



CITY OF
**PALO
ALTO**

Planning & Transportation Commission Action Agenda: December 13, 2023

Council Chambers & Virtual
6:00 PM

Call to Order / Roll Call

6:00 pm

Chair Summa: Good evening, everyone I'd like to call to order the regular meeting of the Planning Commission for this evening, Wednesday December 13, 2023. Ms. Dao could you call the roll please?

ROLL CALL

Ms. Dao: Chair Summa?

Chair Summa: Present.

Ms. Dao: Vice-Chair Chang?

Vice-Chair Chang: Here.

Ms. Dao: Commissioner Akin?

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1 Commissioner Akin: Here.

2

3 Ms. Dao: Commissioner Hechtman?

4

5 Commissioner Hechtman: Here.

6

7 Ms. Dao: Commissioner Lu?

8

9 Commissioner Lu: Here.

10

11 Ms. Dao: Commissioner Templeton?

12

13 Commissioner Templeton: Here.

14

15 Ms. Dao: We have a quorum.

16

17 **Oral Communications**

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

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1 Chair Summa: Thank you so much. Now's the time we open it up for the public who would like
2 to speak for something that is not on the agenda, to make a comment. Do we have any
3 speakers Ms. Dao?

4

5 Ms. Dao: No requests to speak.

6

7 Chair Summa: Okay, we will move on to Agenda Changes, Additions and Deletions.

8

9 **Agenda Changes, Additions and Deletions**

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

11

12 Ms. Amy French, Chief Planning Official: We have no changes, additions or deletions.

13

14 Chair Summa: Excellent, so it's now time for City Official Reports please.

15

16 **City Official Reports**

17 1. Directors Report, Meeting Schedule and Assignments

18 Ms. Amy French, Chief Planning Official: Good evening, Amy French, Chief Planning Official. Just
19 a quick overview, it's the end of the year for the Planning and Transportation Commission,
20 congratulations, our last meeting of 2023; and it's been a busy year so thank you for your work
21 and for representing Planning Commission at Council, those of you who have. Do we have a

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1 speaker? Okay. So, target dates coming up, so, we have January 17th that's been on the books
2 as a Special meeting rather than the January 10th and we have the 31st, it's a regular meeting.
3 We have a Special meeting February 12, which we are holding onto as a date as a special
4 meeting with the Council. We'll let you know if things change there. And, so we just have a few
5 items coming up that we know of, and there will be more to come. As far as Council meetings,
6 we did have a meeting on Monday with the Elsworth item and thanks to Commissioner Lu for
7 showing up as a representative for that. And then we have a couple more, we have one more
8 meeting which is next Monday, yeah, I can't think if there's another item going at Council. We'll
9 be back in the new year with more chances to represent. And I think we have... do we have
10 Rafael online? That's concluding my report.

11

12 Chair Summa: Thank you for that. Mr. Rius, do you have something for us?

13

14 Senior Transportation Engineer Rafael Rius: Hi, yes, just a minor update. Rafael Rius with the
15 Office of Transportation, Senior Engineer. Just a couple minor things... the
16 Charleston/Arastradero Corridor project is as you know, is still on going. We've... we're
17 expecting some of the hardware that's long awaited to come in, and hopefully proceed with the
18 project primarily speaking of the intersection of Wilkie Way, so we're hoping we can move
19 forward with that transition, because some of the new poles have not been activated yet, so
20 hopefully within the next month or so we'll get that moving. And then the only other update I

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1 have is not really an update, but I know our transportation staff gave some information to this
2 committee, or to the Commission during the last meeting regarding the El Camino Real
3 repaving and bikeways project, I just wanted to update that we're still awaiting for a response
4 to CalTrans, a formal response from them, we haven't received it yet, but their deadline is
5 supposed to be this week. So, other than that, no other updates.

6

7 Chair Summa: Thank you. Commissioner Akin.

8

9 Commissioner Akin: Thank you Chair. Mr. Rius, I just wanted to follow up with you on the
10 Lincoln/Middlefield intersection because we had another accident there about three weeks
11 ago; and I sent you a note asking for an update but I didn't hear back so what can you tell us
12 about what's new there?

13

14 Mr. Rius: Okay, so we did.... I'll have to look into that I'm not aware of the incident three weeks
15 ago so I'll look into that. What we have ... staff have done... we increased the sightlines on all
16 four corners by adding some parking restrictions, increasing the red curbs on each of the four
17 corners to and then we also added additional pavement markings and kind of highlighting the
18 yellow center line and also adding school zone markings and we also added the 20mph special
19 school zone speed limit signs, also right in the immediate area of the intersection. So those

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1 were the immediate improvements that we identified and have completed installation of them.
2 I can't speak to the recent incident at this time though, I'll try to find out more about it.

3
4 Commissioner Akin: Okay, thank you. Just as you already know, there's a lot of interest in the
5 neighborhood, and turn restrictions, so people will be looking for an update on how that's
6 being considered.

7
8 Mr. Rius: Okay, and I apologize, I'll look for your email and respond and get back to you also.

9
10 Commissioner Akin: Okay, thank you very much.

11
12 Chair Summa: Commissioner Chang [Vice-Chair Chang].

13
14 Vice-Chair Chang: Hi Mr. Rius, I'm hoping that... I just wanted to give you a quick reminder to
15 please send us the collision report that PABAC also receives.

16
17 Mr. Rius: Yes, okay, apologize, I meant to send that today. So, I did try to dig it up, we actually
18 thought we... the October data we thought we had it and it was going to be shared with the
19 PABAC Committee. I know our staff reached out yesterday, late yesterday to the PD to follow
20 up, to see if we had the October data. The November data is going to come in early January. But

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1 the October data is going to... as soon as I get that I'll share that along with the September data
2 ... okay... yeah yeah.

3

4 Vice-Chair Chang: That'd be great if we could see September too because I think that was when
5 we first heard about it, but still hasn't seen it, so thank you so much.

6

7 Mr. Rius: I'll try to send both the September and October together as soon as we get them, but
8 I can send the September ahead of that.

9

10 Vice-Chair Chang: Great. Thank you so much.

11

12 Chair Summa: Thank you, Mr. Rius, I'm not seeing anything other ... Commissioner Hechtman.

13

14 Commissioner Hechtman: It's not really a City Official report issue, but Commissioner Reckdahl
15 is not here tonight because earlier this week his mother passed away in Minnesota, may her
16 memory be a blessing, and as we proceed through our agenda tonight, our thoughts are with
17 Keith and his family.

18

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1 Chair Summa: Thank you for that. I am not seeing any other lights, so, we will go to the next
2 item, which is our Action Item number 2, but before we do that, Commissioner Akin will need
3 to recuse, so Commissioner Akin.

4

5 **Action Items**

6 *Public Comment is Permitted. Applicants/Appellant Teams: Fifteen (15) minutes, plus three (3) minutes rebuttal. All*
7 *others: Five(5) minutes per speaker.*

8

9 2. PUBLIC HEARING / QUASI-JUDICIAL. 949 Scott Street [22PLN-00410]: Request for
10 Planning and Transportation Commission Hearing Following the Proposed Director's
11 Decision Approving a Variance application to Allow a New Single-Story, Single-Family
12 Home with a Basement to Encroach into the Front, Side, and Rear Setbacks and Deviate
13 from Standards for Below Grade Patio Side and Rear Setbacks, and Number of Parking
14 Spaces. Zoning District: R-2. Environmental Assessment: Exempt from the California
15 Environmental Quality Act per Section 15303.

16

17 Commissioner Akin: That's right, I'll be recusing myself from 949 Scott Street item because I
18 live less than 500 feet away from the project, so, I'll see you all when it's done. Thank you.

19

20 Chair Summa: Okay, thank you, and I guess we can go down the line starting with Commissioner
21 Templeton, if there are any disclosures.

22

23 Commissioner Templeton: I have no disclosures.

24

25 Commissioner Hechtman: No disclosures.

26

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1 Vice-Chair Chang: No disclosures.

2

3 Chair Summa: No disclosures.

4

5 Commissioner Lu: No disclosures.

6

7 Chair Summa: Okay, then we are all set to open Public Hearing for 949 Scott Street, which is a
8 request for Planning and Transportation Commission Hearing, following the proposed Director's
9 decision approving a variance application to allow a new single story, single-family home with
10 basement and encroachments and variances. So with that we will move to Ms. French for the
11 staff report.

12

13 Chief Planning Official Amy French: Thank you, I would like to introduce Garrett Sauls who
14 you've met before. He is remotely attending and has a presentation. Take it away Garrett.

15

16 Senior Planner Garrett Sauls: Good evening Commissioners, thank you for the introduction
17 Chief Planning Official Amy French, as you all have mentioned, this is an application for a
18 variance for 949 Scott Street, as you can see on the screen highlighted, where the property is in
19 relationship to the Scott Park, so it's a little bit easier to kind of understand where we are
20 talking about, it's at the corner of Scott Street/Addison, you can see Waverly and Bryant Street

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1 is also in frame here, so it is fairly close to the downtown area, but it is located within the South
2 of Forest (SOFA) area Phase I Coordinated Area Plan districts and Comprehensive Plan areas.
3 The proposed application will seek to replace an existing one story home that exists on a 1,500
4 foot parcel. The proposal will have a new one story home with a basement. As a part of the
5 application, it will result in the removal of one street tree in order to accommodate... one
6 existing street tree, in order to accommodate the proposed driveway leading to the garage for
7 this structure. That street tree removal will require the replacement of two street trees... one of
8 which will be placed to the left hand side of the street tree that you see over here... if the image
9 had expanded you would see that there is a large strip of vacant dirt where there'd be one
10 street tree placed within that area, and then another will be placed within a half mile of this
11 property. So, it will be placed within the South of Forest Area Coordinated Area Plan (SOFA)
12 area as well as the downtown area in an area that currently doesn't have any street tree
13 canopy. The project also includes variance requests for front side and rear yard setback
14 encroachments. For the primary home, in the basement, a below grade patio encroachment
15 into the side and rear yard setback, and a reduction in the number of parking stalls where a
16 new single family home would otherwise be required to have two parking spaces, one covered
17 and one uncovered, and both beyond the front yard setback, this application has proposed only
18 one covered parking space where currently there are none on the site. In this image you can
19 see here... this image was provided to us by the applicant when they submitted their
20 application, and this identifies the boundaries of the existing parcel and how the current

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1 standard setbacks are applying to the property, based on the R-2 zoning district. As you can see,
2 from the front yard and the rear yard, there's a twenty-foot front yard and rear yard setback
3 and there's a standard six foot side setback on both sides. And the square that you see my
4 cursor moving around now, would result in the standard developable area of the parcel, which
5 you can see is about 180 square feet. On this screen you can see on the left hand side, the
6 existing building, which is just a one story structure, as I mentioned before, there's no existing
7 covered parking on site or no parking provided on site whatsoever. And on the right hand side
8 of the image, you can see that ... you can see the proposal the first floor, where you do see that
9 one car garage entrance off of Scott Street, the living room in the back, and you can see the
10 entrance to the below grade stairwell as well as the staircase downward to the basement. Here
11 on the screen, you can see the proposed basement where they have their family room and
12 their living room as well as the bedroom and the kitchen area for this proposal. On this screen
13 you can see the proposed elevations that are included in the plan set. You can see this is the
14 front elevation here, again, with that doorway off of Scott Street and the driveway, indicated
15 here, leading up to the one car garage. This is the side elevation from the left side of the
16 property looking inward towards the site. Here are some section images which show kind of
17 cut-throughs through the building, showing the garage, living area space, and bedroom and
18 family room space down below, as a side section. And then here you have a front section,
19 which again, kind of shows those same areas. We did receive a fair number of public comments
20 on this application and those public comments related to the number of variances that were

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1 requested, the aesthetic design of the proposed building, whether the structure will be used as
2 a home or as an extension of the neighbor's house, who ... the neighbors currently own this
3 property, impacts to the existing street trees ... concerns relating to the impacts on the existing
4 street trees, concerns to the impacts of parking within the area, as well as the quality of life
5 during construction, and lastly consistency with the General Plan as well as Senate Bill 330, and
6 this last item really loops back to item number three, which asks... the public comments we
7 were receiving, asks the question of whether the structure is being replaced... whether the
8 existing structure is being replaced with something that still provides the capacity for a new
9 single family home, or someone to live there. Staff's recommendation would be to approve
10 today's project based on the included findings and conditions of approval. And that concludes
11 my presentation. The applicant is also here and has a presentation that they will be able to
12 share.

