



Planning & Transportation Commission Action Agenda: February 22, 2023

Council Chambers & Virtual
6:00 PM

Call to Order / Roll Call

6:03 pm

Chair Summa called the meeting to order

Ms. Veronica Dao, Administrative Assistant, conducted the roll call and announced all Commissioners were present. She read aloud the protocols and procedures for hybrid meetings.

Oral Communications

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

Chair Summa invited the public to share their comments with the Commission for items not on the Agenda.

Ms. Veronica Dao, Administrative Assistant, announced there were no public speakers.

Agenda Changes, Additions and Deletions

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

Ms. Amy French, Chief Planning Official, reported there were no changes from Staff.

City Official Reports

1. Directors Report, Meeting Schedule and Assignments

Ms. Amy French, Chief Planning Official, mentioned the PTC had items for the March 8th meeting but asked if the Commission was interested in canceling the March 29 meeting due to a lack of items. She noted she would be informing the Council PTC liaison for March if there are any meetings they must attend.

Study Session

Public Comment is Permitted. Three (3) minutes per speaker.

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1 Chair Summa acknowledged that there was no study session.

2 **Action Items**

3 Public Comment is Permitted. Applicants/Appellant Teams: Fifteen (15) minutes, plus three (3) minutes rebuttal.
4 All others: Five (5) minutes per speaker.^{1,3}

5 2. 2147 Yale: Preliminary Parcel Map with Exceptions to Subdivide Existing Parcel into
6 Substandard Lots

7 Chair Summa recused herself from the item because she lived within 500 feet of the applicant
8 site.

9 Ms. Amy French, Chief Planning Official, announced the item was a continued item from the
10 February 8, 2023 meeting.

11 Vice-Chair Chang asked if Commissioners had disclosures regarding the item. She shared she
12 visited the site.

13 Commissioner Reckdahl concurred he did a drive-by of the site.

14 Commissioner Hechtman shared he had a brief conversation about the legal concerns with the
15 applicant's attorney.

16 Commissioner Templeton and Commissioner Roohparvar had no disclosures.

17 Ms. Emily Foley, Planner, said the project request was a two-lot subdivision of an existing 5,770
18 square foot parcel zoned RMD (Multi-family Residential District) with the Neighborhood
19 Preservation (VP) overlay. The application required an Exception to allow for lots smaller than
20 the minimum 5,000 square feet and lots shorter than the minimum lot depth of 100 feet. If
21 granted, the subdivision would create non-conforming setbacks and floor areas for the two
22 existing houses on the lot. The subject parcel is located within the College Terrace
23 Neighborhood. Based on the original tract map from 1981, the underlying lots on the map were
24 25 feet by 115 feet, but Lots 1 and 2 of Block 48 were never conveyed as separate. They are not
25 legally recognized as two separate lots. In 2007, the two existing detached single-family homes
26 were constructed with attached garages and a shared uncovered parking space. The RMD
27 zoning specifically allowed for two-family use under one ownership and the existing homes
28 were defined as such. As proposed and if approved, Lot 1 would be approximately 57 feet wide,
29 50 feet deep, and 2,885 square feet. Lot 2, as proposed, would be approximately 50 feet wide,
30 57 feet deep, and 2,885 square feet. She noted in Attachment B, the titles of the columns were
31 flipped but the information was correct. She shared Staff's recommendation was to deny the
32 project and the reasons were because the lot size was substantially smaller than the minimum
33 requirement, the subdivision would create non-conforming setbacks and Floor Area Ratio

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1 (FAR), Staff could make Finding #3 for Subdivision and could not make Exception Findings #1, #2
2 and #4.

3 Mr. John Hanna, the applicant’s representative, referenced the original map from 1981 of
4 College Terrace and emphasized there are two lots outlined on the map. The lots were labeled
5 as Lots 1 and 2. He explained two owners hold the title Tenancy in Common (TIC). In 2007, an
6 application for a duplex was filed and granted, but the developer built two separate homes.
7 Also, the existing houses were built in such a way that the lot line ran through the middle of the
8 homes horizontally. The original zoning for the parcels was R-1 but that was changed to RMD to
9 allow for increased density. He found Staff’s argument that the proposal was to divide the
10 existing lot into two lots misleading because any record showed there being two lots instead of
11 one lot. He shared the discussion he had about the proposal with City Attorney Yang. They
12 agreed the simpler process was to do a Lot Line Adjustment but that could not be done because
13 the map was too old and the lots were not recognized as legal lots. Mr. Hanna acknowledged
14 that subdividing a lot is a very complex process. The legislature implemented the Subdivision
15 Map Act to streamline the process and he referenced Government Code Section 66412 which
16 explained the Subdivision Map Act. He shared a case study where a California Court 22 years
17 ago said that a lot described on a Parcel Map that was recorded before the Subdivision Map Act
18 would not be considered a legal lot. That court case considered a map that was a grid system
19 laid over 1,000 acres of open space. Mr. Hanna argued that the court case shared no similar
20 elements with the applications before the PTC. The lots plotted on the 1981 map for College
21 Terrace existed currently and it did not make sense that the court case would apply to the
22 application. With respect to the findings, he noted the two lots proposed met all the findings
23 outlined in the Staff Report and the highlighted nonconformities already existed. He shared a
24 photo of the existing homes and emphasized that the homes are two separate homes. Also,
25 City Attorney Yang had predicted the application would have a stronger chance of being
26 approved if it was filed under a Parcel Map with Exceptions instead of a Lot Line Adjustment.
27 He concluded it was common sense to split the lot down the middle as scribed on the 1891
28 College Terrace map. The City had control over its mapping procedures and nobody would find
29 the proposal unjustified. Now was the time to do the right thing and correct an error the City
30 made.

31 Commissioner Templeton referenced Finding #4 on Packet Page 18 and asked Staff to explain
32 why approving the proposal would endanger Palo Alto’s housing vision.

33 Ms. Foley explained the RMD zoning district specifically allowed for the two-family use under
34 one ownership. Staff believed approving the application would set a precedent for other RMD
35 properties. She predicted Staff’s justification was in response to the applicant’s letter that
36 implied that having the TIC was not an arrangement that the City should support and that it was
37 not something that the City should be involved in.

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1 Commissioner Templeton understood Exception Finding #4 was one of the findings that Staff
2 could not make. She explained she wanted to understand the City's objection because it was
3 not clear in the Staff Report.

4 Ms. Foley explained it did not meet the finding because it created a violation of the Zoning
5 Code for required setbacks and FAR.

6 Commissioner Templeton noted that there was no development proposal and that the property
7 already contained two homes on it.

8 Ms. Foley confirmed that was correct.

9 Commissioner Templeton believed all of the nonconforming exceptions were granted in 2007
10 when the homes were built.

11 Ms. Foley clarified the 2007 application considered the property as a whole and that changed
12 setbacks and FAR calculations.

13 Commissioner Templeton gave the example of folding a paper in half which is called a hotdog
14 one way but hamburger when folded a different way. She noted either way the paper was still
15 the same piece of paper. The proposal was just asking to be "folded" in a different way and the
16 structures were not being changed. She wanted to understand why the City did not support
17 that and found the City's arguments to be theoretical.

18 Ms. Foley concurred the project was already built but those structures were built to the
19 specifications of looking at the property as one single lot. When the parcel is considered as two
20 lots that changed the setbacks and other requirements.

21 Commissioner Templeton asked if the City made a mistake in approving the 2007 application.

22 Ms. Foley answered no.

23 Ms. French recalled in 2007 the application was for one lot with a duplex which is allowed in
24 the RMD zone.

25 Commissioner Templeton argued the homes built are not a duplex. They are two freestanding
26 homes.

27 Ms. French corrected it as two units on one property under the same ownership which was
28 allowed in RMD.

29 Commissioner Templeton understood the project was compliant in all other areas except where
30 the lot line was.

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1 Ms. French clarified the lot line is not recognized as a legal lot.

