council... excuse me Commissioner Alcheck made
8 about not rushing it makes sense. So, our hope would be that we could become a part of the
9 discussion with the I believe Commissioner Templeton mentioned the NVCAP. So, if we could
10 be an active part of that discussion and we're happy to come back and speak with you guys on a
11 regular basis and kind of update you on the progress we have. I think that would be the ideal
12 situation because it's not as if we don't want to come back here within in a year and show you
13 our progress. It's just after hearing about these new evolutions of zoning, we wouldn't want to
14 move forward with a project that potentially limits a larger project down the road if this new 5-
15 year (interrupted)

16

17 Commissioner Waldfogel: Right but I asked you for some alternatives and you picked... I asked
18 you for A or B and you picked D.

19

20 Mr. Agramonte: Oh yes, yes, I think B, B, sorry.

-
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2 Commissioner Waldfogel: I mean what I'm looking for here is if we look for some compromise
3 which I'm hearing some support for a longer period of time to give you a chance to plug into
4 the NVCAP process and other processes, but not to retain office for that duration or retain
5 office for a shorter duration but move a project along faster and show us progress in a year or
6 18-months or some period like that. And that carries a lot concomitant risk so the question is, if
7 those were the choices... I mean I understand that D is better for you (interrupted)

8

9 Mr. Agramonte: Correct.

10

11 Commissioner Waldfogel: But between A and B do you have a preference?

12

13 Mr. Agramonte: I don't necessarily feel comfortable answering that on the spot. I apologize. Is
14 that ok?

15

16 Commissioner Waldfogel: That's fine. I mean these are... this is a moving discussion.

17

18 Mr. Agramonte: So, I think it's very important to us from a financial standpoint that we
19 maintain office, right? So, I think for us to maintain that, that's pretty critical. I think losing that

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1 would be a major blow and our hope is that we can make this a very collaborative process with
2 you guys and do the right thing.

3

4 Commissioner Waldfogel: Ok, thank you.

5

6 Vice-Chair Alcheck: Let me... Commissioner Templeton, you're next. I just want to just highlight
7 a few things I think are worth noting before you go in. Number one, assuming the Text
8 Amendment was denied... the request for a Text Amendment was denied, this moved to
9 Council and they denied the Text Amendment. How many days would the property owner have
10 to comply? Would the use become immediately unacceptable?

11

12 Mr. Gutierrez: Well once Council were to deny then that avenue that they're taking would
13 cease and then it would turn over to enforcement.

14

15 Vice-Chair Alcheck: So, enforcement, in theory, would notify them that they have to conform
16 via (interrupted)

17

18 Mr. Gutierrez: Correct. Typically, and I'm... just because I actually happen to assist the Code
19 Enforcement Officers, typically there's a letter or notice of violation and there's a fixed period
20 of time depending on the violation and its severity that here's your notice. You have this many

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1 days to comply and for something like this. We've seen other situations where there's been
2 non-complying uses in buildings or they don't have UNOs and so forth. And we issue them an
3 initial notice for 30-days so they could get their things in order and try to legalize if they can and
4 if they can't to abate the issue.

5

6 Vice-Chair Alcheck: It's similar to First Baptist when they had some uses that were treated as
7 non-complying immediately and a 30-day notice.

8

9 Mr. Gutierrez: Correct.

10

11 Vice-Chair Alcheck: I'll just shed a little light on the what crossed my mind as an attorney when
12 you asked those questions Commissioner Waldfogel which was number one if they were
13 required to discontinue use as a commercial site. I imagine they are in a lease and that would
14 put them at some level of financial risk with their tenant who is... has a right to use space that
15 they've promised. So, I imagine the question's a little bit difficult to get a fair answer out of
16 because there probably are some risks related to losing their ability to continue to offer the
17 space to their existing tenant as an office space. I think that's interesting.

18

19 I also want to note that this is one of those... you know when you hear someone say no good
20 deed it goes unpunished. And you're probably regretting coming to Staff here considering this

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1 situation; which I want to highlight is I love the idea of our City having commercial property
2 owners who treat the Staff as partners and try to improve the community in general. And
3 considering that you probably are embarking on what is a large proposition of redevelopment,
4 it would be unfortunate I think to some extent if we treated this situation heavy-handedly but
5 ok. Commissioner Templeton.

6

7 Commissioner Templeton: I'm looking back at the letter from Sarah Cheney on Packet Page 32
8 and 33 and was this prepared by Staff or is this coming from notes from City Council? How did
9 this agreement between the property owner and the Planning Department come about?

10

11 Mr. Gutierrez: This agreement... the letter dated October 13th, 1987?

12

13 Commissioner Templeton: Correct.

14

15 Mr. Gutierrez: So, this pertained to the conditions set forth by Council. They approved the
16 amortization extension for the non-conforming use subject to the conditions laid out in that
17 letter. So, there is a thing about restriping and about lighting and planting areas and so forth
18 and this letter goes down that list of conditions.