13

14 Chair Summa: Okay, thank you for that, very much and I guess we go next to the applicant to
15 make a presentation.

16

17 Mr. Dan Rhoads, applicant: Good evening, everybody, my name is Dan Rhoads, I'm the
18 principal... one of the principal architects at Young & Borlik Architects and I appreciate the
19 opportunity to be here and present for you all, also with me is Andrew Young, one of our
20 founding principals, so just in case there's any questions he has unique insight for. Looking back

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1 at the timing of this project, it was almost exactly a year ago that we submitted for this project,
2 December 16, 2022, we've done three rounds of revisions since then as we've interacted with
3 all the different departments, considering neighbor concerns, everything that was received
4 during that time, the approval letter was on October 25, now there's the new concerns which
5 recently arose with the appeal filed, that's given us a chance to revisit all those considerations
6 that went into the project, review the grounds of the planning staff based on the
7 recommendations for, listen and address and hopefully allay any remaining concerns, so we can
8 continue moving forward. The staff report, as always, was very detailed and comprehensive, it
9 covers all the parts of the projects, but I'll just highlight a few points that we can emphasize in
10 our time here today. Starting with our project goals, you know, it's an interesting property,
11 certainly unique in it's size, our task was to design a modern single family home; something up
12 to current standards and codes, something safer, more energy efficient, and with more living
13 space and off street parking. So, starting with ... the neighborhood, as we discussed, it's a little
14 lot in the R-2 area...no time to crash (laughs) I apologize.

15

16 Chair Summa: It looks like you're having a technical problem

17

18 Senior Planner Garrett Sauls: I can also share the applicants presentation.

19

20 Mr. Dan Rhoads, applicant: That would work.

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Chair Summa: Oh okay, Thank you.

Mr. Dan Rhoads, applicant: I think I can describe everything accurately.

Commissioner Hechtman: You can just let Mr. Sauls know when to advance.

Mr. Dan Rhoads, applicant: Yeah, can we go to number three. That was just our chance to zoom in and understand the lot and the property, skilling ahead to number... there we go. It's unique in it's size and location, if you can go to the next one, we've seen this graphic before, so just emphasize, it's only 180 square feet, that would be legally, or conforming... I should say, that's about a .12 floor area ratio if we were to stick just to that. That's be similar to... comparable to 6000 square foot lot, 50 x 120 that you might see elsewhere, all over Palo Alto. A six thousand square foot lot with a .12 floor area ratio, we're looking at about a 720 square foot house, which leaves about 500 square feet for living area. Certainly not what would be considered feasible for ... in a current context. Next one. So, just looking at the existing property, that's the existing house and floor plan, you can see we've checked the distances, the setbacks are currently three feet, on the sides it's closer to 2'10 on the right hand side, the closest is about 4 feet on the front, the rear. We're 17.10 to the residents on the right hand side, 353 Addison, and we're almost twelve feet to the residents next door at 935 Scott Street.

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1 Moving to the next one, so this one is our proposed first floor plan with the site. The set backs
2 were increased by a foot, taking it to four feet on the sides and there, we've maintained the
3 same setbacks at the front, for consistency there. The rear stairwell for the basement access,
4 for natural light and improving the quality of space down there with a little second patio that
5 reduces the upper floor footprint and actually increases distances from some of those
6 neighbors as well. With our design we've actually increased the total living space of the house
7 by 150 square feet, and we've done that by providing the off-street covered parking space. The
8 one street tree that was removed, that was discussed at length, we had a meeting with Urban
9 Forestry Tree Division August 2nd, the condition to remove that one tree to provide the one car
10 driveway, is two replacement boxed trees. And just to clarify for those who might be
11 interested, those are trees that our paid for by our owners, they need to purchase and pay to
12 install those two trees, that wasn't something we offered to sweeten the deal, that was just
13 Urban Forestry telling us that's what we had to do to satisfy the replacement of that one tree
14 that we're taking out, not paid for by the City. The next slide shows our basement plan in
15 relation to the site, we have the stairwell in the back with lots of natural light to bring in, the
16 stairwell to the front interior stair, there's a lot of glazing on that corner which will bring light
17 downstairs too. Sometimes there's concern that basements are not going to be soluble or
18 livable, I would say about 90% of projects of homes in Palo Alto, we're including a basement,
19 they are all light and bright, they're all very livable, they often include some sort of bedroom
20 suite down there, guest suite, nanny suite, anything along those lines, sometimes it's an ADU

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1 user in the basement. All of them are done nicely, they're not the commonly stereotypical dark
2 and undesirable places anymore. So far as the overall house, we feel it's a great design, with all
3 the consideration we've done, we feel it's a very viable home, it's a very livable home, we're
4 excited for it, given the constraints of the property, size, we feel it's one of the best solutions
5 we've arrived at for tonight. There were some neighbor concerns, which I can just address, in
6 our original submittal we had two car garage proposed, so that was more dominant on the
7 front, the requirement was for a two car garage, so we started with that, thinking that was, you
8 know , a need we were not quite able to achieve a full two car garage, we're only 18 x 20, and
9 hoping we were maybe close enough, transportation division comment was that it was not big
10 enough, neighbor concerns were that it was too much garage so finding in the middle, we just
11 stuck with the one car garage. It's a little oversized, but we feel that's necessary, you know, this
12 is such a small property, there's no side yard space, there's no areas you might keep a shed,
13 there's no even covered patios where you might store some stuff, so, all those things that
14 might go in those locations need to go somewhere inside, like inside the garage. Going to the
15 one car garage allowed us to reduce the driveway width, which I think was also a concern. It
16 only calls for the removal of the one tree instead of both. We looked at trying to fit the
17 driveway between the trees, with Urban Forestry, that was a question they had, there's only
18 fourteen feet of space from tree to tree, Urban Forestry and Public Works, they ask typically for
19 ten feet for driveways to be ten feet from a street tree. There's no way we would achieve that
20 at all. So, there's a concern of whether we need a garage at all, parking on that block is

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1 challenging, it's narrow, it's short, there's the park at the end, there's a rehabilitation medical
2 facility around the corner, so, street parking is usually in competition. Not always, but there are
3 times when it's full. The two neighbor letters also echoed the concern about the loss of parking.
4 I think in our case we aren't losing two parking spaces, at most we're losing one. The curb cut
5 for our driveway will be right next to the curb cut and rear parking that 935 Addison uses, so by
6 grouping those two together, we're not minimizing the amount of curb lost, so I would say that
7 one spot at most would be lost, but we're also gaining one back by allowing us to have the off
8 street parking. Certainly parking is an amenity we just need in current homes. I know we'd all
9 love to give up our cars and just walk everywhere, but various scenarios, things that you just
10 need in a single family home, you come home with groceries, you can't find parking in front of
11 your house, you have to park around the corner and lug your groceries around the corner. Is it
12 bad weather, do we have to do that in inclement weather? If you have an electric vehicle, how
13 do you charge your vehicle, do you run an extension chord across the sidewalk maybe? So,
14 there are reasons and purposes for having off street parking. There's concerns about our first
15 proposal as well, that it was not a lot of curb appeal, it looked too much like a garage, so
16 shrinking it down gave us an opportunity to create a little more pedestrian feel to it. The
17 entrance was always planned to be around on the side, but having the front door into the
18 garage, just adds on to the appearance in the street, in making it feel a little more pedestrian
19 friendly. It gave us the chance to add the articulation, make it a better looking design. There's
20 concerns about the house being historic or old, it maybe charming but the historic investigation

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1 report by Paige & Turnbull, they found it to be ineligible for historic registry and also to clarify,
2 Paige & Turnbull is the City resource that the City hires for these reports, this isn't a report that
3 we engaged privately to maybe go in our favor. This is the City's firm. Looking at our other
4 slides here, the previously side was the existing front elevation, you can see the one street tree
5 that we'll be removing, the next slide is the proposed, we've ghosted the tree so we get the
6 chance to see the architecture beyond for this presentation. You can see that the drive way will
7 be minimized into the right hand side, closer to the other driveway, and the last slide is just our
8 streetscape elevation as we look at the context of this structure compared to the neighbors.
9 This will not be a view that you would ever see because of all the landscaping and trees and
10 such, but it gives a context of size and scale. I think that's the main points I wanted to draw on,
11 we're obviously ready for any questions or any additional things we can provide. Thank you.

12

13 Chair Summa: Thank you, Mr. Rhoads. I was wondering if my colleagues have any clarifying
14 questions before we go to the public. Commissioner Hechtman.

15

16 Commissioner Hechtman: Just a quick question for staff, the staff report didn't mention ARB, I
17 take it that this project didn't require any review by ARB?

18

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1 Senior Planner Garrett Sauls: That's correct, this application, if it was submitted ... if it was
2 approved and then submitted to the City, it would simply go through the building permit
3 process, given that it's a one story home.

4

5 Commissioner Hechtman: Thank you.

6

7 Chair Summa: Commissioner Chang [Vice-Chair Chang].

8

9 Vice-Chair Chang: Quick clarifying question about the tree in the rear that is not on this
10 property, but if I look at A.1.1, there's a circle that shows a 300, I think it's a 300 foot radius, so
11 what is required by the tree ordinance in terms of basements and trees.

12

13 Mr. Dan Rhoads, applicant: The basement diameter, the... it's 10x the diameter for the tree
14 touch radius, in this case, the arborist looked at that in terms of moving it back from the
15 excavation, we would be using the back property line fence would essentially be our green
16 protection fence in terms of any impact on the root.

17

18 Vice-Chair Chang: Sorry, I couldn't hear what you... the last sentence of what you said.

19

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1 Mr. Dan Rhoads, applicant: The rear fence of the property line would essentially be our tree
2 protection fence. Usually there's a tree protection fence that outlines that area, to various
3 degrees, based on recommendations.

4
5 Vice-Chair Chang: Okay, but I guess my question is, why is there 300 foot radius and that circle
6 goes into the basement.

7
8 Senior Planner Garrett Sauls: So, the city has established standards for where tree protection
9 measures should be put in place and ideally the idea... ideally what is intended is to provide as
10 much buffer around where there might possibly be any potential roots. At this great of a
11 distance, there would not be ... I'm trying to think of the right term for it... but there would not
12 be structural roots, kind of to this great extent all the way out, extending towards the basement
13 where if they were to be, you know, modified, cut, you know removed, that they would
14 somehow effect the tree to an extent that it would fail.

15
16 Vice-Chair Chang: Okay, so the City's arborists have made that evaluation then, correct?

17
18 Senior Planner Garrett Sauls: They do look at that as part of the application submittal and this
19 is to some degree it's a technical requirement as Mr. Rhoads was talking about, where they
20 look at the diameter of the trunk and then they've established a formula say ten times that

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1 diameter, you need to provide a tree protection fence around it and if this were, for example, if
2 you can see my cursor on the screen, if this tree were placed right here... right? Such that the
3 base of the roots, the more structural roots of the tree itself were much much much closer,
4 then there may be a scenario where any sort of below grade construction would otherwise
5 possibly cut into those structural roots, but the greater extent back out of here, there are
6 lesser... this are almost like fingerlings or tendrils to a degree at that extent, as far away as it is
7 from the main base of the tree, that you're not going to have structural roots that if they are
8 cut, are going to cause this tree here to fail, collapse, or die.