2 Commissioner Templeton asked if that was a mistake.

3 Ms. French answered no.

4 Commissioner Templeton wanted to know why the deed for the parcel indicated that there
5 were Lot 1 and Lot 2.

6 Ms. Foley explained those were the underlying lot line. The legal description had to be based on
7 something that could be referenced and what was referenced was the original map for College
8 Terrace.

9 Commissioner Templeton said the map of College Terrace was included in Staff's presentation
10 and asked if the City disputed the map.

11 Ms. French answered it was shared to explain how College Terrace was plotted before the
12 Subdivision Map Act.

13 Commissioner Templeton asked if the City disputed that the lines exist and are part of the
14 description of the property.

15 Ms. French restated Staff considered the site for development under the RMD.

16 Mr. Hanna stated there are two recorded lots on a map and the City could not say it is one lot
17 without justification. He referenced Page 2 in the Staff Report and highlighted that the subject
18 property is the only property with a TIC in the City of Palo Alto. Therefore, approving the
19 application would not set a precedent.

20 Mr. Tim Shimizu, Assistant City Attorney, agreed the recorded documents did refer to the lots
21 as Lot 1 and Lot 2 and that was because of the original College Terrace Map. He shared that the
22 Supreme Court of California has recognized that the presence of the historic maps by
23 themselves did not create legally recognized lots. They were considered to be lines on paper
24 unless the lots had been conveyed separately before the Subdivision Map Act or its
25 predecessors. The City requested documentation that showed the lots had been conveyed as
26 separate lots at a point in time but the applicant failed to provide that evidence. He stated the
27 PTC was not presented with a Lot Line Adjustment and it should not be considered.

28 Commissioner Templeton asked if the lot was developed with two single-family homes as
29 described in the Staff Report or was it a duplex.

30 Ms. Foley explained when the application came before the City in 2007, the use was
31 categorized into a use that is allowed by the Zoning Code, and the City historically had not

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1 required the two units to be attached. Two units on a property, attached or detached, are
2 considered a two-family use.

3 Commissioner Templeton announced she would be participating via Zoom for the remainder of
4 the meeting and left the Council Chambers.

5 Commissioner Hechtman acknowledged his comment may be tangential but many folks
6 considered a duplex as two units with a common wall. He understood from Staff that two units
7 can be on one parcel that do not share a wall but is considered a duplex.

8 Ms. French read the approval letter for the 2007 application which stated the proposal was for
9 two detached multi-level dwelling units with basements.

10 Commissioner Hechtman acknowledged he understood but concurred that the existing homes
11 did not resemble a duplex.

12 Commissioner Reckdahl understood the lot line identified on the 1981 College Terrace map was
13 not relevant.

14 Mr. Shimizu explained they are relevant if applicants or Staff can prove that the lots were
15 conveyed separately. If that evidence could not be found then the law did not recognize the lot
16 as being two lots.

17 Commissioner Reckdahl asked if “lot” and “parcel” had the same definition legally.

18 Mr. Shimizu answered in terms of the application before the Commission, no.

19 Ms. French added parcel numbers are generated for tax purposes.

20 Mr. Shimizu clarified that a Lot Line Adjustment already assumed that there are two or more
21 legally distinct recognized pieces of land. The City determined that a Lot Line Adjustment did
22 not apply to the application because there was only one piece of land and it had always been
23 conveyed as one lot. He concluded that the City was following State law, not just Palo Alto’s
24 rules.

25 Commissioner Roohparvar remarked she too was confused about the lot line and Commissioner
26 Templeton’s example with the piece of paper.

27 Mr. Shimizu restated that the City’s position is that the line on the 1981 College Terrace map lot
28 lines was not effectuated throughout the history of the lots.

29 Commissioner Roohparvar asked if the lots were recognized as two separate lots between 1891
30 and 2007 because in their deed they are listed as separate lots.

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1 Mr. Shimizu answered no, upon introduction of the Subdivision Map Act and court cases, it
2 became clear that to be a legal parcel it had to comply with the Subdivision Map Act or its
3 predecessors, or there must be evidence that the lots were conveyed as separate lots.

4 Commissioner Roohparvar remarked she understood the 2007 application understood there
5 were two lots. Then the law changed and the homeowners lost their rights.

6 Ms. Foley explained the lot had already been one lot in the sense that before the existing
7 homes, there was a single-family home on the lot. That single-family home straddled the
8 underlying lot line as well.

9 Commissioner Roohparvar asked how the deed read.

10 Ms. Foley read the legal description in the title report as outlined on Packet Page 32.

11 Vice-Chair Chang invited members of the public to provide their comments.

12 Ms. Pria Graves, the homeowner of 2130 Yale, remarked that the majority of properties in
13 College Terrace had multiple underlying lot lines and those lines had no current meaning. She
14 urged the PTC to support Staff's recommendation to deny the application. She acknowledged
15 the difficulties of being in a TIC but believed approval would set a precedent for other
16 subdivision applications. Any approval would violate RMD NP zoning which had kept College
17 Terrace an eclectic and mixed neighborhood. She noted this was not the only example of two
18 units under one ownership in the neighborhood.

19 Vice-Chair Chang invited the applicant to provide their rebuttal comments.

20 Mr. Hanna restated that the two units under one ownership is the only one in the College
21 Terrace neighborhood and that was stated in the Staff Report. He predicted the State will
22 realize there is a loophole in Senate Bill (SB) 9 and that it will be broadened to RMD in the near
23 future. He concluded the City made a mistake in approving the 2007 application and that the
24 parcel should be subdivided.

25 Vice-Chair Chang invited comments from the Commissioners.

26 Commissioner Hechtman acknowledged that the situation before the Commission is difficult to
27 understand unless you've received training on it. To address the confusion regarding whether it
28 is one lot or two, he acknowledged that part of the confusion came from the government-
29 approved map that was shared with the Commission. He asked if Staff had the Accessor's Parcel
30 Map (APN) available to share with the Commission.

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1 Ms. Foley answered no because the APN was not typically used to define legal lots. Those maps
2 were only used for tax purposes.

3 Commissioner Hechtman agreed and noted the subject parcel only had one parcel number. He
4 agreed with Mr. Shimizu's explanation that the lots are not legally considered two lots because
5 the Supreme Court had made its determination and there was no historical evidence that the
6 lots were ever conveyed separately as two parcels. He remarked the PTC could recommend the
7 City Council approve the Parcel Map with Exceptions as long as it discussed and understood the
8 ramifications of that decision. He also agreed that the PTC could not consider a Lot Line
9 Adjustment because the parcel was not two legal lots.

10 Vice-Chair Chang recommended the PTC consider the findings presented in the Staff Report.
11 She referenced the Preliminary Parcel Map Findings in Attachment C and announced she
12 agreed with Staff's recommendation with the exception of Preliminary Parcel Map Finding #3.
13 There was no development being proposed, the development already existed and so she
14 announced she could make the finding. She moved to the Exception findings and noted the PTC
15 must make all four findings in order to recommend approval of the subdivision. With respect to
16 Exception Finding #1, she believed there is a special circumstance affecting the property and
17 that was the TIC. She asked how Staff determined that the project is the only TIC in the City.

18 Ms. French stated the data was anecdotal because based on her 25 years with the City it was
19 the only one she was aware of.

20 Vice-Chair Chang recalled the applicant's letter stating that there was no available financing for
21 TICs in the City and that placed a special circumstance on the property. She moved to the
22 second Exception Finding and asked if the homeowners were aware of the TIC when they
23 bought their homes.

24 Mr. Firth Griffith, applicant, remarked he was told by Santa Clara County that the TIC would
25 only be in place for several quarters because they would not accept two different people
26 signing checks depending on who was home. They also stated that the City of Palo Alto would
27 not support nor continue the TIC agreement.