19

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1 Commissioner Templeton: So, my... thank you. My question is did the applicant works with Staff
2 to negotiate those terms or with... did this come out of discussion with City Council only and
3 there was no prep or how would this process play out today for example? Let's say we wanted
4 to move that the applicant works with Staff to come up with some criteria between now and
5 when NVCAP zoning takes effect. How would that process look?

6
7 Ms. Tanner: Well I don't want to venture a to specific of an answer. What I can say though is
8 the City Council made the change to the Zoning Code in 1978. So sometimes between 1978 and
9 1987, the applicant was able to work with Staff and Council together to come up with a
10 strategy. It could be that they came forward and said look at our building, it's not a house, it's
11 never going to be a house, some of the conversation we're having today, right?

12
13 Commissioner Templeton: Right.

14
15 Ms. Tanner: And Council said ok, you're right, you know that makes sense to us. We will provide
16 you relief if you do these things. Some of which seem to indicate that the Council wanted to
17 ensure that it wouldn't be disruptive to the single-family uses that are butting to the property
18 and to provide some shielding... some screening via landscape of that particular property from
19 the single-family use. That's my reading of this letter. I don't have a tape to watch you know.

20

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1 Commissioner Templeton: I read it exactly the same way.

2

3 Ms. Tanner: So that seems to be what happened. There's... I would say there's an indication
4 from some other properties that are under amortization schedules and have similarly come
5 forward to get those adjusted and amended over time. That there is openness to discussion
6 to... again, I think being practical and pragmatic and trying to make sure that we have
7 properties that are productive and providing usefulness to the City of Palo Alto. So that's not
8 really saying necessarily how it would play out today. If there was a... the piano store was still
9 there or a use that was allowed was still there. I think one of the challenges for Staff and why
10 it's coming to you all is the office use, in particular, is something that our Elected Officials and
11 decision-makers have been keen to think about and is not a use that had been contemplated as
12 a land-use here on this particular site.

13

14 Commissioner Templeton: But historically throughout the existence of this property both
15 parcels have been used in the same way even though at some point one got rezoned and one
16 did not. Is that correct?

17

18 Ms. Tanner: You mean used in the same way as they are today or?

19

20 Commissioner Templeton: No, no.

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Ms. Tanner: Sorry.

Commissioner Templeton: Consistent between property A and property B.

Ms. Tanner: I don't know the complete history on the uses throughout time. The last known use that we have record for is of the piano and organ sales. So, the veterinary use, the other uses that may be complying with this underlying zoning we don't have records and Sam wasn't able to find records of what those were.

Commissioner Templeton: That's ok. I mean it seems antidotal then that these properties have been treated as one even though they aren't and even though the City has treated them separately in terms of changing the zoning for one and not the other and all that stuff but they have been handled by the owners as they are one building because... ok.

Ms. Tanner: What I don't know is if the current uses is continuous throughout the buildings or if the uses are separate in the different parcels. I'm not sure if the current office use if its one office tenant for the entire parcel or if they're broken up. It does seem that only a portion of the buildings do abut, it's not as the drawing would suggest that they completely are butting.

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1 Commissioner Templeton: Thank you. It just seems to me that it would be a big departure to
2 ask the owners to treat this part of the building differently than that part of the building and
3 that's what's confusing me. So, I would love to find away... when I lite my button my intention
4 was to find a way to get the property owners to work with Staff to come up with a similar
5 proposal to that letter of some way to make it work until the NVCAP rezoning happens. Is that...
6 is the only way to do that through this Text Amendment that's been proposed or is there
7 another better way to do it?

8
9 Ms. Tanner: We're conferring. We're not sure there's another better way to do it that is not a
10 Text Amendment. I think the Text Amendment would certainly be a clear way to indicate what
11 is the use that we would be seeking to have on these parcels. Sandy, I don't know if you have
12 any other recommendations. If there's a different process but it would seem like the Text
13 Amendment might be the way to go.

14
15 Ms. Lee: Currently a non-compliance with the Zoning Code so it would require... to accomplish
16 what you're suggesting Commissioner Templeton would require a Text Amendment.

17
18 Commissioner Templeton: And is that the same thing as Exception from Non-Conforming Use
19 Determination? That's what this letter is titled. I don't know if that's the legal term or.

20

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1 Ms. Lee: No. Yeah, I don't... so this seems to be a different... it's not completely clear but it
2 looks like (interrupted)

3

4 Commissioner Templeton: It may have changed in the intervening 30-years. I got it, no
5 problem, no problem.

6

7 Ms. Lee: Yes.

8

9 MOTION

10

11 Commissioner Templeton: Well I try to make this motion and I trust that you will help keep me
12 within bounds. I move that the Planning Commission recommends to City Council that the
13 applicant work with Staff on an acceptable non-conforming use of the Olive property that will
14 come in compliance within 5-years of the NVCAP proposal. Help me out here, feel free.