9

10 Vice-Chair Chang: Okay thanks. And then I guess the ordinance in terms of the... is there some
11 percentage of roots that can be removed? I mean think...

12

13 Senior Planner Garrett Sauls: Twenty-five percent.

14

15 Vice-Chair Chang: It's twenty-five percent, right?

16

17 Senior Planner Garrett Sauls: The rule of thumb at arborists we've had in the past, I believe the
18 new tree technical manual has tried to reduce that slightly, but 25% has been a general rule of
19 thumb that I've heard from Urban Forestry and arborists, when I've had conversations with
20 them, and this wouldn't have anywhere near that kind of impact on that root zone.

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Mr. Dan Rhoads, applicant: The two sheets in our set also have the arborists report that we enlisted for the review, and they touch upon the impacts as well.

Vice-Chair Chang: Okay. My other question is around SB 330 and, SB 330 only requires preservation of number of units right? Reduction of bedrooms is not a concern, is that correct? I just want to verify.

Senior Planner Garrett Sauls: In terms of the number of bedrooms, I will defer to Mr. Yang, but in general my understanding is that the number of units is what is the threshold change and so whether it's design as a pyramid house or whether it's designed as a more standard type of expected single family development, so long as there are residential units being provided, in this case it's a one to one ratio, then there is not necessarily a loss of housing.

Mr. Yang, City Attorney: I don't have anything to add to that.

Vice-Chair Chang: Alright, thank you.

Chair Summa: Okay, anyone else? Okay, seeing no others, I think we will go to the public. Ms. Dao do we have speakers in the room or online?

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PUBLIC COMMENT

Ms. Dao: I have no speaker cards or raised hands.

Chair Summa: Thank you. If you haven't filled out a card, you just need to do so and then, or you can do it after you speak too.

Mr. Andrew Martin: Alright, I apologize, this is my first time coming to one of these.

Chair Summa: That's quite alright, we're happy to see you.

Mr. Andrew Martin: Thank you commissioners for hearing me this evening. So my name is Andrew Martin and I live across the street from the proposed development project and I am one of the neighbors that did write in to Mr. Garret prior to (interrupted)

Chair Summa: Please speak right into the microphone.

Mr. Andrew Martin: Oh sorry, excuse me, as this process was going on. So I wanted to provide a little prospective, from me, and I also I just received a text from the neighbors next door that are also directly across the street from the proposed development, Tim O'Leary and his wife, he

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1 was working late and unable to make it here, but authorized me to speak on his behalf as we
2 have discussed the issue. So I'm trying to think of where to begin. Prior to.... 15 years ago, just
3 for a little perspective, this stretch of Scott Street was three homes, so there was 945, 935...
4 943 and 949. An owner bought 943, the house in the middle, and half way through, well it was
5 a spec development, and half way through development an owner purchased it, and then the
6 neighbor, at 935, elected to sell. The person who had purchased 943, then purchased the
7 adjacent home, 935, and submitted to the city to combine the two into a lot. I haven't verified
8 this, but from what I heard it made it by like one or two square feet, so it's at 10,000 square
9 foot lot in Palo Alto. And in that process, we took two single family homes and converted them
10 into one very large single family home. That very large single family home only has a one car
11 garage, which in all honestly, almost every house in the area only has a one car garage and I can
12 tell you that I'm not aware of any neighbor that parks a vehicle in their garage, so what we're
13 talking about here is another housing unit that the prior owner, Elizabeth, live there for fifteen
14 years before she moved to Channing House, it was a perfect home for a senior to do an
15 exchange into, reset her tax year, and be able to live in close proximity to downtown and have a
16 wonderful vibrant life with neighbors. The reason we moved in across the street, is because we
17 wanted to live in a neighborhood, filled with neighbors. We have one of the best block parties
18 in the area, and we enjoy gathering people together, I enjoy having my kids being looked after
19 by the neighbors across the street. And while we do not have laws on the books that prevent
20 single owners from buying multiple adjacent properties, I feel like the practice diminishes the

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1 value of our neighborhoods. Instead of having multiple families living on a street, which is why
2 many of us moved to a place like Palo Alto, we have fewer neighbors. I realize we can not pass
3 a... we can not reject a development process because it happens to be owned by the people
4 across the street, but in looking at the long term effect of this, going back to SB 330, I disagree
5 with Saul's argument that a one for one exchange is what's taking place here. What we're doing
6 is we're taking an existing home, where you live on the main floor, and someone lived there
7 and had a great existence, we know the home functions, I'm not aware of any safety issues that
8 the occupant had in the time that they lived there and in fact, since they left the person who
9 purchased the property and left it vacant for three years, invested a substantial amount in
10 fixing up and renovating the home, there were workers out there for months. So the home is
11 not only, not dangerous, it's been renovated in between the ownership and the current
12 tenants. And if you look at that and you say we are going to replace this story, 48 seconds, we
13 are going to replace this with a home where the front door goes into the garage. I don't know if
14 we can bring back that visual, it's a garage entrance. The idea that a family is going to choose to
15 buy this house and live in it, when they have to live in the basement, there really is no main
16 floor living, the front door is a garage door. To me, it makes it feel like an accessory unit to the
17 next door property, and so what that in effect does, is it takes what were three single family
18 homes on the block and reduces it to one. And, well, I would be in favor of a development that
19 didn't have any garage, and had a house so that when the current owners sell it, a real family

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1 could move in. With the current plan, what I see happening is these will be in exorbitantly
2 linked as a single virtual property that spans two APNs and that is my concern. Thank you.

3

4 Chair Summa: Thank you very much Mr. ... I think it was Martin. Okay. I don't see any other
5 speakers, so we will bring it back ... oh... would the applicant like to speak to the comments
6 from the public. You have three minutes Mr. Rhoads.

7

8 Mr. Dan Rhoads, applicant: Okay, thank you. I meant to mention at the beginning of the
9 meeting, [TIMESTAMP 50:27 Unintelligible], the owners, that weren't able to come tonight,
10 their daughter has school concert, a concert which they were not wanting to miss so we've
11 conferred and talked about this and I'm hopefully able to speak on their points on their behalf. I
12 hope I do a proper job. As far as the lot next door, 935, which became two lots, I believe that
13 was 2012, if I'm recalling what I've learned, that was before [TIMESTAMP 50:59 Unintelligible]
14 purchased it, so I double it was any of their doing, as far as loss of housing units, I know
15 there've been other changes over the time, I just don't know where I see that we're creating an
16 unviable single family home with our proposal. I think it's hard to imagine we're critiquing what
17 somebody might do inside their property, I think any property someone could purchase and live
18 there or rent it or not do anything with it. My understanding is 935 before hand, it was maybe
19 one owner that lived there part of the time, it was mostly vacant for such a large house,
20 [TIMESTAMP 51:52 Unintelligible] are excited to live at 935, they had the opportunity to

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1 purchase 949 next door, they have a large family, family that come and stay, they're planning to
2 use it to accommodate family, they want the opportunity to have a house next door, when the
3 kids grow up and want somewhere to come back to, they're not looking at this as anything but
4 a nice home. If the concern is that we're just creating an accessory garage out of the building, it
5 would be much easier just to remodel the existing structure into a garage, there would be no
6 variances we would need, there would be no design review, I suppose, it would just be an
7 interior remodel. That would be a loss of housing, so certainly that's not the ideal approach. In
8 this case, we are proposing something like I mentioned in our initial thing, we wanted a modern
9 single family home, we want to accommodate off street parking, we wanted to expand the
10 living area, wanted to update it, make it up to current codes, it will have fire sprinklers, it will
11 have fire resistance construction, it's further away from the property lines, more energy
12 efficient, and an improvement, hopefully for the neighborhood.

13

14 Mr. Andrew Young, Architect: Good evening, my name is Andrew Young, I'm an architect, may I
15 speak? I can fill out a card afterwards.

16

17 Chair Summa: I'm afraid you had three minutes, you had three minutes. They were used up. So,
18 thank you. Okay, with that, I will bring it back to the commission. So, I don't see any lights on
19 but surely someone would like to go first... with questions. Okay, then I will start out with a few
20 observations. I certainly think that this is a constrained property and everyone would agree

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1 with that and I appreciate that the front set back was retained to create a harmonious
2 appearance on the street. I'm a little worried about the large tree that the Commissioner Chang
3 [Vice-Chair Chang] asked about and maybe Mr. Sauls can clarify further whether it's a protected
4 tree and be a little clearer if the Urban Forestry department signed off on it, that it was okay...
5 the basement basically.

6
7 Senior Planner Garrett Sauls: Yeah, so Urban Forestry did review this application they were
8 aware and reviewed the arborists report that is included on the plan set so if you're looking at
9 the plan set it's page 17, and they're talking about that tree, number 4, is a Chinese Elm tree so
10 it's not a redwood or a coast live oak tree, so it's not a protected tree in that sense, and the
11 summary on page 7 also identifies that you know, the tree may be impacted I think kind of in
12 the same manner that I was describing earlier before, that it's root stems may be modified
13 where it stretches, or if it stretches within that kind of red ring, an inch, on the bottom right
14 hand side... I'll go ahead and share my screen again, I'm just zoomed into the plan set on page
15 7, it shows the arborists report.

16
17 Chair Summa: Okay, I'm not sure that we got that in our plan set, but regardless, it's good to
18 know it's not a suspected, I mean, a protected species, but it is protected by size I believe. But
19 we now know quite clearly that the Urban Forestry signed off on it, that it would be okay. So,

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1 that's good to know. I'm not seeing any lights still, so I guess ... oh... Commissioner Chang [Vice-
2 Chair Chang], go ahead. Oh, Commissioner Hechtman, sorry.

3

4 Commissioner Hechtman: Chair I don't want to cut you off, if you want to continue with your
5 remarks and then when you're done...

6

7 Chair Summa: No No, please, go ahead.

8

9 Commissioner Hechtman: Okay. So, I want to thank staff and the applicant for their
10 presentations and thank the neighbor for elaborating on the correspondence he had submitted,
11 which we did review. I'm supportive of moving forward with the staff recommendation. One of
12 the things I like about this design is it takes a non-conforming structure and in at least four ways
13 makes it more conforming. And one of those ways makes it conforming period... not even just
14 less non-conforming. So, I appreciate the attention to that and the success in that design. I also
15 appreciate the modification of the house as this process went forward, starting with the two
16 car garage, which We never saw that plan but I can imagine given it's narrowness that was
17 just presented to us, that's all there's room for, is a two car garage. That's what you'd see. This
18 new design you know, presents itself as a little house with a one car garage, that's wider than
19 the entrance area. Beauty of course is in the eye of the beholder. I thought that, I think Mr.
20 Rhoads, referred to the old house as charming. I agree with that. I would describe the new

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1 house as adorable. Or you could flip those two. I like the old design; I like the new design. And
2 in terms of how an owner wants to use their property, that's not really within our purview. I
3 appreciate the concern but it's really not our purview. The reality, I think, is that you know,
4 given that this owner lives in the neighborhood and owns this property, whatever or how they
5 use or don't use the new house, they could not use the existing house the same way. And so I
6 do like the fact that this has more living area, while appearing smaller. And I like the fact that
7 it's safer, more efficient and I feel like the tree issues have been addressed. So, when we get to
8 that point, I'll be ready to support or make a motion to move this forward to City Council.

