



# Planning & Transportation Commission

## Action Agenda: February 26, 2020

Council Chambers  
250 Hamilton Avenue  
6:00 PM

### Call to Order / Roll Call

6:05pm

Chair Templeton: Alright I believe we are ready to call this meeting to order.

### Oral Communications

The public may speak to any item not on the agenda. Three (3) minutes per speaker.<sup>1,2</sup>

[The Commission moved to agenda changes]

Ms. Rachael Tanner, Assistant Planning Director: I'm not sure if there's anyone here for oral communications that's in the... on items not on the agenda.

Chair Templeton: If you have any... anyone here that is speaking to an item not on the agenda now's the time. We do have cards for those who have submitted them for agenda items but nothing for... ok so let's move on.

[The Commission moved to City Official Reports]

### Agenda Changes, Additions, and Deletions

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

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1 Chair Templeton: So, shall we start with the Director's report or any changes to the agenda that  
2 we need to know about?

3

4 Ms. Rachael Tanner, Assistant Planning Director: Nope, there are no changes to the agenda.

5

6 Chair Templeton: Great.

7 [The Commissioned moved back up to oral communications]

## 8 **City Official Reports**

9 1. Assistant Directors Report, Meeting Schedule and Assignments

10 Chair Templeton: And are you ready for the Director's report? Ok, great.

11

12 Ms. Rachael Tanner, Assistant Planning Director: Good evening Commissioner Templeton [note-

13 Chair Templeton, Vice-Chair Roohparvar. Sorry, I've got to get my new phrasings right. Chair

14 Templeton, Vice-Chair Roohparvar and the rest of the Planning and Transportation

15 Commissioners, good evening. It's good to be with you here today.

16

17 A couple updates, just looking back to Monday, the City Council had an agenized item which

18 was a discussion of Council DuBois and Cormack's report on looking at our Boards and

19 Commissions overall in the City. One of the proposals if you did read their report was

20 potentially to split the Planning and Transportation Commission into two Commissions. That

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1 was discussed and I believe most of the Council Members did not support that move. They  
2 wanted to keep planning and transportation together as they are very linked items. And we're  
3 one of the Cities that's fortunate to have those two items to be in the same Commission and so  
4 we really can think about them together. So, I don't believe that portion will be going forward.  
5 There were a couple of recommendations including trying to align the application period to  
6 once a year so that there could hopefully be some efficiencies in making sure that all the Boards  
7 and Commission have their vacancies filled in maybe a more streamlined matter as well as  
8 discussion about some handbooks. Some other ways to make sure that Commissioners have  
9 what they need when they start and that Chairs and Vice-Chairs also have perhaps training,  
10 other resources available to them. So, we'll look forward to seeing more from Council Member  
11 Cormack and DuBois, they're an Ad Hoc Committee on this topic and we'll try to keep you  
12 abreast of anything that would affect the Planning and Transportation Commission especially.  
13 And then I should say Commissioner Lauing and Chair Templeton where there as well. They may  
14 have any insight that they want to share from Monday's meeting. I don't know if anything sticks  
15 out beyond what I have shared on that topic. Ok, great.

16

17 Tomorrow... looking ahead to tomorrow we have a public workshop and open house on the  
18 North Ventura Coordinated Area Plan. That will be from 6:00 to 9:00 pm at Gunn High School in  
19 the new student activity center there, Room 115 and 116. We're also combining with the  
20 Boulware Park open house, so Boulware Park, you may be aware, we have... the City purchased

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1 additional property adjacent to Boulware Park and is looking at expanding that and the design  
2 improvements for that. So, it's great to make sure that people can come out and come to one  
3 meeting and be able to discuss both topics. Especially since the NVCAP and the park are very  
4 adjacent so it's a good use of resources.

5  
6 We also... we're fortunate as a City to be recipients to what's called a Challenge Grant. So, the  
7 partnership for the Bay's Future which is a consortium of funders including corporate  
8 philanthropy as well as San Francisco Foundations, Silicon Valley Community Foundation,  
9 other foundations has put together a pot of money. And a lot of the money is for the  
10 construction and preservation of affordable housing.

11  
12 They also have a policy fund that is really focused on, as it sounds, policies and they've taken up  
13 as their first set of policies they want to promote at the local level to be policies to help protect  
14 renters who are currently in place. And that's something that a couple years ago the City  
15 Council had brought forward a Colleague's Memo to ask the Planning and Development  
16 Services Department to look more at what could we do to help protect our renters here in Palo  
17 Alto. We applied for this grant last fall and were successfully awarded this grant along with  
18 seven other or six other jurisdictions. So, seven total including our neighbors East Palo Alto and  
19 Redwood City so we're really excited to join this cohort.

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1 Part of the grant is for is not for funds that go directly to the City but a midcareer fellow who  
2 will be with us for 2-years and she will start with us in a few weeks. So, we're very excited to  
3 have her on board. We also have a community partner which is Silicon Valley at Home that we'll  
4 be working with that has a lot of great policy expertise. We'll also be working with Policy Link as  
5 part of this so they're really bringing together a lot of players to try to make sure that we have  
6 resources to help understand the data around who rents in our community, what are the  
7 challenges that they face, and what are the things that we can do from a policy level as a City to  
8 help support those folks? So, her work will be underway very soon and we're really excited.  
9 Hopefully, you'll be seeing some things come to PTC in the next few months.

10

11 And then lastly, we, of course, seem to be perpetually hiring at the Planning and Development  
12 Services Department. We currently have openings for two Code Enforcement Officers so we're  
13 looking forward to filling those. Making sure that if people are violating our Municipal Code we  
14 can be sure to be attentive to that and to the requests people have. We currently only have one  
15 of the three positions filled and so we're looking to fill the two others.

16

17 We also hopefully will be sharing with you soon openings that we have in our long-range  
18 planning team. We have of course our Planning Manager who was formally Elena Lee who may  
19 have come here before you with related to NVCAP or her very long-suffering project the  
20 Comprehensive Plan. She led that so that... her position is open as well as Hung Nguyen who

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1 had the Housing Manager or Housing Planning Position, that's open and a Principle Planning  
2 Position. So, we'll have those opening so if you know folks who are great planners who you  
3 want to have in the City of Palo Alto, please pass that on once we have those positions posted.  
4 It should be hopefully before the end of this week and so that's the Director's report. Thank  
5 you.

6

7 Chair Templeton: Excellent, thank you so much and to all my fellow Commissioners I highly  
8 recommend if you can attend the NVCAP meeting tomorrow. The presentation itself is just 6:30  
9 to 7:00 at Gunn so it's not a huge time commitment but it would be very important to be as  
10 informed as you can on this very large site that's under discussion. Alright, yes?

11

12 Commissioner Alcheck: So, you know if it's televised or anything?

13

14 Chair Templeton: Will it be recorded?

15

16 Ms. Tanner: I do not believe it will be recorded. We can record the presentation at least  
17 because it's an open house format and so most of it will be people at stations interacting. So,  
18 it's a little difficult to record that but I can see if we can record at the least the presentation  
19 portion.

20

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1 Chair Templeton: Alright, thank you. Commissioner Riggs.

2

3 Commissioner Riggs: Thank you, Chair Templeton. I have two things... two questions. First off,  
4 thanks for sending the ad for the... I think it's Code Enforcement earlier. If you could just make  
5 sure you send us the ads, I can make sure they go to some of the alumni boards for the  
6 planning departments particularly.

7

8 And then the second thing, with a partnership for the Bay's Future funds, will there be items  
9 that you expect will come to us? Policy items that you think that will come to us based on that  
10 work effort?

11

12 Ms. Tanner: Yes, well we anticipate... I anticipate there will be items that would come to the  
13 PTC. Part of what we are really wanting to do is make sure we first focus and understand who  
14 the renters are in Palo Alto and what would be the policy that would be most effective for  
15 them. I know some other Cities with this grant are looking at more legislative changes but  
16 others are looking at more programmatic solutions that they may offer. And so, it's kind of  
17 depends what solutions we do first but again, this person will be here for 2-years so I imagine  
18 that some of the solutions we put forward will be policy solutions that would come to PTC for  
19 input before going to Council.

20

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1 Commissioner Riggs: But after the... once we have the personal... the person, we don't have any  
2 other funding relationship with the partnership with the Bay's Future?

3  
4 Ms. Tanner: Well I hope it opens a door to continued and beginning funding relationship with  
5 them. So, my understanding is that this is the first round of this type of grant funding that  
6 they're offering. They may have future rounds of funding for either related or different policy  
7 items or different policy topics. So, I hope that we would continue to be able to be competitive  
8 for more funding in the future.

9  
10 Chair Templeton: Alright thank you so much.

11

## 12 **Study Session**

13 Public Comment is Permitted. Five (5) minutes per speaker.<sup>1,3</sup>

## 14 **Action Items**

15 Public Comment is Permitted. Applicants/Appellant Teams: Fifteen (15) minutes, plus three (3) minutes rebuttal.  
16 All others: Five (5) minutes per speaker.<sup>1,3</sup>

17

18 2. Consideration of and Recommendation on an Ordinance Amending Title 18 (Zoning)  
19 to Update Five Sections Related to Enforcement, Hearing Procedures, and to Reflect  
20 the New Name of the Planning and Development Services Department.

21 Chair Templeton: Let's move onto Agenda Item Number Two. Is there any public comment on  
22 this? I guess we should do the presentation and then take the public comment if there is any.  
23 Ok, kick it off please, thank you.

24

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1 Ms. Rachael Tanner, Assistant Director of Planning: So, Tim Shimizu in... from our City's  
2 Attorney's Office is going to be presenting on this item.

3  
4 Mr. Tim Shimizu, City Attorney's Office: Great, thank you. Good evening Chairperson Templeton  
5 and honorable Commissioners. My name is Tim Shimizu from the City Attorney's Office with  
6 Sandy, my wonderful colleague, and I'm here tonight to ask that the PTC recommend that the  
7 City Council adopt the proposed ordinance, which you have in your Packet as Attachment A, to  
8 update five sections to Title 18; which is the City's Zoning Code relating to enforcement,  
9 hearing procedures and reflect the new name of the Planning and Development Services  
10 Department. So, if I may I will briefly run through the five changes and take any questions or  
11 comments you may have after that.

12  
13 So, jumping right into Section 18.01.080, this is the City's charging section for Title 18 violations  
14 of zoning. And this language has been updated to true up with the recent passage of the  
15 Building Codes that live in Title 16 for things like building, fire protection, and so on so that the  
16 language is the same because many times the zoning and building are... have... well, they're  
17 violated at the same time, unfortunately. And so just to make it very clear and consistent about  
18 what the language is. This language mainly is a clarification. The existing language sites that  
19 violations are misdemeanors which ignores the City's administrative procedure which lives  
20 somewhere else in the code. And so, we just wanted to make those clarifications in part to

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1 clarify and remind both Staff and the public that the City can enforce Title 18 by administrative  
2 remedies which is the more common method actually today in addition to the criminal  
3 remedies that also exist. And again... yeah, so that's Title... that's 080 [note - Section 18.01.080].

4  
5 Next is Section 085 [note – Section 18.01.085] and this is the Criminal Enforcement Authority  
6 and so what this section does it that under state law Cities can adopt ordinances which  
7 authorize non-police officers or non-law enforcement people to enforce certain City laws as  
8 criminal acts. And so, while I just said that is rare, the City currently already has that  
9 authorization and so this clarifies this to update the positions that would... are empowered to  
10 do that to the Chief Building Official and the Code Enforcement Officers. The existing language  
11 has a position that neither no longer exists or no longer is really in that capacity.

12  
13 The section change is 18.04.030 which is the definition of the Director and this just updates the  
14 name of the Director to the Director of the Department of Planning and Development Services.

15  
16 The next Section 18.40.170 is... relates to in cases in which the Director can differ his or her  
17 decision go straight to Council. And in this update, we're allowing the... in those cases, the  
18 Director may seek or refer the item for recommendation to the ARB or PTC when in the past  
19 this may not have been available or may have only been available on appeal. It also updates the

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1 category of projects that may be referred to the City Council to include those that require a  
2 Statement of Overwriting Considerations under CEQA and that's typically in an EIR situation.

3  
4 Lastly, 18.77.060 talks about... has a phrase that says there's no fee for requesting a hearing  
5 and this language was inconsistent with the City Council directive that planning applications be  
6 administrated on a cost-recovery basis. So as the Staff report says while the City doesn't charge  
7 a fee for merely requesting the hearing, it does hold the project applicant responsible for the  
8 cost incurred by the City in holding a hearing on the project. And so, this is the status quo but  
9 we just wanted to clarify that because sometimes the person requesting the hearing is also the  
10 applicant, that they still are on the hook for those fees.

11  
12 And so those are the five-section changes and I welcome any questions or comments at this  
13 time.

14  
15 Chair Templeton: Alright Commissioners, please press your lights if you have any comments.

16 Alright, Commissioner Hechtman followed by Commissioner Alcheck.

17  
18 Commissioner Hechtman: Thank you and thank you for the report. Just a quick question on the  
19 change to 18.01.080 in the first paragraph line 4 after the word code, there's a semi-colon that I  
20 think should be a comma. And I'm wondering if that can be corrected or does that have to stay

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1 the same as a semi-colon in these two other provisions elsewhere in the code that you  
2 mentioned?

3

4 Ms. Tanner: Can you repeat the section again? Line.

5

6 Commissioner Hechtman: It's the first one in the ordinance, 18.01.080 (interrupted)

7

8 Ms. Tanner: Line 4?

9

10 Commissioner Hechtman: Forth line of the first paragraph. So, Chapters 1.12 and 1.16 of this  
11 code I think should be comma and criminal enforcement. Is that... does that have to stay the  
12 same or?

13

14 Mr. Shimizu: So, I think that's a change we can make so I'll look into just making sure that that's  
15 for some reason not how for example lists in this entire section work but or this entire chapter  
16 but there's no particular reason why that has to be a semi-colon versus something else.

17

18 Ms. Sandra Lee, Assistant City Attorney: Comment, thank you Madam Chair. So, we don't have  
19 the retain it for consistency with other sections. However, it is our standard practice when

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1 there is a colon and a list after it to use semi-colons between each item. Now here we only have  
2 two items so that's kind of unusual but that's typically how we handle it.

3

4 Commissioner Hechtman: It's the continuing education of a young PTC Commissioner, thank  
5 you.

6

7 Chair Templeton: I think we all learned something from that conversation so thank you. Alright,  
8 Commissioner Alcheck.

9

10 Commissioner Alcheck: Thank you so a few comments. The language that's recommended on  
11 Packet Page 9, the third paragraph under 18.01.080, when the Code Enforcement Officer  
12 determines, etc. etc. etc. when the violation has been corrected the Code Enforcement Officer  
13 shall issue and record a release of the Notice of Penance of code violation. I would suggest that  
14 we recommend to Council add the language within 10 business days or within 14-days. I think  
15 when you're recording notices in the Office of the County Recorder we should be very vigilant  
16 about the releasing those notices... those recorders as quickly as possible once they're  
17 remedied. And I think that if you don't like the timing I'm suggesting I think you should still  
18 consider some timeframe because the failure to include a timeframe will absolutely lead to  
19 some explosion at some point. Somebody will be like they never did it and you want to give  
20 some clarity there. And so, if you're uncomfortable with 10 business days or 14-days in general,

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1 choose a timeframe, I think give Council that additional language and at least explain why that  
2 timeframe makes sense to you.

3  
4 The next suggestion I have Packet Page 10, Section 5 or I guess is that... it's... it says the open  
5 parens for close parens any party, that paragraph there, do you see that? Sort of the third  
6 paragraph from the bottom, any party including the applicant may request a hearing of the  
7 Planning and Transportation Commission on the proposed Director's decision by filing a written  
8 request to the Planning Division. I think you should add language that explains how you would  
9 file a hearing request and the timing of such a request; like how soon it would need to be filed.