15

16 FRIENDLY AMENDMENT

17

18 Vice-Chair Alcheck: Maybe instead of recommending that Council suggest that, why don't... if
19 you would prefer, we can... you could make a motion, for example, asking Staff to bring to us

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1 that sort of language, code language. Something that we could then pass to Council to then
2 review and approve if they thought so.

3

4 Commissioner Templeton: Amendment accepted.

5

6 Vice-Chair Alcheck: Yeah, I think the language would be different. We don't have language that
7 does... it's sort of a different motion.

8

9 Ms. Tanner: Right so yes. Vice-Chair Alcheck's correct that the... if to not... if you want to
10 deviate from the Staff recommendation which is totally fine then you would direct Staff to
11 come back with language that would... you would then consider and then that would be
12 forwarded to the City Council.

13

14 Commissioner Templeton: I love it, thank you.

15

16 Ms. Tanner: And just... we were just conferring about the Text Amendment. Part of that is
17 because it is temporary versus permanent whereas the land use designation would be changing
18 the zoning and the underlying zoning in the General Plan. So that's part of the reason why the
19 Text Amendment is suggested as the vehicle to accomplish some of that would be not a long
20 term permanent (interrupted)

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Commissioner Templeton: I thought you opposed the Text Amendment?

Ms. Tanner: The Staff did not recommend the Text Amendment but it was for the reasons what we layout in the Staff report. If there is (interrupted)

Commissioner Templeton: Not because of the vehicle but because of justification, right?

Ms. Tanner: Right, yes. We... that was our opposition not to do the Text Amendment (interrupted)

MOTION WITHDRAWN

Commissioner Templeton: Well, I withdraw my motion because it sounds like I'm getting a little complicated and I'm inclined to support if somebody has another mechanism that would allow them to continue use and fold into the NVCAP. Thank you.

Vice-Chair Alcheck: Well let me see if I can help you real quick. What I would suggest that you do, if you would like, is to make a motion directing Staff to come back to us at I would suggest a date uncertain with a draft of a Text Amendment that would satisfy the goals that you just

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1 enumerated and you can rename those. And then see maybe if there's someone on the
2 Commission that will second that and we can proceed from there. Are you comfortable with
3 that?

4

5 Commissioner Templeton: Yes.

6

7 Vice-Chair Alcheck: Ok let's try that.

8

9 MOTION

10

11 Commissioner Templeton: Ok, thank you. I move that we direct or direct Staff to come back to
12 us with a draft of a Text Amendment that allows the applicant to continue the current use until
13 the North Ventura... somehow folds in with North Ventura. I'll be a little vague on that because
14 I know that you guys will... find the right way to do it.

15

16 Vice-Chair Alcheck: Ok before I call any other names that I have on my list, is there a second of
17 this motion?

18

19 SECOND

20

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1 Commissioner Roohparvar: I'll second.

2

3 Vice-Chair Alcheck: Ok I have a second from Commissioner Roohparvar. I'm not putting this to a
4 vote but before we... I call on the next... I'm not going to call the vote just yet because I have
5 some other lights here but before I continue do either of you want to speak to this motion?

6

7 Commissioner Templeton: I'm happy to speak to it so what I'm trying to say is these guys have
8 worked with Staff in good faith, they have discovered an error and disclosed it, and they are
9 interested in finding a resolution. They have followed the recommendations they've... and
10 guidance they've received so far from Staff and from City Council and they're trying to find a
11 way to make it work. We do know that there's a major change coming in the space that will
12 likely affect this parcel that is under discussion. I'm loathed to direct them to do something with
13 that parcel until we know what the bigger, grander vision is because it seems like they would be
14 interested in playing in that vision. So that's where I'm coming from on that. I feel like that's a
15 short amount of time in the lifetime of Palo Alto and the more people we can get on board with
16 the NVCAP vision the better the outcome will be for the City. Thank you.

17

18 Vice-Chair Alcheck: Do you want to speak to it?

19

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1 Commissioner Roohparvar: I echo Commissioner Templeton's sentiments and I think it's very
2 meaningful for you guys to be proactive and come to us. And that factored in a lot in my
3 decision and I think it makes sense to work collaboratively. We have applicants here who want
4 to work collaboratively. I don't think we should be so strict and we should figure out a way to
5 make this work along with the grander picture of the North Ventura. You know taking that into
6 consideration as well.

7

8 Vice-Chair Alcheck: Alright, I'm going to... I have believe a light from Commissioner Lauing and
9 then Commissioner Waldfogel? Ok, so we have two more lights and seeing none other I'm
10 going to host a vote after that second comment. Commissioner Lauing.

11

12 Commissioner Lauing: So back on some of the other commentary about the [unintelligible]
13 Ventura Cap, I actually think it's a call above our pay grade to be saying that there should be
14 housing proposals before 5-years is up for that area. Every single Council Member and every
15 person on this dais wants more housing of some type. Most of us want it for all types and to
16 just put a freeze on a housing proposal which is exactly what the applicant wants to do for 5-
17 years until we see what happens and this is on the edge of that area. It's not deep within the
18 North Ventra CAP to my knowledge. Anyway, if a proposal came next month to Council from a
19 developer and I'm not saying that this can come next month, that proposed 50 new units in a
20 multi-family situation in that area. I think it would get extraordinarily close consideration and

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1 high interest. So just to arbitrarily block out that we don't think that there should be anything
2 going on there from this organization... from this Commission, I just don't think that's
3 appropriate. That's not for us to make a call on.