9

10 Chair Summa: Thank you, Commissioner Chang [Vice-Chair Chang].

11

12 Vice-Chair Chang: So, I think I, you know, we are not allowed to make decisions based on how
13 somebody is going to use their property or not use it. They can build whatever they want on it,
14 as long as it's a residence. So it would not have been legal to just simply build a one story
15 garage and convert the entire property into a garage, that would have not passed mustard with
16 SB 330, but this does. However, it requires additional variances for the basement, and that's
17 the part where I'm not... the building does... the home does become more conforming in every
18 way except that it's now going to have a basement that encroaches into setbacks. And it didn't
19 before, so I think that's where I wonder we are essentially allowing a special privilege by doing
20 so, we would be allowing a special privilege for that lot, that very small lot. So if I look at the

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1 language.... It's not fully It's not fully copied from the Code, so if we look at the findings on
2 packet page ... I'm sorry... packet page 17, the language in the code actually says is a little bit
3 more extensive. So, the finding that we have to make is that granting of the application shall
4 not effect substantial compliance with our regulations or constitute a grant of special privileges
5 in consistent with the limitations upon other properties within the vicinity, and in the same
6 zoning district as the subject property. And so that's where I am concerned, and I'm not sure
7 that I can make the second finding because of the second piece that's required in the finding,
8 because nobody else can build a basement in the setback. I understand that this... that the first
9 floor of the house is legal non-conforming and has been grandfathered in, but we're being
10 asked to grant an additional variance for the basement so that's ... I don't have a problem with
11 the other variances that we're being asked to grant, in that it... everything becomes more
12 conforming. Thank you.

13

14 Chair Summa: I'm not seeing lights from my... oh Commissioner Templeton please go ahead.

15

16 Commissioner Templeton: Thank you. I'm trying to wrap my head around what the problem is
17 here. We have a really tiny lot with a really tiny structure that's really old and the owners have
18 an intention to provide... continue providing housing and to modernize the structure... I mean
19 what else are we going to do with it? As a city, why would we prevent that, because all that's
20 going to happen if we don't make improvements is that the current building will become more

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1 dilapidated, less used, and you know, as we heard even the objectors want to make sure it's
2 used... so I don't even... really understand, even if it was... even if it was an ADU and we were
3 talking about something that's small along the size of an ADU, that still improves the size of the
4 community and the activity in the area and makes the street more vibrant. So I still... I'm
5 struggling with objections about how the person is using the space and how they... you know ...
6 what kind of structure they want, the structure's already practically been improved, and now
7 it's coming back for another review, there's nothing that's glaringly obviously wrong with this
8 proposal. There are people who are frustrated with it and frustrated with the direction the
9 community is taking and many other frustrations exist, but nothing that would motivate me to
10 want to turn down this application. Thank you.

11

12 Chair Summa: Commissioner Lu.

13

14 Commissioner Lu: Just some brief comments. I agree largely with Commissioner Templeton, I
15 personally dislike this [TIMESTAMP 1:04:14 Unintelligible] of the project, and I dislike the
16 phenomenon of buying neighboring homes in cases where properties are actually taken out of
17 the market. However, I'm okay with the project overall. I think we should allow small lots to be
18 well utilized. I realize the basement is a variance, but it is a variance that does not seem more
19 on risk to the neighbors, or a risk to the environment, and I personally support any neighbors
20 who would request a similar variance on similarly small lots to have a basement or to have

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1 otherwise better access or usability of their property. Because I would not nitpick otherwise on
2 things that I maybe am otherwise not a fan of like the aesthetics or parking situation, I will also
3 vote to move forward with this project.

4

5 Chair Summa: Thank you. Commissioner Chang [Vice-Chair Chang] oh.. then Commissioner
6 Hechtman.

7

8 Commissioner Hechtman: Thank you. So, I thought that Vice-Chair Chang asked a good and
9 reasonable question about the language of variances. I work with them a lot but I think this
10 particular question is best fielded by Mr. Yang. Mr. Yang the question I heard the Vice Chair ask
11 is she's looking at the language of you know the state law, and the city variance finding about
12 without the variance you're deprived of privileges enjoyed by other properties within the
13 vicinity, and so Vice-Chair Chang said, well other properties in the vicinity don't have basements
14 that encroach so how do we make this finding. Again, I kind of know the answer but I think it's
15 best if you would help the Commission get some color on how these state law findings are
16 meant to be interpreted.

17

18 Mr. Yang, City Attorney: Yeah, thanks. So, in this case, the privileges that we're talking about
19 are the kind of use and enjoyment of the property... broadly. A variance is always seeking to go
20 beyond the rules that are generally applicable to your property so, you know, building into the

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1 setbacks is why we have a variance process to allow that to happen where most people aren't
2 able to. So, we have these findings to make sure that we're only allowing these exceptions that
3 most people aren't allowed to have in cases where there's something unique about the
4 property ... in this case it's the very small size of the lot. And the privileges involved here are the
5 ability to use this lot for a dwelling unit.... Which would not be possible with strict application of
6 the development standards. And because I guess, staff's view on this particular application is
7 that it does not grant a special privilege because it's really just allowing the property owner to
8 use this property for a dwelling unit. A special privilege might be you know being able to have a
9 business on the site where other residentially zoned properties are not able to do that.

10

11 Chair Summa: Thank you for that Mr. Yang. Commissioner Hechtman did you have ... okay. So,
12 did you want to speak?

13

14 Vice-Chair Chang: So I had a question for staff because in general, my understanding was that
15 with legal non-conforming uses that at least the spirit of the law as I read it, we allow people to
16 remodel, to tear down and rebuild, but we're not supposed to increase the non-conformance
17 right, and in this case, there's a question for me... there is a house right there right now, that is
18 apparently a livable house, so I understand it's old, but somebody could build a house there
19 without a basement and not increase the non-conformance so this one it's a little bit of a trade,
20 right, it's like okay we're going to add a parking space, because it didn't have a parking space

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1 before but in order to do that we need to then, have a basement. Right, in order to maintain
2 the... make it... keep it livable. And so that's where I'm kind of wondering like what are we ...
3 you know, it's decreasing the non-conformance on one dimension but increasing in another,
4 but in terms of where it... where it... in terms of relative to the current non-conformance, it kind
5 of... becomes more non-conforming or less, or it's a wash, so I think that's where I'm struggling
6 with it, I mean, I don't... I hear the neighbors' concern, I can't opine as to what the owner's
7 going to do or not do with it, I do worry that it may be a little bit less livable in certain ways but
8 maybe more livable in others. So, I'm just trying to go with findings and how to look at that.
9 So...

10

11 Mr. Yang, City Attorney: Yeah, so, there are two separate concepts at play. The one you're
12 bringing up is a legal non-conforming structure. And, we have some rules that apply to legal
13 non-conforming structures and those situations pop up when something is built and then the
14 rules change, so now it's no longer complying with the rules. And in those cases, as you
15 mentioned, we do say you can make changes as long as you are reducing the amount of non-
16 compliance. That's distinct from what is being requested here which is a variance based on the
17 unique properties of the lot. This request, the variances that are requested, could come up
18 even if the existing use was conforming...even if the existing structure was conforming
19 someone could still come and say... I'd like a variance because I think this lot, you know, would
20 not allow equal enjoyment with other properties if you strictly apply the development

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1 standards. So, there's sort of two separate principles that you could look at here. But right now
2 we're looking at the variance.

3

4 Vice-Chair Chang: Yeah, okay, that's very helpful. So, I think that in general... this is the
5 challenge that I see with this... not necessarily this one home, but with SB 9 coming and with
6 smaller and smaller lots coming, we're going to run into this situation over and over and over
7 again and... I mean I'd rather solve it with something that just said that we're allowing
8 basements into setbacks. You know what though.... It would be legal if it were... if this property
9 were attached to the adjacent property and then an ADU, so ... but the fact that... there's this
10 larger issue where we're essentially saying okay basements can be built almost right up to your
11 neighbors yard, over at end, yet by setting this precedence essentially, we'd be making that
12 decision with... I don't know what ramifications, that doesn't excite me, I haven't fully decided
13 here yet. But there's a way , there's a way that this owner ... this owner, because of their
14 unique situation, could address this situation and make it 100% legal and we wouldn't have to
15 ask for variances.

16

17 Chair Summa: So, so I agree with a lot of what I've heard tonight, it's not our job to judge the
18 aesthetics or the use of the property and I think... I understand why the property owner would
19 like to use this property to enhance their property next door. I looked into the maximum lot
20 size in R-2 and is legal in that regard. My problem is I don't quite understand why we would use

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1 variances to achieve this, I am ... and I don't think we have all the information that we needed...

2 I would like to find a way to do this for this applicant even though I know not all the neighbors

3 are happy about it because I do think there's a legal way to achieve this. I'm uncomfortable

4 using variances because in our code we also say in 1B "Any changes in the size of the shape of

5 the subject property made by the property owner or his predecessor in interest while the

6 property was subject to the same zoning designation" ... that is excluded. You can not do that.

7 And we didn't get ... I don't know the history of this property so I can't make that... I can't

8 understand if there was this owner was probably not the one that did it, but a previous owner,

9 a predecessor who made this property small through subdivision at a time when it was zoned

10 the same. So, that information we don't have. I also ... we also don't have any information on

11 how many sizes across... how many lots of this size across Palo Alto or in this locale there are,

12 where this might ... I see your hand is up so I'll get to you in a minute Ms. Sauls, in this area or

13 this zone or this neighborhood of this size and I worry that people will use this as a precedence

14 ... it's quite a lot of variances from the law and obviously it can't be developed as a 180 square

15 foot anything, and I think probably another covered garage stall would be appreciated by the

16 owner of the property, I don't know, but those are all irrelevant to me but I do worry that we

17 will be giving other property owners with less extremely small lots the idea that they can do the

18 same thing. We generally disapprove, although it's not illegal, of combining lots in an effort to

19 retain as many units across Palo Alto for individual tenants or families. So, it's not... I don't

20 know if it was discussed but this could be achieve also, by just making it one property and they

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1 can either have two units with a garage on the property or they can have another garage with
2 an ADU. It seems better than setting the precedent ... they would get exactly the same thing,
3 but a precedent would not be set for a variance that I kind of agree with... that I have few
4 problems kind of making. I do believe it is a special privilege that other properties in the area
5 would not have available to them. So, it is a precedent not the actual... if there's another way to
6 achieve this I would be more likely to want to do it that way than with a variance. I think
7 variance should be used very carefully, because they are special privileges pretty much and
8 sometimes they are really really important for the use of the property but I don't know if staff
9 and the applicant considered that route but Ms. Sauls you had your hand up earlier.

10

11 Senior Planner Garrett Sauls: Yes, I have that information regarding how many relevant parcels
12 in the City that would be effected by some sort of decision like this. I first started looking at
13 higher size threshold to kind of try to capture maybe a little bit more information so I queried
14 our GIS database, which has our mapping software of all the parcels in the City about lot sizes
15 or parcels that are zoned ... sorry... parcels that are zoned for residential and also parcels that
16 are about 2,000 square feet in size and in total that came back to me with about sixty parcels.
17 And going through each individual parcel to understand it's specific zone district and specific
18 uses that already existed on the site, 46 of them were either commercial properties, they were
19 either easements, Santa Clara Valley Water District easements, utility easements or they were
20 undevelopable parcels because they were public facility parcels or because they were slivers or

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1 shavings of parcels attached onto larger parcels already. Fourteen of those then, were parcels
2 that were up to 2,000 square feet. And from there, I then filtered it down further to understand
3 how many parcels were actually 2,000 and 1,500 square feet and from the fourteen there were
4 actually only two parcels that had a 1,500 square foot size or lesser that were developed as a
5 single family home and could otherwise be replaced in this manner. So, there is a very very very
6 insignificant number of parcels within the City that this would be effecting in general.

7

8 Chair Summa: Okay, thank you for that information, do you have any information about 1B
9 which is the property owner or predecessors in interest having made this change?

10

11 Senior Planner Garrett Sauls: So, I think the question is basically around the adjacent parcels
12 935 and 943, that were... those two parcels were merged together. Which is opposed to parcels
13 themselves are now one parcel, but it's a separate parcel entirely from this one. And so, I think
14 as was mentioned before, this These property owners themselves did not go through the
15 subdivision process of the lot merger process to establish the larger parcel adjacent to it... the
16 935 and 943 Scott Street. This parcel itself was ... I'm not off the top of my head entirely sure
17 when it was created... I have seen a number of parcels in the city that are the smaller lots, or
18 have been in the past ... carriage house lots. But I believe Ms. French might have some
19 additional information on that.