28 Ms. Kathryn Gelman said she purchased the home 6-weeks before Mr. Griffith and his family.
29 The original TIC she signed was with 12 investors and then when Mr. Griffith bought the other
30 home another TIC emerged. She explained she then signed that TIC but it listed the City of San
31 Francisco, not the City of Palo Alto.

32 Vice-Chair Chang concurred this was a unique situation. She asked if the City had any
33 preventative measures in place to prevent other homeowners in the RMD from creating a TIC
34 and then claiming they had a unique situation.

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1 Ms. French concurred if approved this could affect single-family homes Citywide and TICs are
2 not something that the City regulates.

3 Ms. Foley concurred the ownership structure of any given parcel was not something that the
4 City regulates and that was why it was not considered to be a special condition of the property.

5 Vice-Chair Chang responded that the RMD specifically allowed for multiple dwellings under a
6 single ownership.

7 Ms. French informed that a TIC is a single ownership.

8 Ms. Foley added that a TIC was not a condition or requirement for the two units being built.
9 That was determined by the developer when the units were sold.

10 Vice-Chair Chang considered the spirit of the law for RMD and she did not think the intention
11 was to allow TICs to be executed for all of the parcels in the way it was being presented. She
12 stated the purpose was not to allow the construction of an ADU and then the ADU to be sold to
13 a separate person. The developer of the property discovered a loophole in the Code.

14 Ms. French concurred what came to the City was an application for a two-unit development
15 under single ownership and the City was not involved in any of the dealings after the
16 application was approved.

17 Vice-Chair Chang asked if this could be prevented for future applications. She sympathized with
18 the homeowners and the situation.

19 Mr. Shimizu responded it was currently outside of the City's purview to educate homeowners
20 about their private business transactions, but that could be something to consider at a policy
21 level.

22 Vice-Chair Chang foresaw TICs becoming more common, especially with the increased
23 construction of ADUs.

24 Commissioner Reckdahl stated the TIC is not a special circumstance because it is a private
25 matter and zoning should be independent of funding.

26 Commissioner Templeton asked if ADUs are zoned in the same way as the subject parcel and
27 would the decision for the subject application affect how ADUs are split up in the future.

28 Ms. Foley answered that State ADU law does not allow ADUs to be sold separately from the
29 main house.

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1 Commissioner Templeton understood that was State law as well and did not believe the City
2 was in danger of setting a precedent for ADUs.

3 Vice-Chair Chang invited Staff to re-examine why granting the application would set a
4 precedent.

5 Ms. Foley answered because parcels in College Terrace followed the 1891 map Staff was
6 concerned that the other two family uses in the RMD would pursue a subdivision if they had a
7 similar ownership structure. She agreed with Commissioner Hechtman though that any private
8 financing arrangements are separate from any application for a Parcel Map.

9 Vice-Chair Chang summarized that Staff was concerned that if approved the underlying parcel
10 map for College Terrace would become legal lot lines. But, based on Commissioner Hechtman's
11 explanation, Staff agreed that any financial arrangements are separate from the Parcel Map
12 process. She remarked she was concerned that approval would allow other TICs to apply a lot
13 split in the RMD.

14 Ms. French restated that a precedent could be set for all RMDs and single-family homes
15 Citywide.

16 Vice-Chair Chang asked if an ADU could enter into a TIC.

17 Ms. French answered the main dwelling could be a TIC but not the ADU.

18 Vice-Chair Chang asked if any duplex, triplex or cottage cluster could enter into a TIC and then
19 ask for a lot split.

20 Ms. Foley explained when there are three or more units the City had existing limitations on
21 condominium conversions.

22 Commissioner Templeton indicated it was hard for the Commission to scope the project based
23 on the Staff Report and that was what the PTC was trying to do when discussing different kinds
24 of cases this could be applied to. She asked what the scope of Staff's concern is.

25 Ms. Foley remarked she did not know how many two-family homes existed in the City.

26 Ms. French agreed but noted that information could be investigated. She recalled in the past
27 the City had passed an uncodified ordinance that R-2 and RMD parcels could not be subdivided
28 for condominium purposes.

29 Commissioner Templeton asked if the subject site was considered to be a condominium.

30 Ms. French answered no.

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1 Commissioner Templeton asked if the ordinance Ms. French was recollection was relevant to
2 the discussion.

3 Ms. French believed her recollection is tangential.

4 Commissioner Templeton appreciated Staff's answers and explanations and acknowledged that
5 the situation was unique. She invited Staff or the Commission to discuss other ways that would
6 allow the applicants to achieve their end goal.

7 Commissioner Hechtman found Ms. Hanna's point that the court cases the City Attorney and
8 himself had been discussing did not apply to the proposed lot split intriguing. With that said,
9 the City must follow State law until State law was changed. He said that TICs are not unusual
10 and were often used in the City of San Francisco. It is an appropriate ownership tool for folks to
11 use. He acknowledged the homeowners' end goal was to have the two structures separately
12 owned. The zoning would allow for condos but would not allow the owners to separately own
13 those condos. He requested that Staff share the zoning map for College Terrace. He shared that
14 while the new Housing Element would be making multi-family zones denser, he wanted to see
15 the multi-family zone's integrity protected and remain multi-family. If approved, the lot split
16 will create two single-family lots and eliminate a parcel for multi-family in a multi-family zone.
17 Also, the lots will create micro lots and that should be considered in a thoughtful way instead of
18 in a piecemeal way. The City must have ordinances and requirements that can be relied on and
19 presented clearly. If approved, none of the rules would apply to the lot because the lots would
20 be nonconforming in several ways as described in the Staff Report. He concluded that the multi-
21 family district should not be parsed out into micro lots with single-family homes.

22 Ms. Foley shared that the parcel is located directly to the border of the neighboring
23 Neighborhood Commercial (CN) zoning district.

24 Commissioner Hechtman explained that one thought was to rezone the property to R-1 if the
25 neighboring zone district were R-1 but noted there was no R-1 located near the subject site. He
26 concluded that while he felt for the homeowners, he noted they had not lost any value in that
27 they knew what they were entering into. The City must follow State law and its Zoning Code
28 and he announced he generally supported Staff's findings.

29 Commissioner Templeton asked if Staff would oppose the decision if the lot lines from the 1891
30 College Terrace map were approved.

31 Ms. Foley responded that Staff could not consider reestablishing the underlying lot lines
32 because the lines would cut through the existing structures.

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1 Commissioner Templeton inquired if the homeowners could sell the lots to each other if the
2 1891 lot lines were approved and then do a lot split. She understood that the structures that
3 the City approved in 2007 were preventing the City from approving the underlying lot line.

4 Ms. Foley answered the application would follow the Parcel Map with Exception process and
5 Staff would have to make new findings for a new configuration. With that said, Staff would have
6 to follow protocol to deny the application because the property line would cut through the
7 existing structures.

8 Commissioner Reckdahl noted if the structures were not there it would still be nonconforming
9 because the lot would be too small.

10 Ms. Foley agreed.

11 Commissioner Templeton asked how many lots in College Terrace were the small lots outlined
12 on the 1891 College Terrace map. She informed that it looked like many of the parcels were
13 smaller in size.

14 Ms. Foley summarized there was a wide range in the size of the lots around the subject
15 property.

16 Commissioner Templeton understood there are other ways for the homeowners to achieve
17 their end goal but those types of applications were not in front of the PTC.

18 Ms. French confirmed that is correct.

19 Commissioner Templeton summarized that the City's primary objection was that the land was
20 owned by one person and the lots would be nonconforming in size. She emphasized that many
21 of the lots surrounding the property were small and was having a hard time justifying Staff's
22 argument.