4

5 Secondly, getting to the applicant's interest as well as the motion that's on the table, that's not
6 what they want. They're not asking for what the provisions are in a 1987 letter. They've come
7 to us saying that they would like to do multi-use thereof the choices that are available. So, it
8 seems like what they want is aligned with what the City needs and if something comes up later
9 that says hey, we're pretty close but let's wait another year to coordinate it with a thousand-
10 unit thing there. That's fine but I don't think we should be presuming that all housing proposals
11 in that vicinity have to be stopped right now until the entire Master Plan is done. So, for that
12 reason I think there's a different approach here which is allow them to come back with their
13 proposal in sooner than 5-years and if they... we pick 2-years and that's not enough. It would be
14 very easy to look at the progress after 2-years and say wow, making great progress. Let's add
15 another year and a half or something like that and that would align the housing needs in the
16 City, the City Council's priority on that, would not interfere necessarily with the work that's
17 going on in that area, and could also be amended later.

18

19 So, for that reason, I would prefer a different approach and I would not support the motion.

20

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1 Vice-Chair Alcheck: Ok, thank you for your comment. Do you mind just clarify real quick just so
2 we're all on the same page? There's nothing necessarily that would suggest that they couldn't
3 continue to work on a development project and if they were to submit something it would
4 immediately become subject to all the current zoning notwithstanding this Text Code
5 Amendment suggestion?

6
7 Ms. Tanner: Nothing would preclude them from putting forward a development proposal and
8 that proposal itself could include potential requests for other amendments or exceptions or
9 other things like that. So, whatever the period of time is they could still bring forward a
10 proposal to do housing at the site.

11
12 Vice-Chair Alcheck: Ok, alright, I have Commissioner... sorry?

13
14 Commissioner Lauing: Did you want me... could I just respond to your question?

15
16 Vice-Chair Alcheck: Yeah, I... yeah absolutely.

17
18 Commissioner Lauing: The part of the proposal that I would make as an alternative motion
19 would be that they need to have the incentive to come back with us within a given period of
20 time of 2-years to show us; as opposed to just wait for 5-years, they don't have to do anything,

-
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1 and then 5-years from now they're told that they can go ahead and do multi-use that looks
2 right into that area and that takes 5-year more years to get the housing. So, I'm more
3 interested in building an incentive for them to take action now.

4

5 Vice-Chair Alcheck: No, I understand. I (interrupted)

6

7 Commissioner Lauing: I didn't know if that was part of your question that's why I (interrupted)

8

9 Vice-Chair Alcheck: No, at first when you suggested that... I think when you made your
10 comment, I thought maybe you were suggesting that because we don't know what's going to
11 be, we shouldn't do anything and I don't feel that way. I just suspect that number one, the
12 process takes more than... more time than we always think it does and because things are
13 rapidly evolving that tends to discourage development projects from moving quickly. So, I was
14 sort of reflecting what I assume is a natural occurrence in the market place amongst developers
15 but I understand what you're saying. And I just wanted to make sure that if they brought a
16 project next month, they... it wouldn't necessarily preclude them and this wouldn't necessarily
17 change the underlying zoning of the parcels. They would have to conform... if they brought a
18 project next month they'd theoretically have to conform with the existing zoning unless they
19 were looking for some special (interrupted)

20

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1 Commissioner Lauing: Accept that it's now R-1 and multi-family is not so they would to request
2 a Zoning Change.

3

4 Vice-Chair Alcheck: It would have to be two different projects.

5

6 Commissioner Lauing: Well, two different parts of the proposal.

7

8 Vice-Chair Alcheck: Right. Sorry, let's continue with I have now a few more lights. I have
9 Commissioner Waldfogel, Commissioner Summa, and Commissioner Templeton.

10

11 FRIENDLY AMENDMENT

12

13 Commissioner Waldfogel: So, I broadly support the sentiment of Commissioner Templeton's
14 motion. I also support Commissioner Lauing's comment that we should provide incentives to
15 move faster so I would propose an amendment to the motion to shorten the duration from 5-
16 years to 2-years with the understanding that if they need more time for progress they should
17 return. But I think that just setting this up with a time indefinite to come back with a
18 development proposal makes a little uncomfortable.

19

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1 Vice-Chair Alcheck: Just for clarification are you suggesting 2-years from now or 2-years from
2 some date where the development standards are set for that area or?

3

4 Commissioner Waldfogel: 2-years from now or December... end of December 2021, something
5 in that realm. I would just like to move this along and make sure that progress is being made
6 because there's also a possibility that the NVCAP project will be unproductive. I mean we just
7 don't know what the outcome of that will be.

