



PLANNING AND TRANSPORTATION COMMISSION MINUTES

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March 21, 2001
SPECIAL MEETING – 6:00 PM
City Council Chambers
Civic Center, 1st Floor
250 Hamilton Avenue
Palo Alto, California 94301

ROLL CALL:

Commissioners:

Annette Bialson, Chair
Patrick Burt, Vice-Chair
Owen Byrd
Jon Schink
Kathy Schmidt
Phyllis Cassel
Bonnie Packer

Staff:

Ed Gawf, Director
Lisa Grote, Chief Planning Official
Wynne Furth, Senior Assist. City Attorney
Joan Taylor, Planning Manager
Chris Riordan, Planner
Steven Turner, Associate Planner
Phillip Woods, Senior Planner
Zariah Betten, Executive Secretary

Chair Bialson: I call this meeting of the Planning and Transportation Commission to order. Will the Secretary please take the roll.

Thank you. The next item is Oral Communications.

ORAL COMMUNICATIONS. Members of the public may speak to any item not on the agenda with a limitation of three (3) minutes per speaker. Those who desire to speak must complete a speaker request card available from the secretary of the Commission. The Planning Commission reserves the right to limit the oral communications period to 15 minutes.

Chair Bialson: I have no cards and I see no speakers. So I close this item. Next is Agenda Changes, Additions and Deletions. Kathy?

AGENDA CHANGES, ADDITIONS AND DELETIONS. The agenda may have additional items added to it up to 72 hours prior to meeting time.

1
2 MOTION

3
4 Commissioner Schmidt: I would like to move that we bring items two and three forward.

5
6 MOTION PASSES

7
8 Chair Bialson: How does the rest of the Commission feel about that? Fine, thank you. All in
9 favor? (ayes) All against? Hearing no Commissioners speak against that moves unanimously.

10
11 So Item 2 is Selection of CIP Sub-Committee. We received a memorandum from Staff with
12 regard to a timetable. I've requested from each of you by e-mail volunteers.

13
14 **2. SELECTION OF CIP SUB-COMMITTEE.**

15
16 Commissioner Cassel: I can do that. I can do either one.

17
18 Chair Bialson: Could you please do the CIP?

19
20 Commissioner Cassel: Yes.

21
22 Chair Bialson: Thank you. I need one more volunteer. As Commissioner Burt points out
23 Bonnie Packer has never done it while the rest of us have had that pleasure. So I think that
24 would round out the Committee right there.

25
26 So it is Jon Schink, Phyllis Cassel and Bonnie Packer. Thank you one and all.

27
28 The next item on the agenda is Selection of the Sub-Committee for Development of Goals and
29 Objectives and Associated Work Program.

30
31 **3. SELECTION OF SUB-COMMITTEE FOR DEVELOPMENT OF GOALS AND**
32 **OBJECTIVES AND ASSOCIATED WORK PROGRAM.**

33
34 Chair Bialson: I have heard from some of the members, those who read their e-mail. Some have
35 even called me. I understand that Mr. Burt would like to serve on that sub-committee. I
36 understand Bonnie would like to serve. I also would like to serve. Is there anyone else who
37 cares to serve? Bonnie do you mind serving on both sub-committees? I think this will be
38 wonderful. So I think the three of us would be the sub-committee. That is the end of agenda
39 item number three.

40
41 I understand that there is a wonderful food spread for us. Some members of the audience are
42 invited to join us if not all.

43
44 Ms. Lisa Grote, Chief Planning Official: The Advisory Group members are invited to join you.

1 Chair Bialson: That's fine. I think we will break for a very quick dinner and we'll be coming
2 back here to address item number one, the Study Session with regard to single family home
3 design and review. Thank you.

4
5 Chair Bialson: Next on our agenda is Item 1, the Study Session on the single family review.

6
7 **NEW BUSINESS**

8 **Public Hearings:** None.

9
10 **Other Items:**

11
12 1. **STUDY SESSION.**

13
14 **Single Family Review:** Review and comment on the analysis of Single Family Neighborhood
15 Compatibility issues. The analysis includes a discussion of the problems identified with new and
16 remodeled single family homes in existing neighborhoods, recommendations for the Future of
17 Single Family Neighborhoods Advisory Group, recommendations for changes to the Single
18 Family R-1 Zone District (PAMC-Title 18), the proposal for a Single Family Review process,
19 and other associated issues.

20
21 Chair Bialson: Do we have a presentation by Staff?

22
23 Mr. Ed Gawf, Director of Planning: Thank you. This is an item we have been working on over
24 the last year. I'm pleased to bring it forward tonight for a study session with the Planning
25 Commission. Our presentation tonight is going to reflect the process we've used over the last
26 year. That is a collaborative effort between the Staff and the R-1 Advisory Group. So tonight I
27 am going to make a few introductory comments and Joan Taylor, who has been the project
28 manager on this, insisted that I make them brief and few. So I will do that to introduce the topic.
29 Then we will have co-chairs of the Advisory Group make presentations. Then Lisa Grote will
30 make the Staff presentation at the end.

31
32 This is one that started several years ago actually. I think the Council first looked at the issue
33 and gave direction for the Staff to explore this issue about three or four years ago. It got
34 entangled with the historic preservation issue. When I first came two and one-half years ago one
35 of the first major recommendations I made was on the Historic Preservation Ordinance and on
36 review of individual houses that were not historic. Council said, "good try but not good enough.
37 Let's separate the two issues and focus on the historic preservation first. Then work on the larger
38 issue of what about new single family houses being built in our community in existing
39 neighborhoods." So we have done that. We started with a couple of efforts. One is we did
40 something called a VDA, Voluntary Design Assistance program. We did this just about two
41 years ago this coming April. This is one where we have worked with an outside architectural
42 firm called Origins out of Oakland. Their specialty is working with single family houses.
43 Developers or builders of single family homes could come in work with Origins with us and if
44 they heeded their direction and advice then they would get priority as far as a building permit
45 review was concerned. That's worked reasonably well. We've had 123 applications over the
46 last two years and that is clearly much lower than the number of new single family homes or

1 additions that have been built. It involves both additions and new single family homes. It also
2 has tended to be the same people using it time and again. I think the people who have used it
3 have good comments and thoughts about it but it does tend to be the same people time and time
4 again. So we've done that.

5
6 In addition, a year ago this last January we set up the R-1 Advisory Group. Our thought was that
7 from a technical standpoint, if this were a technical planning issue, we as Staff could address it
8 but our thought was that this was really not a technical issue. Those are sort of easy to define
9 what the alternatives are. It really is a community value issue. What do we want in Palo Alto?
10 What are our values in terms of the balance between property rights and the role of government
11 in reviewing new single family homes? Trying to answer that question we knew we as Staff
12 needed assistance. We asked three people to be co-chairs of this to-be-named R-1 Advisory
13 Group. The co-chairs are here tonight and will be part of the presentation. Let me introduce
14 them, Carroll Harrington, Annette Ashton and John Northway. We worked together over the last
15 year first in setting up an advisory group that we think represented a good cross-section of
16 perspectives and viewpoints within our community. If it was going to be a community value
17 discussion as well as a technical discussion we wanted to make sure we heard all the voices as
18 part of the process and not as a part of a public hearing at the end of a process. I think we have
19 done that. The co-chairs will introduce the other members of the Working Group that are here
20 tonight.