23 MOTION

24 Commissioner Hechtman moved that the PTC recommend to the City Council the Staff
25 recommendation.

26 SECOND

27 Commissioner Reckdahl seconded.

28 Commissioner Templeton suggested that the maker amend his motion to allow the PTC to vote
29 on the findings individually. She clarified that many of Staff's recommendations she could
30 support except for a few.

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1 Vice-Chair Chang asked if Commissioner Templeton wanted to offer Council more granularity in
2 how the PTC considered the proposal.

3 Commissioner Templeton confirmed that is correct.

4 Vice-Chair Chang supported that suggestion.

5 Commissioner Hechtman suggested the PTC vote on specific findings where there was no
6 consensus and then do one clean-up motion of all the findings that did have consensus.

7 Commissioner Reckdahl supported that.

8 MOTION WITHDRAWN

9 Commissioner Hechtman withdrew his motion.

10 Commissioner Templeton recommended Staff share the key considerations slide that
11 highlighted the reasons for Staff's denial of the Exception. She shared she had concerns about
12 Staff's conclusions about the Exception findings.

13 Vice-Chair Chang asked if Commissioner Templeton was concerned about Exception Finding #3.
14 She shared she did not agree with Staff's recommendation for Finding #3.

15 Commissioner Reckdahl indicated when a subdivision is approved the resulting parcels must
16 meet the Municipal Code requirements.

17 Vice-Chair Chang read that the site is not suitable for development but there was no
18 development occurring on the site. Therefore, the site was suitable for the development.

19 Commissioner Reckdahl remarked the PTC had to treat the subdivision as though the existing
20 structures were being constructed by the current Code.

21 Commissioner Templeton responded that the City's objection did not make sense and asked
22 why Staff was objecting to a building that was already built.

23 Ms. Foley answered it was because of the way the proposal would change the setbacks.

24 Commissioner Templeton asked if it was because they were changing what was the front and
25 what was the side.

26 Ms. Foley answered yes and that in turn changed what was the rear. Also, it created a new
27 interior lot line between the two existing structures.

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1 Commissioner Templeton argued that it did not change anything because the structures were
2 already built.

3 Vice-Chair Chang recalled a similar subdivision lot split design had come before the PTC on
4 Channing Avenue and Staff recommended approval of that application.

5 MOTION #1

6 Vice-Chair Chang moved to vote on Preliminary Parcel Map Finding 3. She clarified she could
7 not make the finding that the site was not physically suitable for the type of development. With
8 that said, she could not deny the Parcel Map based on Finding #3.

9 SECOND

10 Commissioner Templeton seconded.

11 Commissioner Reckdahl remarked the resulting product would be two substandard lots and
12 they did not meet the zoning for minimum lot size.

13 Vice-Chair Chang agreed but believed Finding #3 was not talking about the parcel.

14 Commissioner Reckdahl asked what the term “physically suitable” meant and did that include
15 setbacks and minimum lot size.

16 Ms. French shared that the lot on Channing Avenue needed an Exception not because they
17 were creating a substandard lot but rather a less-than-standard lot which is different. The
18 proposed lots if approved would be substandard in size.

19 Commissioner Hechtman believed “physically suitable” did not mean that the structures would
20 not fit. He believed “physically suitable” was within the context of the requirements. The
21 parcels would be less than the minimum lot size and any structure would cross the setback lines
22 on almost all sides. He asked should the City be granting 3,000-square-foot lots when 5,000-
23 square feet is required and Staff’s answer was no because it was not physically suitable for the
24 development. With that said, he could not support the motion.

25 Commissioner Templeton restated the structures had already been permitted and built. It was
26 not sufficient to deny an application based on where the frontage of the structures is.

27 Commissioner Hechtman referenced Attachment B and acknowledged the existing structures
28 comply with every single requirement of the RMD zoning. He noted there are different rules for
29 single-family and multi-family and the existing structures fit within the multi-family rules. The
30 structures do not fit within the single-family rules.

-
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1 VOTE

2 Ms. Dao conducted a roll call vote and announced the motion failed 2-3.

3 MOTION #1 FAILED 2(Chang, Templeton) -3(Hechtman, Reckdahl, Roohparvar) (Summa
4 recused)

5 MOTION #2

6 Commissioner Templeton found Staff's explanation for Exception Finding #4 not justified. She
7 moved to that the granting of Exception Finding #4 would not violate the laws, requirements,
8 goals, policies, or spirit of the law.

9 SECOND

10 Vice-Chair Chang seconded.

11 Commissioner Templeton believed splitting the lot or not would not affect the City's housing
12 vision.

13 Commissioner Reckdahl stated he did not agree with all the language but agreed with the gist
14 of it. He asked if the motion was whether the Commission agreed with Staff's description or
15 whether the Commission could make Exception Finding #4.

16 Commissioner Templeton explained if a Commissioner did not agree that approving the
17 application would not violate the laws, requirements, goals, policies, or spirit of the law. Those
18 Commissioners should share why they believe that.

19 Commissioner Reckdahl restated the bulk of the Staff's explanation he could agree with except
20 for the last sentence.

21 Commissioner Hechtman mentioned the language for the finding came from the City's
22 ordinance and he understood that every Exception was a deviation from the requirements.
23 With that said, he did believe granting the application violated the spirit of the law because of
24 the accumulation of exceptions needed to allow the lot split.

25 Vice-Chair Chang disclosed she was concerned more folks would enter into a TIC to take
26 advantage of a potential loophole in the Code. Staff did not know how many other parcels
27 would be affected if the proposal were approved. She disagreed that it would become a
28 problem with respect to the lot sizes created by such a subdivision because College Terrace had
29 the most nonconforming parcels and developments in the City.

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1 Commissioner Reckdahl remarked if the Commission believed that smaller lots were more
2 appropriate for College Terrace. Then the RMD zoning should be changed instead of a one-off
3 Exception.

4 MOTION #2 RESTATED

5 Vice-Chang restated the motion was the PTC could make Finding #4, that granting the Exception
6 would not violate the requirements, goals, policies, or spirit of the law.

7 VOTE

8 Ms. Dao conducted a roll call vote and announced the motion failed 1-4.

9 MOTION #2 FAILED 1(Templeton) - 4(Chang, Hechtman, Reckdahl, Roohparvar) (Summa
10 recused)

11 MOTION #3

12 Vice-Chair Chang explained she could make Exception Findings #1 and #2 because there are
13 special circumstances and the Exception was necessary for the preservation and enjoyment of
14 the substantial property right for the petitioner. She restated that in Palo Alto there was no
15 financing for TIC partnerships and that was an element that other TICs were not faced with.

16 SECOND

17 Commissioner Templeton seconded.

18 Commissioner Reckdahl restated that the property owner's financials and the zoning are two
19 separate things. It was not the City's responsibility to right the owner's bad decision.

20 Commissioner Templeton noted the financial aspect was the justification for the Exception and
21 a case could be made that those justifications could be found.

22 Commissioner Hechtman stated the special circumstance, or TIC, was not affecting the property
23 but rather affecting the owners and that was the intent of Exception Finding #1. He believed
24 Exception Finding #1 was mimicking the finding for a Variance which talked about special
25 circumstances attributable to the physical property. With that said, he could not support the
26 motion for Exception Finding #1.

27 Commissioner Templeton asked if the special condition could be the orientation of what was
28 front, what was rear and what was side.

29 Vice-Chair Chang answered yes and agreed.

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1 FRIENDLY AMENDMENT

2 Commissioner Hechtman requested that Exception Finding #1 and #2 be decoupled and voted
3 on separately.

4 Vice-Chair Chang agreed to decouple them and vote on them separately.

5 Commissioner Templeton also agreed.

6 MOTION #3 RESTATED AS REVISED

7 Vice-Chair Chang moved the PTC could make Finding #1, that there are special circumstances or
8 conditions affecting the property.