10 And if for example there is another section of the code that deals with these sorts of requests  
11 then you should put language in this paragraph that refers to it. So, something to the effect of  
12 such hearing requests can be made in accordance with sections whatever it is that details how  
13 hearing requests are implemented. There is sort of a number of different things that can  
14 happen in the course of let's say an applicant experience and I feel like there's some ambiguity  
15 on how you file these hearings. What the timeframe is for example, does the City have to  
16 schedule that PTC hearing on the Director's request within 30-days, 45-days, 6-months? And I  
17 think it would behoove us if we just made it clear. It's possible there's a whole section about  
18 this process but if there is we should refer to it in this section and so that we're not hunting  
19 through the code.

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1 And then... no that's it. Thank you. I'm sorry.

2

3 Chair Templeton: Thank you very much. Any other Commissioners? Oh, it looks like Vice-Chair  
4 Roohparvar and then Commissioner Summa.

5

6 Vice-Chair Roohparvar: So, I don't have an issue with the language as written. I did bring this up  
7 in our pre-Commission hearing which was Section 18.01.085 which refers to California Penal  
8 Code Section 836.5 and my understanding is standard operating procedures has been not  
9 pursuant to that code provision. Planning and transportation can or has been issuing criminal  
10 citations. I don't think that practice is correct. I did want to point out I do believe it's  
11 overreaching because when you look at the actual Code Section 1836.5 it says that a public  
12 officer employee, when authorized by ordinance, may arrest a person without a warrant  
13 whenever the officer employee has reasonable cause to believe that the person to be arrested  
14 has committed a misdemeanor in the presence of the officer or employee that is in violation of  
15 a statute or an ordinance of the officer employee has a duty to enforce. So, the corollary to that  
16 is criminal... is California Penal Code Section 1837 which allows for criminal arrest as well. From  
17 plain language of the statute and reading of it that appears to only authorize arrests for  
18 misdemeanors created... done in the presence of those two building official employees. So, I  
19 wanted to just point that out again that I do believe it would be overreaching for our Chief  
20 Building Official and Code Enforcement Officer to be issuing criminal citations. That doesn't

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1 impact their ability to refer to the City Attorney's Office or allow law enforcement or an  
2 attorney to do that but the plain language says that. And we don't see in... with citizens that  
3 code section... relating to citizens for citizens arrests issuing criminal citations. That's my only  
4 point. It doesn't impact the language but I did want to speak to that because... or if you want to  
5 explain it further to me that was my take on that.

6  
7 Ms. Lee: Madam Chair may I speak to that? Thank you.

8  
9 Chair Templeton: Yes, please do.

10  
11 Ms. Lee: Thank you. So Penal Code 1836.5 which is referenced in that section does further say  
12 that the employee making the arrest can prepare a written notice to appear and release the  
13 person on his or her promise to appear. And so that is colloquially known as issuing a citation so  
14 that is pretty common where an authorized officer rather than bringing someone in to be  
15 booked as part of an arrest will issue a citation which the individual signs with a promise to  
16 appear at a certain time and place in the Superior Court. The... this is a long-standing provision  
17 in our code and I know in many other codes where certain employees other than police officers  
18 are authorized to issue criminal citations. It is done extremely rarely and I don't know if anyone  
19 can even recall when the last time a City of Palo Alto Code Enforcement Officer may have done  
20 so. However, when these incidents occur the investigate... usually, it's one of these individuals

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1 who has witnessed the occurrence and so that crime would have occurred in the presence of  
2 the issuing officer.

3  
4 Chair Templeton: Alright any other comments Vice-Chair?

5  
6 Vice-Chair Roohparvar: No.

7  
8 Chair Templeton: Alright, thank you very much. Commissioner Summa.

9  
10 Commissioner Summa: Thank you very much. I appreciate the comments made so far,  
11 especially Commissioner Alcheck's suggestion that you refer to or put the actual procedure for  
12 doing an appeal in that section or at least refer to it because I found myself going back and  
13 forth a lot.

14  
15 I also found my... with two of these things and that's the section that we've just been talking  
16 about, 18.010.50 [note - 18.01.085] and 18.40.170. Are those just cleanups for consistency with  
17 the Building Code or state law or are those... do those have other policy implications?

18  
19 Mr. Shimizu: Just to be clear the first one you said is 080 [note -18.01.080]? The very first one.

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1 Commissioner Summa: 18.010.085.

2

3 Mr. Shimizu: Oh, yeah so (interrupted)

4

5 Commissioner Summa: The enforcement one we've just been talking about.

6

7 Mr. Shimizu: So, 085 [note – 18.010.085] is... the only change that's being made besides just  
8 clarification is to update one of the positions that was in existing no longer exists or is no longer  
9 used in practice. And so, we swapped that one out and put in Code Enforcement Officer which  
10 is the main employee job title that does code enforcement.

11

12 Commissioner Summa: Ok so that's the plan check engineer no longer exists?

13

14 Mr. Shimizu: If... that person no longer really does... I don't know if they exist but they don't do  
15 code enforcement. They're not out in the field doing that.

16

17 Commissioner Summa: So, these... I was really confused about this, there wasn't a lot of context  
18 for me for some of these changes. So, this is not to say we don't have building inspectors that  
19 enforce the Building Code. This is just when a citation rises to a criminal? Ok. That clears that  
20 up.

- 
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1

2 And then with 18.40.170, deferral of Director's action, I was wondering you've added letter C  
3 here, projects requiring a Statement of Overriding Considerations pursuant to Section blah  
4 blah. So why was that added? Where there some specific projects that triggered in the last  
5 year... to that triggered adding that or is that also just a cleanup for consistency?

6

7 Ms. Lee: (off mic) Do you want to answer? Do you want to speak to that? Ok, thank you Madam  
8 Chair. So, I don't think there were any projects that triggered it, however, this only arises when  
9 there is an EIR with significant and unavoidable impacts. So basically, when that exists we have  
10 prepared... the City had prepared an EIR. I can't think of an instance when that matter did not  
11 already go to Council anyway but they are... they're usually... they... significant community  
12 impacts may be at place. And so, I think in those situations the Director of Planning would like  
13 the opportunity to have potentially a further hearing with our advisory bodies to get more  
14 community input on those types of projects. So again, they're just project with EIRs with  
15 significant and unavoidable impacts and usually a Statement of Overwriting Considerations  
16 would be sighting various policies of the City. And in those circumstances, we may want more  
17 than just the Director of Planning weighing in, getting some additional input from our advisory  
18 body.

19

20 Commissioner Summa: So, it allows for additional public hearing input?

- 
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Ms. Lee: Yes.

Commissioner Summa: Ok, thank you for clarifying that.

Chair Templeton: Alright Commissioner Lauing.

Commissioner Lauing: Yes, just two things, one was actually right on that same thing. So, I'll start from the bottom of my intended comments but for the same reason, that's why I thought C was redundant because if it needs a Statement of Overwriting Consideration, that has to go to Council. So, I'm not sure why you would add that here.

Ms. Lee: Because technically it doesn't have too because (interrupted)

Commissioner Lauing: Really?

Ms. Lee: Yes, the body that takes action on a CEQA document or the person is whoever's making the decision on the project. So, in Palo Alto... our... most of our... actually, I don't... none of our Boards and Commissions make final decisions.

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1 Commissioner Lauing: Right.

2

3 Ms. Lee: So those items would go before Council however sometimes the Director of Planning is  
4 the decision-maker. Now those projects tend to be smaller in scale however if there was an EIR  
5 for a project within the Director's authority. The Director is the one who would have... who  
6 would be able to take action on that document.

7

8 Commissioner Lauing: Ok, predictions that's never going to happen.

9

10 Ms. Lee: I know, yes.

11

12 Commissioner Lauing: Therefore, it's redundant.

13

14 Ms. Lee: Absolutely. Well, it's probably extraneous.

15

16 Commissioner Lauing: Yeah, exactly.

17

18 Ms. Lee: Not redundant but extraneous.

19

- 
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1 Ms. Tanner: If I may add to what Sandy is saying, I think part of it is that it's adding, as she said  
2 previously, the ability to go to these other bodies prior to that. That's really the underlying part  
3 that's the additional so you're correct in that it already is going to go to Council if it's an EIR but  
4 this is saying before... on its way let's bring it to some other bodies. These forums are great for  
5 getting more community input and having another chance for the issue to be discussed before  
6 it goes to the City Council.

7

8 Commissioner Lauing: Right but the intent here is, as I understand it in this coverage, is to  
9 itemize when the Director might choose to send it to Council without making a decision. So, he  
10 or she has already made that decision. It's fine, it's just it's one more line in the code, I don't  
11 want to argue about it. But just in terms of confusion to a common reader, not a land use  
12 attorney, you say here that the Director shall have authority to forward projects to City Council  
13 for final action, circumstances listed below. No action by the Director shall be required. Well, it  
14 seems like the action was sending it to Council. That was the action.

15

16 Ms. Tanner: (Off mic) You're saying the decision, right? The Director (interrupted)

17

18 Ms. Lee: (off mic) Yeah, the Director doesn't have to make a decision. So, I mean... what  
19 (interrupted)

20

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1 [note – many Staff members started talking at once off mic]

2

3 Ms. Lee: We're competing to speak to that question. So, this means that the Director doesn't  
4 need to make a decision that's appealable. So instead of making the decision, the Director can  
5 send the item to the Architectural Review Board or the Planning and Transportation  
6 Commission and then on to Council for a decision.

7

8 Commissioner Lauing: I just think the statement there no action by the Director shall be  
9 required is referred to no decision (interrupted)

10

11 Ms. Lee: Yes.

12

13 Commissioner Lauing: Should be made so maybe you put that in there.

14

15 Ms. Lee: Ok I see what you're saying, yes.

16

17 Commissioner Lauing: Something like that.

18

19 Chair Templeton: Do you have a proposed wording or does counsel have a proposed wording?  
20 If we're going to approve it (interrupted)

- 
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Commissioner Lauing: Well you're... I think we're going [unintelligible] no decision will be made by the Director but it will be forwarded or something like that.

Chair Templeton: (off mic) Decision on the project or no decision (interrupted)

Commissioner Lauing: I'm not even sure those words are needed but.

Ms. Lee: I guess what... I might suggest I think we all understand the tenor of what Commissioner Lauing is saying in that we just be allowed to consider that language or putting in that language. Drafting it rather than doing it with the Commission on the dais.

Chair Templeton: That sounds fine with me.

Commissioner Lauing: So, we could approve it subject to attention to that section for clarity. And my other question is just kind of a related question is the fee for having the hearing is approximately what? Just out of information.

Ms. Tanner: So, I think it may vary by the item but I know it's a deposit so what happens is the fee is requested or the hearing is requested let's say by someone who's appealing a decision.

- 
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1 And then the project sponsor, the applicant, would be required to put in a fee. For example, a  
2 CUP earlier this year was appealed and the fee was \$10,000 but that's what the department  
3 draws against for the Staff time for the hearing and it may be less than that ultimately and then  
4 the balance would be refunded to the applicant.

5  
6 Commissioner Lauing: Ok thanks, no further.

7  
8 Chair Templeton: Excellent. So, the only thing that I would add is just could you speak to the...  
9 so part of the goal in putting this before us was about the department change. Can you speak  
10 to the intentions that you have for changing the department name in other places that we  
11 might not be seeing?

12  
13 Mr. Shimizu: So as the Commission knows the department name shows up in Title 18 and many  
14 other parts of the code in various forms. It can be department, department of Planning and  
15 Community Environment, and so to reduce having 500 little pin sites before you the City is  
16 going to or the Staff is proposing to Council in March to in the entire code have all references to  
17 various iterations of planning, PCE, refer to the Planning of Community... Planning and  
18 Development Services as an uncodified ordinance. So at least it's on paper that it's... for clarity  
19 sake that if it ever comes up it's always there that that's what it means instead of trying to fix  
20 every single section of Title 18 and other sections.

- 
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2 Chair Templeton: Great thank you very much. Commissioner Alcheck.

3

4 Commissioner Alcheck: I was just curious about the question that Commissioner Lauing asking.

5 If the Director decides not to make a decision, do they still put forth a recommendation on

6 behalf of Staff at the hearing? And is there... yeah, I'm just curious about that. I understand it so

7 you're being put into position to make a decision, I see the political strategy of just not really

8 making that decision and differing. I can also imagine a more interesting setup where the

9 Director makes a decision and if the Council overturns him the applicant doesn't have to

10 actually pay for it. That would be one improvement in my... but no, I'm just curious if the

11 Director decides not to make a decision does that mean the Director will also submit a Staff

12 report making a recommendation? In which case they put the time in to have an opinion and

13 I'm curious to know what the reasoning would be for not standing behind that

14 recommendation?

15

16 Ms. Tanner: Right so thinking of hypothetical cases and which is obviously has its benefits and

17 its challenges when we're thinking about what might happen. I can imagine to some degree as

18 you pointed out this might be an instance where there's some type of controversy or it speaks

19 to some larger policy decision that the Director may feel there has not been sufficient guidance

20 from the Council or PTC or the City overall. At the same time perhaps, the item has merit that

- 
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1 would be worth bringing forward for consideration by this body, by the Council, to kind of make  
2 a clear decision and provide direction. Sometimes, oftentimes, our community had different  
3 opinions about what direction we should go and so I think part of this is to respect the role that  
4 the Council and even recommending an advisory body to have in helping to think through these  
5 questions and to make a decision about the direction our community wants to go. Certainly,  
6 there would a Staff report that might outline the pros and cons, the different ways to look at  
7 this, what our code says, analysis that we can provide, data if there's any quantitative or  
8 qualitative data that we could provide, and certainly, the Director may have a professional  
9 opinion that they would provide but perhaps it would stop short of a recommendation, or it  
10 could come with a recommendation or kind of here's Staff's... here's all the information and  
11 here's what the Director is thinking. Do we want to move forward with that recommendation or  
12 is the... in this case the PTC or with the rest of the City Council would they have a different  
13 direction?

14  
15 Commissioner Alcheck: So, I have a question for you, if for example the Director made a  
16 decision and it was appealed by someone other than the applicant. Does the applicant pay the  
17 bill?

18  
19 Ms. Tanner: Yes.  
20

- 
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1 Commissioner Alcheck: Ok.

2

3 Chair Templeton: Any more thoughts? Ok, alright, I'm entertaining motions. Alright,

4 Commissioner Lauing.

5

6 MOTION

7

8 Commissioner Lauing: I move the Staff motion with the exception that we would expect to see

9 some improved language in 18.40.170 referencing decision making taken by the Director but I'd

10 also like... first, let's get a second.

11

12 Chair Templeton: Is there a second?

13

14 SECOND

15

16 Commissioner Summa: (off mic) Second.

17

18 Chair Templeton: Doria... Commissioner Summa.

19

- 
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1 Commissioner Lauing: I just wanted to ask if Commissioner Alcheck's comments are sufficiently  
2 incorporated by the motion that I made?

3

4 FRIENDLY AMENDMENT

5

6 Commissioner Alcheck: I had two very specific comments about language. One about releasing  
7 records that are recorded by the county. Right, adding that time period and also including the  
8 section about appeals with some information regarding how that process would take place and  
9 the timeframe for that process. Are those the comments that you're referring too?

10

11 Commissioner Lauing: Yes.

12

13 Commissioner Alcheck: Yeah.

14

15 Commissioner Lauing: I'm happy to incorporate that in the motion unless there's objection  
16 from counsel.

17

18 Commissioner Alcheck: That would be great.

19

20 Ms. Lee: (off mic) Can I speak to that?

- 
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2 Chair Templeton: (off mic) Yes.

3

4 Ms. Lee: Thank you Madam Chair. So, I didn't... sorry, we did not respond to Commissioner  
5 Alcheck's comment about the appeal process. There are other sections that actually detail the  
6 timeframe for how much time an appeal... before an appeal can be filed and the time frame in  
7 which an appeal hearing has to be scheduled. So those provisions are in there, we certainly can  
8 go back and look at the section to see whether we should be referencing that section. I don't  
9 have it right in front of me but we can certainly do that but the information is actually in that  
10 chapter.