21
22 Let me just say, in conclusion, that for me this has been a very good process. It is a good process
23 not because I got exactly what I wanted or all my views were adhered to or endorsed by others.
24 It is a good process because the Working Group members respected each other, they valued other
25 people's opinions, they listened and I think we came up with a recommendation that really does
26 strike a balance within our community. So with that let me turn it over to John.

27
28 Mr. John Northway, Co-Chair, R-1 Advisory Group: Thanks, Ed. Before I get going there are a
29 whole bunch of thank yous. The members of the group are here, if they'd stand up. I'm going to
30 go relatively quickly because Joan Taylor's Staff report was extremely thorough and basically
31 said everything that I would probably say if it had not been so thorough. Before launching into
32 just going through the highlights of what our process was I want to personally thank Ed very,
33 very much for paying attention to this. All the Planning Staff that worked with us, Lisa, Amie
34 Glaser early on, and our guardian angel Joan Taylor who has been absolutely fantastic through
35 this whole process. It has really been a team effort. You can't draw any lines between where the
36 Staff input is and where the committee input is.

37
38 I want to really underline the fact that what we did for the first six months was to look at this
39 whole issue and try very carefully to define what the problem is. This is unusual most people,
40 especially Americans, always know exactly what the problem is and charge right into a solution
41 and then we have things like tax codes that are constantly being revised because we never really
42 quite hit what the problem is. I think we've done a really good job of exploring all of the issues
43 in a very open process where everyone was invited to the table. Our meetings are all public, they
44 are all open. Anyone who attended got to participate in the discussions and add to the definition
45 of what the problem is. So hopefully what we have come up with is something that really the
46 overall community that was interested in this problem has participated in. Let's don't go away

1 from that yet. The first thing we did was to define a vocabulary. The media wanted to use
2 “monster homes” or “mansionization.” That is all very romantic and it is good for yelling at
3 people but it is actually useless in terms of defining what the problem is. So we worked with the
4 local AIA and actually it was Architecture 101, the course we were given by the AIA and we got
5 definitions to words like “massing” and “scale” and “detail” and “streetscape.” All of these
6 things were really well done. You can’t start to define a problem until you have a common
7 shared vocabulary. We put together a citywide tour, which I would absolutely urge you to drive.
8 It drives by some of the best and some of the worst but it gives you a pretty good feeling for the
9 comprehensiveness of this problem and it is invasive of all of our neighborhoods. We spent a lot
10 of time with Lisa’s expertise leading us through what are the existing R-1 District regulations
11 right now. So we had a very good base of both a vocabulary that we could all use to speak
12 distinctly and directly about the problem. So we can’t just say, “Oh, I hate that house.” You
13 have to say why. We had a good base as to what the City already was doing because we are
14 dealing with an R-1 Zone that actually got an award back in 1990.

15
16 What we did is we looked at a variety of problems, I’m not going to read them to you because
17 you have them in your packet. We went through a process, the famous process of using blue, red
18 and green dots to establish whether we thought they were high, medium or low priorities. I’m
19 just going to go through this quickly to let you know that this problem statement that we ended
20 up with, which is reasonably simple, actually took a long time and a lot of work and a lot of
21 thought. These were the things that we listed as what we thought were the really high priorities
22 in terms of what the problem was which certainly deals with setbacks, massing, scale and effects
23 on the streetscape. We established what we wanted to call overriding principles that we felt was
24 the litmus test for any problem solutions that we came forward to you with. These are good to
25 underline but the solutions should address the defined problems because it is easy to drift off
26 course. The extent of the problems and the solutions should be related. We absolutely do not
27 want to get into a situation where we think we are over-regulating. There is a trade-off between
28 flexibility and predictability. That you will hear more about, as we go through our presentation.
29 The solution should be clearly written, practical, equitable and easily administered. That last one
30 is very critical because you don’t want something that will drive the Planning Staff crazy trying
31 to interpret and reinterpret. Solutions should encourage compliance and provide incentives for
32 cooperation. So there should be a safe harbor where you don’t have to deal with the government
33 very much and still be able to execute reasonable projects. There is a cost for the new
34 regulations for both the City and the applicants. I think we can talk about that more because
35 certainly one of the key issues in individual review is it has to be done right or we shouldn’t do it
36 at all. Minimize the creation of non-conforming situations. Wynne was all over us about those
37 things. We need to be mindful of the law of unintended consequences which is always the result
38 of not spending enough time defining what you are doing and getting off into having to do a lot
39 of corrections.

40
41 So after all that work, for six months worth of work, we came up with three main statements of
42 the problem. Privacy, the real or perceived perception of the invasion of the privacy of the
43 surrounding neighbors, the bulk and massing of the new structures and the effect of these new
44 structures on the streetscape. I think one of the issues that we wanted to concentrate on was
45 creating neighborhoods where people are feeling okay about each other. The traditional zoning
46 ordinance is very clear about the entitlements that an individual property owner has. Up until

1 now there hasn't been that much concern about the effects of an individual property on the
2 surrounding properties. What we are starting to see and what we are starting to say is that we
3 think that that relationship is important and that is part of our problem solution. I'm going to
4 turn it over to Annette.

5
6 Ms. Annette Ashton, Co-Chair, R-1 Advisory Group: Thank you, John. I think, as the chart
7 says, very key to the process was openness and availability in all of our meetings. We had a
8 quite a few people from the general public, Council, and Planning Commission that came to our
9 meetings. Another very, very key thing that we did is every one of our minutes were online. So
10 anyone could always refer to them immediately and even have a dialogue, a neighbor space, if
11 they wanted to ask any questions and use that. So that was something that we did that was very,
12 very unique. After we finished what John talked about, all the problems, we wanted to test this
13 out on a real live audience and go to a community forum, which we did in mid-April of 2000.
14 One thing I would like to mention is that we did have a problem statement that we went into this
15 forum with. New and remodeled houses should respect their neighbors both functionally and
16 aesthetically. We came out of the forum and had quite good attendance and most everyone
17 agreed with our conclusion that we had identified the problems. On May 18th in good American
18 fashion we were free to work on the solutions to all the problems that were identified. The one
19 thing that is very important to point out again is that the solutions are out there. As Ed
20 mentioned, this is not rocket science. This problem exists all over the county, north, east, south,
21 west and even all over the world. So the question is we should take the solutions that fit our
22 community.