8

9 Vice-Chair Alcheck: Ok so let's go through this. Let's just do this sort of in an orderly way. We
10 have a motion on the table to direct Staff to come back with a proposal that would satisfy the
11 Text Amendment vehicle for continuing the use with relationship to the NVCAP process. There's
12 a friendly amendment from Commissioner Waldfogel. Commissioner Templeton would you
13 accept that or would you like to discuss it? It doesn't have to be that formal.

14

15 Commissioner Templeton: Yeah, I have a question. I was hoping that that could be part of the
16 response that Staff brings back after discussing. That time table would be set with discussions
17 with the applicant. Do you feel like that's something that we would want to encourage or
18 specify I guess is what I'm trying to figure out?

19

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1 Commissioner Waldfogel: I thought the motion was providing Staff with basically the broad
2 latitude to come back with a longer duration. I'd like to encourage this process to come back
3 with something shorter. Now if it turns out that it's not possible, then we should be realistic
4 about that but let's just see if we can drive towards some resolution. I mean the NVCAP process
5 may take (interrupted)

6

7 Commissioner Templeton: It may be (interrupted)

8

9 Commissioner Waldfogel: May take a very long time.

10

11 Commissioner Templeton: Ok.

12

13 Vice-Chair Alcheck: Let me just suggest to you (interrupted)

14

15 Commissioner Templeton: Yes?

16

17 Vice-Chair Alcheck: That behind... in the... Staff has opportunities to have more private
18 conversations with applicants and better understand their situation and could theoretically
19 come up with something creative that might satisfy Commissioner Waldfogel. I don't think this
20 is tremendously problematic.

-
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Commissioner Templeton: Yeah, I don't think so either. I think it's a good amendment and I think that addresses... thank you Commissioner Lauing for bringing up the housing urgency. Of course, that is on everyone's mind. This might be a good way to ensure that the applicant is working hard on that so I'm comfortable with setting a time frame. Our desired time frame is 2- years and if when you return that time frame is not reasonable, I'm sure we'll have some discussion about why but that's fine with me. I accept the amendment.

Vice-Chair Alcheck: And does the second of the original motion accept this amendment?

Commissioner Roohparvar: Yes.

Vice-Chair Alcheck: Alright so we have a slightly adjusted amendment with a more aggressive timeline. I don't think I need to restate it. Does anybody need me to restate this motion?

Commissioner Lauing: Well I would like to understand the reference to the '87 letter. Is that still in here? That... no, that the maker made.

Commissioner Templeton: I was suggesting that they come back with something that may be a similar format though the content will be different. These bullets don't seem to be relevant

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1 anymore, I mean look back through them but I'm hoping that the proposal will be synced and
2 have very clear actionable items in it. So, that's why I brought it up, as a format.

3

4 Commissioner Lauing: Even though what they've stated is that they want to do multi-family,
5 not anything else?

6

7 Commissioner Templeton: The reason I feel comfortable giving them leeway to come back with
8 a proposal is because the applicant will be involved in drafting this with Staff. So, I do feel like
9 they're... the applicant's desires will be incorporated. Is there a concern that they would not
10 be?

11

12 Commissioner Lauing: Staff can come back with whatever they like but we already have on the
13 table what the developer wants so (interrupted)

14

15 Vice-Chair Alcheck: Hold on a second, I just... let's be really clear here. There is actually no
16 proposal on the table and Staff acknowledged that they have no knowledge of a development
17 plan.

18

19 Commissioner Lauing: Correct.

20

-
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1 Vice-Chair Alcheck: And I think one of the things that is... I don't know that it's the proper forum
2 to talk about it but there may be an effort to acquire other parcels. There's things happening
3 behind the scenes that are actually I think intentionally not being shared with here and I think
4 we should just be cognizant what we're talking about here. That there's an interested... the
5 applicant has expressed an interest in developing these parcels.

6

7 Commissioner Lauing: Correct.

8

9 Vice-Chair Alcheck: The applicant has also expressed an interest in not having to be subject to
10 changing its use currently although it's really not up to them. So, the '88 letter that you're
11 talking about, you're talking about if Staff has conditions that they would want satisfied in order
12 to be comfortable providing this Exception, this Text Code Amendment. And presumably one of
13 the conditions or one of the requirements would be an accelerated timeline for example, if they
14 were to satisfy the interests of Commissioner Waldfogel and yourself and Commissioner
15 Roohparvar. So, are there any specific conditions that you would want to share with Staff that
16 would... you'd like to see at this site? I'm just asking because they have something about
17 landscaping and I want you to give direction to Staff if there's something in particular.

18

19 Ms. Tanner: Legal might want to have a comment here. I think because the Text Amendment
20 vehicle is perhaps the best tool, we have for this. I don't know that Conditions of Approval are

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1 typically incorporated into Text Amendments and they don't have another application for
2 another entitlement from the City which would lead to Conditions of Approval.