11

12 And then with respect to the timing of the recording or removal of the Notice of Pendency of  
13 Action, so I don't... we don't really have enough information right now to know if 10 to 14-days  
14 is going to be adequate for Staff to manage that. I would just say that the language that in there  
15 is very similar to language in the Government Code with respect to zoning ordinance violations  
16 as well as the Code of Civil Procedures with respect to other code violations. Neither of which  
17 has a specific timeframe for recording or removing the Notice of Pendency. We certainly can  
18 look into (interrupted)

19

20 Commissioner Alcheck: Do you... I'm sorry (interrupted)

- 
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Ms. Lee: What an appropriate timeframe could be.

Commissioner Alcheck: Do you record zoning violations in the county?

Ms. Lee: I doubt it's done with any frequency. I happen have to be working on one from 1965  
(interrupted)

Commissioner Alcheck: That got recorded?

Ms. Lee: That was recorded.

Commissioner Alcheck: This is my... this is exactly my point, actually, this is exactly my point is  
that if we don't specifically outline how to remove these recordings they get left on there in  
perpetuity and my point isn't that it has to be 10 to 14-days. My suggestion, my  
recommendation is that Council consider language that specifies a timeframe by which they  
would get removed. If the 10 to 14 is not suitable in Staff's mind then whatever timeframe Staff  
was comfortable with, with the justification for that comfort level. So maybe it's 30-days but  
(interrupted)

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1 Chair Templeton: Commissioner Roohparvar [note – Vice-Chair Roohparvar] has a comment.

2

3 Commissioner Alcheck: That was what my suggestion was at the time.

4

5 Chair Templeton: Vice-Chair.

6

7 Vice-Chair Roohparvar: Yeah for whatever it's worth on the lit side there are Notice of  
8 Pendency of Action... Lis Pendens that are filed and they is statutory mandated periods of time  
9 in which those need to be removed from the Records Officer after a case concludes or a final  
10 decision is made. If it might help that might be a reference point to look at to see what the CCP  
11 says in terms of removal of Lis Pendens and apply the same time period.

12

13 Commissioner Alcheck: I mean look (interrupted)

14

15 Vice-Chair Roohparvar: If it's helpful.

16

17 FRIENDLY AMENDMENT WITHDRAWN

18

19 Commissioner Alcheck: We don't need to have the language as a part of the motion but I think  
20 you understand the premise.

- 
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Ms. Lee: Yes.

Commissioner Alcheck: And if that can be communicated in such a way just to make this tighter.  
I think it would be an improvement but I don't want to complicate the motion.

Ms. Lee: We'll certainly look at that Commissioner Alcheck and Commissioner Roohparvar [note  
- Vice-Chair Roohparvar].

Commissioner Lauing: Ok so I'm hearing that that additional language is not part of the motion  
so it's just my original motion which references the 18.40.170.

Chair Templeton: Ok before we take a vote I just want to double-check we did ask for public  
comment, right?

Commissioner Lauing: We did.

[note - many people started talking at once]

Ms. Tanner: We have not yet [unintelligible]

- 
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Chair Templeton: We should do that before we vote.

Ms. Tanner: We should do that and then we can clarify the motion after to make sure I have the notes right.

Chair Templeton: Thank you. Did anyone have a public comment? Ok.

[note – many Commissioners started speaking at once off mic]

Chair Templeton: No, we don't have any here. Ok thank you, you can proceed. Did you want to read it back?

Ms. Tanner: What I have is to... the motion is to move the report and the proposed changes forward with a clarification in 18.40.170 regarding the no decision by Director, to clarify that language. Is that... that does not include the timeframe suggestion from Commissioner Alcheck and that does not include referencing the section... the appeal section in... what part was that? Without referencing the appeal section in I guess it's Section 5.

VOTE

- 
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Chair Templeton: And I trust you'll follow up on that and make sure you feel it's adequate afterward? You have our feedback on that? Ok. Alright, are we ready to vote? All in favor? All opposed? I'm sorry Commissioner Riggs I couldn't see your vote.

Commissioner Riggs: [unintelligible – off mic]

Chair Templeton: Oh ok. Alright so it's 7 to 0, it's approved. Thank you.

MOTION PASSED 7 (Summa, Alcheck, Hechtman, Templeton, Roohparvar, Lauing, Riggs)-0

Mr. Shimizu: Thank you, Commissioner, and thank you for your feedback.

Chair Templeton: Yes, thank you very much, Mr. Shimizu, for presenting.

Mr. Shimizu: Great thank you.

**Commission Action:** Motion to approve by Lauing, seconded by Summa. 7-0

3. PUBLIC HEARING / QUASI-JUDICIAL. 840 Kipling Street [18PLN-00185]:  
Recommendation on a Variance to allow (1) a Second-Story Addition to a Historic Home on a Substandard, Irregular Lot, and (2) an Extension of a Noncomplying Wall That Encroaches Into a Side Setback. Environmental Assessment: Exempt from CEQA

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1 in Accordance with CEQA Guidelines Section 15301 (Additions to Existing Structure).  
2 Zoning District: R-2 (Two Family Residential). For More Information Contact the  
3 Project Planner Christy Fong at [cfong@m-group.us](mailto:cfong@m-group.us)

4 Chair Templeton: Ok we're going to move onto Item Three and there's a lot of moving parts in  
5 this item. I believe the first step is for us to deal is disclosures. So, we'll go down the line start  
6 with Commissioner Riggs for any contacts on these matters including meetings, conversations  
7 with individuals, site visits, mailings or presentations where substantial factual information was  
8 obtained by the Commissioner. Will disclose any contact in which the Commissioner learned  
9 new and pertinent information that's not part of the public record, explain the nature of the  
10 contact and a substance of the information learned. Contacts and receiving of information prior  
11 to the PTC is not by itself grounds for disqualification unless they have affected your ability to  
12 make an impartial decision. So, you may have engaged with the participants in this discussion  
13 but it may not be disqualifying so just speak to your engagement. Huh?

14  
15 Commissioner Riggs: Yeah so, the applicant called me to try to schedule a visit but I declined.

16  
17 Commissioner Lauing: I met with the applicant of 840 Kipling and reviewed plans and took a site  
18 tour.

19  
20 Vice-Chair Roohparvar: The applicant emailed me to schedule a site visit, I met with them,  
21 reviewed plans, took a tour. I learned information about trenching on the two-neighbor side

- 
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1 that impacted the tree growth but I do believe that that's included on Sheet T.2 but I did want  
2 to point that out.

3

4 Chair Templeton: Thank you. I have not had any contact with the participants in this hearing.

5

6 Commissioner Hechtman: I met with the applicants at 840 Kipling, had them explain to me  
7 some of the information that's in the Staff report and the associated documents. So that's  
8 already part of the record and did the site with them and looked at a couple of trees in the  
9 neighborhood that are referenced in the site report... sorry in the record.

10

11 Commissioner Summa: I also met with the applicant at 840 Kipling, at their home, and looked at  
12 the plans and associated documents and did a site tour.

13

14 Chair Templeton: Thank you and brief hold while we are seeking our last input. Alright sorry  
15 about that Commissioner Alcheck you're on for disclosures.

16

17 Commissioner Alcheck: I met with the I guess Reyna family if I'm pronouncing it correctly of 840  
18 Kipling yesterday. They walked me through many of the comments they made in the letters. I  
19 don't believe they shared any information with me that wasn't already in the Packet and I

- 
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1 asked them that same question and they confirmed that. So other than that meeting I have  
2 nothing else to disclose.

3

4 Chair Templeton: Great thank you and just to check in with our legal team, do we feel  
5 comfortable proceeding with no recusals?

6

7 Ms. Sandra Lee, Assistant City Attorney: Yes, Madam Chair.

8

9 Chair Templeton: Thank you very much. Alright so oh I have the Order of Operations here,  
10 please hold. Vice-Chair to the rescue, thank you so much. Alright so the way we're going to  
11 proceed through this is we will start with a Staff report and then we'll hear from the hearing  
12 requester for 15-minutes and the applicant for 15-minutes. That's... after that, we will do public  
13 comment and I have the cards here but if there's anyone who has not filled out a public  
14 comment card please hand them into that box behind Ms. French. Alright, then the hearing  
15 requester and applicant will each have a 3-minute rebuttal after public comment in case there's  
16 topics that come up that you'd like to address and then the Commission will discuss, alright?  
17 Thank you very much.

18

19 Ms. Rachael Tanner, Assistant Director of Planning: So, Commissioners I want to introduce  
20 Christy Fong who will be doing our Staff report this evening. Christy has over 9-years of

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1 planning experience including subdivisions, long-range planning, current planning and she  
2 began her planning career in Canada but we are very happy to have her working on this project.  
3 As you have seen the project history, this project has been underway for some time and so we  
4 are happy we are bringing it before you for its next phase. I'll hand it over to Christy, thank you.

5  
6 Ms. Christy Fong, Planner: Thank you for the introduction and good evening Board Members  
7 [note – Commissioners]. I'm the project planner for the proposed project located at 840 Kipling  
8 Street.

9  
10 So just to give you some history on the project, the project is presented at PTC tonight in  
11 respond to a hearing request made by a neighbor residing at 441 Channing Avenue. This project  
12 involves an Individual Review and a Variance Application at 840 Kipling Street when the project  
13 was first submitted in 2018. Since this property is a historic resource the Historic Review Board  
14 reviewed this project on February and December of last year for its consistency with the  
15 Secretary of Interior Standard. Upon review, the Director of Planning and Development Services  
16 determined that the project is in conformance with the applicable zoning requirements and  
17 tentatively approved the project which is the Individual Review and the Variance applications  
18 on January 15 of this year. A Timely Hearing request was received from the neighbors at 441  
19 Channing Avenue on the Tentative Decision. PTC is the reviewing body for the Variance after

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1 the Director has issued a Tentative Decision, your recommendations will be forward to the City  
2 Council for final decision.

3  
4 For tonight's agenda, the PTC will review the project, conduct a public hearing, receive public  
5 testimony, and provide recommendation to City Council on the Variance request for 840 Kipling  
6 Street. The Variance Request includes a second story addition to a historic resource on a  
7 substandard, irregular R-2 zoned lot, a 6-foot extension to a non-complying wall which is  
8 currently encroaching 2 ½-feet into the required 6-foot required side yard setback on the West  
9 elevation.

10  
11 Just to give you some information on the context of where the project site is. 840 Kipling Street  
12 is located that the southwest corner of Kipling Street and Channing Avenue in the SOFA South  
13 of Forest Area Coordinated Area Plan Phase I, SOFA CAP I. The project site is zoned as R-2, two-  
14 family residential surround by single-family, low density and multi-family residential uses. The  
15 area north and rest of the site are zoned R-2 and the area east to the site is zoned has DHS,  
16 Detached Housing on Small Lot. It is a special zoning district created by SOFA I. The hearing  
17 requester is locating at 441 Channing which is on the left side of the subject property. 836  
18 Kipling is a substandard lot with a smaller, one-story home located on the left side of the  
19 subject property.

- 
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1 The project is located on a non-rectangular shape substandard lot. This lot is considered  
2 substandard because it does not meet the minimum lot requirement in the R-2 Zone District.  
3 The subject area has a width of 39.5-feet where the minimum width for a regular lot in the R-2  
4 Zone District is 50-feet. The lot area for this project site is 4,893-square feet where the  
5 minimum lot requirement for a standard lot in an R-2 Zone District 4,980-square feet.

6  
7 The existing property has 1,192-square feet single-family residences with a one-car detached  
8 garage at the back. The main residence is a single-story bungalow with an attic that was  
9 constructed in 1912. This residence was previously determined by the Historic Review Board as  
10 a contributing residence as it retained historic merit.

11  
12 So, this diagram is to provide you some information on the project. The project involves an  
13 Individual Review and Variance application for 184-square feet ground floor additions at the  
14 rear part of the residence, 397-square feet of partial basement beneath the rear addition, and  
15 489-square feet of second-floor addition. The project site has two protected trees, they are  
16 Redwood, at the rear property line at the back which shares a Tree Protection Zone of 35-feet  
17 in radius from the tree location. The Tree Protection Zone limits part of the buildable area by  
18 the rear side of the property. The need to maintain these Tree Protection Zone from further  
19 intrusion qualifies this project site as unique and is eligible to request for a Variance.

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1 The PTC review for this project is the two proposed Variance requests which included the  
2 height and the side yard setback encroachment. There are zoning regulations restricting  
3 development on substandard lot with one habitable floor at a maximum height of 17-feet. The  
4 proposed project includes a second story addition and the proposed height would be 26-feet 8-  
5 inches that would require a height Variance.

6  
7 The existing main residence is non-complying facility with a wall on the west elevation that is  
8 located 2 ½-feet into the required side yard setback. The project would extend approximately 6-  
9 feet to the rear part of the home which would not be visible from the street. This request  
10 would normally fit within the specific limit set forth in the Home Improvement Exemption that  
11 would allow a legal, nonconforming wall building that is located 3 ½-feet from the side property  
12 line to be extended to a quarter of the length of the existing wall or 10-feet horizontal,  
13 whichever is lesser. To clarify on the point that we state in the Staff report at Packet Page 18  
14 because this project would alter just above 25 percent of the existing wall and it becomes  
15 ineligible to request for a Home Improvement Exception.

16  
17 As noted above the subject property presents limitations for ground for expansion. The PTC can  
18 review the project, assess the property conditions, and determine whether the project would  
19 meet the four findings for granting of a Variance. This is the generic findings that is in our code  
20 right now. Proposed finding on a tentative decision is presented in Packet Page 46 in the Staff

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1 report. In summary, Staff found that the 35-foot Tree Protection Zone for the two protected  
2 Redwood trees on-site would restrict the subject property to expand on the ground floor when  
3 such expansion is allowed in the R-2 Zone District for a substandard lot. The project with the  
4 granting of the request height side setback Variance would not affect the project's compliance  
5 with other R-2 Zone Development Standards. The project meets the Individual Review  
6 Guidelines and also meets the Secretary of Interior Standards for rehabilitation. The project is  
7 generally consistent with the goal and policy identified in the Comprehensive Plan and in SOFA  
8 CAP I. The proposed second story addition would be built within the required building envelope  
9 and the proposed extension to the first-floor wall to an existing noncomplying wall is  
10 appropriate in scale and would not reduce the current side setback. At last, the proposed  
11 additions were not found detrimental and would not pose potential risks to public health,  
12 safety, general welfare, or convenience. PTC can assess whether the current project would  
13 meet the four findings for Variance and Staff would forward your recommendation to City  
14 Council on Consent Calendar.

15  
16 The hearing requesters have also requested for Director's Hearing for the Individual Review  
17 application which is scheduled for March 5, 2020. If the Director hearing decision is appealed  
18 the Individual Review application will be placed on the same Consent Calendar with the  
19 Variance and that concludes Staff's presentation.

- 
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1 Chair Templeton: Thank you very much. Alright so let's move onto the hearing requester and

2 Vice-Chair please set for 15-minutes.

3

4 Ms. Tanner: Did you have a presentation?

5

6 Mr. Charlie Bronitsky: Pardon?

7

8 Ms. Tanner: Did you have a presentation?

9

10 Ms. Fong: No.

11

12 Mr. Bronitsky: No, I have... unfortunately, every thing's printed but I think you all have it. It's

13 that. So, pardon me for starting so rudely but Commissioner... excuse me, Chair Templeton and

14 Commissioners, good evening. My name is Charlie Bronitsky and I'm here today representing

15 Alexander Gubbens and Karen Han, they own 441 Channing which is right next door to 840

16 Kipling. My apology that is paper, I usually don't do paper but I just had a minor technology

17 explosion today, so I hope you'll forgive me for that.

18

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1 What we're going to talk about today really is whether or not a Variance should be granted to  
2 build a second story at 840 Kipling. And the critical thing that I'm going ask you to remember is  
3 that Variance are rare and exceptional.