23
24 Staff assisted us as we went through there to bring solutions that were the best and brightest of
25 what worked and what didn't work. I think even more importantly as we started to work on
26 solutions we realized that now we were really getting into an area that created tension. We
27 probably weren't going to have 100% conformity with that, although, we actually came fairly
28 close. So that was a constant. We had the struggle between conservation and change. We as a
29 group decided that we would take the very best set of recommendations that we would
30 compromise on forward to Council and the Planning Commission and we would try to hit the
31 high things. We weren't going to solve every single problem in the entire world and I'll get back
32 to that in that we do have some areas that we put on a "parking issues" list that will be touched
33 on when the final ordinance is actually complete.

34
35 So what I'd like to touch on next is our recommendations are in four general areas some of
36 which we are going to go in depth with tonight and some we'll talk about at a future time. The
37 first one is as you would expect, hard coded zoning regulations. You've got the details in your
38 packet and we'll go through these things that we actually wanted to change. As an example
39 Floor Area Ratio, we actually didn't change that at all but we redefined it. So things that are
40 actually in the zoning code. We took a vote on each item that we recommended. So we are
41 fairly much in uniformity but wanted to let you know that we agreed on most points.

42
43 The second one which is a very, very important part of the process and wanted to bring to you is
44 the concept of review, an individual review for all houses that meet a threshold. In our group
45 this was very, very provocative. We realized early on that when we looked at the problem we
46 had some things that were functional in nature and would fit into the category of the zoning code

1 and we had other things that were aesthetic in nature and we probably weren't going to have a
2 hard coded zoning regulation to fit it. That is where the mindset of the group changed to the idea
3 of a review. We were definitely in high agreement that voluntary does not work. It is very good
4 and it works for many people but we wanted to have something that was very specific. We used
5 the term, you might look at individual review of houses and you might say isn't it architectural
6 review or design review. But the term was chosen specifically because it is in the spirit of
7 bringing neighbors together and building communities. We didn't want anyone to think, as they
8 saw the words, that this would be a formal process with lots of paper. The concept is let's bring
9 neighborhoods together, let's bring people together and it is a simpler process. This is a very,
10 very key item to talk about tonight because it will depend on what the next activities of the
11 Advisory Group will be.

12
13 So we have a threshold for review and we have a process which we'll go through tonight but
14 what are we reviewing when we look at house? First of all, everything that we are doing is based
15 on the three problem statements, privacy, mass and streetscape. So there will be a checklist
16 presented very much in the mode of Pacific Grove of items that the applicants will have to fill
17 out. To give you a feeling for this because this is not completed so you are not going to see the
18 detail tonight. For example, Pacific Grove asks the applicant to describe the architectural style
19 of the neighborhood, the pattern of one or two story houses on the block, setback patterns, trees
20 that needed to be considered and how this house will affect the privacy of neighbors and access
21 to sunlight. Then on the other side when the applicant comes to be reviewed there will be some
22 guidelines, again under the category of privacy massing and streetscape. The specific kinds of
23 things that will be looked at are how is the daylight plane affected, what is the window
24 placement of the houses, what are the roof forms, what's massing. The final element that is
25 probably to me the most critical element in the success of this entire program for Palo Alto that
26 Carroll Harrington led our efforts in is the Community and Staff awareness plan. The ability to
27 communicate to anyone in Palo Alto the plans to remodel, buy or build a house in Palo Alto. I
28 think we have some really exciting new concepts in this portion of our recommendations. I'm
29 not going to steal any of Carroll's thunder, she'll be on the program later on. Again, the content
30 of what we are recommending but how we present it and get feedback from the neighbors is, I
31 think personally, one of the most critical elements.

32
33 Next slide. Really looking back, we are not going to look through all of the areas, but this shows
34 our process where we had high priority problems, solutions, and then the fact that the only
35 problems and solutions we looked at were ones that dealt with privacy, massing and streetscape.
36 You've got that in your notes so I don't think we need to dwell on that.

37
38 Next slide. As I said before, as we looked at this, we felt, as a group that we wanted on the
39 continuum of review from the voluntary or no change or no restrictions on a builder all the way
40 to the other end of the continuum, review everything that comes into the Planning Department.
41 In the middle, voluntary, we felt voluntary didn't work and we'd really like to push it a little
42 harder and that's where we came up with the idea of review.

43
44 Next slide. Finally, in closing, as we go through tonight you'll probably see one of your most
45 favorite issues that is not on our set of recommendations. So we did put many things that we
46 couldn't easily solve and we felt should be saved for the future zoning ordinance on a "parking

1 issues" list. Let me just tick through them although they won't come up in our immediate
2 discussion but, will come up later. Recycling of the materials from houses that are being
3 demolished and the reuse of materials. Noise, that was a very hot item, both from neighboring
4 equipment like commercial cooking fans, air conditioning, pool equipment and also from
5 construction itself. The Police Department is actually working on that. Preserving neighboring
6 trees and strengthening our Tree Ordinance and adding trees. As you know, the Tree Ordinance
7 has been enhanced. The whole area of fences. Modification of Eichlers, Eichler neighborhoods
8 and specifics to Eichler neighborhoods. There is the ability currently for any neighborhood that
9 is in the agreement on any specific zoning change to ask the Council to apply that zoning to their
10 neighborhood such as a single family overlay. Flood plane houses and special privileges that
11 might be considered for height. Finally, although it is not up on the screen, for underground
12 garages we will recommend that they be considered in the future for the comprehensive zoning
13 update.

14
15 So with that I'd like to turn the presentation back to Lisa.

16
17 Ms. Grote: Thank you Annette. What I would like to talk to you about first tonight is the
18 individual review process. After I finish my brief presentation then I think we would like to stop
19 and entertain questions and discussion from the Commission. Then we will move into the actual
20 R-1 recommendations for regulation changes, if that feels comfortable for everyone.

21
22 The question or topic of an individual review is the primary policy issue that will be before you
23 and the City Council for consideration. That is whether or not to include individual review. We
24 are strongly recommending that an individual review process be implemented, that it be triggered
25 by specific thresholds. Currently there are three such thresholds identified, for new two-story
26 homes, second story additions to existing homes, or second story additions to existing two-story
27 homes when the additions are greater than 150 square feet. If someone chooses not to go
28 through an individual review there is a safe harbor that John had mentioned. It would allow
29 someone to build a one-story home without going through an individual review if it meets all of
30 the modified zoning requirements that are approved. In addition, as an incentive to perhaps take
31 advantage of the safe harbor, the full floor area ratio that would be allowed on a site would be
32 permitted on that ground floor. That means that the site coverage regulation in the R-1 zone
33 would become for single story homes consistent or equal to the floor area allowed on that site.
34 So that would be the safe harbor if someone chooses not to go through individual review. If
35 however, someone does want to do a two story house or a second story addition, then the
36 individual review process would be triggered and during that review process the project would
37 be evaluated against the R-1 regulations and the design standards or the design guidelines that
38 Annette referenced. Those guidelines are intended to address the three primary areas of privacy,
39 streetscape and building mass and bulk. They are not intended to prevent or discourage second
40 stories but they are intended to ensure that those two story homes are compatible with the
41 surrounding properties and homes. The guidelines are not yet complete, as Annette mentioned.
42 The Advisory Group has selected a sub-committee of three Advisory Group members, Annette,
43 John and Steve Pierce as well as Phillip Woods of our Planning Staff to take the beginnings of
44 those regulations and complete them, to fill them out. Some of the topic areas that they will be
45 talking about are window placement, mass, location, decks, balcony placements, daylight plane
46 and sun and shadow issues.