20

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1 Chair Summa: Ms. French.

2

3 Ms. French: Sure. I was just scanning our system here to see if I could locate one of the older
4 parcel maps... or sorry subdivisions, so I did find one dating back to ... excuse me while I move
5 it... 2001, there was a survey done, it's showing this tiny lot that existed at that time so certainly
6 before 2001 this parcel existed in it's current state. I haven't gone any further back than that.

7

8 Chair Summa: Okay, so it seems like that might not be knowable at this time, was there any
9 discussion of achieving this for the applicant without using variances by simply merging the
10 lots?

11

12 Senior Planner Garrett Sauls: We didn't have a discussion about merging this parcel to the
13 adjacent parcel, the 935 and 943 parcel.

14

15 Chair Summa: Okay. Commissioner Hechtman.

16

17 Commissioner Hechtman: Chair are you done with your questions? I want to wait until you're
18 finished.

19

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1 Chair Summa: Okay. Okay so, it's not my business to I guess ask the applicant to pursue that
2 other route, it would be preferable to me rather than giving out variances because I'm actually
3 worried that this might create an interest in small lots but not as small as the ones that Mr.
4 Sauls looked at, asking for the same kind of encroachments but I guess that's the thing about
5 the variance... it's specific to each project and that members of the public should not expect in
6 a different circumstance that this... that they would get the same... the same sort of deal. It's,
7 so... so I think that given that and... I'm still thinking a little bit, I want to go to Commissioner
8 Hechtman.

9

10 Commissioner Hechtman: I'm ready to make a motion.

11

12 Chair Summa: Okay, any other comments before?... Okay, go ahead, Commissioner Hechtman.

13

14 Commissioner Hechtman: That's alright. So, I actually I think the Chair ... precedence is
15 sometimes a concern in neighborhoods among the public, but I think the Chair actually
16 expressed it really well, that this variance is a unique process and it is 100% site specific. So
17 that's why, for example, in our findings it doesn't talk about other properties that have gotten
18 variances. Because there are other properties, they may not be this small, that have gotten
19 variances. That's really not relevant. The question is ... is there something about this property
20 that makes development of a home of realistic size impossible and of course here, you could

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1 have 180 square foot home, I guess it could be two levels, so 360 square feet, but you've got a
2 stairway in there and so that's not a reasonable home. So, on this particular one I've not no
3 concern for precedent and I appreciate staff anticipating some of our questions tonight and
4 having done that research, I think that was really useful for us and for the public to hear that
5 there's really only two other parcels in what might be a similar situation and may some day you
6 know, come to us for development. I do think it's interesting that in the staff report and in
7 comments tonight, despite the fact that we've had these rules for decades, there was no
8 precedent that anybody was leaning on to get this set of variances tonight. And I won't be
9 surprised if no one in the future ever tried to wave this approval as a basis to grant a variance
10 on a different piece of property. So.

11

12 **MOTION**

13 Commissioner Hechtman: With that, I will move the staff recommendation.

14

15 Chair Summa: Thank you, do I have a second?

16

17 **SECOND**

18

19 Commissioner Lu: Second.

20

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1 Chair Summa: Thank you for your second. Would you like to speak to your motion?

2

3 Commissioner Hechtman: No thank you.

4

5 Chair Summa: Would you like to speak to your second?

6

7 Commissioner Lu: No thank you.

8

9 Chair Summa: Okay, before we vote, I'd like to say that I'm very sympathetic to the neighbors
10 who have concerns about this project, but I did not think that we have a legal way really to say
11 no to it and I hope that it's a lovely part of Palo Alto, a lovely street, and I hope that when the
12 construction is done, everybody is super happy with the outcome and with that Ms. Dao would
13 you conduct the vote?

14

15 **VOTE**

16

17 Ms. Dao: Vice-Chair Chang?

18

19 Vice-Chair Chang: Yes.

20

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1 Ms. Dao: Commissioner Hechtman?

2

3 Commissioner Hechtman: Yes.

4

5 Ms. Dao: Commissioner Lu?

6

7 Commissioner Lu: Yes.

8

9 Ms. Dao: Chair Summa?

10

11 Chair Summa: Yes.

12

13 Ms. Dao: Commissioner Templeton

14

15 Commissioner Templeton: Yes

16

17 Ms. Dao: Motion carries 5-0-2.

18

19 **MOTION PASSED 5** (Summa, Chang, Lu, Hechtman, Templeton) 5-0-2 (Reckdahl Absent, Akin

20 recused)

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1 **Commission Action:** Motion by Hechtman, seconded by Lu. Pass 5-0-2

2

3 **Chair Summa:** Thank you very much and thank you to our staff and the members of the public
4 that came out this evening. And I think we'll take a seven minute break and then we'll be back
5 with Commissioner Akin.

6

7 **PTC took a seven minutes break, and all returned to session with all members present except**
8 **Commissioner Reckdahl (absent).**

9

10 3. Recommendation on an Ordinance Amending Palo Alto Municipal Code Title 18 (Zoning)
11 Chapters 18.14 (Housing Incentives), 18.76 (Permits and Approvals), and 18.77
12 (Processing of Permits and Approvals) to Implement Housing Element Program 1.3
13 Creating By- Right Zoning Approval for Specific Housing Element Inventory Sites
14

15 **Chair Summa:** On item number three which is Recommendation on an Ordinance Amending
16 Palo Alto Municipal Code Title 18, Chapters 18.14, 18.76, and 18.77; and this is to Implement
17 Housing Element Program 1.3. Okay, I think we will go straight to the staff.

18

19 **Ms. French:** And I'd like to introduce to the Planning and Transportation Commission our
20 newest staff member Coleman Frick, who jumped right in....

21

22 **Chair Summa:** Welcome

-
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Ms. French: and worked on this report.

Planner Coleman Frick: Thank you, Ms. French. Good evening, Commissioners, so this item is implementation of a Housing Element program that's specific to By-Right approvals. Next please. The purpose of the action by the Commission this evening is to recommend approval based on Attachment A, which is the Ordinance to develop the process of these By-Right approvals. And the deadline for adopting these regulations is January 31st of next year. Next. So just a brief background of how this fits into the larger housing element process, the housing element was adopted this past May, including this program and the timelines that are outlined for the implementation of the programs they're in. The California Department of Housing and Community Development requires additional revisions to the Housing Element and the readoption is anticipated for early next year. In total there's 122 housing element implementation programs and the Commission and Council recently saw some related to programs 1.1, which also had the same requirement date, but this particular program was inadvertently not included with those other amendments which is why we're bringing it on this accelerated timeline. So, the program relates to recycled housing element sites that were used in past cycles and I'll get into that in the next slide, and by-right approvals specifically and State Law defines that as a discretionary approval like a conditional use permit (CUP) that has the local authority kind of making the decision and it also outlines that it can't constitute a project

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1 under CEQA. But it doesn't prohibit the use of design review for these projects. Next. So, just
2 some key points I wanted to hit about this program in the housing element. It applies
3 specifically to lower income designated housing opportunity sites that again were re-used from
4 past cycles, there's a distinction as to whether they were vacant sites or non-vacant sites, and
5 the adopted housing element specifies sixteen total sites that would be impacted. One key
6 additional requirement of a few that are outlined in the staff report, that I wanted to touch on
7 is the 20% affordable requirement and so any proposed development would have to meet all
8 the eligibility criteria including that, to use this process. Next slide. So, just briefly, the
9 ordinance to develop this new process requires amendments to these three chapters and
10 through that it would create this new ministerial review process for these eligible by-right
11 projects. Next. So, briefly, the standard process for multi-family review that's outlined in the
12 code is that it would be an ARB recommendation and that could include multiple meetings and
13 then a Director level decision and there's also a newer streamlined review process which allows
14 projects that meet objective criteria to go through more streamlined process with one ARB
15 study session and next, the by-right process is kind of modeled after that. So, it would be a staff
16 level review, to determine eligibility and the project would have to comply with all objective
17 standards including those in the Comp Plan, specific plans and area plans, as applicable, as well
18 as the objective standards in the code, and then the Director could refer the development for
19 one study session with the ARB. And crucially, again, then there wouldn't be CEQA review
20 required. So this would kind of be a similar process, as I understand, 525 E. Charleston went

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1 through as part of the AB2162 process, and again, it can't be a project under CEQA. So, the
2 timeline for this, just because we have to meet that deadline, staff is planning to take, based on
3 the recommendation this evening, the permanent ordinance concurrent with an urgency
4 ordinance and that would be considered by the Council on the 22nd, and then that way the
5 permanent ordinance would go into effect before the expiration of the urgency ordinance.
6 Next. So, with that, staff's recommended motion is to review and recommend City Council
7 adoption of the draft ordinance to implement Housing Element program 1.3, creating by-right
8 zoning approval for specific housing element inventory sites and making conforming changes to
9 Title 18. And that concludes staff's presentation.

10

11 Chair Summa: Thank you very much Mr. Frick, I am wondering, oh I see a light already.
12 Commissioner Akin.

13

14 Commissioner Akin: Are you taking clarifying questions at this point?

15

16 Chair Summa: Yes.

17

18 Commissioner Akin: Okay. Good. Mr. Frick, I'm referring to packet page 55, 18.14.050, first is a
19 clarification, we talked about uses in prior housing elements and I'm curious as to what the

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1 definition of prior is there, for instance, the immediately prior, the immediately two prior, or
2 any prior in the entire history of the RHNA process?

3

4 Planner Mr. Frick: Yeah so that's a good question, my understanding is it's the immediately
5 prior and then that's for the non-vacant, and then for vacant it's two prior.

6

7 Commissioner Akin: Okay, so the most recent then, that apply in each of the two cases.

8

9 Planner Mr. Frick: Correct.

10

11 Commissioner Akin: Okay. And second, later on in that same section we talk about affordable
12 to lower income households, after a quick search I found three separate inconsistent definitions
13 of lower income in the code, so, which definition are we applying here?

14

15 Planner Mr. Frick: So, for the purposes of this, the... my understanding is that it's any site that's
16 designated as one of the lower income opportunity sites, which in our housing element
17 inventory. So, within the inventory we have you know, sites that are designated as different
18 income levels and so when you know, we look at eligibility for this, it would be opportunity sites
19 that were designated in the 5th Cycle, which is the last cycle, and the current cycle as one of
20 those lower income opportunity sites.

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Commissioner Akin: Okay, so specifically this isn't the HCD definition of lower income as 80% AMI it's whatever is lower income as defined by the housing element, in the opportunity sites inventory.

Planner Mr. Frick: Yeah, the opportunity sites are based on kind of that state criteria for what would be considered different income thresholds and some of that is just based on density as you know, well as other factors.

Commissioner Akin: Yeah, there's some complexity there. I noticed in 16.65.020 that there's actually a 60% limit for lower income and that will probably apply in come other cases that we have to consider in the future. So, I just wanted to get clear about when we tell people we're providing lower income housing, exactly what are we providing.

Mr. Yang, City Attorney: In this case it would be the 80% threshold.

Commissioner Akin: Okay, thank you Counselor. Alright, good, that's everything.

Chair Summa: Oh Mr. Yang, did you want to add something?

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1 Mr. Yang, City Attorney: Oh, no.

2

3 Chair Summa: Okay. Thank you for that, Commissioner Chang [Vice-Chair Chang].

4

5 Vice-Chair Chang: Before you depart Mr. Yang, I have a question for you, following up on that.

6 Okay, so, again, there's the lower income that is referred to twice in ... on packet page 55, so

7 it's both that the site was originally designated to accommodate 80% or lower, as well as the

8 point about 20% of the units must be affordable to lower income is also referring to the 80%

9 AMI, is that correct?

10

11 Mr. Yang, City Attorney: That's right.

12

13 Vice-Chair Chang: So, then none of the hous... so if it were a opportunity site for moderate

14 income, then it would not... like the 80 – 120 range, it would never be in this bucket of by-right

15 sites... okay.