4  
5 My background, real estate land-use lawyer for 33-years, I live in Foster City, 4-years on its  
6 Planning Commission, 9-years on its City Council. I think in all those years and all those  
7 capacities I've done six Variance requests. And the reason that Variances are unusual and  
8 exceptional is because you're asking someone to make an exception to the law. So, the law, in  
9 this case, would say that the property owner at 840 Kipling cannot build a second story and why  
10 is that, because it's a substandard lot. There's no dispute, the applicant agrees with that, the  
11 City agrees with that, we agree with that. And so, the issue is whether or not there's something  
12 about this particular property that allows for a Variance and it should be exceptional because  
13 otherwise, the reliance on the rule of law dissolves into chaos. And what I'm going to talk about  
14 today is that there is no... there are no... excuse me, there is nothing exceptional that would  
15 allow for the granting of a variance in this case.

16  
17 So, let's, if you wouldn't mind, let's turn to the second page of the... this is from... your Packet  
18 20... Page 12 and it talks about... mostly about things we agree with. And on the first section, it  
19 says that because the lot is substandard the law in Palo Alto is that development is limited to  
20 one habitable floor with a maximum height of 17-feet and as we saw the house is already 18-

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1 feet. The next paragraph talks about extending an existing nonconforming wall but what I  
2 mostly want to draw your attention to is the third paragraph here which Staff says there's really  
3 two reasons to grant a Variance. One is the tree in the rear yard and the need for a 35-foot Tree  
4 Protection Zone and the other is the odd shape of the lot.

5  
6 I'd also like to note that there's kind of an anomaly here in that and I'll show you the numbers  
7 as I go through this. If the law were just applied the largest house that could be built on that  
8 would be a little over 1,900-square feet but if you then grant a Variance there's an additional  
9 several hundred square feet that's allowed. So not only is this lot going to... the proposal is to  
10 build this lot to a second-story which isn't allowed, but to a great extent than what would be  
11 allowed if the law as applied and it was only limited to 1,900-feet. So, I know on the bottom is  
12 says 64 percent but that's my hopefully only other mistake. It should be 57 percent. I think I  
13 corrected it in the other areas.

14  
15 So as Staff pointed out this project went through the Historic Resources Board and the City  
16 retained Page and Turnbull who prepared the initial report. And I have the first and last page  
17 are the next two pages and if you turn to the second page I have here it talks about Page and  
18 Turnbull's recommendation to consider a rear 1 ½-story addition rather than a second-story  
19 addition. And I've been graciously been given access to pretty much everything that was  
20 submitted to the City by the applicant and there was absolutely no attempt to do that. Instead,

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1 the applicant continued to go forward wanting to build a second-story on this lot where  
2 second-stories are not permitted.

3  
4 So, I'm going to talk about the two issues, the first if the Tree Protection Zone. So, if you turn to  
5 the next page, this is I believe also part of the Staff report, you can see that the Tree Protection  
6 Zone of 35-feet has already been violated in numerous times. Including once by the applicant  
7 themselves when they not only dug trenches but cut roots and as I'm about to show you there  
8 is some significant disagreement among various arborists as to what the appropriate Tree  
9 Protection Zone should be here to actually protect the tree. And what concerned me was that  
10 there was no request by the City and no attempt by the applicant to actually do a little bit of  
11 digging and see where the roots are. Could you extend this property out a little bit more than  
12 35-feet and not harm the tree? We really don't know that. All that was ultimately applied was a  
13 formula. So, turning to the next page, it's the Kielty Arborist letter of May 27<sup>th</sup> and on the  
14 second page of that letter in the highlighted red box, Kielty believes 25-feet is sufficient to  
15 protect the tree. And then on the third page of that letter Kielty goes on to talk about the  
16 protentional for root cutting, the potential for trenching [unintelligible] and or excuse me,  
17 excavation. A number of alternatives that could have been but weren't studied that would have  
18 made a Variance unnecessary. So, for reasons that I'm not privy to a second arborist report was  
19 done, if you just turn two pages in it's the August 14, 2018 letter from Dave Doctor. And back  
20 on August 14, 2018, Mr. Doctor concludes that the Tree Protection Zone ought to be 42-feet

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1 but again it's not very clear whether any studies were done, any excavation was done, any  
2 investigation was done into where the actual roots of this tree are located. And then for some  
3 reason just a little under a year later there's yet another letter, it's the June 23<sup>rd</sup> letter, also  
4 from Mr. Doctor and he now for reasons that aren't really clearly explained in the letter goes  
5 from 42-feet to 35-feet. So exactly what's needed here isn't really supported by any, as I can  
6 see it, valid arborist report. They're all disagreeing with one another and no one's bothered to  
7 go into the yard and actually find out. When the applicant needed to do some trenching, at that  
8 point it was ok to cut roots of the tree but apparently, in this instance, it's not even appropriate  
9 to investigate. And I would ask this Commission to at the very least send them back to do  
10 further investigation because it might make it possible that the Tree Protection Zone can be  
11 shortened and the house expanded just on the first floor as the law provides and there would  
12 be no need for a Variance.

13  
14 I also heard that a number of you went out there and I hope that you took a walk along the 400  
15 block of Channing because you'll see that there are at least a half of dozen trees that I saw  
16 today that are clearly protected trees, Redwoods and Oaks, and clearly within what should be  
17 calculated as the Tree Protection Zone. In fact, right across the street at 400 Channing there's  
18 two new houses and there's... the next document I have here is the plan for that. And as you  
19 can see from the plan for 400 Channing in these two new homes these protected trees are  
20 vertically challenged and I'm not sure that I could lay myself down between the truck of the

- 
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1 tree and the house. And right after that, you'll see in my package is a photograph of just how  
2 close that tree is and really if you go out there it looks even closer. So, this is a pretty recent  
3 project, these houses are just now being put up for sale. So, from a community basis and you  
4 represent the community here, why the 35-foot Tree Protection Zone that requires... that's  
5 there... then gives them a basis for a Variance on one side of the street and yet allow  
6 construction of two homes on what had formally been a lot with one home on it within 5 to 10-  
7 feet of protected trees? My client's own property, 441, there's an Oak in the front. That Oak if  
8 you went ten times the diameter is to close to the house. There's... I think it's 465 or 456, I think  
9 it's 4... it's got to be 456 because it's across the street. There's a house there also there's I think  
10 both a Redwood and an Oak and both of those are well within what would be the calculated  
11 amount.

12  
13 So, it seems to me that as to the Tree Protection Zone, further study should have been done or  
14 there should have been some consideration of allowing for a Variance from just the technical  
15 calculation. So, you can have up to the 1,900 and so square feet on that first floor and again, no  
16 Variance is required.

17  
18 So, Staff showed us kind of the generic code for Variances and the next page I have here is just  
19 some comments I have on that as to just how they apply in this case. So, what's shown as  
20 Attachment C, it's also part of your packages Page 22, and among the things that you're not

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1 supposed to consider in connection with granting a Variance are the personal circumstances or  
2 the property owner. And if you turn to the very next page you'll see a statement from the  
3 property owner when they first got started on trying to get this Variance basically saying they  
4 needed it because they had a growing family. I understand that I started out the first time  
5 shortly after I got married at a condo in Daily City and we had a child and moved to a house in  
6 San Mateo. And our family continued to grow and we moved to a bigger house in Foster City.  
7 So, I understand that but this house has been on a substandard lot since long before the  
8 current owners have it. It's had those restrictions on it to not build a second-story for quite  
9 some time and so there are alternatives if you're personal circumstances require that you have  
10 a larger home but among those is not granting a Variance under the Palo Alto Municipal Code.

11  
12 The other thing is B, changes in the size or shape of the subject property made by the property  
13 owner. So, I mean technically it's not a change in the size or the shape of the property but the  
14 decision as shown in the Tree Protection Plan diagram to have trenched and cut roots is  
15 something that they chose to do which ultimately impacts where we are today. So, if they  
16 didn't do that perhaps the Tree Protection Zone wouldn't need to be as large as it is, could be  
17 investigated further but again, they chose to take action and there appears to be no  
18 consequences to that.

- 
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1 Again, the granting of the application shall not affect substantial requirements where there are  
2 regulations or constitute a grant of special privileges. Like I said and I think if you look at the  
3 next to last page, it was Attachment B but it's the next to the last page of what I have, you'll see  
4 that if this was a single-story it would be limited 1,957.2-square feet but the proposed  
5 development is going to be 2,201.4-square feet. So as a result of a Variance they get to  
6 burden... overburden that lot by an additional 57 percent beyond what they could build if they  
7 just were required to follow the law. So, if they're required to follow the law they could build  
8 about 420 or 440-square feet but they get to build 600 and some square feet on that very same  
9 lot.

10  
11 I see I got a little yellow light so I'm going to make the following points quickly. There's a... this...  
12 so it's showing you the lot layout. Again, the lot layout doesn't constrict development, if it was  
13 a square lot it would have actually fewer square feet and therefore you could put a smaller  
14 home on it. Nothing about the slightly odd shape of this lot is actually a constraint. It's actually  
15 an advantage because it gives you additional square footage. Which gets me again to my point  
16 that's shown in the map, Building Eyes, one of your systems. I don't know if your... I assume  
17 you're familiar with it but basically you can go on there and look at all the things the Planning  
18 Staff has done. Since 2014... am I done?

19  
20 Chair Templeton: Yes, your 15-minutes have passed.

- 
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Mr. Bronitsky: Ok.

Chair Templeton: You'll have more time during rebuttal if anything comes up.

Mr. Bronitsky: Understood, thank you.

Chair Templeton: Thank you. Alright and we're ready for applicant, thank you. Alright please begin.

Mr. Martin Bernstein: Thank you, Chair Templeton. I'm Martin Bernstein, architect for Steve and Aysen, I'm also a member of the Palo Alto Historic Resources Board, and I just wanted to for members to the public to know that I've gotten authorization from the California Fair Pollical Practice Commission that as the architect and without any employees, that the state of California allows me to present this project in front of the Commission. The purpose for that is twofold one, the state of California Fair Pollical Practice Commission doesn't expect a homeowner to know the technical aspects of building constructions or processes nor does the state of California expect homeowners to be able to respond to question regarding technical aspects from the Commission. So that's why I have authorization to present this to you, thank you.

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1

2 Two simple statements one, during the course of the project we received excellent counsel  
3 from the Historic Preservation consultant for the City of Palo Alto, Page and Turnbull and we've  
4 incorporated all of their recommendations into their report into our project. And then also  
5 we've received good counsel from the City of Palo Alto's Individual Review consultant  
6 Mammarella and we've incorporated all of his comments into that project.

7

8 So, my... just my three simple statements are with all these recommendations that have been  
9 incorporated into the project, Historic Review has been approved by the Planning Department,  
10 the Individual Review process has been approved the Planning Department and the Variance  
11 has been approved by the Planning Department. So now I'd like to introduce Mr. Reyna, the  
12 property owner, to continue. Thank you.

13

14 Mr. Steven Reyna: Chair Templeton, Commissioners, good evening. Chairperson Roohparvar  
15 [note -Vice-Chair] could you give me the proverbial 2-minute warning?

16

17 Vice-Chair Roohparvar: Yes.

18

19 Mr. Reyna: Ok thank you. Good evening, my name is Steve Reyna, my wife Aysen Kutlu and I are  
20 the owners of 840 Kipling. We're here this evening to present our project to you which includes

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1 a Variance application for a modest second story addition to our house. Our application has  
2 already received as Mr. Bernstein had said, tentative approval for Variance, Individual Review,  
3 and Historic Review from the Director of Planning.

4  
5 From the beginning, our goal has been a modest addition to our historic house which is  
6 compatible with the neighborhood and maintains and expands on its historic character. Per R-2  
7 zoning we have 673-square feet of unused FAR and due to the new unique circumstances of our  
8 irregular lot and restrictions on how we can place the square footage, we needed to apply for a  
9 second-story Variance.

10  
11 Alright so some of the unique properties of the lot itself, it is irregular. As you can see we have...  
12 we're not a rectangle, we're like a box on a box. One of the... this lot and location of the  
13 associated driveway has existed since before 1924 and it's documented on a 1924 sandboard  
14 map. Since the house was building in 1912 the lot is probably 108-years old as you see it. The  
15 irregular lot shape and the driveway access along the left side significantly constrains how we  
16 can utilize our buildable area. Any additions towards the rear are confined within a very narrow  
17 width exactly behind the house and the lot does however had adequate Daylight Plane to  
18 support our second story addition.

- 
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1 Here's a quick picture of the driveway with the easement itself show on the right-hand side and  
2 the 1 ½-foot extra land for the exclusive and... exclusive use Variance in perpetuity. Sorry.  
3 There's always... wait a minute. Pardon me.

4

5 Another unique condition of our property is that is effectively a conforming lot. The lot we fully  
6 own which is shown in light blue up there is 4, 893 so we are only 87-square feet less than a  
7 conforming lot. And with that exclusive use easement there which is 1 ½-feet by 75, that's  
8 another 112-square foot, our total useable land is 5,005-square feet. We are effectively a  
9 conforming lot and as such we would not have needed a Variance for this project. We have an  
10 administrative problem with that but in terms of useable land, we effectively have 5,005-square  
11 feet. I would add that the easement itself acts as a zoning function. It acts as additional side  
12 setback next to the house where it's needed most to provide additional open space between us  
13 and the adjacent property. Now we go to the picture of the driveway and you can see the  
14 easement there and to the person on the street, it is indistinguishable from the property that  
15 we own. So, anybody standing on the street, this would look exactly like a conforming lot.

16

17 We talk again... we're back to the Tree Protection Zone. You know about the trees, the two  
18 protected Redwoods in the back right there show with the green circles with a 35-foot TPZ. So,  
19 this TPZ is significantly impacted by the structures and the features around there. The dark  
20 black are the garage and the cottage next to us and whatnot and when you total up the total

- 
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1 intrusion impact on the TPZ its 73 percent impacted. When Planning and Forestry allows up to a  
2 25 percent intrusion. In addition to the structures and the driveway around it, the previous  
3 owner of the property behind us in this are up there, we found out that they had trenched  
4 along that fence line for their own irrigation and had installed root blocks. And that's the left-  
5 right dash line there and the remaining 27 percent undistributed TPZ is shown in green. The  
6 areas essentially only what's between the trees and the back of our house and in forward back  
7 direction and the driveway and essentially our property line on the right-hand side. Back in  
8 2013, 2013 we became concerned about potential damage between our trees and the  
9 neighbor's cottage at 836 Kipling on the right-hand side because of how close they were. We  
10 consulted with arborist Kevin Raftery who advised us to dig a trench and look for... look at what  
11 roots are there and we discovered significant roots going directly underneath the cottage.  
12 Under advisement from Kevin Raftery, we cut those roots going... we cut those roots to prevent  
13 damage to the cottage and to preserve our Redwood trees. If we had not done that we would  
14 eventually have been forced to remove those trees because of the hazard they would cause to  
15 the cottage. We did not want to damage our neighbor's cottage, we did not want to lose our  
16 Redwood tree which is a very real possibility because it happened to our neighbors. Our  
17 neighbors at 836 Kipling, the one-story next to us, use to have, use to have a very large and  
18 healthy Redwood tree whose diameter is substantially bigger than ours. There's a picture on  
19 the left as it uses to exist and then there's the... you can see the picture of where it is  
20 referenced to the back of the house. They loved this tree, we loved it too but because of

- 
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1 ongoing issues with the tree and the house, they felt it necessary to call in an arborist to say  
2 what's going on with this? And the arborist told them this house is destroying your foundation...  
3 I'm sorry, this tree is destroying your foundation, this tree is pushing in on your house.  
4 Reluctantly to preserve the house they removed the tree and that's what happened. We all lost  
5 a beautiful large Redwood tree, we don't want this to happen to our trees, we don't want this  
6 to happen to our house.

7

8 Turning now to the how the project would present itself to the neighborhood. We have an  
9 expert of the streetscape from the plan set. As you can see the proposed second story addition  
10 is centered on the house and significantly imbedded into the roof. In fact, more than 50 percent  
11 of the second story is embedded in the existing house structure. So, this can reasonably be  
12 called a 1 ½-story house or addition. It's a modest addition, it fits well within the neighborhood,  
13 it's compatible in size, and even smaller than some of the nearby R-2 homes off to the right and  
14 is much smaller in height and massing than the DHS home on the far left, 441 Channing. One  
15 point I'd like to highlight here is that the primary concern that the City Council has with second-  
16 story additions on substandard lots is the violation of Daylight Planes and setbacks. Our lot,  
17 almost a conforming lot by 87-square feet we're missing it, has sufficient Daylight Plane to  
18 support our addition. And the second story addition fits entirely within the R-2 Daylight Plane,  
19 including the eaves.