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Next slide. When someone does go through an individual review process we will encourage strongly that the applicant meet with surrounding and adjacent neighbors as well as neighbors across the street prior to making their application. When the application is made we will ask for verification or documentation that the applicant has attempted to meet with their neighbors prior to making the application to discuss ideas and thoughts and concepts about the project prior to the application actually having been made. Once it is made, as Annette mentioned, there will be a checklist that we will expect to have the applicant submit as part of the complete application. We haven't developed that checklist yet. It is still in progress. It will reflect the design guidelines that are being developed so that an applicant will know to submit materials that are consistent with or that will show how those guidelines are being met. We do, as Annette mentioned, include Pacific Grove's checklist as an example of a pretty good checklist. It does have a storyboard requirement attached to it, which we have considered. A storyboard would be something that shows the adjacent properties and the streetscape and how the proposal would fit in with that streetscape. Once an application is made, within three days, we will mail notices to the adjacent property owners and the neighbors across the street as well as post the site so that people in the area are aware that an application has been made. I think that was one of the Advisory Group's primary concerns, that the immediate neighbors be informed that someone is proposing to do a two story house or a second story addition. Once the site is posted and the neighbors have been notified we invite comments. There is a 10-day comment period during which time neighbors can submit written comments and view the plans. The plans will be available at the Development Center as well as, most likely, at the Main Library. We are coordinating with the library right now. It looks hopeful that we will be able to have plans available at the library for people to check out on a reference basis. You couldn't take them out of the library but you can be at the library and view the plans. At the same time a project planner will be conducting the single family plan check so that when the Staff consultation with the architects, which I'll talk about in a minute, occurs within about 12 to 15 days of the application being made we can identify concerns with zoning regulations if there are any, with the design guidelines and with neighborhood comment. Once that 10-day period has elapsed, within which people can provide comment, we will have the Staff consultation. That will be with the Staff project manager who has done the R-1 plan check, two architects (who will be hired as representatives of private firms specifically to review these homes and evaluate them against the design guidelines), the applicant and their architect. At that meeting, it is anticipated that it will be fairly informal, held in the Council Conference Room or perhaps the fifth floor conference room, we will go over those concerns as expressed by the neighbors and the design guidelines as well as the R-1 regulations. At that meeting, if there is consensus, the Director will issue a tentative decision shortly after that meeting or within a couple of days. That notice of a preliminary decision will be mailed to adjacent neighbors and neighbors across the street as well as the applicant. If everyone is satisfied with that decision and any conditions, then it becomes final. If there is dissatisfaction then there is the opportunity to request a Director's Hearing. Once that request for a Director's Hearing is made there is also the opportunity for a mediation session. We have talked with a mediator who has had experience in this area and is very enthusiastic about what can be accomplished through mediation. That would occur within the next 10 to 15 days should there be a request for the Director's Hearing. At the Director's Hearing if problems or issues have been resolved through the mediation then the Director will issue a determination and that will become final. If, however, there is still isn't agreement then

1 there is the opportunity to appeal the Director’s decision. That will then be forwarded to Council
2 on a call-up basis. This is a new concept for Palo Alto. It would take at least four members of
3 the City Council agreeing that the appeal should be heard for the appeal to move forward. If four
4 or more Council members don’t agree that the appeal should be heard then the Director’s
5 decision is final. If they do agree that it should be heard then it would be forwarded to Council.
6 All in all if there is no request for a Director’s Hearing the decision will be final after the
7 consultation and that will take about 23 to 25 days. If there is an appeal then that could take up
8 to about 60 days. We tried to summarize that in a timeline that was in your packet which is up
9 on the screen right now. It basically shows that the process can range in time anywhere from 23
10 to about 60 days. That concludes the process part of our presentation and we will stop here for
11 questions and discussion.

12
13 Commissioner Byrd: I applaud the group for the effort that went into defining the problem first.
14 Commissioner Burt has taught me the phrase, “Ready, Fire, Aim” and has used that to describe
15 how this community has approached other issues in the past. I think for once we are not doing
16 that and it is because of your leadership. Then I want to move on and ask some questions in the
17 spirit of getting the problem defined first.

18
19 I read in here and I heard in the reports that the three big issues are privacy, massing and
20 streetscape. But then I went searching for definitions of those problems and I looked in the Staff
21 report and I couldn’t find it. I looked in the principles in Attachment B and I couldn’t find it. I
22 looked in Carroll’s thing in Attachment C and it sheds a little light because it is about adjoining
23 neighbors’ privacy. I went to the Glossary in the last section of the handout and it defines
24 massing but it doesn’t define privacy or streetscape. So I’m very confused. What is privacy?
25 What is the expectation of privacy to which I’m entitled? Where do we find it? I looked in the
26 charter and I couldn’t find any reference to privacy. Am I entitled to not have anyone see into
27 my yard? Am I entitled to have no one see into my window? Am I entitled to not look out and
28 see the shape of someone else’s building or into their window or into their yard? I’m really
29 unclear about what the baseline is for privacy and massing and streetscape that are the
30 assumptions that underlie these statements of the problem. What is privacy in this community?

31
32 Ms. Grote: I can begin with an explanation. I think that issue really was raised as part of the
33 Advisory Group and also part of the community forums that we had. We held two community
34 forums throughout the process and had community members at our Advisory Group meetings.
35 That issue was identified throughout the process and pretty consistently throughout the process.
36 As far as what it is I think there is a general expectation that windows would not be located
37 directly across from each other in two separate structures, that a balcony would not be placed in
38 such a manner that it would easily look into the neighbor’s backyard, that porches and patios
39 would be designed when on second floors to face away from other people’s private living space.
40 That was an expectation that many people have because they are used to it and they feel that it
41 should be preserved. So that’s part of where that came from. You are right we didn’t define it.
42 Perhaps we should do that but I think that’s where it came from.

43
44 Mr. Northway: I think that’s a very good question and it is good to bring it out early because
45 privacy is absolutely relative. I facilitated a discussion in Los Altos about single story overlay
46 zones. In Los Altos the size of the lots are at least an acre. It came out in that discussion that

1 one of the expectation of privacy was that you could nude sunbathe. That would not be a good
2 definition to use in Palo Alto because our lots are much smaller. What we found is that because
3 it is California and because the outdoor space, especially the backyard space, is regarded in many
4 cases like an extension of the house, it is an outdoor room, so the expectation is that you have a
5 reasonable level of privacy in your outdoor room. To achieve absolute privacy which would
6 mean that I can't look into your outdoor room is not possible when you are dealing with 6,000
7 square foot lots. What we are trying to do is to really look at what we would call I think
8 probably major abuses that new structures can do to existing structures as far as in real or
9 perceived invasion of privacy. I think Lisa actually outlined the major things that we found
10 which were insensitivity in terms of placement of windows so that they are actually looking into
11 a bedroom or looking into a bathroom and also we saw major instances where balconies were put
12 into the side yards which really felt very intimidating to a neighbor. Privacy would probably be
13 a little elusive to get a very hard definition in this town because of the fact that our lots are so
14 small. Privacy does not mean that I cannot look into your backyard from a second story but it
15 does mean that you wouldn't have any really gross violations of that privacy especially in the
16 side yards.