9 SECOND

10 Commissioner Templeton reaffirmed her second.

11 FRIENDLY AMENDMENT

12 Commissioner Hechtman suggested the motion explain that the PTC believed the property
13 endured a special circumstance or condition because of the existing houses and the orientation
14 in the manner that they currently existed.

15 Vice-Chair Chang agreed to include that language in the motion.

16 Commissioner Templeton agreed.

17 VOTE

18 Ms. Dao conducted a roll call vote and announced the motion passed 4-1.

19 MOTION #3 PASSED (Chang, Hechtman, Roohparvar, Templeton) -1(Reckdahl) (Summa recused)

20 MOTION #4

21 Vice-Chair Chang moved the PTC could make Exception Finding #2 in that the exception is
22 necessary for the preservation and enjoyment of the substantial property right of the petitioner
23 because of the unique situation in which they entered a TIC and the availability of financing in
24 Palo Alto.

25 SECOND

26 Commissioner Templeton seconded.

-
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1 VOTE

2 Ms. Dao conducted a roll call vote and announced the motion failed 2-3.

3 MOTION #4 FAILED 2(Chang, Templeton) -3(Hechtman, Reckdahl, Roohparvar) (Summa
4 recused)

5 Commissioner Hechtman understood that the PTC made one change and that was Exception
6 Finding #1.

7 Commissioner Templeton concurred that was the only one that passed.

8 Ms. Foley asked if the Commission agreed for Exception Finding #1 that there is a special
9 circumstance.

10 Commissioner Hechtman answered yes.

11 MOTION #5

12 Commissioner Hechtman move that the PTC recommend to the City Council the Staff
13 recommendation except regarding Exception Finding #1 where their recommendation was as
14 the PTC had already voted to recommend.

15 SECOND

16 Commissioner Reckdahl seconded.

17 VOTE

18 Ms. Dao conducted a roll call vote and announced the motion carried 4-1.

19 MOTION #5 PASSED 4(Chang, Hechtman, Reckdahl, Roohparvar) -1(Templeton) (Summa
20 recused)

21 Commissioner Templeton shared that she voted no because there appeared to be some
22 missteps in the history of the parcel. This created a scenario that put the homeowners in a tight
23 spot because of the City's role in the history of the parcel. She expressed her frustration with
24 the process and encouraged the City to reflect on this decision and plan better so this type of
25 scenario does not occur again.

26 [The Commission took a 10-minute break]

27 **Commission Action:** Motion by Chang, seconded by Templeton. Fail 2-3 (Summa recused)

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- 1 **Commission Action:** Motion by Templeton, seconded by Chang. Fail 1-4 (Summa recused)
- 2 **Commission Action:** Motion by Chang, seconded by Templeton. Pass 4-1 (Summa recused)
- 3 **Commission Action:** Motion by Chang, seconded by Templeton. Fail 2-3 (Summa recused)
- 4 **Commission Action:** Motion by Hechtman, seconded by Reckdahl. Pass 4-1 (Summa recused)

5 3. PUBLIC HEARING/LEGISLATIVE: Adoption of Amendments to Palo Alto Municipal Code
6 Chapter 18.09, Accessory and Junior Accessory Dwelling Units due to Direction from
7 the California Department of Housing and Community Development (HCD).
8 Environmental Assessment: Exempt from the provisions of the California
9 Environmental Quality Act (CEQA) pursuant to Public Resources Code Section
10 21080.17 and CEQA Guidelines sections 15061(b)(3), 15301, 15302 and 15305.

11 Ms. Amy French, Chief Planning Official, introduced Garrett Sauls, the Planner for the project.

12 Mr. Garrett Sauls, Planner, reported the PTC met on July 7, 2022, August 10, 2022, and
13 September 28, 2023, to discuss and recommend a draft ordinance to the City Council that
14 included State law changes to the City’s Code. On December 12, 2022, the City Council
15 approved the State law changes only to the City’s Code with local changes originally planned for
16 January or February of 2023. The City received a second response letter from the California
17 Department of Housing and Community Development (HCD) on December 21, 2022. Staff was
18 returning to the PTC with proposed changes in response to HCD’s recommendations and would
19 hold a follow-up meeting in March 2023. Staff would then return to the City Council with State
20 law and local Code changes in April or May of 2023. Included in the Staff Report was the first
21 letter the City received from HCD on December 23, 2021, Staff’s response to that letter dated
22 February 2, 2022, HCD’s second letter that was received on December 21, 2022, and Staff’s
23 response back to HCD on January 13, 2023. Staff also provided a timeline to HCD that outlined
24 when the changes would be presented to the PTC and City Council for adoption. In HCD’s
25 second response letter, they provided comments on Daylight Plane for Table 2 units, calculating
26 floor area for Junior ADU (JADU), noise-producing equipment location standards, entryways for
27 JADUs, and parking attached to ADUs. With respect to Daylight Plane, HCD determined that the
28 City would not be able to apply the Daylight Plane to Table 2 units. With respect to calculating
29 floor area for JADUs, Staff explained to HCD that the ordinance was trying to mirror the existing
30 provision for attached or detached ADUs in that JADUs could have a 4-foot setback. HCD
31 responded that JADUs were only allowed to be developed within the proposed or existing
32 buildable area. With respect to noise producing equipment locations, Staff believed there was a
33 misunderstanding with HCD in that the provision was envisioned to relax location standards for
34 noise producing equipment. With respect to entryways for JADUs, the City’s regulations did not
35 allow an entryway for an attached JADU to be on the same side as the main dwelling’s
36 entryway. HCD believed that type of regulation would create unnecessary barriers to future
37 development. They suggested the provision only apply when feasible, but Staff was concerned
38 that would create a non-enforceable provision in the City’s Code. With that understanding,

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1 Staff recommended the provision be removed from the ordinance. With respect to parking
2 attached to ADUs, Staff recommended removing the requirement that attached parking to
3 ADUs be counted towards the maximum square footage of the ADU. PTC had discussed
4 removing that provision at a prior meeting and HCD agreed it was not permissible under State
5 law. Also raised in the Staff Report were local changes in response to current issues. This
6 included conversion/relocation of uncovered parking space, privacy measures for JADUs, the
7 affordable ADU program, and basements under JADUs that served the primary dwelling unit.
8 With respect to the conversion/relocation of uncovered parking spaces, he explained that
9 currently no provision in City or State law allowed the removal of the uncovered parking space
10 and relocating it, or not replacing it at all. Staff recommended modifying the language for a
11 two-car conversion garage and applying it for uncovered parking relocations. With respect to
12 privacy measures of JADUs, Staff had received several complaints about privacy as well as
13 privacy concerns were raised by several Commissioners at previous meetings. Staff was seeking
14 additional feedback from PTC on whether a specific finish floor height or JADU height should
15 trigger privacy measures. With respect to the affordable ADU program, Staff wanted to know if
16 PTC wished to continue pursuing the program even though HCD did not recommend it. With
17 respect to basements under JADU that serve the primary unit, Mr. Saul's acknowledged that
18 this was a concern that had been raised recently during the plan review. Staff was concerned
19 about how that type of provision could be manipulated to extend the size of the primary home
20 beyond what was allowed. He acknowledged that the item was not noticed or included in the
21 Staff Report. Staff was seeking feedback on it and then would return on March 8th for a
22 recommendation. He explained that basements are regulated based on the size of the existing
23 first-floor footprint. With an attached ADU or JADU, one interpretation of the Code was that
24 the basement could extend under the ADU or JADU. Staff requested feedback on whether
25 basements should only be allowed to extend under the primary home and not under the
26 attached ADU or JADU. He concluded that Staff was seeking a motion on the draft ordinance
27 provided in the Packet and that PTC conduct a straw poll on Items F, G, and I.