20

- 
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1 Here's a brief chart that shows the comparison of living space between the different lots along  
2 the streetscape. Living space, in this case, is all the built space above ground, not including  
3 garages. So, as you can see, first of all including our proposal, almost all the houses on that  
4 street are two-story already and that the R-2 houses range from 38 to 40 percent FAR. The DHS  
5 house on the far left, 441 Channing, .58 FAR.

6  
7 Now the submission from the appellant is actually fairly vague about what they are opposed...  
8 why they are opposing our application. On the first page, second paragraph of their written  
9 submission from the beginning they write "whereas a second story requires a Variance and  
10 would be injurious of the value and enjoyment of the Gubbens/Han home. Now the submission  
11 doesn't explain this statement but the owners have been very focused and very consistent over  
12 the last 4-years about they are concerned about. Up there are quotes, one is an email directly  
13 to us, the other three are in your Packet, these are emails to the City. The most recent one was  
14 on December 2<sup>nd</sup> of 2019, that was only 3-months ago. I won't read all of this but I've added  
15 emphasis to the key points. Its views from their second-story windows across our property and  
16 the most clear expression is the third bullet down, July 2018, which starts out "I realize that the  
17 second-floor addition... that with the second-floor addition we would not be able to see sunsets  
18 anymore." And jumping down to the last sentence "with some very nice views over 840 Kipling,  
19 those would disappear." The most... they have been consistently reiterating this primary  
20 concern over the years. However, I'd like to bring some more historic context into the views of

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owners that the owners of 441 Channing are concerned about. Above is a dictation of the condition of the property as they bought it in 2007. There were a row of Canary Island Pine Tree, 40-foot plus height along the common property line. These trees existed prior to the construction of their home and were designated protected trees by the then Director of Planning Ed Goff back in 2001 as a part of the SOFA I process. In 2009 Mr. Gubbens approached us asking if he could remove those and replace them with new screening trees because there were maintenance issues for him.

Vice-Chair Roohparvar: Two minutes.

Mr. Reyna: Aw, thank you. Had the original... sorry. They became a maintenance issue for us, these trees were removed in 2009 when the owners 441 Channing were first able to enjoy the views across our property. Here's a Google street view, on the top you can see the trees as it existed in 2008; very substantial. We are very heavily shaded there. On the bottom left, 2-years after the trees it's... there's nothing there and in May of last year, you can see that the screening trees are still not there. So, what is the appellant asking for? The owners of 441 Channing are asking the City to deny our second story Variance request in order to protect their views across our property. A view they created when they removed the tall Canary Island Pine screen trees between our properties. The remedy being requested is for the City to violate its own Tree Protection Code to force the addition onto the ground floor, jeopardizing the trees as

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1 well as the future structural integrity of the house. I'd like to emphasize that even without the  
2 screening trees, there is no significant impact of our second story addition to their house. We  
3 fully fit within the Daylight Plane and their second story is 48-feet away from our second story.  
4 And if owners of 441 Channing are suffering an injurious loss of light from our second story  
5 addition, then anyone building a second story addition would be causing injurious loss to their  
6 neighbors even when adhering to the Daylight Plane.

7  
8 I'll skip that. I'll skip that. This is a picture that shows the neighbor's support. Three adjacent  
9 neighbors including two of them here. Thank you.

10  
11 Chair Templeton: Than you very much. Just a reminder you'll have an opportunity to respond as  
12 well after public comment. Alright so public comment cards, I have some that were submitted  
13 earlier on. Have any additional cards been handed in Ms. French?

14  
15 Ms. Tanner: No more cards.

16  
17 Chair Templeton: No more cards, ok. We're going to start with Charlie Bronitsky.

18  
19 Mr. Bronitsky: (from the audience) Well, that's me. I'm sorry.

- 20
- 
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1 Chair Templeton: Oh, yeah you don't need to submit a card. Ok and then William Cane followed  
2 by Kevin Morris and Steven Chanin and we only have three so you can have 3-minutes each.  
3 Thank you.

4

5 Mr. William Cane: My name is William Cane, I live at 832 Kipling, I've lived there since  
6 1918...1995. The house was built in 1895 or so and when Steve Reyna first approached me, he's  
7 kept me apprised of this project from the beginning, I was really pleased to discover that he  
8 was planning to just to enlarge and make an addition to his house and not to sell it because of  
9 his needs. Because it were sold, what I see driving around town is houses like his get torn down,  
10 being replaced by things that would not be nearly as consistent with the architect in our  
11 neighborhood. And so, I think this project is very deserving, it will add I think to the  
12 neighborhood, it will probably improve my property value, and I think it's very modest. So, I  
13 hope you will approve it. Thank you.

14

15 Chair Templeton: Thank you very much for your comments, Mr. Cane. Kevin Morris.

16

17 Mr. Kevin Morris: Hi, good evening, my name's Kevin Morris, I live at 836 Kipling Street, we  
18 bought our house in 2011 and I just want to say we're very supportive of this project. We're  
19 obviously the neighbors on the other side. Steve and Aysen invited us over several... almost...

- 
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1 more than a year ago now to kind of be considerably show them the plans for the project.  
2 We're fully in support of the project.

3

4 That large Redwood... we're the owner that actually had the large Redwood tree in the back of  
5 our house that we had to take down. Again, there were some tears in our house because when  
6 we got... that tree was kind of the flagship of our backyard. If... you didn't see, it's the picture of  
7 the foundation where our foundation is literally was kind of bent by the tree. That tree was  
8 planted before we purchased the house and it was one of the reasons why we purchased the  
9 house in 2011 because it was just gorgeous. So obviously you have... trees are an issue in this  
10 hearing and actually, we were the ones that lost the tree. And I just wanted to kind of let the  
11 Commission know that we're fully in support of the project. So, thank you very much.

12

13 Chair Templeton: Thank you very much for your comments, Mr. Morris. Steven Chanin.

14

15 Mr. Steven Chanin: So, I'm just... I'm 857 Waverley so on one of the two greenhouses on the  
16 Waverley side. Just wanted to say that I'm speaking in support of the project as well. My wife  
17 and I both understood what was going on a couple years ago and Steven came by and explained  
18 that they were trying to do this. And our take basically is that the whole community benefits by  
19 people who are investing and improving their house and the housing stock in the area. It keeps  
20 things well maintained, in good condition, it adds value to the neighborhood, it contributes

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1 taxes that pay for schools and services we all benefit from. So, we look at it as the community  
2 wins when people invest in improving their housing so anyway. You know and every change has  
3 impacts so right now we're... our backyard faces the subject properties back yard and our  
4 master bedroom is on the backside of our house. So, we have a whole bunch of windows. Right  
5 now, if you look out those windows you don't see anybody else because there's walls and  
6 garages and trees. The only thing that you'd really see would be the place where the second  
7 story addition is going to go and our takes is it's nice that we had this privacy windfall for all  
8 these years since we moved in 2008 but it's not like god grated us the right to have nobody to  
9 be able to see through our window ever. So, we have curtains if we're going to run around butt  
10 naked after getting out of the shower, we'll pull our curtains closed. But it's not (interrupted)

11

12 Chair Templeton: Let's keep it appropriate Mr. Chanin.

13

14 Mr. Chanin: Exactly but it's... you got to look at it as if I were... I look at it as if I were on the  
15 other side and now we're trying to change... build an addition on my house or renovate it, how  
16 would I feel about somebody blocking me because they don't want to lose this privacy windfall  
17 that they've had any right to in the first place? They just benefited from and so I think you got  
18 to adapt and be reasonable. And so anyways so my take is you should approve the project and  
19 we'll close our curtains and I think everybody will be better off.

20

- 
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1 Chair Templeton: Thank you very much for your comments, Mr. Chanin. At this time, we will  
2 close public comment and begin the rebuttal period. So, hearing requester will have 3-minutes  
3 followed by the applicant. Thank you.

4  
5 Mr. Bronitsky: Thank you. The gentleman who just spoke is right, God didn't grant anybody  
6 rights, the City of Palo Alto has a Municipal Code and that granted the rights. The right is a  
7 substandard lot, this is a substandard lot, it's not near a standard lot, it's a substandard lot. I'm  
8 not near 6-feet, it's a substandard lot. There's really no argument about that. We're sorry about  
9 the loss of someone's else tree. Is this tree going to be lost if they expand further? We don't  
10 know that. We had three different opinions from three different arborists. This isn't simply just  
11 granting someone an addition, this is granting them a Variance. Meaning that we're not going  
12 to require you to follow the law in this case. We're going to say that there's something unique  
13 about this and what did the Staff say? Two things, the Tree Protection Zone, and the odd shape  
14 of the lot. I showed you the odd shape of the lot really isn't a constraint and the Tree Protection  
15 Zone. We prepared a little chart and I'll... if someone could (interrupted)

16  
17 Chair Templeton: Ms. French? Ms. French?

18  
19 Mr. Bronitsky: I can come up there. (off mic) Here's some extras. You could build the full... as  
20 you'll see in this and we're not architects or engineers. It's just sort of trying to eyeball this.

- 
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1 You'll see in this chart that you could go to the full 1,900 and some odd square feet on the first  
2 floor and still be more than 30-feet away from this tree and no Variance would be necessary.  
3 And if there is a Variance necessary because of the Tree Protection Zone calculation then it  
4 should be granted for that purpose because again, just like everybody bought their home and  
5 enjoyed their views. So, did Alexander and Karen and they bought their home because the  
6 place next... in part because the place next door was on a substandard lot and no second story  
7 could ever be added to it. And they've enjoyed those views and really if you look at the reasons  
8 for a Variances, the very last one is an impact. That's an impact. Again, this property could be  
9 expanded, it doesn't necessarily have to be expanded to the full 1,900 and some odd feet. If  
10 they're concerned about staying out of the 35-foot zone they could expand to about 1,900-feet  
11 and you could still fit a significant expansion in that property. No Variance ever needs to be  
12 granted and the law should be applied.

13  
14 Again, what we're asking you to do is apply the law and not grant the Variance because the  
15 exceptional circumstances required for a Variance simply don't exist in this instance. Thank you  
16 all very much.

17  
18 Chair Templeton: Thank you very much for your comments. Applicant?

- 
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1 Mr. Reyna: Good evening, thank you. So, I guess it's a collection of things to comment on. He  
2 talked about 25-feet, 35-feet, 42-feet from the arborist. The 25-foot was a typo and we could  
3 not get ahold of that arborist to correct it. The 42-feet was the recommending addition space  
4 because of the Redwood trees and he's trying to deal with the... the arborist is recommending  
5 additional space to deal with the Redwood tree's aggressive root growth tendencies. However,  
6 in a meeting on September 12<sup>th</sup>, 2018 the arborist with the City came to an agreement that 35-  
7 feet is acceptable and the house and the trees would be fine. Hence 35-feet showed up in his  
8 final report.

9  
10 So, I'd also like to point out or at least point out here that granting of the Variance is to grant  
11 relief from strict application of the law. This is not breaking the law. Zoning is a general process  
12 where you try to capture as much as you can but the understanding... the recognition is that  
13 there are cases where the general zoning doesn't necessarily apply. And therefore, the Variance  
14 is created as a process to deal with those cases one by one. So, to apply for a Variance, it's not  
15 breaking the law. To be granted a Variance is not breaking the law, it's following the law if we  
16 meet the findings and Staff and the Director of Planning agree that we meet the findings. And  
17 the question before you is do you agree with that? And I have to say that the City's Tree  
18 Protection Regulations, they align well with our wish to preserve our trees because they matter  
19 to us at least.

- 
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1 And one thing that is kind of clear is that as the appellant raises issues about not seeing this  
2 done, not seeing that done, all I can say is that they have not been apart of the process. They  
3 don't see what we've gone through. We've reviewed and reviewed and tried all... considered all  
4 sorts of options including the ones that they have suggested but considering that with the  
5 narrow bit of land that we have between the driveway and the property and the setback on it  
6 and between the TPZ and the house that we have. As we extend back we cannot recreate  
7 multiple bedrooms back there because of the narrowness. You can't a room and hallway and a  
8 kitchen across a very narrow stretch of land there which is a consequence of the irregular lot  
9 and the driveway access. We have limitations, we have a lot of limitations and they are strong  
10 limitations that have crossed the threshold for a Variance. Thank you very much.

11  
12 Chair Templeton: Thank you very much for your comments. Before we turn it over to the  
13 Commission I want to ask advice. Would it be alright if we asked the hearing requestor and the  
14 applicant to stay in case we have questions directly for them or should we only ask Staff?

15  
16 Ms. Tanner: I believe that they can... you can ask the hearing requestor or applicant questions.

17  
18 Chair Templeton: Ok so if you wish to stay in case any of the Commissioners have questions  
19 you're welcome too. Alright, so the first light I see is Commissioner Alcheck.

- 
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1 Commissioner Alcheck: Great, good evening. I just want to thank all of you who've spoken  
2 tonight, for making the effort to participate in our local process. This sort of shared perspective  
3 is the essence of why our meetings take place. So, thank you for coming if this is your first time.

4  
5 I want to start this discussion at the end by talking about the findings and what I'm going to do  
6 is I'm going to talk about Findings Two and Findings Three first. Presuming that those are sort of  
7 less complex and maybe if that's the case then we can avoid having to rehash each of the four  
8 findings as we go through. So, I'm going to start with the second finding that needs to be made;  
9 the granting of the application shall not affect substantial compliances of the regulations or  
10 constitute a grant of special privileges inconsistent with the limitations upon other properties in  
11 this vicinity and in the same zone district as the subject property. I think that this finding can be  
12 made based on the information we've received tonight from the Staff report and from the  
13 several letters that we've got. I think the remarkable component here is that the second floor  
14 complies with R-2 zoning regulations and in particular as well within the envelope of our  
15 Daylight Plane which is the right that... which is the threshold that we use to evaluate the  
16 inconsistency and compliance, so I think that finding can be made. I also think that the  
17 secondary Variance element, the issue with the wall also considering that if this was just an HIE  
18 discussion, it would be compliant. I think that suggests plainly that this finding can once again  
19 be made because this wouldn't violate again the substantial compliance with our regulations if  
20 this had sort of felled within the HIE exemption; the improvement exemption.

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Ok, I'm going to move to Finding Three, that the application is consistent with the Palo Alto Comprehensive Plan and the purposes of the title. And I think in this case Staff did a good job of outlining that in their determination. I'm happy to go through this if we need but unless somebody feels strongly that our Comprehensive Plan policies somehow are violated. I think that the Staff report speaks strongly to the case that the Comprehensive Plan as a whole and particularly the policies that were enumerated in our Staff report satisfy Finding Number Three. But I'm happy too (interrupted)

Chair Templeton: Pardon me Commissioner Alcheck. I want to just clarify.

Commissioner Alcheck: I know this is not from Staff.

Chair Templeton: Oh, I want... who provided this document? Ok, the applicant. Thank you, I just wanted to clarify that. Thank you.

Commissioner Alcheck: No, I mean I'm referring to Packet Page 18 for the findings that we need and then I thought in particular if we are... hold on a minute (interrupted)

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1 Chair Templeton: Thank you for helping us follow along with your thoughts Commissioner  
2 Alcheck.

3

4 Commissioner Hechtman: [unintelligible – off mic]

5

6 Commissioner Alcheck: Yeah (interrupted)

7

8 Commissioner Lauing: 47 as well.

9

10 Commissioner Alcheck: And then Page... I was going to say Packet Pages 46 through  
11 (interrupted)

12

13 Commissioner Lauing: 47.

14

15 Commissioner Alcheck: 49 or excuse me 49 are the crux of the Director's report and I think that  
16 if... unless there's... I'm happy to double back on it but I'm going to suggest that the statements  
17 made on Packet Page 48 regarding Finding Number Three are... really sufficiently make the case  
18 that the finding can be made and I would agree with that analysis.