17
18 Commissioner Byrd: John, everything you just said shed more light on the subject for me than
19 anything I read here. Again in the spirit of define it before you deal with it, it is probably worth
20 spending some time being clear on whether or not the definition you just gave is in fact the
21 definition that should underlie changes in the rules. Your definition of reasonable expectation of
22 privacy within my outdoor room, I believe is distilled from your experience through this whole
23 process but that may not in fact be the baseline that we want to use to impose regulation. It may
24 be more restrictive or it may be less restrictive. I'm not clear about how we go forward until we
25 get that set.

26
27 Chair Bialson: I have a concern that as we call for consultation with neighbors and have them be
28 such an important part of the process that we have got to be aware of the expectations that we
29 give those neighbors. I think having it clearly stated somewhere that and maybe using words
30 beyond reasonable and perhaps we approach the issue of privacy not from the statement of
31 privacy but sensitivity or some other word may get us a little further along so that the first few
32 people going through the process do not find that they have got to deal with neighbors who
33 perhaps have a definition in mind and would still have the definition in mind if we use the word
34 reasonable. They are not going to look into my backyard and I can nude sunbathe.

35
36 Mr. Gawf: I wonder if I can add something. I think you are right. There are actually four
37 components, the outreach component, but the other three deal with the regulations that we are
38 going to talk about tonight, the individual review process that we want to talk about tonight and
39 then the other element is the design guidelines. That is the part that you haven't seen. I think
40 that's the part that will deal with those kind of questions. That was a great discussion. We are
41 working on it right now. One of the reasons that we are bringing this to you tonight is because of
42 the individual review concept. If you can't endorse that concept then that changes how we
43 approach these issues. We think that if we don't have an individual review then we go to a more
44 prescriptive approach, that is no windows in the side or something like that. We think the
45 concept of individual review is a new concept for us for single family homes and that is one of
46 the key questions we are asking you tonight is for feedback on that. The way we have it set up is

1 prior to the application of any process a set of guidelines would be developed and reviewed and
2 commented on at a Public Hearing by the Planning Commission. Annette may have some
3 additional information.

4
5 Ms. Ashton: I think the question is excellent. You could take it one step further, you could say
6 what are the neighbors going to complain about, what does privacy mean to them. For me, as I
7 am called a civilian, I think it will be a little clearer when you see the checklist that we described
8 in that those are the things that we want to comment on. Now I do think that your point is well
9 taken that we do have to define a little bit more carefully but the parameters of what privacy
10 means will be reflected in the checklist. That is true for massing and streetscape as well. For
11 example, one of the components we may look at is a question that says where do your windows
12 look as far as your neighborhood. The point that I want to make is that the expectations and
13 what we'll look will be well defined in the checklist which you will see before we finish the
14 conclusion and this whole thing is approved.

15
16 Chair Bialson: I appreciate the comments. I would recommend that you use something other
17 than the term privacy. I think that is a very loaded term and I think that it is in this community
18 something that is going to just make people stop and develop in their own mind expectations that
19 make it difficult, perhaps sensitivity or some other phrase because people are not going to bother
20 going through the checklist. We may understand it, you may understand it after two years but
21 we have to make this a process that works. I think I'll let Jon speak and then we will take a step
22 back and go into initially the question of individual review. Jon.

23
24 Commissioner Schink: I would love to hear John Northway's perspective having worked with
25 clients for many years on the other side of the coin on the privacy issue. That is of the
26 homeowner, for each set of neighbors there is a homeowner here who we are asking to give up
27 quite a bit of their own privacy in the whole review process. By that I mean we heard that
28 someone is going to be asked to put their very personal expression of what they want in their
29 home up for the community to review in the library and comment on. I am suddenly being asked
30 or someone is being asked to give up my privacy to all my neighbors so they can decide if it's
31 appropriate that I've chosen to organize my life the way that I have in a way not to impact on
32 their privacy. You deal with people all the time, what is your sense about how people are going
33 to react to that? I've got a concern with it.

34
35 Mr. Northway: I would be concerned if all the floor plans were made public and as I understand
36 it from the Staff that is not what they are thinking about doing. The things that should be made
37 public would be the things that the public actually is going to see which would be say the floor
38 elevations. I wouldn't go any farther than that because nobody has any rights to know if you've
39 got the giant Jacuzzi and eight mirrors in the bathroom or not. It is nobody's business. That
40 should not be part of the process. The way they actually are going to live inside the house should
41 not be subject to any form of public notification at all.

42
43 Chair Bialson: Ed.

44
45 Mr. Gawf: There were two concepts that were real important. One was this idea that we are
46 trying to create good neighborhoods and good neighbors. That this process is intended to be one

1 of working with the new neighbor or the new homeowner with the existing neighborhood and
2 existing neighbors. So that is one of the reasons why we emphasize the mediation process. I
3 think that became an important part of this consideration. The other key point was making sure
4 that we didn't over-regulate, as Jon said earlier, was one of our guiding principles. That we fully
5 understood what we were trying to achieve and that was contained within the guidelines and
6 that's what we focused on. Not the totality of the building design. So those were two sort of key
7 principles.

8
9 Chair Bialson: Phyllis.

10
11 Commissioner Cassel: I'm going to express a different view on this term privacy than yours. In
12 all of the discussion, I attended most of these meetings, one of the principle concerns that people
13 have is privacy. I think if we take that term out rather than try to define it or express our
14 limitations on it we are going to miss what a lot of people are seriously concerned about. Over
15 and over and over that issue came up. In fact, one of the women that worked on the initial single
16 story overlay zone that we developed, and this woman was of retirement age at the time, she
17 wanted to be able to swim nude in her backyard. She will admit that in public or I wouldn't say
18 it. She'll tell you that. So privacy is different for different people and I think we do need to
19 express our limitations but I think we have to admit that that's in fact what people are concerned
20 about, privacy and what is in California a private backyard. When something different goes in
21 then it is strange for us and that is what we are grappling with. My mother said, "You put two
22 story houses up and you put curtains in the windows." She comes from the east coast where it is
23 a different perspective.

24
25 Chair Bialson: Owen.

26
27 Commissioner Byrd: I'm reminded of Phyllis' comments of that east coast experience in some
28 of our other conversations where she said in the backyard back east you got these two and three
29 story homes right next to each other with the curtains and then you have little three foot chain
30 link fences or nothing at all separating the backyards.

31
32 Commissioner Cassel: Not chain link, something you can walk through.