3
4 Vice-Chair Alcheck: So, let me just ask a quick question. What we're talking about here is we're
5 not actually suggesting that they... we're not asking you to come up with certain hurdles that
6 they much accomplish to then receive a Text Amendment. We're actually asking you to draft a
7 Text Amendment that we would then review and recommend either approval or denial.

8
9 Ms. Tanner: Exactly but I think what I'm trying to make clear is that Conditions of Approval that
10 are in even in any way akin to what we see in the letter I think would not be what we would do.
11 It wouldn't say you have these conditions that you need to satisfy. It would be you have this use
12 allowed for 2-years. And to Commissioner Lauing's early point, if after... as the 2-years was
13 expiring they realize that they could not move forward with the housing proposal. They could
14 always come back to request an extension of that time. They could at that time provide
15 sufficient evidence that might persuade the Commission that indeed progress had been made
16 but it's not sufficient to build and therefore that amendment would be extended again.

17
18 Vice-Chair Alcheck: Ok I think that's really helpful because it sounds like it won't incorporate
19 this format and I think clarity is probably helpful.

20

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1 Commissioner Templeton: (off mic) So I need to withdraw?

2

3 Vice-Chair Alcheck: No, no, no I just think... are we good? Ok. I don't think there needs to be

4 (interrupted)

5

6 [note – an unknown Commissioner was speaking off mic]

7

8 Vice-Chair Alcheck: I didn't even really hear you say something about the '88 letter until he

9 asked about it and so that sort (interrupted)

10

11 Commissioner Templeton: It was before I made the motion.

12

13 Vice-Chair Alcheck: Got it so I think our motion is still acceptable. I have one last light,

14 Commissioner Summa and then we'll take a vote.

15

16 Commissioner Summa: So I also appreciate the applicant and the spirit of Commissioner

17 Templeton's motion but I think we've strayed a little bit from what is before us tonight in being

18 interested in the very hypothetical project, multi-family housing project that would be very

19 attractive to us that they don't even have the land for. Instead of considering should we allow

20 them for another 5-years to continue after many, many years an illegal use in lieu of trying to

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1 pursue a legal use. Which at this point would be one of the conditional uses such as day... I can
2 see daycare there or a small private school. We have private schools popping up all over Palo
3 Alto. So, I feel kind of bad but I don't think I can support this motion. I think it's based on a
4 hypothetical planning of both parcels plus parcels that the applicant doesn't currently own
5 instead of just the question before us, should we allow this one applicant to receive a special
6 dispensation to not require them unlike most of their neighbors around them to comply with
7 the legal uses on the parcel. And that makes me uncomfortable because I think of all the other
8 parcel property owners, parcel owners who just comply without asking for something. They've
9 had many, many years of the benefit and we're going to affect the larger parcel that they own
10 and any lease relationship which is really not in our purview that they have. So, I just am not
11 going to be able to support it. Not out of appreciation for everybody's good ideas for the future
12 but I don't think I can base my decision this evening on one very specific thing on a very
13 hypothetical building that they... the property doesn't even exist for it at this time so but thank
14 you, everyone.

15

16 VOTE

17

18 Vice-Chair Alcheck: Ok the good news is if this motion were pass there would be another
19 opportunity to have this discussion and if it doesn't, we will continue to discuss it tonight. So,
20 seeing no more lights on the topic I'm going to call it to a vote. So, does anybody, just by a show

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1 of hands, do anybody want me to restate this motion for... ok. So, all those in favor of
2 supporting the motion that's currently on the floor made by Commissioner Templeton and
3 seconded by Commissioner Roohparvar and amended by Commissioner Waldfogel, please raise
4 your hand.

5
6 MOTION PASSED 5(Waldfogel, Templeton, Alcheck, Roohparvar, Lauing)-1(Summa) -1(Riggs
7 absent)

8
9 Vice-Chair Alcheck: Ok that is five in support and all those opposed? That's one opposition by
10 Commissioner Summa and we are moving forward. So, I think we can conclude this particular
11 item now. Actually no, I'm sorry, do you want to add anything as... to speak to your no vote or
12 are you (interrupted)

13
14 Commissioner Summa: No, I think I expressed my appreciation for all parties involved and the
15 Staff's good work so we'll leave it at that.

16
17 Vice-Chair Alcheck: I just wanted to make sure that I covered that base. Ok with that we're
18 done with this particular item and we're going to move onto the next item which is really
19 meaty.

20 Commission Action: Item continued to a later date. Motion by Templeton, seconded by
21 Roohparvar, amended by Waldfogel.

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Approval of Minutes

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

3. August 28, 2019 Draft PTC Meeting Minutes

Vice-Chair Alcheck: We need to approve the minutes of August 28th.

MOTION

Commissioner Lauing: So, move.

Vice-Chair Alcheck: Can I get a second?

SECOND

Commissioner Roohparvar: Second.

VOTE

Vice-Chair Alcheck: Ok Commissioner Lauing moved and Commissioner Roohparvar seconded.

This is for the approval of the minutes from August 28th. All those in favor raise your hand.