19

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1 Ok, I'm going to go to Finding Four which I think is a little more complicated and in particular  
2 the question about whether the applications would be detrimental or injurious to property or  
3 improvements in the vicinity. And then how it reflects on the public health and public safety  
4 and general welfare and general convenience. I think one of the... one of our speakers tonight  
5 has spoke quite humorously and elegantly about this notion of privacy and you know we've  
6 grappled with these ideas of single-story overlays in the past. And one of the things that I use  
7 when I consider these notions of second story... single story overlays, our code creates a set of  
8 strict regulations regarding Daylight Planes and second story additions for example within our  
9 R-2 zones like this one. And I think that if a Variance requested some flexibility with respect to  
10 encroaching over a Daylight Plane this would be a very different story. And I think when I think  
11 about the notion that we're going to evaluate whether something can be detrimental or  
12 injurious to a property or an improvement in the vicinity I think about value. And from my  
13 perspective the bar of determining whether you can be injured by the execution of let's say an  
14 improvement on your property is whether it would conflict with the standards that we set  
15 within a zoning... within a zone that applies to all projects within that zone. So regardless  
16 whether a lot is substandard in the R-2 Zone, I don't... I would suggest that we consider injury to  
17 be present when a project would exceed regulations general to the zone as opposed to specific  
18 to the lot. And the reason why is because if you don't then the entire concept of a Variance is  
19 impossible. If adhering to your zone's regulations would injury your neighbor then you couldn't  
20 evaluate a property for its special circumstance to determine whether it should theoretically be

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1 allowed to do something that it would otherwise would be allowed to do except for X, Y, and Z.  
2 That wouldn't be possible and so I think this would be an entirely different scenario if for  
3 example what was being asked and supported by the planning Staff was something that would  
4 actually cross the line of what is permitted in an R-2. So, considering that the application is  
5 within the envelope for example, because we talked a lot about privacy and views, within the  
6 envelope of the Daylight Plane. I think that should reflect how we evaluate whether such an  
7 improvement could injury a neighboring property. And so that's how I'm approaching the  
8 finding in number four, that the expectation should not be that the neighboring properties  
9 entitled to anything more than what is strictly provided for by the zone. And if the zone allows  
10 for this Daylight Plane than anything up to that daylight plan, in theory, can't by definition  
11 injure the property.

12  
13 Ok, I'm going to move on. I'm not sure it bears mentioning but I think that the alternative build-  
14 out suggestions here if they did in fact negatively impact trees I think we could be in a very  
15 similar situation. Were a lawful application to develop on this site, if somehow could be  
16 approved by the City in contradiction to the City's arborist findings could theoretically be  
17 appealed because if it did pose a risk to a tree. That could very much be a qualitative injurious  
18 to the community so it's sort of interesting. Not that the part of the evaluation from a Variance  
19 perspective but I just wanted to add that.

20

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1 Ok, I'm going to move now to Finding One and I appreciate you guys letting me have all this  
2 extra... extended time. The special... the critical Finding Number One which goes to the heart of  
3 all Variances; because of special circumstances applicable to the subject property including but  
4 not limited to size, shape, topography, location, or surroundings. The strict application of the  
5 requirements regulations prescribed in this title substantially deprives the property... such  
6 property owner such property privileges enjoyed by other property in the vicinity and in the  
7 same zoning district as the subject property. We're not to consider the personal circumstances  
8 of the owner and any changes in the size or shape of the subject property made by the owner  
9 or its predecessor in interest. So, I'll just acknowledge one thing, I was not made aware of  
10 personal circumstances of the owner except for in the letters that I received from the applicant  
11 of this matter. So, I'm not sure if that was a component, I imagine it wasn't of the Staff's review  
12 considering their familiarity with the code. I think that... well let me say this, I... first I appreciate  
13 the invitation by the project applicant to sort of get out there. I think so much of our review  
14 requires us to assess factors like size, shape, topography, and the opportunity to get out in the  
15 community and see these things is profoundly helpful. And so, for those of you that we're able  
16 to do that I think it probably improved your analysis. So, one of the components of the finding  
17 that I think or one of the components of why I think this first findings can be made is number  
18 one, they're irregularly shaped lot. I think that the shape of the lot has forced us to approach  
19 any improvements on the site in a unique way and then but for the TPZ Zone we would be able  
20 to do something very different here. So, it's not necessarily that they're irregularly shaped lot

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1 causes all the problems but the irregularly shaped lot in conjunction with the TPZ Zone set by  
2 the arborist creates an almost impossible situation where the homeowner, despite being able  
3 to improve the lot based on his current size, can't effectively do so. And I think it's... there was  
4 an interesting discussion about the easement. I'm not really clear why this easement stretches  
5 almost the length of the property was recorded as an easement as opposed to a lot line  
6 adjustment. It seems... I don't know that it falls within the special circumstances precisely but  
7 the notion that there is effectively a non-legal defined property line that encompasses enough  
8 land to make this potentially not substandard. I don't know if that would still be the case  
9 because of the width but potentially not a substandard lot I think is interesting. I don't know  
10 that it is a component of... I don't know that it is a valid special circumstance because if for  
11 example, the property owner acquired the land that forms that easement, that would be a  
12 change in the size of the lot which is something we're not supposed to consider. Although I will  
13 say that we have experienced in our review on this Commission situation like this that go back  
14 before time. That's what... anything that happened 112-years ago is essentially prehistoric and  
15 one of the things that I think is problematic here is that looking at the shape of the lot you have  
16 to wonder why was it set up like this? So, I don't know that that falls into the category of special  
17 circumstances but it is a component that I would suggest should be considered by the Council  
18 when they review it.

19

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1 So, one of the arguments that the appellant or applicant... I'm not really sure what the title is. Is  
2 it applicant tonight?

3

4 [note – unknown Staff member spoke off mic]

5

6 Commissioner Alcheck: The appellant is the applicant?

7

8 Ms. Tanner: The applicant is the applicant and the person who's bringing this before us is the  
9 hearing requester.

10

11 Commissioner Alcheck: The hearing... ok, I will continue... so all previous references to  
12 appellant is hearing requestor and from now on I'll use that word. So, I'll suggest some of the  
13 comments made by the hearing requester that... regarding the arborist report. Look, it's been  
14 my experience that Dave Doctor may be the most highly regarded arborist in this City. Am I  
15 surprised that his initial finding was 42-feet and Staff and whoever pushed and he went down  
16 to 35, not surprising. I feel like arborists are consistently pushed into corners and asked to be  
17 more conservative. My impression is that he's spent more than enough time evaluating the TPZ  
18 which is a significant component of the special circumstances that I think make Finding One  
19 possible. And I think it would be a waste of time to reassess or reinvestigate and a waste of  
20 resources. I think we should be able to rely on those two reports just based on his tenor.

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1

2 And then I would add that I think when you review the Staff report, I'm drawing your attention  
3 to Packet Page 47, the Staff... so Staff addresses all these special circumstances. That there's a  
4 historic relevance here that makes this property unique so reshaping it or demolishing it or  
5 rebuilding would be an undesirable result to achieve the solution within the framework that's  
6 allowed.

7

8 Yeah and... I'll end on this because I feel like I'm taking too much time. I'll end on this. This is not  
9 the first Variance that I've reviewed as a Commissioner in 8-years but it is, to the best of my  
10 recollection, the first time Staff has recommended approval of one. And I mention that because  
11 it is true, Variances are supposed to... Staff has set an exceedingly high bar for Variances and  
12 but if we never grant one, in particular, one with this much supportive evidence then it's  
13 essentially not a tool that our City uses. So, I take the recommendation by Staff to be quite  
14 influential on my conclusion but that's it for me tonight. Thank you.

15

16 Chair Templeton: Thank you very much. Commissioner Riggs followed by Commissioner  
17 Summa.

18

19 Commissioner Riggs: Well, I'll be simple, I have four points. I evaluated the application in the  
20 Packet and I don't really have questions. Point number two, I can make the findings and I think

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1 that too irritated the points that were just made. I find this a very good case for the application  
2 of a Variance, particularly I think some of the special considerations that Commissioner Alcheck  
3 mentioned. The tension with the Tree Protection Zone as well as the... I find the easement  
4 really provocative and I'm ready to move to the Staff recommendation when everybody else is  
5 ready.

6  
7 Chair Templeton: Thank you very much, Commissioner Riggs. Commissioner Summa.

8  
9 Commissioner Summa: Thank you very much and thank you to the Staff and all the presenters.  
10 There was a lot of really great information here and I have to say that I agree with the  
11 comments of Commissioner Alcheck. I think the fact this Variance... we have a Variance so it can  
12 be used basically and used in the right way. And this project has checked all the boxes in IR,  
13 Daylight Plane. It is effectively a... in terms of lot size compliant. I mean it's odd to have an  
14 easement that only one property owner has a right to so it's effectively part of their lot since  
15 there's no other party that has any access or rights to that easement.

16  
17 I am also struck by the thorough review of this project and I... in addition to making the findings  
18 which I won't go into detail because I think Commissioner Alcheck did a great job. I also think  
19 that this property and this applicant adds value to the neighborhood. They are preserving a  
20 historic resource and a precious tree resource for the whole community. And I don't... I'm not

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1 sure it's appropriate really for someone else to suggest how they might build on their property  
2 but I think that it does look like kind of a half story from the front. More like a dormer than a  
3 full story and I think it's appropriate with the architecture.

4  
5 And I think also that substandard lots in really old part of Palo Alto, there's all kinds of crazy lot  
6 lines in situations that people... that you want to resolve in the best way for a homeowner that  
7 wants to bring all this value to the community. And I'm also struck by the support from nearly  
8 all of the neighbors and the fact that they feel this will improve their property values. So, I'm  
9 also ready to move the Staff recommendation.

10  
11 Chair Templeton: Thank you, Commissioner Summa. Commissioner Lauing.

12  
13 Commissioner Lauing: Yes, first I'd just like to acknowledge that this is a very complicated issue  
14 relative to Staff presentation and I thought it was just an unusually thorough report that came  
15 to us to really lay this thing out. And if you don't come to every meeting you realize... you don't  
16 realize that I don't say that every meeting.

17  
18 Commissioner Riggs: (off mic) Nice job.

- 19
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1 Commissioner Lauing: So, it's particularly well done, really well done. I wanted to ask a couple  
2 questions before getting back to the substance. From the applicant... of the City from the  
3 applicant's letter and so... no, not the applicant, the appeal person.

4  
5 [note – many people spoke at once:] Hearing requester.

6  
7 Commissioner Lauing: On Page 62.

8  
9 Vice-Chair Roohparvar: Hearing requester.

10  
11 Commissioner Lauing: Right we'll work this out later. Page 62 which is the letter from Mr.  
12 Bronitsky and the last three paragraphs on that are basically all talking about the Tree  
13 Protection Zone and that's been addressed by the homeowner as well. So, I take it... I'm just  
14 confirming this, I take it that the City is very comfortable saying that 35-feet is the thing that  
15 we're supposed to be looking at right now?

16  
17 Ms. Tanner: That's a great question Commissioner Lauing. We are comfortable with that 35-  
18 foot Tree Protection Zone. We do have a member of the Urban Forestry Staff here if you do  
19 have further questions. She can go into detail about the calculation method used for that zone  
20 if that was desired by the Commission.

- 
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2 Commissioner Lauing: No, I just wanted to confirm that that's the City's firm position and then  
3 on the next Page 63 there was also reference to a number of other properties that seem to be  
4 closer than 25. And assuming that's true, can we just get some guidance on how that could  
5 occur? What's there or? I know they're not part of the Variance but I understand the appellant's  
6 question there.

7

8 Ms. Tanner: Yeah, I don't think we need slide Christy but in case we do you'll have the... mise  
9 well bring it back over here. Ms. Fong did look into other properties that we were made aware  
10 of by the hearing requester. And we did look at the Redwoods that were similar there and of  
11 similar size and stature and found that I think the Tree Protection Zone was consistent. There  
12 are certainly other types of trees on some of those properties, Oaks mainly, that are also  
13 protected but of a different size and stature and different root system than the Redwood trees.  
14 And so, we did compare the Redwood tree Tree Protection Zone on those neighboring  
15 properties. Do you want to speak to that any further Ms. Fong?

16

17 Ms. Fong: So, I just want to speak on that from my planner perspective. I was looking at those  
18 trees and evaluated past permits and also the existing situation there. It appeared that those  
19 Tree Protection Zone is consistent with the previous building footprint. So basically, what is new  
20 right now on the site is pretty similar to a previous situation on-site when the development was

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1 built close to the tree. So, we are not supporting anything more than we are currently seeing  
2 on-site from the existing situation. We are just basically approving what was existed there.

3  
4 Commissioner Lauing: Approving what? I didn't hear that.

5  
6 Ms. Fong: What is existing on-site right now. So, we are not pushing the new building more  
7 toward the tree, we are maintaining what is already there as an existing impact.

8  
9 Commissioner Lauing: Ok and then I also just wanted to confirm what I think we're saying and  
10 this is on the plan T-2 where it just shows that... I don't know if I can get this number that  
11 quickly but it seems like about 75 percent because of the neighbor's houses and cottages and  
12 so of the existing tree zone is already been penetrated. So, if I understand that graph correctly  
13 that makes even more severe that fact that these trees are going to be at higher risk if there's  
14 anymore building than what's left of the free root growing zone for that tree are, correct?

15  
16 Ms. Tanner: Yes, I believe you're referring to the neighboring properties where the root system  
17 of this tree stretch and there are perhaps some challenges maybe for the root system that  
18 currently exists.

19  
20 Commissioner Lauing: That's right.

- 
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Ms. Tanner: Yeah, we certainly wouldn't... I think that's part of what we want to look at with this tree is not just what is on property but the totality of the root system of the tree. And so, we certainly want to make sure that it is protected. Christy, do you want to speak to the impact? Are you asking if there are other proposed plans on the rest of the root system?

Commissioner Lauing: No.

Ms. Tanner: Just the current condition?

Commissioner Lauing: No, I'm asking if the situation is particularly severe because (interrupted)

Ms. Tanner: Because of that.

Commissioner Lauing: So much of the complete circle has already been penetrated and so there's not as much left. It looks like a reasonable portion on this property is left but in terms of the entire growing area for the trees (interrupted)

Ms. Tanner: That is correct.

- 
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1 Commissioner Lauing: There's not much left.

2

3 Ms. Tanner: Yes, that is correct Commissioner Lauing.

4

5 Commissioner Lauing: So, the severity is increased in this particular location because there  
6 were some comments from the folks that appealed that there's another invasion in there so  
7 why can't we have an invasion and that's the answer. Because there are already too many  
8 invasions and we need some space for that tree to spread its roots.

9

10 Without going off on a tangent I think in some cases homeowners can say I need to take these  
11 trees out in order to continue... like the neighbor but in order to do my building and I can't get  
12 it done. But the choice if the City or we are trying to opine on that of removing two Redwood  
13 trees or having a small addition as a second floor, I think is just... there's no sense of spending  
14 any time on that as opposed to having it recorded that as a position.

15

16 And just a comment on the perceived problem here, the perceived problem from the one who  
17 is appealing is that it is the views of a house I guess instead of nature but they took the trees  
18 down. The large trees so there are other large trees that can be put up at frankly any size  
19 depending on how much you want to spend per tree. That can be happening in the next month.

20

- 
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1 So, I am... I just want to associate my thoughts on this thing with what Commissioner Alcheck  
2 had already said and what Commissioner Summa added. I do think the findings could be made  
3 and I'd be supportive.

4  
5 Chair Templeton: Thank you very much. Commissioner Hechtman.

6  
7 Commissioner Hechtman: Thank you. I'd like to actually start with a question before I begin my  
8 remarks. In the hearing requesters remarks tonight as in one of their... their second letter, the  
9 Council second letter, he referred to the Page and Turnbull report. We saw the first page of it  
10 here in the Packet... in the supplemental Packet dated March 19<sup>th</sup>, 2019 discussing the  
11 possibility of I think a 1 ½-story addition in the back of the property. But as you read in the Staff  
12 report ultimately Page and Turnbull found ten of the ten factors for this proposed... the  
13 proposed plan before us tonight. And so, I'm wondering if was there a Page and Turnbull letter  
14 after the March 19<sup>th</sup>, 2019 that... and perhaps that could be explained to me.