33
34 Commissioner Byrd: Alright, something you can walk straight through. I don't mean to beat
35 this to death but I think that coming to a community consensus about what is a reasonable
36 expectation of privacy, whether you use that word or not and I'm inclined to use it, is really
37 important because I don't think we have a uniform view of what it should be. I suppose on one
38 end it is nude sunbathing and on the other end you can look not only into my yard but into my
39 windows. Ed, I know you've asked us to comment on a process but I'm not sure how we're
40 supposed to comment on a process until we know what the process aims to achieve. I'm not at
41 all clear about what the definition of privacy is or again to broaden this what the definition of the
42 concern of massing is, heaviness or weight, is it that buildings look bigger than we want them to
43 and then the definition of streetscape or neighborhood compatibility. I saw up there that we
44 don't want to regulate aesthetics we want to leave room for individual expression and yet
45 neighborhood and streetscape compatibility to me sounds an awful lot like my new house should
46 look like the ones on either side of it. So spending whatever time it takes to get a couple

1 sentences or a paragraph to define what these goals are before we move forward would sure help
2 me.

3
4 Mr. Gawf: Let me remind everyone that tonight is the study session. You are given the ideas
5 and thoughts and we are scheduled to come back on April 11, 2001 at a public hearing. So we
6 are listening to what you say and let's see what we can do to incorporate those comments.

7
8 Chair Bialson: I think you are getting a lot of input from us. I would like to go on to the next
9 item which is the one you are looking to us giving you input on and that is the options that you
10 presented both in the Staff report and in the loose leaf binder of the options for the approaches
11 that could be taken and the choice that you've made of design review for projects meeting a
12 specific threshold. Do I have any comments from the Commission with regard to that?

13
14 Commissioner Packer: I have a comment or question related to this issue about privacy. It
15 seems as if the group is discussing the problem as though there is nothing but single story houses
16 right now in Palo Alto. In fact there are a lot of second story houses. In these second story
17 houses people are probably staring right now into their neighbor's backyard and have been for
18 the past 50 years. So for those neighbors they don't have that expectation of privacy because
19 they are all staring into each others backyards. We've been doing that for 100 years. In fact I
20 think the earliest houses in Palo Alto were all two and three story homes. Some of the older
21 homes are that tall. So when I see that the threshold for review is anything that is going to be
22 two stories, whether it is new or a remodel or an addition, regardless of whether that's the last
23 parcel on the block to build a second story it seems it is a bit much. It is not taking into
24 consideration the location of that parcel in context of the other parcels. If there are already
25 second stories all around you what the point? If it is that definition of privacy that you don't
26 want to look across at a window on the second story then that needs to be defined but if you
27 haven't defined it that way then we have to look at that threshold and see whether it is meeting
28 the issue.

29
30 Mr. Gawf: The issue when we say privacy was identified as the issue, the number one issue, I
31 think it was more the change of relationship between structures. You are right, there are a lot of
32 two story houses in Palo Alto but one is torn down and another one built there is still that two
33 story relationship. But if they put a balcony on the side of the house where there was not one
34 previously that changes the privacy relationships between the new house and the existing house.
35 I think it is those kind of issues that you would look at that change. The other thing that we
36 struggled with is there are sort of two basic approaches that you can take. One is to look at the
37 individual house and have guidelines to help you review it. The other is to try to come up with
38 zoning changes that prescribe what can be done regardless. Some communities say no windows
39 in the side of the house. That deals pretty objectively with privacy issues. But there are a lot of
40 reasons why that may not be appropriate. So we had that fundamental policy decision. Are we
41 going to try to write these down as specific rules or are we going to be more general and talk
42 about guidelines and go for an individual review. That's the sort of threshold decision that we
43 made.

44
45 Chair Bialson: That's what I would like to have the Commissioners comment on, that decision.
46 Jon, are you first? He defers to you Kathy.

1
2 Commissioner Schmidt: I think the time has come for individual review in Palo Alto. It is not a
3 new thing to California communities or probably communities everywhere. Many of the
4 communities around here have a variety of ways of looking at design review. I think that the
5 concepts I have read about in the Staff report are much more wise ways of looking at design
6 review rather than the kinds of prescriptive things that Ed just described. Those frequently come
7 up with unintended consequences or buildings that all look the same or ridiculous things like I
8 don't want to say don't put windows in the side of the house or the side of the second story. That
9 just doesn't make any sense. So I think the concept is something that we really need to do in
10 Palo Alto. We've seen many, many homes get rebuilt in the last few years especially but
11 certainly in the last decade or so and this process will continue. It may slow down for awhile
12 right now but it is certainly going to continue. I think establishing a reasonable process now is a
13 good thing to do. Also I appreciate very much Owen's thoughts about defining these ideas of
14 privacy, bulk and mass, and streetscape more clearly. I understand that when we have the
15 guidelines and lists that those things will become more evident. I think including broad
16 definitions, I understand that things will not be one set that clear definition that defines privacy
17 for everyone, we all know that. But I think that again defining some general expectations is a
18 quite reasonable way to go. I think the group can come up with those definitions and that it is
19 not something that needs to send the process back to square one. I think that we are well on the
20 way to getting the right solutions to what we need to do here.

21
22 Chair Bialson: Jon.

23
24 Commissioner Schink: Well before I give my specific comment on the advisability of design
25 review let me give you a little bit of my perspective. I spent over 10 years on Palo Alto's
26 Architectural Review Board so I'm very used to design review. More than 10 years ago I
27 advocated strongly that design review for single family homes was probably the best solution for
28 us because it would circumvent ultimately more draconian rules that no doubt will be upon us.
29 With all of that said, may I also share my personal experience as being in the building business
30 and going through design review on many single family homes and I will tell you from my
31 personal experience, on more than a dozen homes the neighbor's privacy always trumps
32 everything else to do with the project. First and foremost it trumps the architecture. What you
33 get out of this process is not better architecture but more privacy for the neighbors. It is
34 something you need to keep in mind. The individual property rights of the applicant coming
35 forward are of very little consequence, in my personal experience, to the neighbors or to those
36 imposing the design review on the property. That's my personal experience. Given that
37 experience I believe that the only type of design review that is fair to impose on the community
38 and on the property owners is one in which you have a trigger at 90% that allows a property
39 owner just to say I'm going to express myself however I want and I'm willing to give up
40 hundreds of thousands of dollars worth of property rights to do my own thing. I think if you
41 have that you will have a fair process that is willing to respect the fact that someone wants to
42 give up something to do what they want in exchange for not having the neighbors look in at what
43 they are doing. In this whole process, I'm going to be very blunt in concluding, when I listened
44 to Lisa's description I thought of it first from my developers background. I thought wow, this is
45 good, this is perfect for us developers because this is a tough process, people are going to bail out
46 on this all over the place and there is lots of opportunity here for me to have a big staff that can

1 just run applications through because that's what we do for a living. At the same time I was
2 thinking, unfortunately this just doesn't sound like a community that I want to live in. That's
3 kind of a blunt thing to say but I just don't want that much regulation in my life. If I was an
4 individual coming forward I would opt to do a house at 90% so that I didn't have to have anyone
5 telling me that your window can't do that. I'll go talk to my neighbors on my own but I just
6 don't want a process like this. So that is where I'm coming from.