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1 Mr. Agramonte: (off mic) Thank you guys, thank you.

2

3 Vice-Chair Alcheck: That's unanimous support for the motion to approve the minutes.

4

5 MOTION PASSED UNANIMOUSLY 5(Waldfoegel, Summa, Templeton, Alcheck, Roohparvar,

6 Lauing) -1 (Riggs absent)

7 **Commission Action:** Minutes approved. Motion by Lauing, seconded by Roohparvar.

8 4. September 11, 2019 Draft PTC Meeting Minutes

9

10 Vice-Chair Alcheck: And I think with that... oh no, we have one more. Item Number four,

11 approval of the minutes for September 11th. I should have done them together.

12

13 MOTION

14

15 Commissioner Roohparvar: Move to approve.

16

17 VOTE

18

19 Vice-Chair Alcheck: Second? Great. All those in favor please raise your hand.

20

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1 MOTION PASSED UNANIMOUSLY 5(Waldfogel, Summa, Templeton, Alcheck, Roohparvar,
2 Lauing) -1(Riggs absent)

3

4 Vice-Chair Alcheck: Ok that's a unanimous approval. For... is that... are you with us
5 Commissioner Waldfogel on that one? Ok that's a unanimous approval for the... [unintelligible]
6 support for the approval of the minutes for September 11th and that is the end.

7 **Commission Action**: Minutes approved. Motion by Roohparvar, seconded by Summa.

8 **Committee Items**

9 **Commissioner Questions, Comments or Announcements**

10

11 Vice-Chair Alcheck: Anybody want to make any... someone eluded to something early actually.
12 Committee items, Commissioner questions and (interrupted)

13

14 Commissioner Lauing: NCAP [note – NVCAP]

15

16 Vice-Chair Alcheck: Comments, announcements. Yeah, go ahead. Just light up for me.

17

18 Commissioner Templeton: So, I wanted to report on the XCAP which is the railroad crossing
19 working group. It met today right before this meeting and we established a cadence for our
20 future meetings. I wanted to let you guys know. So, it will be the first and third Wednesdays

-
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1 from 4:00 to 6:00 in the community meeting room. So alternate Wednesdays that don't
2 coincide with Planning Commission, thank you and we are making some progress. We've
3 appointed a Chair, Nadia Naik, and Vice-Chair Larry Klein and we are discussing the various
4 alternatives. We're going to have a community meeting in early November that if you guys
5 want to come check it out. I encourage you to see what the alternatives are and really lend
6 some of your expertise and point of view to the discussion. That would be very welcomed.
7 Thank you.

8

9 Vice-Chair Alcheck: Ok.

10

11 Commissioner Summa: I'll give a little brief update on the NVCAP. We had a meeting last night
12 and it was the first meeting where we had our new Co-Chairs, former Council Member Gail
13 Price and Ventura resident Angela Dellaporte working with Staff and it was a very productive
14 meeting. We had a fascinating report from our consultants on the hydrology and the creek
15 improvements. And we'll be expecting a range of options from them that range from basically
16 doing nothing to fully naturalizing the creek. And we had a good kind of reboot and had some
17 really good discussions. So, it went... despite the fact that we lost Senior Planner Elena Lee it
18 went really well. The next meeting is unclear because we had a meeting scheduled for... to
19 close to Thanksgiving so we're not sure but I'll let you guys know.

20

-
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1 Ms. Rachael Tanner, Assistant Director of Planning: It's like in early December.

2

3 Commissioner Summa: And also, Staff presented a booklet of every parcel in the NVCAP area.

4 It's about this thick which is really interesting because it contains all the parcel information,

5 zoning information, and then it was broken down block by block too. So that is available online

6 if you guys want to look at it so that's a great resource for the NVCAP to have. So, we're off to a

7 good reboot.

8

9 Vice-Chair Alcheck: Commissioner Waldfogel.

10

11 Commissioner Waldfogel: Just a legal question relating to the grade separation which is there

12 any point in that process where that work product will come before the PTC and will any PTC

13 approvals be required?

14

15 Ms. Sandra Lee, Assistant City Attorney: Not that I'm aware of. I have not been part of that

16 process but I'm not aware of any (interrupted)

17

18 Commissioner Waldfogel: So, if Churchill were to get closed would that require... I mean is that

19 a Circulation Element change that would require PTC or?

20

-
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1 Ms. Lee: I don't know if it's a Circulation Element change. I mean if a General Plan amendment
2 is required then it would come before PCC [note -PTC].

3
4 Commissioner Waldfogel: Is there any way to just get in front of that because we've seen in the
5 past where we've been brought things kind of as fire drills?

6
7 Ms. Tanner: In terms, one knowing what the role the PTC [unintelligible – crosstalk]

8
9 Commissioner Waldfogel: Right just knowing [unintelligible -crosstalk] will be, if there are
10 places where there's discretion then it would be good to get that in early rather than late. I
11 mean I don't want to repeat the Comp Plan process.