28 Chair Summa stated that Staff did not need a motion on Items B, C, and E. She asked if the
29 Commission or Staff wished to discuss those items.

30 Vice-Chair Chang answered she had a question about Item B.

31 Chair Summa invited Commissioners to ask their questions of Staff.

32 Commissioner Reckdahl asked if the current requirements for basements required the
33 basement to stay with the footprint of the primary house.

34 Mr. Sauls confirmed that basements in a single-family home are restricted to the first-floor
35 footprint and any extension allowed was to complete the square shape.

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1 Commissioner Reckdahl inquired if someone could have a basement that was bigger than the
2 FAR on the ground floor.

3 Mr. Sauls answered yes but that would be counted toward lot coverage.

4 Commissioner Reckdahl understood a basement provision could be used for both an attached
5 ADU and JADU. He asked how could a basement be built under a detached ADU.

6 Mr. Sauls remarked it was not allowed to go under a detached ADU.

7 Vice-Chair Chang understood no changes were being proposed to the ordinance as a result of
8 Item B.

9 Mr. Sauls answered that is correct.

10 Vice-Chair Chang referenced Packet Page 55, Item B, and asked what the last sentence meant
11 when it referenced being flexible.

12 Mr. Sauls explained the City was trying to be flexible in how it applied setbacks for JADUs. Staff
13 agreed with HCD that JADUs must be built within the proposed or existing buildable footprint
14 but the City also wished to allow JADUs with a 4-foot setback.

15 Chair Summa opened public comment.

16 Mr. John Kelley commented that he supported Staff's recommendations except for Items G and
17 H. He believed that Staff was trying to do right by the public, but he asked whether the years
18 long study of Palo Alto finally conforming to the State's 2020 mandate made sense. For many
19 years the City had followed the minimalist approach of implementation which had imposed
20 unnecessary costs for the City and its residents. He believed the minimalist approach had
21 dampened ADU production. He urged the PTC to not pursue Items G and H of the Staff Report
22 which discouraged clear stories and will affect the amount of light reaching the interior space of
23 the units. He recommended that City Staff allow folks who wished to build an ADU the full
24 benefit of new State laws and seek technical expertise from HCD and local design professionals
25 before submitting the ADU Ordinance. Also, he recommended PTC hold those discussions with
26 HCD and local design professionals before PTC's May 2023 meeting. He requested an
27 accounting of both Staff and outside resources' pursuing the strategy of a minimalist
28 implementation approach.

29 Chair Summa announced that public comment was now closed. She summarized that Staff was
30 seeking a motion on Items A, D, and H.

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1 Commissioner Hechtman acknowledged that the redline version of the ordinance in the Staff
2 Report may be confusing, but noted many of those changes were already discussed at a prior
3 meeting. He noted that City Attorney Yang had provided a cleaner table on Packet Page 66. He
4 began with Item A, Daylight Plane, and asked if Footnote 7 should apply to the 500-square foot
5 column in the table on Packet Page 66.

6 Mr. Sauls concurred that it should be applied to the 500-square-foot column.

7 Commissioner Hechtman noted that should be corrected before the item is presented to City
8 Council. He understood that Footnote 7 allowed the Daylight Plane that HCD needed in order to
9 have consistency with State law.

10 Mr. Sauls clarified it was Staff, not HCD who was making the suggestion.

11 Commissioner Hechtman understood Footnote 7 was Staff's response to HCD's comment.

12 Mr. Sauls confirmed that was Staff's response to HCD's comment about detached ADU Daylight
13 Planes. HCD did not raise any concerns about the attached ADU or JADUs Daylight Plane related
14 to how they were defined by the new standard.

15 Commissioner Hechtman stated that the N/A under the 900-square foot was Staff's response to
16 HCD.

17 Mr. Sauls confirmed that was correct.

18 Commissioner Hechtman announced he supported Staff's recommendation for Item A.

19 Chair Summa observed that Staff was removing the references to Footnote 4 from Table 2.

20 Mr. Sauls believed that was an error.

21 MOTION #1

22 Commissioner Hechtman moved that the PTC recommend to the City Council Staff
23 recommended changes to the ordinances regarding Item A, Daylight Plane.

24 SECOND

25 Commissioner Reckdahl seconded.

26 VOTE

-
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1 Ms. Veronica Dao, Administrative Assistant, conducted a roll call vote and announced the
2 motion passed 6-0.

3 MOTION #1 PASSED 6(Chang, Hechtman, Reckdahl, Roohparvar, Summa, Templeton) -0

4 Chair Summa suggested the Commission discuss Item D.

5 Vice-Chair Chang understood Staff's concern for Item D and the words "when feasible". She
6 asked if there was a way for the PTC to indicate a preference without creating an unnecessary
7 burden for Staff. She recalled there being other places in the Code where the City gave
8 guidance.

9 Mr. Sauls confirmed that is correct but noted those other instances were related to findings for
10 approval for discretionary projects. Those findings and guidelines were often vague in order to
11 allow for Staff interpretation. For ADU standards, the focus was to make them clear and simple.
12 The language "where applicable when feasible" may cause a conflict between Staff and
13 applicants.

14 Vice-Chair Chang supported the recommendation to remove the words "when feasible". She
15 asked where the desire came from to have this type of language.

16 Mr. Sauls explained in 2017 ADUs standards were significantly relaxed and many folks
17 submitted applications for attached ADUs. Staff believed having two front entry doors on one
18 side was not aesthetically pleasing and so Staff suggested that the entryway for an attached
19 ADU be facing a different property line.

20 Vice-Chair Chang understood there was a strong preference to have this suggestion for front
21 entryways and asked if that guidance could be placed in another section of the City's Code. She
22 predicted that many folks would often follow a suggestion.

23 Mr. Sauls answered yes, it could be placed in a different section of the Code. He noted that the
24 City had the Eichler Design Guidelines and many folks chose not to follow them.

25 Vice-Chair Chang understood that logic but believed many folks would choose the more
26 aseptically pleasing elements for their home.

27 Commissioner Reckdahl agreed that most folks would choose the more aesthetically pleasing
28 elements and believed that the City should not micromanage it. He asked if ADUs were
29 required to have a separate address from the main dwelling unit.

30 Mr. Sauls answered yes.

-
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1 Commissioner Reckdahl commented that the addresses could be above each door and that
2 would eliminate any confusion.

3 Mr. Sauls confirmed that was correct.

4 Vice-Chair Chang agreed the design feature was desirable for folks to know about and having it
5 in the ordinance pulled that preference to the forefront to ponder when thinking about their
6 design. He suggested retaining the language and adding “it should be encouraged but not
7 required”. That language would allow an applicant to consider it but not be required to do it.
8 Also, it would remind Staff and the Architectural Review Board (ARB) that folks are not required
9 to do it.

10 Commissioner Roohparvar agreed that the City should not require the front entryway for an
11 attached ADU to be facing a separate property line. She recalled that the addresses for the ADU
12 has to be at the front of the house, even if the ADU doors were at the back of the primary
13 dwelling unit.

14 Mr. Sauls concurred and that was to make it easier for emergency services to find the unit. For
15 detached units, he predicted that the address numbers would be on the unit itself instead of on
16 the primary dwelling unit.

17 Commissioner Roohparvar disclosed that the ARB should be determining where the door
18 should be placed, not the PTC. She found it more practical to have both front doors facing the
19 street for mail and emergency services. She mentioned the City of San Jose required both
20 addresses to be displayed on the front of the property for emergency and other services. In
21 conclusion, she preferred to leave it up to the applicant and let them determine if they
22 preferred an aesthetic or practical approach.

23 Chair Summa supported Commissioner Hechtman’s solution.

24 Mr. Sauls remarked that Staff, and applicants, will most like not pursue a provision that is
25 labeled “applicable when feasible”. The reason was that having subjective criteria was very
26 difficult to hold applicants and Staff accountable.