7
8 Chair Bialson: Ed.

9
10 Mr. Gawf: I'd like to clarify a point. I think Jon is talking about is we recommended a safe
11 harbor if you didn't go through the individual review process you could always build a single
12 story house without review and just a building permit. I think Jon is suggesting that a second
13 trigger would be if you build at less than 90% of the by rights FAR that would also then trigger
14 only a building permit. Let me say, that becomes sort of a policy decision on how we want to do
15 it. I have two follow up comments. One is I think a very important part of this is an annual
16 review of what we are doing and what we've done. We know whatever we do, whatever we
17 adopt, will not be right. It will not be perfect. There will be changes that we will need to make.
18 So at the end of the year we need to talk to the developers, talk to the neighbors, and see what
19 went right and what didn't go so well, and change that. So whatever we do I think we can
20 expand it or subtract it at the end of that year period. The other comment I'd make is for Staff I
21 think it is also important to have a safe harbor because if there is not then somehow we feel
22 compelled to make it work, whatever it is, sort of make it happen in the sense of we know that
23 they have a right to build at the end and this is your only option. I think it is good that a person
24 has the ability to say thank you very much, I decided not to go through this process, I want to do
25 this. There is a consequence to it but there is a choice that a person can make.

26
27 Mr. Northway: I was thinking about our earlier discussion about privacy and massing and then
28 streetscape slipped into it about what is the definition. I'm sitting here saying what would I do if
29 I were trying to define this. The reality is you can't define any of those three terms specifically
30 because Palo Alto first of all from a building standpoint is extremely eclectic and each
31 neighborhood is very eclectic. So what might be an expectation of privacy in Professorville is a
32 very different expectation of privacy in Eichlerville and a different expectation on Byron Street.
33 The same thing with massing. I could show you what the massing is and the detail and the way
34 buildings are articulated on any given street and it will be different. One of the reasons that the
35 zoning ordinance is not a good vehicle for what we are talking about and why we went to
36 individual review is that the zoning ordinance is a blanket kind of cover that has its little
37 definitions that sort of fit but don't fit anywhere. What the zoning ordinance does is make
38 Professorville not work according to today's standards and it doesn't make the Eichlers work
39 according to today's standards. This is where we got into looking at where garages are located.
40 You locate a garage according to Professorville standards in Eichlerville and you are going to get
41 yelled at because you have destroyed the streetscape. This is the reason we came to our
42 conclusion that you have to look at projects individually. That's why we came up with the
43 concept of individual review. We need to hone in on at least explaining what privacy is. I'm not
44 sure we can give you a lawyer definition of privacy because as Bonnie said if you live in a two
45 story neighborhood your expectation of privacy is different than if you live in an Eichler
46 neighborhood. That's the base reason, what you're struggling with with your very good

1 questions are exactly the same things we struggled with for a year and why we said there are
2 some things we can legislate but most of it we can't. We need to look at individual projects
3 because if you look at it it really is "I know it when I see it." It literally is that. You know an
4 invasion of privacy when you look at it and you know something that is perfectly all right. I
5 could probably design a balcony on a side yard that would be fine and respectful of the neighbors
6 and yet there are lots of balconies that are absolutely disrespectful of the neighbors privacy. If
7 you have this individual review process you can actually make that kind of individual decision.
8 Whatever the trigger is that can probably be argued throughout all of the elected and appointed
9 bodies. Keep in mind, the goal is still to solve the problem real or perceived invasion of privacy
10 the way the streetscape works and the way the massing on that individual streetscape is working
11 in the context. We are not trying to say you have to design your house so it looks like your
12 neighbor's house. We can take for example Bob Pederson's house in Downtown Park North.
13 That doesn't look like any of the houses in the neighborhood but if you look at the size of it and
14 the way it relates to the street that would be a very good example of a good piece of modern
15 architecture that relates to its neighborhood both in the way it relates to the street and in its size
16 and massing. That's what we are trying to do here. We found that over legislation is much more
17 oppressive to the creative spirit than to be able to go in and make your point and do your design
18 so that it works in the environment that you are dropping it into. So it's a longwinded way of
19 saying I don't know if we can define privacy for you because that's the reason we have
20 individual review. I don't know if we can define streetscape for you because all the streets in
21 Palo Alto are different. All the homes along the individual streets are massed in a different way.
22 That's why we need to look at them in an individual way rather than in some kind of blanket
23 legislation.

24
25 Chair Bialson: I appreciate what you are saying John and I personally agree with it. I think that
26 just having this process in place and having to address the issues in it, ill-defined as they may be,
27 are going to force designers and architects to at least think about these matters. My big fear is I
28 think partly what you were going to address with the annual review, which is an evolutionary
29 process in creating guidelines and not ending up having design by Staff. I think that's
30 everyone's concern here. I'll hold back some of my comments while other Commissioners
31 speak. I understand you want to speak Pat.

32
33 Commissioner Burt: Yes. Back to the privacy issue it occurred to me that we are not attempting
34 here to define a baseline of a right to privacy because the amount of privacy that we have in our
35 homes varies greatly. The homes that I've had have had anywhere from very little privacy to
36 quite a lot in Palo Alto homes. What I think you are trying to address is a diminishment of
37 privacy. So I think we need to be clear that that's the scope of what this is trying to address not a
38 standardized amount of privacy. I would suggest a definition might be a significant decline in
39 privacy is what you are trying to prevent. Now what is an appropriate amount of decline and
40 whether there also should be a baseline concept. If someone has almost perfect privacy are they
41 entitled to retain greater privacy than someone else who has not so much privacy to begin with?
42 I don't have the answer to that at this point in time but I think it is an issue that's at the crux of
43 what we're talking about here.

1 Chair Bialson: I'd like to get the Commissioners comments with respect to the desirability of
2 individual review process. I'd like to keep focused on that term rather than individual design
3 review or any other phrasing of that concept. Are we going to speak to this issue? Owen?
4