12
13 Ms. Tanner: Yes, certainly if there are items that need to come before this body, we'd want to
14 do it in an orderly manner. When you have plenty of time to deliberate and not at the last
15 minute. So, I'll work with Phillip on that question regarding just what the process looks like and
16 where the elements with the PTC jurisdiction overlap.

17
18 Commissioner Templeton: I know we all want to go; I just want to speak to that. There is a lot of
19 discussions about flow and traffic and roads and intersection improvements and things like that

-
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1 happening at these meetings. So, they are recorded if you wanted to check-in or take a look at
2 some of the discussion.

3

4 Commissioner Waldfogel: Right but some of those [unintelligible – turned off his mic]. Some of
5 those are within PTC purview and some of those are not and I would just like to get out in front
6 of that.

7

8 Commissioner Templeton: Yeah, I think Rachael’s suggestion to follow... that she’ll follow up
9 with Phillip on that is the right call. That’s what I would do as well so you can have that action
10 item.

11

12 Vice-Chair Alcheck: Just before we go the representatives to Council for November are
13 Commissioner Riggs [note – Chair Riggs] and Commissioner Templeton and December is
14 Commissioner Lauing and Commissioner Roohparvar. So, connect with Staff to see if there’s a
15 meeting that you should be attending to represent us.

16

17 Commissioner Lauing: Can we talk about the agenda for the next meetings?

18

19 Vice-Chair Alcheck: Sure.

20

-
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1 Commissioner Lauing: We usually do. I don't know what three of those four are. Could you give
2 us a little bit of preview?

3

4 Vice-Chair Alcheck: The... which ones are (interrupted)

5

6 Commissioner Lauing: I was looking at Rachael but if you'd like to that's fine.

7

8 Vice-Chair Alcheck: Which three just so we know?

9

10 Commissioner Lauing: The first three.

11

12 Vice-Chair Alcheck: The first three. Do you want to shed a little light before we depart?

13

14 Ms. Tanner: Sure. The San Antonio Road project and Charleston Road intersection
15 improvements will be... I don't know that it's coming for approval. I should remember because I
16 just read the notice today for this project. It's a project coming out of the Transportation Office
17 and so they'll be bringing that before us. The consideration of a PDA and PCA, that is related to
18 regional planning. And so, its an item we want to bring before you before going to Council to
19 consider having a new priority development area and a priority conservation area in the City of
20 Palo Alto and would to get PTC feedback on that before we forward that decision to Council.

-
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1 And then the Tentative Condo Map is pretty routine in terms of finishing that condo mapping
2 process. I mean if we had a Consent Calendar it's an item that could almost be on our Consent
3 Calendar in terms of its relatively routine nature.

4

5 Commissioner Lauing: Ok and where are we again on the parking, the nine of the thirty-five
6 recommendations that we're supposed to see? Is that meeting after that or?

7

8 Ms. Tanner: I can work with Phillip to schedule that. We talked last month about the need to
9 come back before you with the information regarding not just those items but really the
10 Transportation Work Plan, especially as we head into 2020. I know that they are doing a lot of
11 hiring and have been working on their strategic planning as well both as an office and then on
12 the parking items as well.

13

14 Commissioner Lauing: Yeah well, I noticed that Council did approve more budget for paid
15 parking which we haven't talked about here in 2-years so I just didn't know when that was
16 going to come. The second one, more in your area, is that the Phase Two of the Housing Work
17 Plan. I know actually a year ago we're still working on... starting to work on Phase Two some of
18 the Palmer Act and below market rate and so on. Any visibility on [unintelligible](interrupted)

19

-
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1 Ms. Tanner: It'd be great to come back actually because we've been... Staff has been doing
2 quite a lot of work on some policy items that aren't quite ready to bring forward for action to
3 Council. But it would be great to give you an update on where we are because we've made a lot
4 of progress which is pretty exciting. So, it would be good to come before you all.

5

6 Commissioner Lauing: Yeah, soon would be great.

7

8 Vice-Chair Alcheck: All former Chairs have a list of things that they still want to get done.

9

10 Commissioner Lauing: That's right.

11

12 Vice-Chair Alcheck: Ok with that I want to (interrupted)

13

14 Commissioner Summa: No, I... Rachael, is that our PDAs? A Palo Alto PDA or (interrupted)

15

16 Ms. Tanner: It is a designation throughout the Bay area.

17

18 Commissioner Summa: Yeah, it's the ABAG PDA. Ok.

19

20 Ms. Tanner: Yes.

-
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1

2 Commissioner Summa: Ok, I just wanted to clarify that.

3

4 Vice-Chair Alcheck: With that, I am going to close this meeting. Thank you very much. The time
5 is 7:50.

6

7 **Adjournment**

8 7:50 pm

-
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Palo Alto Planning & Transportation Commission

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Vice-Chair Michael Alcheck

Commissioner Ed Lauing

Chair William Riggs

Commissioner Giselle Roohparvar

Commissioner Doria Summa

Commissioner Carolyn Templeton

Commissioner Asher Waldfogel

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