16

17 Mr. Yang, City Attorney: I don't believe so, but I do need to double check that... the usage of

18 lower income in the Housing Element Law.

19

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1 Vice-Chair Chang: Yeah, we better make sure that it's correct in our ordinance. ... or clarified in
2 our ordinance if it needs to be. My question was about ... let's see, packet page ... okay... my
3 question is about when a site falls into this bucket. So, we are allowed to reuse opportunity
4 sites but my understanding is we're only allowed to reuse them if they are upzoned, is that
5 correct? And then if say, we were reusing something, would it still... I'm wondering at how the
6 interaction of a reused site and these by-right approval sites... like what's the interaction there.
7 That's basically my question.

8
9 Mr. Yang, City Attorney: Right, so, basically the State passed a law that expressed skepticism
10 about reused sites... with the idea that if you had designated this as a you now, place where
11 housing is likely going to develop in your previous housing elements and then it didn't do so,
12 there's going to be limits on our ability to use those sites again. And one of those limits is if you
13 are ... if we are saying that we're going to reuse the site and we think it's suitable for lower
14 income housing development, then we have to rezone it to allow at least 30 units per acre, 16
15 units per site, and to have a minimum density of twenty units per acre. And so that's kind of
16 one aspect of reusing sites. If you're going to reuse a site and say it's suitable for lower income,
17 you have to zone it through a particular standard. And then the second element is the by-right
18 approval if someone comes in with a qualifying project, on one of those sights, you have to
19 approve it.

20

-
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1 Vice-Chair Chang: So, this doesn't affect my recommendation to Council, I'm just trying to
2 understand what we're saying here. So, in a hypothetical example, say that we had a site that
3 was for very low income, or designated as a very low income site in our ... designated as a site
4 for very low income housing, in our housing element and was RM-20, and then nothing was
5 built there. So, then the next time like say the 8th cycle housing element we say okay we're
6 going to reuse that site and we're going to upzone it to RM-40 now, but somebody comes a
7 long wanting to use that sight, they.... We have to approve it by-right? As long as there's 20%
8 AMI?

9
10 Mr. Yang, City Attorney: That's right.

11
12 Vice-Chair Chang: So, doesn't this in effect potentially... we won't get as much low income
13 housing as we might have hoped for, if the could... so... basically the site doesn't need to be
14 used for low income housing, other than 20% of it... is that correct?

15
16 Mr. Yang, City Attorney: That's right, but I guess one thing to clarify... when we talk about
17 having sites that are designated for lower income housing, that doesn't mean that it's entirely
18 lower income housing... it's usually some percentage, which might be 10, 15, or 20% lower
19 income housing.

20

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1 Vice-Chair Chang: That makes sense. Thank you. So just because (interrupted)

2

3 Mr. Yang, City Attorney: You'd be getting what we expect.

4

5 Vice-Chair Chang: Okay, but in effect though, anything ... any site that was reused or not reused
6 in a prior housing element and not developed, whether it's in the current housing element or
7 not it could be subject to this... as long as... as long as... all the other requirements are met.

8

9 Mr. Yang, City Attorney: No, it needs to be in our current housing element inventory list. And it
10 needs to be (interrupted)

11

12 Vice-Chair Chang: Oh... it needs to be on the housing... at the opportunity sites list.

13

14 Mr. Yang, City Attorney: That's right.

15

16 Vice-Chair Chang: Got it. Okay thank you... that's very helpful. I was very confused about that.

17 Thank you.

18

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1 Chair Summa: Great questions Commissioner Chang [Vice-Chair Chang]. I am not seeing any
2 other lights, my questions have been answered, do I have any other comments or questions?
3 Yes, we will go to the public, I haven't seen anybody, but Ms. Dao is there anyone?

4

5 **PUBLIC COMMENT**

6 Ms. Dao: No, I have no requests to speak.

7

8 Chair Summa: So I think... seeing that we have no public speakers... Commissioner Hechtman
9 would like to speak.

10

11 Commissioner Hechtman: Thank you. Couple questions for staff about the sixteen sites that
12 this is ... are potentially by-right. Did staff happen to have available... I'm kind of curious sort of
13 where those are distributed across the city. Does staff happen to have a map that shows that? I
14 didn't ask for it in advance so you might not.

15

16 Planner Mr. Frick: Yeah we have a map that we can provide of the sites that were... that would
17 be subject to this from the adopted housing element.

18

19 Commissioner Hechtman: Is that something that you could pull up and we can look at?

20

-
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1 Planner Mr. Frick: Yeah, just give me a moment and I can share my screen.

2

3 Commissioner Hechtman: Sure. Oh yeah, he's pulling up a diagram because I have more... I
4 have questions about these sixteen sites.

5

6 Chair Summa: Okay. Does anyone else have questions while we're waiting? Nope, so we'll just...

7

8 Commissioner Hechtman: Oh.. here we go.

9

10 Chair Summa: We'll just be patient.

11

12 Commissioner Hechtman: The wait is over. There it is.

13

14 Chair Summa: Okay... thank you very much. Thank you, Mr. Frick.

15

16 Commissioner Hechtman: Yeah, that was fast.

17

18 Planner Mr. Frick: Sorry, it took a second, but hopefully ...

19

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1 Commissioner Hechtman: So... if I'm seeing this right, it looks like they're all clustered along the
2 spine of El Camino, is that ?

3

4 Planner Mr. Frick: Primarily, yes. There's some that are ... (interrupted)

5

6 Commissioner Hechtman: There's some that are clustered on Middlefield/San Antonio... I see it.

7 Okay that's great, thank you. Next question about these sixteen... did staff... I'm curious about

8 the potential range of residential units for these sixteen. Has staff ... I didn't see it in the staff

9 report... has staff looked at you know if all sixteen were developed in the next cycle, you know,

10 based on their minimum range, we get at least this many units and the maximum no more than

11 that number... did staff happen to look at that and have numbers?

12

13 Ms. French: We do have those numbers and it's available in our spreadsheet, but we would

14 need a moment to tally that up for you.

15

16 Commissioner Hechtman: Okay, maybe as the discussion progresses. So those are sort of the

17 clarifying questions, I've got ... I've got a couple of suggestions for the ordinance, but I'll maybe

18 hold those until other Commissioners have a chance to weigh in.

19

20 Chair Summa: I'm seeing no lights; I don't see why you can't go ahead.

-
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Commissioner Hechtman: Okay, great. Then this is perhaps mostly a dialog for Mr. Yang. But packet page 55, the bottom third of the page, 18.14.050, so my reading of subpart A I think that that all the requirements 1-4 need to be met, right, “subject to the following requirements”, these aren’t either or, but rather all of... do I have that right?

Mr. Yang, City Attorney: Yes.

Commissioner Hechtman: So you might want to consider in the preface in subpart A, “subject to each of the following requirements” and then after 3, instead of a period I think you need another semi-colon with the word “and” to lead you to 4, to just make clear in the ordinance that you have to satisfy all four of these. So, that’s just one suggestion. I do think the question perhaps is what Commissioner Akin ... whoever asked is one prior element mean the most recent or any... that could also be a source of confusion ... I don’t know if this was drawn directly from the State Statute, if so, then I wouldn’t monkey with that language, but if we have a paraphrase, that might be a clarification you want to look at. This is our ... is this our 6th cycle that we just started?

Mr. Yang, City Attorney: Yes.

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1 Commissioner Hechtman: Right, so then the question for example ... “A non vacant site
2 included in one prior housing element” could that be any of the last five or is it only the 5th? So,
3 it’s just something for staff to look at.

4
5 Mr. Yang, City Attorney: Yeah, sorry, just to expand on Mr. Frick’s answer on that. The State
6 Law is not entirely clear. So our best understanding is that it’s the immediately prior, but
7 there’s not a definitive answer on that.

8
9 Commissioner Hechtman: Okay, then I think you’ve probably used language close to State Law
10 and I think that’s the safest course, however, that is interpreted, and that interpretation of
11 course could change... our language reacts. So. Okay, so I think we leave that alone. Over on
12 packet page 57, the ministerial and by-right review process... so this is really about subparts B
13 and C. So, the planning director is going to make a decision as a part of ... basically that’s the
14 planning approval as a part of this ministerial process, right?

15
16 Mr. Yang, City Attorney: Right.

17
18 Commissioner Hechtman: Okay, and I suspect that depending on the process there could be
19 different time frames and so that’s why we have the sentence at the end of B “decision on the
20 application has to be made within any time frame dictated by applicable State Law”. So that

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1 gives us... that says that we've got to meet State Law clock, but it's flexible enough that if State
2 Law clock changes, we don't have to change our ordinance. Do I have that part right?

3
4 Mr. Yang, City Attorney: Yes and also different applications have different processing timelines.

5
6 Commissioner Hechtman: Right, okay. So, in subpart C, the director has the ability to refer it to
7 ARB for an informal review. And I suspect ... and then E is ... sorry, D is a notice of that, I'm
8 wondering if it's worth making clear that this optional process for the planning director is ... it
9 doesn't extend the time, because I don't believe it does. I think it has to be within whatever the
10 time frames are, the director can fold it in. So, I'm going to suggest staff consider whether it
11 wants to clarify that having the public study session doesn't extend the time so people who
12 might not like whatever the project is, don't think that this is a way to slow the train. So, just
13 something for staff to consider going forward. So, those were my comments and I'm supportive
14 of staff's recommendation on this item. Thanks.

15
16 Chair Summa: Commissioner Lu.

17
18 Commissioner Lu: Thank you. Just a couple of high level questions. Can staff explain the
19 intuition for the different requirements for vacant versus non vacant sites for either one or ...
20 either two or one prior housing element... like is there ... like what's the rational behind that?

-
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1

2 Planner Mr. Frick: Yeah, kind of following up on what Mr. Yang was saying, it's sort of like the
3 state's skepticism right, of like if you're ... if you keep reusing these sites are they viable
4 opportunity sites and so that the vacant... like a non vacant site, it's only one prior, because it's
5 seen as like... it's kind of more difficult to change a use to redevelop it... is kind of my
6 understanding, but that's kind of my best guess based on that.

7

8 Commissioner Lu: Right, that was my intuition too, but I would think that if it were harder to
9 develop then it would be more laxed, so it would be two prior for the non-vacant, but one prior
10 for the vacant, but the logic is the other way around and it doesn't match my intuition, but I
11 guess it can be a lot of different cases and different intuitions... yeah.

12

13 Planner Mr. Frick: Sometimes there's ... HCD has kind of concern with ... let's say it's like a strip
14 mall sight that's a housing element site and it has multiple tenants, they want more information
15 about, oh, how would this turn over and redevelop as you now, under a single project and I
16 think that's kind of the skepticism if it's a non-vacant site.

17

18 Commissioner Lu: My second high level question was just really what options we actually have
19 for the actual ordinance for the by-right approval process. It seems like just the nuts and bolts
20 of the ministerial process are what they are based on State Law. Is the only option that we can

-
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1 advise on the optional referral to ARB, or are there other things that we consider for the
2 ordinance that aren't here, or other things that we could consider for this process.

3

4 Mr. Yang, City Attorney: Yeah, there's really not a lot to discuss in my opinion, the State Law is
5 pretty directive on this. I think the issue that you pointed out on whether or not to have an
6 optional referral to the ARB, you know, that's something that's just part of what we ... that staff
7 chose, and PTC could advise on that. But this is... there's not... State Law is pretty much
8 chartered our course here.