15  
16 Ms. Tanner: Ms. French who is our historic expert will answer that question.

17  
18 Ms. Amy French, Chief Planning Official: Well, at least I'm the Historic Resources Board liaison. I  
19 see a lot of these things. So, the Secretary of Interior Standards, ten of them, yes, Page and  
20 Turnbull submitted a subsequent letter. This was an early version so we have version control

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1 issues. You're not seeing the later version that the HRB did have a look at and did get to  
2 consider as they were looking at the revised plans that came back in. So, they did make the  
3 findings that all ten Secretary of Interior Standards for rehabilitation were met with the  
4 proposed plans.

5  
6 Commissioner Hechtman: Ok thank you for that clarification. So, I'd like to start with the  
7 function of the Variance generally and of course, it's a state law. Same Variance findings apply  
8 in every jurisdiction throughout the state. We actually had a couple more to the state law, the  
9 Findings Three and Four but the... really the function is to look at a site and ask that if... ask if  
10 it's constrained in some unique way from enjoying the same privileges its neighbors do in the  
11 same zoning district. And those constraints it says clear in case law, those constraints are often  
12 physical like a creek running through your property that squeezes you toward a setback but  
13 they can also be legal. Legal constraints on your property are constraints and those count too  
14 and so that was kind of the framework that I came with when I looked at this application for  
15 these Variances. And so, what I see is today there's a single-story house on that property and  
16 there is some room at the front of that house between the face of that house where the door is  
17 and the front setback where there could be an expansion but there's a law that says you can't  
18 build out that direction. And that's a law of the City and it has to do with the historic nature of  
19 this property and the importance of retaining the historic façade and so that is a constraint of  
20 this site. That's one reason limiting available development moving forward and then looking

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backward from the back of the house where the current design does move back to the... basically to almost the edge of the 35-foot recommended setback from the tree. We have another legal constraint and that's the TPZ and so this house is squeezed at front and back. And that raises the question of whether some modification of some law of the City is appropriate to allow this house to enjoy the same benefits of its neighbors in the R-2 Zone.

So, I do appreciate the concerns of the neighbors at 441 and your articulation both in your personal emails and the comments and letters of your counsel. But one place that I felt that I was constrained in considering them and that is that our decision, our recommendation needs to be based on something called substantial evidence. And those are essentially facts and expert opinions on expert subjects supported by facts. One thing that's clear and I know this better than most as a land-use lawyer who is occasionally reminded of this, lawyers' arguments are not substantial evidence. They can contain facts that are evidence but they are not themselves substantial evidence and so while I was interested in the position the 441 neighbors have on whether or not a further incursion into the TPZ is advisable. Recognizing as I know they do that the recommend incursion is 27 percent leaving 73 percent uninvaded and in fact, it's already squeezed down to only 27 percent uninvaded. But recognizing that I don't have in front of me an arborist analysis that says it's ok to further invade that. The one I have says it's not ok and I do understand that the TPZ is not just an issue of distance of a tree from a structure. I know it's more complicated than that because that's evident in the record. And so, to me,

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1 that's one of the things that I found constraining in my desire in wanting to give full credit to  
2 that position and look at the... whether the TPZ could be reduced. I don't have any... I don't  
3 have an arborist it could be.

4

5 Another aspect that of substantial evidence that I think is... that I'm guided by is, of course, it  
6 needs to be relevant. And I thought the neighbors at 441, their counsel made a good point that  
7 the personal circumstances of the applicant are not relevant and I agree with that and but I  
8 note that in the Director's findings which are the findings from which the hearing request  
9 springs. Those didn't make reference to those personal circumstances so I don't believe that  
10 they're part of the findings. So, while I agree with the point I think that Staff and the Director  
11 appropriately handled those.

12

13 Another frankly irrelevant in my view aspect which I've heard in both directions here is value.  
14 That's not apart of any finding here and I think experts may... well, we had a disagreement in  
15 this room as to whether value would be affected. But I can... it's not to my thinking part of any  
16 of the findings.

17

18 So, as I'm looking at this what I am seeing is we have a Director's decision with a series of  
19 findings and I've reviewed those and I agree with the findings. There are three additional  
20 findings that I think support the granting of a Variance and I'd like to... and those are all based

- 
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1 on information in the record. I'd like to provide those because I don't think they are clearly  
2 delineated in the Director's findings. And so, I'd ask to the extent my fellow Commissioners are  
3 intending to support the Staff recommendation, that they'd consider whether or not they'd  
4 want to include these additional findings of fact with the findings that are made by the Director.

5  
6 So, the first one is a finding of fact supporting the Findings One and Two, these are the... the  
7 Findings One and Two are the state law findings for a Variance. As reflected on Sheet A 2.0 of  
8 the current plan, 840 Kipling has a current height of approximately 18-feet. And the adjacent  
9 properties at 836, 834 and 832 Kipling, all of which are in the same zoning district as 840, are  
10 approximately 18-feet, 23-feet, and 26-feet respectively. So, therefore, exceeding the 17-foot  
11 height is a privilege enjoyed by other properties in the same R-2 Zoning District. And I think  
12 again that is a finding of fact that supports the granting of this Variance, the first Variance,  
13 which is to allow construction to exceed 17-feet.

14  
15 Then the second additional finding of fact, this also addresses the state law Findings One and  
16 Two. This one relates to the other Variance which is at the side... the side... the rear sidewall of  
17 the property. The 6-foot segment of wall which is the subject of the second Variance is  
18 replacing an existing 6-foot wall segment which currently encroaches in the side yard set back  
19 area. The replacement does not lengthen the area of encroachment and modestly reduces the  
20 square footage which would otherwise have been added to the second floor.

- 
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1  
2 And then the last additional finding of fact, this one supports Finding Number Three which  
3 relates to the Comp Plan and the local area plan, the SOFA CAP. The plan is proposed for two-  
4 stories, it's consistent with the .35 site coverage max which is applicable to a... as I understand  
5 it to a two-story home in the R-2 and to the .45 FAR max which again, is applicable to the R-2  
6 Zone. And incidentally that .45 FAR max does not require a Variance so that plan is consistent  
7 with the applicable site coverage max and the FAR max but it does require a Variance to exceed  
8 17-feet in height. If alternatively, we take the 489-square feet which... and construct those on  
9 the first floor at the back of the house, in addition to further invading the TPZ against the  
10 recommendation of the arborist, it would require another Variance for a 40... for a .45 site  
11 coverage where .4 site coverage is allowed for a single-family home. So really here what we  
12 have is not a choice between a Variance and no Variance but a choice between two different  
13 Variances. One to go up and one to go back and again, that's ignoring the TPZ. In this choice  
14 between the two Variances, the Variance to exceed 17-feet is more consistent with the  
15 Comprehensive Plan and the SOFA CAP because both of these plans include policies to protect  
16 and preserve Heritage Trees. And so that's the third, again supplemental finding of fact that I  
17 would suggest be included with the recommendation to the Council. Thank you.

18  
19 Chair Templeton: Thank you very much, Commissioner Hechtman. Commissioner Roohparvar  
20 [note -Vice-Chair Roohparvar] did you... you're good? Ok. I just have a few quick comments

- 
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1 before we move onto the considerations of the findings. So first of all, I just want to thank Ms.  
2 Fong for a very thorough presentation and report. We all found it... a lot of the details we were  
3 looking for were already there and it just an absolute pleasure to read so thank you. I would  
4 also like to thank the hearing requester and the applicant. You both gave very compelling  
5 presentations and presented your case very strongly.

6  
7 I will also be agreeing with my fellow Commissioners who have spoken about moving forward  
8 with this Variance request for all the reasons that were given. Specifically, or especially that the  
9 Variance is meant to... the Variance process is meant to address edge cases like this. I  
10 particularly appreciated Commissioner Alcheck's point about the Variance being specific to a lot  
11 but that the proposals conforms with the zone requirements.

12  
13 I also wanted to say that many of the constraints were addressed on an individual basis rather  
14 the problem is we have these multiple constraints and because like Commissioner Hechtman  
15 said because we have the multiple constraints you can't address them individually. You have to  
16 think of them in a combination so I think that strengthens the justification for approval of this  
17 Variance.

18  
19 Also, I appreciate Commissioner Hechtman's comments about legal constraints and site  
20 coverage. I thought those were good points that we had not seen through that lens earlier.

- 
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1

2 And then another comment about the push/pull aspect of how we can view this and it may help  
3 the hearing requester come to terms. I would also say that the view could be harmed if the tree  
4 were to be damaged or to die as well. Like there are multiple ways that a view can change and  
5 it's not just the building of a structure. There are a variety of risks that have been evaluated by  
6 the team, by the Staff and the applicant. And I think that it is admirable to the extent to which  
7 that the applicant has been thoughtful and considerate and engaging in the various processes  
8 and getting the input and the feedback from as many applicable sources as possible including  
9 the HRB and the tree protection.

10

11 So those are the reasons I'm inclined to support the Variance request. Thank you. It looks like  
12 we two comments, Commissioner Riggs and then Vice-Chair Roohparvar.

13

14 Commissioner Riggs: I was going to make a motion so Vice-Chair Roohparvar.

15

16 Chair Templeton: Oh thanks.

17

18 Vice-Chair Roohparvar: Yeah, I'll be brief. I just had one follow up question for counsel, City  
19 Council [note – she addressed her question to legal Staff]. Correct me if I'm wrong, does a

- 
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1 property owner have a right to their view? I don't believe they have a legal right to views. I  
2 think that (interrupted)

3

4 Chair Templeton: (off mic) Daylight Plane.

5

6 Vice-Chair Roohparvar: No, no, not Daylight Plane, just plane right to it.

7

8 Ms. Lee: Yes.

9

10 Vice-Chair Roohparvar: Do they have a right... you have a right to (interrupted)

11

12 Ms. Lee: You're correct Commissioner [note – Vice-Chair]. Under California law, there's no  
13 general right to a view.

14

15 Vice-Chair Roohparvar: Right to a view. Ok, that's right, there's Daylight Plane privacy but no  
16 general right to a view. That's just the point of clarification I wanted, thank you.

17

18 Commissioner Lauing: That's actually stated on Page 49 of the report so.

19

20 Vice-Chair Roohparvar: Thank you.

- 
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Commissioner Lauing: In different words so.

Chair Templeton: Thank you though it's a good point to bring up for both of you. Alright, Commissioner Riggs, you wanted to make a motion?

MOTION

Commissioner Riggs: Yes, so I'll make a motion to support the Staff recommendation to support the second story addition and the Variance and I'll... but also, I recommend that Staff include the three additional findings suggested by my fellow Commissioner. The first two being tied to Findings One and Two and you can correct me, Commissioner Hechtman. The first two are exceeding the 17-foot height limit is a privilege supported by other landowners. The second one would be the rear side wall replaces an existing encroachment. I'm just paraphrasing and then the third finding that he had which supported I believe Finding Three was the idea that you have limitations with regards to site coverage and FAR. And basically, you're choosing between two different Variances and a 17-foot Variance is more consistent with the neighborhood than adjusting the FAR given the limitations of the site. Hopefully, Staff can adjust those but I think that we should include those in the recommendation.

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1 SECOND

2

3 Commissioner Lauing: I'll second.

4

5 Chair Templeton: You beat me to it. I was going to recognize Commissioner Roohparvar... Vice-

6 Chair Roohparvar. Alright so seconded by Commissioner Lauing. Any discussion? Commissioner

7 Alcheck.

8

9 Commissioner Alcheck: Ok so I just... I have to ask because we're going to vote on it. I didn't

10 take note while you were talking but it is the notion that there is... this is to the number three.

11 Is the notion that there is... it's a choice between two Variances. Is the notion that because of

12 the... excluding the TPZ for the moment which I don't think we need to do that but excluding

13 the TPZ Zones, that the theoretical FAR there allowable would exceed the lot coverage

14 requirement somehow would be (interrupted)

15

16 Commissioner Riggs: (off mic) Consistent with R-2.

17

18 Commissioner Alcheck: Relevant to (interrupted)

19

20 Commissioner Lauing: With R-2.

- 
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2 Commissioner Alcheck: Pursuing a Variance? And the reason I ask that is because if you are  
3 theoretically allowed to add a certain amount of FAR but your site coverage would be violated.  
4 My impress was you're not entitled to that FAR. So, it wouldn't necessarily be something that  
5 you could (interrupted)

6

7 Commissioner Hechtman: Right that was the... that's the point. Sorry through the Chair, so the  
8 point was if they wanted to pursue that same square footage, right now they have .45 FAR,  
9 right which happens to be in two levels. If you push the top level down to the bottom, it's still  
10 .45, it's just all on the ground level which makes it a .45 site coverage and a .45 FAR, right?

11

12 Commissioner Alcheck: Right, no (interrupted)

13

14 Commissioner Hechtman: So, the .45 FAR is allowed but the site coverage would exceed and  
15 you're correct that the law doesn't allow it but if you wanted it, you'd be seeking a Variance.

16

17 Commissioner Alcheck: Right no I guess what I'm suggesting is I would find it would unlikely  
18 that Staff would support the rationale for a Variance in that particular situation. You take for  
19 example a single-overlay area, they're not entitled to a second story, they may be entitled by  
20 the... it's hard to imagine a scenario where they're lot size would entitle them to a FAR that

- 
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1 would be larger than their site coverage maximum. It seems like those are intentionally similar  
2 but (interrupted)

3

4 Chair Templeton: Commissioners I'm going to reign you in here on this one. It's a bit of a  
5 hypothetical and I love the thought (interrupted)

6

7 Commissioner Alcheck: Yeah, it's a little (interrupted)

8

9 Chair Templeton: I love the thought exercise but (interrupted)

10

11 Commissioner Riggs: Alright, wait, can I weigh in? I (interrupted)

12

13 Chair Templeton: Is there any adjustment you'd make? Yes, Commissioner Riggs.

14

15 Chair Templeton: Well I think that we can condition it by tweaking the motion a little. That we  
16 can make them that Staff consider these suggestions in the report to Council. I don't know that  
17 we need to be prescriptive on these because there will be a Staff report to Council. These were  
18 suggestions by Commissioner Hechtman. If we build them into the motion as suggestions to  
19 Staff then they'll be presented as such if appropriate. And so, I would assume that spirit would  
20 be carried forward in the motion. If I need to be explicative in the motion I will.

- 
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2 Commissioner Alcheck: Can I... I'll just say this. I did find it very compelling the notion that the  
3 SOFA guidelines specifically made a preference for tree preservation. So, I think from that  
4 perspective that is a good finding of fact and I actually think that adding the finding of facts  
5 would be great so I support the idea of making a hard recommendation. I just... forget it. Forget  
6 I said anything. I apologize. I just got... it was confusing and complex and I apologize for asking  
7 the question.

8

9 Chair Templeton: Alright I have to check in with our seconder, do we want to make the change  
10 that (interrupted)

11

12 Commissioner Riggs: I believe Staff (interrupted)

13

14 Chair Templeton: Oh, did you... ok, Staff?

15

16 Ms. Tanner: I just wanted to, if I may support what Commissioner Riggs is suggesting. I think it  
17 would be unlikely for us to... in the findings and not that this is what Commissioner Hechtman  
18 was suggesting, to compare it to a hypothetical Variance because that's not what's before us.  
19 But what I did take from that and do appreciate is both the Comprehensive Plan and SOFA how  
20 they would prefer for tree preservation, historic source preservation which is in line with the

- 
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1 spirit of what you're saying and kind of the thrust of that. So, whether you need to amend the  
2 motion to be that Staff consider the spirit of these things, I will say that's what I was taking  
3 from that and if that is indeed the spirit of the suggestion. I think that is fine and consistent  
4 with what Staff would be comfortable pursuing.

5  
6 Chair Templeton: Commissioner Riggs.