27 Commissioner Hechtman believed his proposed language did not do any of what Mr. Sauls was
28 concerned about.

29 Ms. French supported the suggestion because it was not placing a burden on Staff to make a
30 decision.

31 Mr. Sauls stated from a practical standpoint it was equivalent to saying “when feasible”.

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1 Ms. French believed the language was not directing Staff to help the applicant to figure out
2 when it was feasible.

3 Commissioner Hechtman agreed.

4 Commissioner Templeton did not want the Code to contain language that was meaningless and
5 found it strange that services that use the front door were not consulted. She recommended
6 that emergency services be consulted before the item is discussed by City Council.

7 Vice-Chair Chang explained that the City was not requiring anything at this time and so
8 emergency services should not be affected.

9 Commissioner Templeton indicated that several folks had mentioned it and the City was not
10 considering the implications of where the entryway is placed. It was shared that other cities
11 have considered these implications and Palo Alto should do the same.

12 Chair Summa stated it was not required by the City for all homes to have their address visible
13 from the street.

14 Ms. French corrected that new homes have to have their address visible but not older homes.

15 Commissioner Reckdahl asked if new ordinances are vetted by emergency services.

16 Mr. Sauls answered yes but only if there were specific components that emergency services
17 dealt with daily. With respect to having an address visible, he noted there was a small
18 ministerial process that must be followed but believed that was handled casually.

19 Commissioner Reckdahl asked if the current ADU Ordinance was reviewed by the fire and police
20 department.

21 Mr. Sauls answered no.

22 Commissioner Roohparvar remarked based on the conversation, aesthetics was trumping
23 practicality and she could not support a motion that encouraged a specific location for aesthetic
24 purposes.

25 MOTION #2

26 Commissioner Hechtman moved that the PTC recommend to the City Council regarding Item D,
27 entryways for ADU/JADUs, but that the language of subpart (k) (1), the design subsection on
28 Packet page 69, be retained rather than removed. The following would read “except on corner
29 lots it shall be encouraged but not required that the unit not have an entryway facing the same

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1 lot line, “property line”, as the entranceway to the main dwelling unit unless” and then
2 continue the sentence as written.

3 SECOND

4 Vice-Chair Chang seconded.

5 Commissioner Hechtman addressed Commissioner Roohparvar’s concern in that the ordinance
6 already required the second entrance not to face the same way as the primary entrance and
7 that was adopted by previous Councils. He predicted that was the time when emergency
8 services would have reviewed the ordinance and shared their comments.

9 Commissioner Templeton requested further details on why the PTC should be making the
10 recommendation because it was out of the PTC’s purview. She noted that Staff already said that
11 the ordinance was not reviewed by emergency services.

12 Vice-Chair Chang responded that she did not want to make design decisions and shared she did
13 not understand the full history of why that requirement was placed in the Code. In supporting
14 Commissioner Hechtman’s motion, the City was meeting HCD’s requirements while also
15 honoring the intention from the past. If the Commission were to encourage Staff to ask
16 emergency services for their comments then she could support that as well.

17 Commissioner Hechtman restated it is a current requirement and the question for emergency
18 services would be to understand if they did not support softening the requirement. He noted if
19 emergency services believed the provision would be a challenge then he supported removing it.
20 He encouraged Staff to consult with emergency services before the item goes to City Council.

21 Commissioner Roohparvar supported having the ordinance reviewed by emergency services.
22 She stated HCD did not support the requirement but suggested using the words “when
23 feasible”. She agreed that the decision was out of the scope and she asked who made the
24 original recommendation that the second entryways should be facing a different property line
25 than the primary entrance.

26 Mr. Sauls explained the provision was incorporated in the 2017 ordinance. PTC and potentially
27 ARB had reviewed the ordinance. He noted with respect to the Building Code, the emergency
28 services’ review was focused on ingress and egress to the units.

29 VOTE

30 Ms. Dao conducted a roll call vote and announced the motion passed 4-2.

31 MOTION #2 PASSED 4(Chang, Hechtman, Reckdahl, Summa) -2(Roohparvar, Templeton)

-
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1 Commissioner Templeton explained she voted no because the item was out of the scope and
2 that the provision was not properly vetted.

3 Commissioner Roohparvar echoed Commissioner Templeton's comment.

4 Chair Summa invited the Commission to discuss Item H.

5 Vice-Chair Chang understood that the housing administrated had indicated that the program
6 was not feasible and that was disappointing. She recommended that Staff discontinue working
7 on the affordable housing program.

8 Commissioner Hechtman agreed.

9 Commissioner Reckdahl concurred.

10 Commissioner Templeton was not surprised by the impracticality of the program and agreed
11 the work should be discontinued. She encouraged Staff to explore other ways to understand
12 and measure affordable housing in the community.

13 Chair Summa remarked the hope was that ADUs would be naturally affordable and agreed that
14 the program should be discontinued.

15 MOTION #3

16 Vice-Chair Chang moved that the PTC discontinue work on the pilot affordable housing program
17 because the housing administrator had said that is it infeasible for a number of reasons. She
18 added that the PTC is disappointed and that the Commission believes there should be much
19 more affordable housing in the City.

20 SECOND

21 Commissioner Reckdahl seconded.

22 VOTE

23 Ms. Dao conducted a roll call vote and announced the motion passed 6-0.

24 MOTION #3 PASSED 6(Chang, Hechtman, Reckdahl, Roohparvar, Summa, Templeton) -0

25 Chair Summa invited comments on Item F and noted that the proposal was to remove a two-
26 step process.

27 Vice-Chair Chang supported removing the two-step process.

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1 Ms. Sauls mentioned that Staff would provide draft language at the next hearing.

2 Commissioner Reckdahl wanted to see the driveway be allowed even if it were located in the
3 setback and that it be allowed to be parking spaces.

4 Commissioner Hechtman supported Staff coming back with draft language.

5 Chair Summa concurred.

6 Commissioner Templeton commented that not all garages were used for parking. Many were
7 used for storage and that should be considered when drafting the language.

8 Chair Summa announced that the PTC supported Staff coming back with language. She moved
9 to Item G and invited the Commission to provide their comments.

10 Commissioner Reckdahl supported having privacy provisions for ADUs. If an ADU was 4-feet
11 from a fence, any window above the fence line should have glazing and should be inoperable.

12 Vice-Chair Chang agreed but supported having windows that could open a small amount for
13 fresh air.

14 Commissioner Templeton explained in her home she had a window that was above 12-feet
15 from the floor and when looking up at it she could see the tops of the trees. She asked if this
16 requirement were adopted would her window need to have glazing?

17 Mr. Sauls explained it would be easier for Staff to implement the provision if the PTC were to
18 identify a specific height that would trigger privacy mitigations.

19 Commissioner Templeton asked why the City would be involved if a person wanted to look at
20 the trees.

21 Mr. Sauls answered the focus would be on units that did not have any landscape screening.

22 Commissioner Templeton believed it situation should be handled between neighbors and not
23 be a regulation from the City.

24 Commissioner Hechtman remarked he was hesitant to layer more neighbor control on what
25 another neighbor could build on their property. With that said, he supported seeing Staff's
26 proposed language and believed it would help make his decision.

27 Commissioner Reckdahl was intrigued by Commissioner Templeton's example and found it less
28 problematic if a person were looking up at the window. The problem is when the finished floor

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1 of one house is higher than the neighboring house and the higher house has a window facing
2 the lower neighboring house.

3 Commissioner Roohparvar was interested in seeing language but found Commissioner
4 Templeton's point valid. She cautioned Staff about using subjective language in the draft
5 language. She asked if HCD had provided any guidance on privacy provisions or if there was an
6 existing precedent.