9

10 Commissioner Lu: So the ARB thing is the only thing not dictated in State Law, and it's the only
11 thing that we could possibly change here but otherwise it's yeah... pretty straight forward.
12 Thank you.

13

14 Chair Summa: So, there's not... given our lack of opportunity to make any changes here, I don't
15 have much to say. Some of my questions have been answered. I agree with my colleague that
16 the non-vacant and vacant priors is really counterintuitive but I find a lot of what the state has
17 done to be counterintuitive, so it doesn't surprise me. And as to the referral to the ARB, I'm
18 very much in favor of keeping the ARB involved in as much as... I think that we have a great ARB
19 and that applicants, even if they don't have to take their suggestions, I think they can really
20 benefit from their suggestions. And I... other than that, my other questions have been posed

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1 and answered. I don't see any other lights, so I guess we are ready for a motion. I... we can take
2 your public comment.

3

4 **PUBLIC COMMENT**

5 Yugen Lockhart: I just wasn't thinking about it when you asked before.

6

7 Chair Summa: We can take comments from you but you need to speak into the microphone
8 please.

9

10 Yugen Lockhart: Yes, my name is Yugen Lockhart, and I don't understand the core context of
11 what you guys are discussion from the original presentation, but I'd just like to give a little bit of
12 personal comment about the State Laws and the development pressures that you are receiving.
13 I understand that the State wants all cities to grow at a standard rate and it makes sense in
14 some regards, but it was kind of inflicted upon you guys and I know you're all feeling that pinch
15 too. A big thing though is it's really forcing people to rush development and based on the
16 presentation before this current topic, it's community spirit and I think that's a lot of what Palo
17 Alto was about is community spirit. Renting single family dwellings whether it's a rental or
18 owned by an individual, it's still provides a certain level of community spirit, versus high rise
19 apartments where you get very transient spirit within the tenants. So, I'm not necessarily a
20 proponent of these large developments, I'm here for the next presentation where we're

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1 discussing large developments and it's directly effecting myself and my neighborhood, I am a
2 landlord as well as a resident of Palo Alto, but a big thing I would like to encourage ... note here
3 first is our economy is in flux, California put a lot of pressure on everybody to grow rapidly but
4 those are pre-covid numbers and since then the work from home mentality has come into
5 vogue and then went out of vogue and is going back into vogue as everybody realized that they
6 do want to work from home and their homes are not all in Palo Alto anymore either, in our
7 context. As a landlord I understand that it's getting hard to find tenants because there's actually
8 not many people here, but we're still forced to grow. So as we are obliged to grow with these
9 high rise apartments to accommodate more people, different economic values, we do still have
10 to understand that many of our top talent here is getting paid astronomical prices and we're all
11 trying to appreciate that they all want to go and have restaurant food and we do need workers
12 so I understand the balance, but what we can do is really encourage any development to have a
13 touch with community, more communal access and as far as transportation is going, making it
14 work well for both the cars and the bikes and the pedestrians... I say both, it's all three. In that a
15 lot of our traffic lights are so restrictive that everybody is driving through the neighborhoods ...
16 blazing through the neighborhoods in the cars ... which destroys the community neighborhood
17 within the neighborhoods if you can't walk across the street without getting angry at the car
18 that just blew the stop sign. So... I'm talking about a lot of hodge podge of ideas here, but
19 seriously, if we're going to approve large developments, at least encourage the community
20 aspect and how it interacts with the remaining neighborhood, the surrounding neighborhood

-
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1 and the closest downtown areas that they have. So those are my thoughts. I appreciate your
2 time.

3

4 Chair Summa: Thank you so much, coming back to the commission I'm looking for a motion and
5 a seconder. Commissioner Hechtman.

6

7 **MOTION**

8

9 Commissioner Hechtman: I will ... yeah... I will move the staff recommendation with staff, as
10 this moves forward to consider the minor changes to the language of the ordinance as
11 described by various commissioners during this hearing.

12

13 **SECOND**

14

15 Vice Chair Chang: Second.

16

17 Chair Summa: Would you like to speak to your first?

18

19 Commissioner Hechtman: No thank you.

20

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1 Chair Summa: Would you like to speak to your second?

2

3 Vice-Chair Chang: No thanks.

4

5 Chair Summa: Alrighty then, Ms. Dao if you could conduct the vote please.

6

7 **VOTE**

8

9 Ms. Dao: Commissioner Templeton?

10

11 Commissioner Templeton: Yes.

12

13 Ms. Dao: Chair Summa?

14

15 Chair Summa: Yes.

16

17 Ms. Dao: Commissioner Lu?

18

19 Commissioner Lu: Yes.

20

-
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1 Ms. Dao: Commissioner Hechtman?

2

3 Commissioner Hechtman: Yes.

4

5 Ms. Dao: Vice-Chair Chang?

6

7 Vice-Chair Chang: Yes.

8

9 Ms. Dao: Commissioner Akin?

10

11 Commissioner Akin: Yes.

12

13 Ms. Dao: Motion carries 6-0-1.

14

15 **MOTION PASSED 6** (Summa, Chang, Lu, Hechtman, Templeton, Akin) 6-0-1 (Reckdahl Absent)

16 **Commission Action:** Motion by Hechtman, seconded by Chang. Pass 6-0-1

17

18 Chair Summa: Thank you very much for that and I think we will dive right into item number 4,

19 which is Quasi-Judicial hearing 420 Acacia, Recommendation on applicant's request for

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1 approval of a vesting tentative map to allow for a condominium subdivision et cetera and I
2 think that we should go first to staff for the staff report on this item.

3

4 4. PUBLIC HEARING / QUASI-JUDICIAL. 420 Acacia [23PLN-00059]: Recommendation on
5 Applicant's Request for Approval of a Vesting Tentative Map to Allow for a
6 Condominium Subdivision to Create 16 Units on a Single 35,573 Square Foot Parcel. The
7 Subdivision map Would Facilitate Construction of the Previously Approved 33,833
8 Square Foot Mixed use Development Project (23PLN-00058). Environmental
9 Assessment: Exempt from the Provisions of the California Environmental Quality Act in
10 Accordance with CEQA Guidelines Section 15332 (In-fill Development). Zoning District:
11 Split Zoning Designation of RM-30 and R-1 (Multi-Family and Single-Family Residential).
12 For More Information Contact the Project Planner Claire Raybould at
13 Claire.Raybould@cityofpaloalto.org .
14

15 Ms. French: Yes, thank you. We have Claire Raybould remotely presenting this evening. Take it
16 away Claire.

17

18 Senior Planner Claire Raybould: Good evening, Commissioners...

19

20 Chair Summa: Hold on a second, I forgot to ask for disclosures. So very quickly does anyone
21 have anything to disclose?

22

23 Commissioner Templeton: No.

24

25 Commissioner Hechtman: No.

-
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Vice-Chair Chang: No.

Chair Summa: No.

Commissioner Lu: I probably should have consulted with Mr. Yang before hand, but I live about 1000 feet away from the property line, I believe I should be able to proceed, probably under the same logic that I was able to proceed on the Fry site, but will disclose that I live adjacent to the property.

Chair Summa: Thank you.

Mr. Yang, City Attorney: I'll just say that staff looked at that issue and did not find any reason for a conflict.

Commissioner Lu: Thank you.

Senior Planner Claire Raybould: Thanks so much, yes.

Commissioner Akin: No disclosure for me.

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Senior Planner Claire Raybould: Thank you, sorry.

Chair Summa: Okay Ms. Raybould, thank you.

Senior Planner Claire Raybould: Thank you. Good evening, Planning Commissioners, project before you today is a vesting tentative map for 420 Acacia Avenue, the project includes a vesting tentative map for a single lot subdivision of an existing 35,773 square foot parcel, for a sixteen lot condominium subdivision. So, it's one lot but you're creating sixteen air units essentially on that parcel. And it requires a waiver under State Density Bonus Law from the private street width, which was also required and approved as part of the streamlined housing development project review, which was recently approved by the Director of Planning. So, the existing parcel is code compliant, it meets the minimum lot size of 8,500 square feet and it meets the minimum width of 70 feet and minimum depth of 100 feet. So, it's a compliant lot and they're not changing the parcel itself. Condominium subdivision requires private streets per Title 21 requirements and so the private street that's being proposed is a twenty-two foot street where the minimum street width is 32 feet. So, key considerations are really just the findings. The reverse findings for subdivision map findings as outlined in the draft record of land use action in your packet under Attachment B. And then consideration of the waiver but I suppose with the understanding that the development itself has already been reviewed and

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1 approved and that waiver has been approved for the development. But, technically it's a
2 request for under both the map and development itself. And I just want to also note that the
3 project was found to be exempt from CEQA, in accordance with CEQA guidelines Section 15332
4 which is a Class 32 exemption for infill development. And that exemption covers the whole of
5 the action which includes both the proposed development and the map. So, with that I'm going
6 to say that staff recommends that the Planning and Transportation Commission take the
7 following action: Recommend approval of the proposed Vesting Tentative Map to the City
8 Council based on the findings and subject to the conditions of approval as outlined in
9 Attachment B of your packet. And with that, I'll turn it back to you, the applicant is here
10 tonight, Dividend Housing, as well as the architect, and they're happy to answer any questions
11 for you, I'm not sure... I don't believe they have a presentation, but I don't know if they would
12 like to speak. So... you can ask that of them.

13

14 Chair Summa: Okay, Thank you, Ms. Raybould. Would the applicant like to take this opportunity
15 to speak, you would have three minutes.

16

17 Applicant Josh Vrostos: Sure, I'm happy to introduce myself.

18

19 Chair Summa: Thank you, please proceed.

20

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1 Applicant Josh Vrostos: Sure, my name is Josh Vrostos, I'm here on behalf of Acacia Camina
2 Investors and Dividends Homes and with me tonight is Ritu Raj Sharma and Ron Cariaga from
3 the Dahlin Architecture Group and really I just want to thank staff and Claire for their efforts,
4 this is... I guess by way of history, Dividend has been a private home builder for about forty
5 years in the corridor bay area, and this will be our first project in Palo Alto, we just couldn't be
6 more excited to be here, and the process of working through entitlements with Claire and the
7 other members of staff has just been absolutely fantastic. We look forward and hope for your
8 approval tonight and we can't wait to build some homes in the spring. So, we're happy to
9 answer any questions you might have and thank you for your time.

10

11 Chair Summa: Thank you very much, Mr. Vrostos, if I got that correct.

12

13 Applicant Josh Vrostos: Pretty close.

14

15 Chair Summa: Good. Thank you. Do commissioners have any clarifying questions? If not then
16 we can go to the public. I see that Commissioner Akin does.

17

18 Commissioner Akin: Thank you Chair. This concerns the conditions of approval, and give me a
19 moment to set up this question properly. So, packet page 60, under property information,
20 there's a notation that we are located within a plume and there is discussion below. Now, I

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1 checked the map and yes this is in the California Olive Emerson Plume area, I cannot find any
2 discussion in our staff report, however, I was referred to the staff report for the ARB meeting,
3 which not only does have some discussion on this subject, it actually has a recommended
4 condition of approval regarding the plume. And that recommended condition of approval
5 doesn't appear in our proposed conditions of approval, so the question I have is, what
6 happened to it?

7

8 Senior Planner Claire Raybould: Yeah, it's a condition of approval of the development itself
9 because it relates to the physical improvements of the site, and it... I didn't make it a condition
10 of approval of the vesting tentative map component since it's really not including any earth
11 work, or anything related to that. I suppose it could be if we wanted.... If it was really important
12 to make it, but it is a condition of approval of the development.

13

14 Commissioner Akin: Thank you, I just wanted to make sure that if it were important, that it
15 wasn't lost.

16

17 Senior Planner Claire Raybould: Yeah, thank you.

18

19 Commissioner Akin: And perhaps the reference to discussion below, not only for this but also
20 for protected and heritage trees needed an update. Thank you. That's it for me.