7  
8 Commissioner Riggs: Thanks. I mean given what I think what this dialog we just had, I think the  
9 motion is fine it said. I think the way I phrased it was that they consider Commissioner  
10 Hechtman's suggestions and I think Staff... I would trust that Staff would carry those forward to  
11 Council. So, I would prefer to just leave the motion as is.

12  
13 Chair Templeton: Sounds good. Secunder, we're good?

14  
15 Commissioner Lauing: Yeah no I thought you were going to try to take them out again which I  
16 think they should... they should stay in there. Ok, we got... a right vote.

17  
18 VOTE

- 19
- 
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1 Chair Templeton: I... any other discussion? Alright, let's vote. If you are in support of the motion  
2 on the table by Commissioner Riggs please raise your hand. Alright, any opposed? Any abstain?  
3 Oh no, I'm just kidding. We're... it was a 7 to 0 so. Alright well thank you very much and thank  
4 you again for your time and coming before us. And especially to the folks outside the  
5 application process who came to chime in, I appreciate that so much.

6  
7 MOTION PASSED 7(Summa, Alcheck, Hechtman, Templeton, Roohparvar, Lauing, Riggs)-0

8  
9 Commission Action: Motion by Riggs, seconded by Lauing. 7-0  
10

## 11 **Approval of Minutes**

12 Public Comment is Permitted. Five (5) minutes per speaker.<sup>1,3</sup>

### 13 4. January 29, 2020 Draft PTC Meeting Minutes

14 Chair Templeton: Alright so let's move on. Approval of the minutes is the next Agenda Item.

15  
16 [note – many Commissioners started speaking at once off mic]

17  
18 MOTION

19  
20 Commissioner Riggs: Motion to approve.

21  
22 SECOND

- 
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Vice-Chair Roohparvar: Second.

Commissioner Hechtman: (off mic) Wait, wait.

Chair Templeton: Commissioner Hechtman.

Commissioner Hechtman: Sorry, I have three minor changes to the minutes. So, let me tell you what they are and then (interrupted)

Chair Templeton: Please continue, yes.

Commissioner Hechtman: Perhaps the moving party might entertain an amendment. Page 39, lines 3 and 6 the word flushed with a U should be fleshed with an E. Page 69, line 12 the term for at least (interrupted)

Ms. Rachael Tanner, Assistant Director of Planning: Can you hold just one moment so I can make sure that I'm capturing this. I just want to get my document ready. Could you repeat the first one?

---

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1 Commissioner Hechtman: (off mic) No, actually he gave it to me. Again, this was like 3-weeks  
2 ago.

3

4 Ms. Tanner: Ok, I'm ready, thank you.

5

6 FRIENDLY AMENDMENT

7

8 Commissioner Hechtman: Ok so Page 39, lines 3 and 6, flushed should be fleshed. Page 69, line  
9 12, the language for at least, drop the for so it just says at least and Page 74, line 5 where it says  
10 nominees' period I want to, there should be a common there instead of a period. Thank you.

11

12 Chair Templeton: Does the maker accept those amendments?

13

14 Commissioner Riggs: That sounds good.

15

16 Chair Templeton: Alright seconder?

17

18 Vice-Chair Roohparvar: Yes.

19

20 VOTE

- 
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2 Chair Templeton: Alright. All those in favor? Approve.

3

4 Vice-Chair Roohparvar: Commissioner Alcheck?

5

6 Chair Templeton: Where did you land?

7

8 Commissioner Alcheck: (off mic) Abstain, I wasn't here.

9

10 Chair Templeton: He's abstaining, ok great. He left early but that's fine. Ok, thank you very  
11 much.

12

13 MOTION PASSED 6 (Summa, Hechtman, Templeton, Roohparvar, Lauing, Riggs)-0-1(Alcheck  
14 abstain)

15

16 **Commission Action:** Motion to approve by Riggs, seconded by Roohparvar. 6-0 (Alcheck  
17 abstained)

- 
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## 2 **Committee Items**

3 Chair Templeton: Then Committee items? Is this the appropriate place to talk about the XCAP?

4 Alright so we had an XCAP meeting earlier today, that is the railroad crossing discussion, and it

5 is... we... up until when I left to come here we were working on items to exclude from railroad

6 crossing consideration. And the items that we agreed to exclude so far are both of the tunnel

7 alternatives. I don't know what happened after I left but I'll keep you informed as I learn more.

8 Any other Committee items? North Ventura?

9

10 Commissioner Riggs: (off mic) Sorry I [unintelligible]

11

12 Chair Templeton: Oh great. Commissioner Riggs.

13

14 Commissioner Riggs: I just have some... I have some needs with regard to adjustment on the

15 schedule, Page 5. I think I had told Staff along while back that I'm in China... well, I may be in

16 China depending on what the state department allows me to be in China the whole month of

17 May. I told them I'm not able to attend the rescheduled meeting. 4/8 I blocked out, I'm

18 traveling on the 15<sup>th</sup>. I'm also traveling on the 29<sup>th</sup> of July and that's as well as I know my

19 schedule right now.

20

- 
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1 Commissioner Summa: (off mic) What did he say?

2

3 Commissioner Alcheck: (off mic) More about... just the schedule.

4

5 Chair Templeton: Great, thank you. Commissioner Summa.

6

7 Commissioner Summa: Oh, I just wanted to remind everybody to come to the NVCAP meeting  
8 tomorrow evening. Is it at 6:00 or 6:30 it starts?

9

10 Ms. Rachael Tanner, Assistant Director of Planning: 6 o'clock doors will open, there will be some  
11 refreshments and people can go in and 6:30 is presentation.

12

13 Commissioner Summa: Ok at Gunn High School in room I think 115 and 116.

14

15 Ms. Tanner: Yes, in the community or student activity center.

16

17 Chair Templeton: Alright thank you very much, Commissioner Summa. Commissioner Alcheck.

18

19 Commissioner Alcheck: Ok not a Committee item, just a quick comment if we're ok with that?

20

- 
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## Commissioner Questions, Comments or Announcements

Chair Templeton: That's fine. We'll move onto the Commissioner's questions and comments.

Commissioner Alcheck: So just because we have a relatively new Director and also some relatively new Commissioners, I want to acknowledge two things to make sure my understanding of this process is the same and that way it's said out loud. We have these assignments for a Commissioner representation at City Council. I think... and you may already know this but past practice has been when an item that Staff believes Council would like to have some representation of the Commission is on the agenda they give notice via email to the individuals order for the given month. And so, for example in March, for example, the theory would be that I would get an email if I was responsible... if I was required to show up. If baring an email from Staff you wouldn't necessarily have to be at the meeting because items on that... because your representation of Commission hasn't been requested or though relevant. That... I just want to make sure that's still our practice?

And then the only other thing I want to mention just because it came up tonight, typically all of the agenda item minutes adjustments can be made via email.

Commissioner Hechtman: (off mic) We tried.

- 
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1 Commissioner Alcheck: Oh, and I didn't work?

2

3 Commissioner Hechtman: (off mic) No.

4

5 Commissioner Alcheck: Oh ok, alright, alright. In the past, we typically haven't reviewed a  
6 second set of minutes so if a Commissioner sends in changes to the minutes they typically get  
7 accepted. Although typically they opine on their own comments, not on somebody else's  
8 potential comments. I don't know if that's still the practice and then if there's an issue with that  
9 is that because you're not sending out a second revised minutes for us to see or?

10

11 Ms. Rachael Tanner, Assistant Director of Planning: Well in case what we would do is we would  
12 accept the... [unintelligible] accept it with the revisions that have been suggested. Is that  
13 (interrupted)

14

15 Commissioner Alcheck: I'm saying is there a process where we don't have to do is on the dais  
16 because that... in practice, we've had a process where we could just email in and say hey, I  
17 didn't... that's not what I said, I said this or whatnot and we don't necessarily have to go  
18 through them all at the dais. That's what I'm wondering.

19

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1 Ms. Tanner: Yes, we should make sure that continues to be the practice and if there was a mix-  
2 up or anything we can make sure Vinh knows. It would be his first time really kind of doing this  
3 as well.

4  
5 Commissioner Alcheck: Oh perfect, ok.

6  
7 Ms. Tanner: So yeah, we can make sure that's just (interrupted)

8  
9 Commissioner Alcheck: I just wanted to clarify that was the practice.

10  
11 Ms. Tanner: Communication lines are all open.

12  
13 Commissioner Alcheck: Thank you.

14  
15 Chair Templeton: I would add to that and say maybe just a two-sided handshake so if a  
16 Commissioner sends in a comment, if he could then respond I've accepted these edits. Then we  
17 know they'll be accepted by the time we approve the minutes.

18  
19 Ms. Tanner: Great.

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1 Chair Templeton: Also, regarding the Council representation, I discussed this with Ms. Tanner  
2 but the Monday discussion did not fall into our historical category of flagging a representative  
3 from the Commission to attend Council because the Council was not considering an item that  
4 had come before this Commission. They were considering an item that was about this  
5 Commission. However, I would say that since we've been talking about edge cases here tonight,  
6 I would say that would be an excellent edge case to think about notifying the Commissioners a  
7 heads up about this. I could have also done that and I didn't do that. So, Commissioner Lauing  
8 and I did attend and speak upon... as Commissioners.

9

10 Ms. Tanner: I think that's a great idea.

11

12 Chair Templeton: Ok as far as the future Agenda Items go what's going on with that?

13

14 Ms. Tanner: Even though there is a blank on March 11<sup>th</sup> we do have an Agenda Item that is  
15 coming forward regarding a pause that was placed by Council on a participation in lieu parking  
16 downtown for a new office development. And so, we'll be bringing forward for your  
17 consideration extending that pause to the next meeting that we have on March 11<sup>th</sup>.

18

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1 Chair Templeton: Ok and I recognize this is... a question is going to be slightly out of your scope  
2 but since we were all there on Monday. We did have a new item from the Transportation  
3 Department that will be coming before us. Would you mind sharing a little bit about that?

4  
5 Ms. Tanner: Right so on Monday there was discussion of Ross Road and our bike boulevard  
6 program. And Council approved... sometimes their motions are a little challenging so I do want  
7 to make sure I get the action minutes... approved going forward with particularly I think was the  
8 signage for the roundabout. And then the signage discussion was approved by Council but  
9 coming to PTC for further consideration and I do believe that we want to bring that in March.  
10 So, I will talk with Philip to see if it's possible to bring it on the 11<sup>th</sup>. Part of it is just the noticing  
11 that we need to make sure that we do would be this week and sort of make sure that we could  
12 notice this week to bring that on the 11<sup>th</sup> or the 25<sup>th</sup>. We do have a fuller agenda on the 25<sup>th</sup>  
13 because we will be bringing the NVCAP before you for a Study Session and so that will be a  
14 pretty robust conversation as well.

15  
16 Chair Templeton: That would be wonderful. Just to answer for those that were not present,  
17 there's... we got a lot of community feedback about the roundabout that exists at Ross Road at  
18 Meadow. And it's had three collisions since installation which exceeded the amount collisions  
19 significantly since before it was installed. So, there's been an urgency brought before the  
20 Council to address it. And so that's why the signs that were approved by the Council were

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1 approved in the moment but they also wanted us to look at the intersection and see if we had  
2 additional recommendations and conversation to have with Staff. Is that... ok, you're not... ok.  
3 So, I would say it would be really good to schedule that at a time that Commissioner Riggs is  
4 present and that we have (interrupted)

5

6 Commissioner Riggs: Well I... I mean I talked to Philip. I think one thing that I'd like to see is  
7 actually appropriate. I mean this happens when we rush items in is that we don't get  
8 appropriate moto counts and I think what we need to do is be able to address perceptions in  
9 these cases. So, if we could just relay to Philip that we do need appropriate counts by mode.

10

11 Chair Templeton: Hold on, hold on, hold on, we can't discuss it tonight. It's not agendize.

12

13 Commissioner Riggs: But I mean I (interrupted)

14

15 Ms. Sandra Lee, Assistant City Attorney: Yeah.

16

17 Commissioner Riggs: I'm not discussing it. I'm saying to review this what we need (interrupted)

18

19 Chair Templeton: Awe, ok.

20

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1 Commissioner Riggs: I mean we... this happened in the past where we get the items and we  
2 don't have (interrupted)

3

4 Chair Templeton: The information we need.

5

6 Commissioner Riggs: I don't have ped... if I don't have ped and bike counts parallel with traffic  
7 volumes, I can't judge... make an exposure judgment and collisions just are... I mean they are  
8 [unintelligible].

9

10 Chair Templeton: Ok.

11

12 Ms. Lee: Ok, yeah, thank you, Commissioner, and thank you Madam Chair. We do have to keep  
13 this matter to a minimum in terms of discussion and (interrupted)

14

15 Commissioner Riggs: But this is not a Ross Road discussion, this is a pattern we've had from the  
16 Transportation Division in getting items that we're... where we didn't have all the data.

17

18 Ms. Lee: Sure.

19

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1 Commissioner Riggs: So, I just want to make sure that we have all the data if we're going to get  
2 an item.

3

4 Ms. Lee: Ok Commissioner and you indicated that you have spoken to the Chief Transportation  
5 Official and you certainly are able to speak to him as well about these concerns.

6

7 Ms. Tanner: Your comment is noted and we can make sure that we come with appropriate  
8 data. There was quite a bit of data and information provided that may not have been  
9 highlighted at City Council. We can ensure that we can have that information if it's available.

10

11 Chair Templeton: That would be great and it also brings me to another point. It wasn't agendaize  
12 tonight so we can't discuss it but I would like the Commissioners to all consider proposals for Ad  
13 Hoc opportunities to engage. This might be a great opportunity for Commissioner Riggs to  
14 engage (interrupted)

15

16 Commissioner Riggs: I won't be on Ad Hoc Committee, it's not something I want to participate  
17 in.

18

19 Chair Templeton: Ok, however you want to provide the feedback to the Transportation  
20 Department, please feel free to do so. We will also be agendaizing considerations of Ad Hoc

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1 Committees that may be like smaller with particular expertise and allowing people to feel a  
2 little bit more engaged on particular topics with Staff. If that interests you, please let me know  
3 and we'll be working that out to get it on an agenda in the near future.

4  
5 Ms. Tanner: Madam Chair, if I may? One item I neglected during the Director's Report is for the  
6 schedule. Vinh did I think poll most of you to find if we'd have a quorum for the 15<sup>th</sup> of April  
7 meeting. It looked like we would. I think we had maybe one or two people absent. We would  
8 like to go ahead and have the April 15<sup>th</sup> meeting. That would be the day we would bring back  
9 the wireless communication discussion that we had previously and hoping that we can still get  
10 to Council in May with that discussion by bringing it back in April. But if we came back in late  
11 April that might jeopardize coming to Council in May.

12  
13 Chair Templeton: Thank you. Is there anybody... so Commissioner Riggs told us he was not  
14 available that date. Is there anyone else who is not available?

15  
16 Commissioner Alcheck: (off mic) Well, currently [unintelligible] (interrupted)

17  
18 Vice-Chair Roohparvar: I might be out.

19  
20 Commissioner Alcheck: [unintelligible – off mic]

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1

2 Chair Templeton: Ok so Commissioner Alcheck mentioned that he may have travel plans  
3 already scheduled.

4

5 Vice-Chair Roohparvar: (off mic) Yeah, I might be out too but... I might be out too but I'll let you  
6 know.

7

8 Chair Templeton: When can we... when... I guess we'll know when you know.

9

10 Vice-Chair Roohparvar: (off mic) We still have a quorum without me or [unintelligible]  
11 (interrupted)

12

13 Ms. Tanner: Yeah if there were only... if four Commissioners will be here we will have a quorum.

14

15 Chair Templeton: Alright, great thank you. Alright, is there anything else? Alright, thank you all  
16 so much. This meeting is adjourned at 8:49, thank you.

17

18 **Adjournment**

19 6:49 pm

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# Palo Alto Planning & Transportation Commission

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Commissioner Michael Alcheck  
Commissioner Bart Hechtman  
Commissioner Ed Lauing  
Commissioner William Riggs  
Vice-Chair Giselle Roohparvar  
Commissioner Doria Summa  
Chair Carolyn Templeton

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