7 Mr. Sauls responded that HCD did not comment on it and the proposed language would mirror
8 the privacy provision for Individual Review (IR) applications.

9 Commissioner Roohparvar responded that ADUs and JADUs are different because there were
10 more ministerial and managed by the State. She asked if HCD had reviewed the ordinance with
11 the privacy provisions included.

12 Mr. Sauls confirmed that HCD had reviewed the provision and provided no comments on it. The
13 adopted 2020 ADU ordinance already had the provision in place and Staff was now trying to
14 more clearly define when privacy provisions should be implemented. He clarified that HCD had
15 not seen that defined language and Staff would be returning to the PTC for its review before
16 submitting it to HCD.

17 Ms. French noted that Staff was not talking about privacy measures for ADUs 20-feet into the
18 property but rather ADUs that sat at the 4-foot setback.

19 Mr. Sauls explained the current ordinance was irrespective of how close or far away from the
20 property line the ADU was.

21 Vice-Chair Chang understood the main objection to ADU Development had to do with privacy
22 concerns and that it was impractical to think that neighbors would work with each other. If
23 Staff became aware of a situation where the ADU sat higher than the primary or neighboring
24 house. Then it would be a good idea to have a privacy provision.

25 Chair Summa agreed and stated it was standard to have a privacy standard.

26 Mr. Sauls asked if the PTC had a specific height requirement in mind that would trigger when
27 privacy mitigations would be implemented.

28 Ms. French mentioned that there are many code enforcement cases where the height of the
29 finished floor matters.

30 Chair Summa found it hard to specify a specific height and believed that Staff would have a
31 better understanding of what was standard.

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1 Commissioner Hechtman had no opinion on what height should be the trigger point but noted
2 that glazed windows are not the only option to support privacy. He encouraged Staff to
3 consider taller ADUs that had single-story homes adjacent to them.

4 Commissioner Templeton asked why ADUs should be subject to different privacy mitigations
5 when the City already had privacy provisions in its Code.

6 Mr. Sauls agreed with the other Commissioners that ADUs are different than single-family
7 homes in terms of where they could be located.

8 Commissioner Templeton did not believe they were different in terms of having a second story
9 that could look into a neighboring home.

10 Ms. Sauls informed that ADUs had reduced setbacks as well as increased height allowances.

11 Commissioner Templeton proclaimed that the privacy concerns for an ADU were the same as a
12 single-family home.

13 Mr. Sauls explained that Staff was trying to find a policy that could be applied to all cases.

14 Commissioner Templeton restated there should not be an ADU privacy provision and a different
15 privacy provision that applied to every other structure.

16 Vice-Chair Chang believed ADUs were different from single-family homes because of the
17 shortened setbacks.

18 Commissioner Templeton found the ADU scenarios described by the Commissioners were not
19 different from single-family homes that were having privacy issues. She supported having
20 consistent privacy standards.

21 Chair Summa remarked that the standards were not different and the City was trying to protect
22 privacy as much as possible.

23 Commissioner Hechtman expressed that the City did not design its existing privacy measures
24 for a structure that could potentially be 4-feet away from another structure. He agreed the City
25 should avoid having different rules for different circumstances unless there was a real
26 difference between the circumstances. With that said, he still wanted to see what type of
27 language Staff would propose before making a decision.

28 Commissioner Reckdahl agreed that privacy issues are not just from ADUs and that having
29 different rules for different circumstances was not right.

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1 Chair Summa agreed and mentioned the IR standards were only guidelines. She appreciated
2 that Staff was trying to make a rule instead of a guideline.

3 Mr. Sauls asked if the PTC wanted to see draft language.

4 Chair Summa answered yes and moved to comments about allowing basements to extend
5 under an attached ADU or JADU.

6 Vice-Chair Chang remarked the City intended to make ADUs more liveable and that the bonus
7 square footage should be used for the ADU.

8 Commissioner Hechtman recommended that Staff provide PTC with language to consider at the
9 March 8, 2023 meeting.

10 Commissioner Templeton responded that the City should pursue the path that would
11 incentivize building an ADU.

12 Chair Summa agreed that Staff should return with language. She shared that incentivizing larger
13 basements was not an act that the entire community agreed with and allowing it may
14 encourage folks to build an ADU but not use it. She appreciated Staff being responsive to HCD's
15 comments.

16 MOTION #4

17 Vice-Chair Chang moved to continue 18.09 to a date certain on March 8th, 2023.

18 SECOND

19 Commissioner Reckdahl seconded.

20 VOTE

21 Ms. Dao conducted a roll call vote and announced the motion passed 6-0.

22 MOTION PASSED 6(Chang, Hechtman, Reckdahl, Roohparvar, Summa, Templeton) -0

23 **Commission Action:** Motion by Hechtman, seconded by Roohparvar. Pass 6-0

24 **Commission Action:** Motion by Hechtman, seconded by Chang. Pass 4-2

25 **Commission Action:** Motion by Chang, seconded by Reckdahl. Pass 6-0

26 **Commission Action:** Motion by Chang, seconded by Reckdahl. Pass 6-0

27 **Approval of Minutes**

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

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1 Chair Summa announced there were no minutes to approve.

2 **Committee Items**

3 None

4 **Commissioner Questions, Comments or Announcements**

5 Vice-Chair Chang mentioned the PTC should begin working on its Work Plan and also schedule
6 its annual retreat. She requested that transportation Staff provide an update to the
7 Commission on the accidents happening at Lincoln and Middlefield at the next meeting.

8 Ms. Amy French, Chief Planning Official, acknowledged that she would ask transportation Staff
9 to attend the March 8, 2023 meeting.

10 Commissioner Templeton stated she was deeply troubled by the accidents that continued to
11 occur in the City, especially accidents that involved children’s deaths. She shared that Caltrans
12 was going to repave El Camino Real and Staff had informed her that the City did not have a plan
13 for safety improvements along the corridor. The City of Mountain View and the City of Los Altos
14 had a plan they were working with Caltrans on for their section of El Camino Real. She found
15 that troubling and encouraged transportation Staff to strongly consider how the City could
16 work with Caltrans to improve safety along the corridor.

17 Commissioner Reckdahl suggested that the retreat be held off-site and on a weekend. This
18 practice was similar to how the Parks and Recreation Commission does its retreat.

19 Commissioner Templeton suggested that be asked after the vacant position is filled.

20 Vice-Chair Chang supported it as long as the Commission could find a date that worked for
21 everyone.

22 Chair Summa supported having the retreat off-site and suggested that the retreat be held after
23 the vacancy is filled.

24 **Adjournment**

25 10:14 pm

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Palo Alto Planning & Transportation Commission

Commissioner Biographies, Present and Archived Agendas and Reports are available online: <http://www.cityofpaloalto.org/gov/boards/ptc/default.asp>. The PTC Commission members are:

Chair Doria Summa
Vice-Chair Bryna Chang
Commissioner Bart Hechtman
Commissioner Keith Reckdahl
Commissioner Giselle Roohparvar
Commissioner Carolyn Templeton

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View online: <http://midpenmedia.org/category/government/city-of-palo-alto> or on Channel 26.

Show up and speak. Public comment is encouraged. Please complete a speaker request card located on the table at the entrance to the Council Chambers and deliver it to the Commission Secretary prior to discussion of the item.

Write to us. Email the PTC at: Planning.Commission@CityofPaloAlto.org. Letters can be delivered to the Planning & Community Environment Department, 5th floor, City Hall, 250 Hamilton Avenue, Palo Alto, CA 94301. Comments received by 2:00 PM two Tuesdays preceding the meeting date will be included in the agenda packet. Comments received afterward through 2:00 PM the day of the meeting will be presented to the Commission at the dais.

Material related to an item on this agenda submitted to the PTC after distribution of the agenda packet is available for public inspection at the address above.

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