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Chair Summa: Thank you. Commissioner Chang [Vice-Chair Chang].

Vice-Chair Chang: I just had a question about the two out of sixteen units being provided below market rate. Doesn't Palo Alto require 15% ... two is 12.5% so then I'm wondering what happened to the other 2.5%... is it just paid into a fund?

Senior Planner Claire Raybould: It's paid in Lieu. Whenever it becomes a fraction of a unit, if it's less than a half of a fraction of a unit left then you can do Pay In Lieu for those... the remainder.

Vice-Chair Chang: Okay. Thanks and if it's more than half then we have to round up... is that how it works?

Senior Planner Claire Raybould: (Nodded yes).

Vice-Chair Chang: Okay, thanks. And then there was... I did have a question about the protected trees... see discussion below on item... page ... it says see discussion below on page 60, but I don't... it's the same issue... right, there's no discussion... is that correct?

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1 Senior Planner Claire Raybould: I apologize, I think I meant to pull that out of the ARB staff
2 report, but I'm happy to speak generally to it. So the... there are a number of protected trees on
3 the site in that they're over fifteen inches in diameter breast height, mainly that it was a
4 parking lot and along the rear of the property there are a number of trees that have to be
5 removed and those are mainly being removed because the whole rear of the site is really a lot
6 of the C-3 storm water... municipal storm water area by a retention area. And so, it conflicts
7 with you know, that bioretention area. And so, they are replacing ... I'm trying to remember the
8 number of trees being removed and the number of trees being replaced.... It is roughly
9 equivalent number being removed and replaced but to meet our tree canopy requirement they
10 have to pay In Lieu fees for the remainder for that canopy.

11

12 Vice-Chair Chang: Okay, thank you.

13

14 Chair Summa: I am not seeing any other lights... do I have any other questions? I was also very
15 concerned about the trees onsite, so I don't really know that that's part of the vesting ... the
16 map issue... but in as... well... I hope that we are going to see a sufficient number of trees on
17 this site and not ... and that we won't see removal of protected trees that should have been
18 saved. But that's just kind of a comment, it's already It's a project that has already been
19 approved. So, I think we should go to members of the public, if we have any speakers, and I
20 think we have one in the room, at least.

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PUBLIC COMMENT

Ms. Dao: Yes, one from Yugen Lockhart.

Chair Summa: Thank you. Go ahead.

Yugen Lockhart: Okay, my name is Yugen Lockhart, and I represent the properties on the other side of the fence of this project so we're local to it. We met with actually with Josh and we appreciate this project in that they are homeowner residential type projects, which I've spoke with you guys before about it, it actually does build a sense of community, so we actually generally appreciate and approve the project. I mostly came here just to make sure there weren't any major changes along the way and I did appreciate seeing the drainage on the drawings up at the table, which was a huge concern of ours and that directly relates to one of your comments about the trees, that are on a little levy there, but they do need to rework that entire area to get the drainage proper. All of our properties are down-sloping because this used to be a railroad track easement, so everything was sloping in to the drainage ditch of the rail lines and that's why it does have a certain situation that we appreciate that they are addressing. So, that's really all I needed to say. I appreciate it.

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1 Chair Summa: Thank you so much for sticking with us this evening. And I am not seeing any
2 other lights so I think... oh.. go ahead Commissioner Chang [Vice-Chair Chang].

3

4 Vice-Chair Chang: I have a question just out of curiosity. For the two units that are below
5 market rate, what affordability level are they at?

6

7 Senior Planner Claire Raybould: They are required to be provided at let me try and remember,
8 they're in... they're in the moderate ... it's moderate... they're in the moderate level but ... so
9 80-120, but I think we put in the requirement that one was slightly lower so I want to say that
10 they were either 120 or 110.

11

12 Vice-Chair Chang: I thought that for density bonus one of them needed to be 80 and the other
13 one was... oh no... one 80-100 and the other 100-120. At least something I read when I was
14 doing research on this earlier today.

15

16 Senior Planner Claire Raybould: It all depends on what you are trying to You can get
17 additional concessions if you're doing two lower levels of income levels so it just depends on
18 what you're trying to achieve.

19

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1 Vice-Chair Chang: Okay. And then again... kind of for... I think I this is only the second project
2 that we've heard that has used density bonus, with respect to the waivers, so, I mean I know
3 there's the 22 foot street width which is not ideal, but it is a waiver, so we essentially have...
4 this is not so much relating to this project in particular but as I was reading this I had a question
5 about how... like... if an applicant asks for a waiver do we pretty much grant that waiver or
6 what's the process?

7

8 Senior Planner Claire Raybould: You... sorry Albert, you're welcome to...

9

10 Mr. Yang, City Attorney: Yeah, so you know, waivers have to relate to the physical dimensions
11 of the project and if the... there is a development standard that physically precludes the project
12 from being built, we do have to waive it, yes.

13

14 Vice-Chair Chang: And since I saw that this was reviewed ... that the street width was reviewed
15 by Traffic and Fire for safety, I'm supportive of the map.

16

17 Chair Summa: Commissioner Hechtman.

18

19 Commissioner Hechtman: Thank you chair. First of all I want to say that I'm excited to have
20 Dividend Homes coming to Palo Alto. I've never worked for them but I've worked across the

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1 table from Dividend Homes and their principal Dick Oliver down in Morgan Hill on a number of
2 projects where my client got the entitlements and then sold to Dividend which subsequently
3 built beautiful homes and I can tell you there are lots and lots of people in Morgan Hill who love
4 their Dividend Homes. They do really high quality work and I don't know why it took them so
5 long to come to Palo Alto, although I kind of do... but I'm glad you're here and I'm glad you're...
6 and I hope this is not the last project because I think as our speaker mentioned, they are... part
7 of their ethos is community and architecture that features community. So, I'm really happy to
8 have another good home builder come to Palo Alto. Kind of a technical question, going Condo,
9 a set of CC&R's is State Department of Real Estate approval required and if so, does that need
10 to be a condition of approval or it doesn't need to be a condition of approval because it's going
11 to happen under State Law? Probably for Mr. Yang. I'll save you Claire.

12

13 Mr. Yang, City Attorney: Yeah, I'm sorry... I don't understand the question.

14

15 Commissioner Hechtman: So, usually in Davis-Stirling Act my understanding is that in addition
16 to maybe having a set of CC&R's that satisfies the local requirement, they get approval from
17 the... it's the DRE approval. State Department of Real Estate and so I suspect that they'll do that
18 here, my only question was... is that something we need in our condition of approval for the
19 map, that they ... you know, prior to map approval they will obtain DRE approval?

20

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1 Mr. Yang, City Attorney: No, so it's not actually something that we can require. Right. We are
2 approving a map for condominium purposes but ultimately the decision to go to the State to
3 seek that condominium plan approval isn't up to us.

4
5 Commissioner Hechtman: Okay. Alright. Then, just sort of to understand why we're here
6 tonight, so they have a project that has been approved, they're coming for a condo map tonight
7 and it wasn't really clear to me in the staff report why. Is that sort of always the plan and they
8 just kind of broke this into two pieces to go through the streamlining process and then you
9 know, sort of complete the project by going condo, or was it originally planned to be a rental
10 and they decided to change the market, so I'm just trying to understand you know, in this... this
11 is the first one we've had the code broken up like this ... why they're... why we're doing a map
12 or are there alternatives they're looking at like doing a series of parcel maps for townhouses
13 and you know, selling them off that way?

14
15 Senior Planner Claire Raybould: Yeah, so I can answer that. So, they were never intended to be
16 rental, they've always been intended to be ownership since they've submitted, but if you're
17 doing a vesting tentative map, you're required to have all the entitlements complete before
18 you make a decision. Now, we have allowed projects to move forward concurrently and do a
19 concurrent review where Council makes a decision on the entitlements before the vesting
20 tentative map, and the Director has the authority to have everything go together, should he

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1 choose to, but he's not required to and unless there's some sort of reason why there's a benefit
2 in doing that, if there's you know, a reason why we think the project is going to be... it really
3 comes down to the applicants decision to... you know, we're not necessarily going to force
4 them to do everything concurrently, unless they think there's like a streamline benefit in doing
5 that because you can avoid You know... then you're not getting an appeal, you're going
6 directly to Council for everything, and Council is making the ultimate decision on everything. Or,
7 if there's an environmental impact report where we have to make findings of overriding
8 consideration, that's another reason why we would just take everything to Council together. So.
9 In this case they're very interested in... sorry... they're interested and they're already going to
10 be pursuing the building permits now that the architectural review entitlement is complete and
11 so we'll be moving forward with that, under a concurrent review process, pending Council
12 decision on the vesting tentative map.

13

14 Commissioner Hechtman: Okay. So, it sounds like the plan was always that this would be a
15 condominium project and just the process was utilized basically it seems like to be able to move
16 through the process as quickly as possible, so you start with the streamline approval and then
17 you follow it up with the condo map for a project that is already subject to streamline approval.
18 Okay. I got it. Thank you. I am supportive of the staff recommendation here.

19

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1 Chair Summa: Okay. Now I'm not seeing any other lights, I to am supportive of the staff
2 recommendation, so thank you to our staff and for the applicant and the members of public for
3 coming tonight, and I will be looking for a motion and a second.

4

5 **MOTION**

6

7 Commissioner Akin: I move the staff recommendation.

8

9 **SECOND**

10

11 Vice Chair Chang: Second.

12

13 Chair Summa: Excellent, would you like to speak to your motion?

14

15 Commissioner Akin: No thank you.

16

17 Chair Summa: Okay. Would you like to speak to your second?

18

19 Vice-Chair Chang: The project is already approved, and so we need to do this.

20

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1 Chair Summa: Okay. Alright, Ms. Dao will you conduct the vote please?

2

3 **VOTE**

4

5 Ms. Dao: Chair Summa?

6

7 Chair Summa: Yes.

8

9 Ms. Dao: Vice-Chair Chang?

10

11 Vice-Chair Chang: Yes.

12

13 Ms. Dao: Commissioner Akin?

14

15 Commissioner Akin: Yes.

16

17 Ms. Dao: Commissioner Hechtman?

18

19 Commissioner Hechtman: Yes.

20

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1 Ms. Dao: Commissioner Lu?

2

3 Commissioner Lu: Yes.

4

5 Ms. Dao: Commissioner Templeton

6

7 Commissioner Templeton: Yes

8

9 Ms. Dao: Motion carries 6-0-1.

10

11 **MOTION PASSED 6** (Summa, Chang, Lu, Hechtman, Templeton, Akin) 6-0-1 (Reckdahl Absent)

12 **Commission Action**: Motion by Akin, seconded by Chang. Pass 6-0-1

13

14 Chair Summa: Thank you very much. Alright, so that's our last scheduled item except for

15 Commissioner comments or questions, if anybody has any comments. Go ahead Commissioner

16 Templeton.

17

18 **Commissioner Questions, Comments or Announcements**

19

20 Commissioner Templeton: Happy Holidays!

-
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Chair Summa: Okay, I don't see any other lights, but I will take an opportunity before I adjourn the meeting, to thank staff and my colleagues for a very productive year. I thought we worked together really well, and I will say... I served on this body for a long time before I had an opportunity to be Chair, and there's good and bad with that because I'm happy that I got to be Chair of this group, this precise group because it has been extremely pleasant to work with all of you and to get to know you and ... I know, I know... but I was going to add that... You stepped on my joke... but you have to put up with me for four more months, but this is the end of the year, so this is a good time to mark such important things. And then also, was mentioned earlier by Commissioner Hechtman, Commissioner Reckdahl could not be with us this evening because his mother passed away so finally, I would like to adjourn this meeting in memory of Joan Marie Reckdahl and if you look her obituary up she sounded like a pretty amazing woman so we are thinking of you Commissioner Reckdahl, and your family at this time, so... thank you to all and meeting adjourned.

Adjournment

8:21 pm

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