5 Commissioner Byrd: In part. Jon spoke from his personal experience, I want to speak from
6 mine. I am a land use attorney. I've represented project applicants proposing new single story
7 projects through the entitlement process in probably a dozen communities up and down the
8 Peninsula and the South Bay. I have also, because I am equal opportunity lawyer, I have
9 represented crabby project opponents who have fought tooth and nail to change the proposed
10 single family home next to them. So I have worked extensively on both sides of the fence. I
11 couldn't agree more with Jon. These processes inevitably result in the privacy of the existing
12 adjacent homeowner being given priority over every other concern including aesthetics and
13 property rights and everything else. We may write into this all kinds of expectations of balance
14 and reasonableness but without that baseline it always get split that way. Having represented
15 those crabby project opponents I can now say that it is over and down and I got them what they
16 wanted but what we got them next to them has probably given them better privacy but much
17 worse architecture and much worse design. So I'm very suspicious of individual review
18 processes because I have worked with them so much. That's why if we are going to have one
19 here, again it is impossible for me to make a recommendation around it one way or another until
20 I know what we are trying to address. What Pat said, the standard is diminishment of privacy, I
21 think that's really interesting because I remember John Northway back during the Historic
22 conversation pointing out to this community that there is no one point in history where
23 architecture has reached its apex and we should never allow evolution. If you presume that the
24 baseline is diminishment it presumes that whatever your standard of privacy is now on your
25 given lot in 2001 that's how it should always be. What that doesn't account for is different
26 expectations around privacy. I'm in the minority. I think my privacy is my obligation and I
27 should use curtains and landscape to achieve it. I've got two story structures on either side of me
28 that look right down in and I've grown trees and I've hung shades and the burden is mine not the
29 people next to me but I bought into it they didn't build next to me. So the question is if they
30 built next to me should I have more rights? I tend to think no. I admit I'm probably in a
31 minority on this in this community and that's why we've got to get straight the baseline whether
32 it is diminishment or some standard including my extreme standard which is it is my burden not
33 anyone else's before we decide such a tricky system that's open to unintended consequences
34 makes sense or not.
35

36 Commissioner Burt: Owen are you saying that people in glass houses should wear robes?
37

38 Commissioner Byrd: I'll take that under review.
39

40 Chair Bialson: You wanted some discussion on it and we're getting that discussion. I appreciate
41 what you are saying Owen and I think that this is something that the group has wrestled with and
42 for some period of time. Assuming that we are going to have something even through a zoning
43 code change that addresses some of the issues that we have here FAR, etc., you end up with
44 regulation one way or another. So do you have a suggestion? Are you saying some of these
45 other approaches or options with regard to regulation are better than individual review?
46

1 Commissioner Byrd: I really liked the continuum that Staff put up there from nothing to extreme
2 subjective design review. The Committee has clearly come down at sort of just right of center in
3 terms of the individual review. Where you come down on what the appropriate tool is is a
4 function again of what you are trying to achieve. If we are trying to achieve no significant
5 diminishment in privacy as it exists in 2001 then individual review is probably an appropriate
6 way to do it. But if that goal turns out to be overly burdensome on individual property owners
7 then the tool is too blunt and we should move back toward just a voluntary scheme.

8
9 Chair Bialson: Thank you Owen. Jon.

10
11 Commissioner Schink: Well Owen, I would suggest to you that if you go back and use the 90%
12 trigger, and the 90% trigger being if I want to build less than 90% of what is allowed I can do
13 what I want, I think you will suddenly get a lot of cooperation from both the neighbors and the
14 property owner because he wants to go 100%. Because you can't define privacy or if you could
15 you could never achieve enough of it you've got to have some mechanism built in here that
16 creates a balance or throws a fulcrum into the negotiations. That's why from my personal
17 experience I think the only way to make this work is to have like a 90% two story trigger. Then
18 the system will find the right balance and they will be able to negotiate what is important to each
19 party.

20
21 Chair Bialson: I'm going to speak. I appreciate your perspective Jon, I have a problem with the
22 90% and I just throw it out as an issue that comes to my mind that can perhaps be addressed by
23 the group. That is, we have no means of enforcement at this point in time where somebody from
24 the Planning Department goes out and ensures themselves that what you are building is truly
25 90% of what you are allowed, actually goes out and measures it. With something that can be
26 defined as a percentage you submit plans and what gets built sometimes is not the same exactly
27 as the plans. I've seen homes built that were supposed to be 10 feet from a certain boundary line
28 that turned out to be close to eight feet rather than 10 feet. So if you don't have some bright line,
29 some clearly perceived and easily perceived line of demarcation between what is the safe harbor
30 and what is not the safe harbor I think you are going to lose that boundary of the 90% FAR. If
31 you go with a single story as being your safe harbor it is a hell of a lot easier than saying 90%. I
32 just bring that point up as an issue. I like your idea of having a safe harbor where people can go
33 to and I'm just saying I have a problem with the percent. Just a point. I will now allow even you
34 to speak.

35
36 Commissioner Schink: 90% FAR?

37
38 Chair Bialson: I believe that is what you were talking about.

39
40 Commissioner Schink: Yes, 90% FAR and it is clearly definable.

41
42 Chair Bialson: It is clearly definable. Do we have any way of enforcing it?

43
44 Commissioner Schink: Oh yes. That is absolutely enforced.

45
46 Chair Bialson: Do we have people actually go out? I heard we only have building inspectors.

1
2 Commissioner Schink: There is not much of a lack of enforcement in this community. That is
3 serious. This community has very rigid enforcement.

4
5 Mr. Gawf: It does depend upon your perspective. I will say that.

6
7 Chair Bialson: Do you go on the plans or do you go on what is built?

8
9 Mr. Gawf: Both, we actually have gone out and measured and where it is off required them to
10 cut it back. We also depend upon the 57,000 or 61,000 code enforcement inspectors that we
11 have in the community as well because we are a fairly good community about making sure that
12 what is built next door is consistent with the plans. Doesn't mean that we don't make mistakes
13 or couldn't be better but we have a pretty good code enforcement section now and we do check
14 that.

15
16 Chair Bialson: I appreciate that perspective. Phyllis, you have not yet spoken on this.

17
18 Commissioner Cassel: I've been attending many of these meetings so I've been debating in my
19 own mind these issues back and forth. What I'm hoping is that if we have a review process is
20 that we will actually gain more flexibility rather than less flexibility on these second stories.
21 There is a risk, as Jon said, both ways. I'm hoping that's what will happen so I tend to go
22 towards having a design review with a trigger. In other words, the first floor doesn't get
23 reviewed the second floor or some portion of the second floor can. My concern is that at this
24 point I don't know what the standards are that you are putting up to review. Without that it is a
25 little hard. You are having a hard time coming up with those, you have been working on it for a
26 long time, you're still working on it and I suspect that reflects not indecision but rather the
27 difficulty of coming up with these standards. The true difficulty of trying to debate this back and
28 forth.

29
30 There are a couple of other points in this process that you mentioned. One is posting the plans.
31 That may help a little and this is the outline up there. The neighbors don't know what is
32 happening, they don't know what is going on, it is helpful to be able to go down and look at
33 something so that they get some idea so that they can act as your inspector if things get out of
34 line. I know we've discussed at these meetings in the past just making sure that people post the
35 standard rules about noise and when you can build and when you can't. It does help in keeping
36 people from showing up early because then the neighbors know when they can make a phone
37 call and when they can't. That has helped in our neighborhood. So I think a simple posting is
38 helpful.

39
40 I'm very concerned about the length of time of 25 days and what that costs. It seems to me that
41 is a long period of time for the review in a single family home and is quite expensive for a
42 homeowner. Maybe it is not but it does seem to me that would be a difficult position.

43
44 Another way to look at the window to window issue when talking to the person under
45 construction is if I can see into your window you can see into mine. Maybe people don't realize
46 when they are building a building that if they can see into the neighbors window and they want

1 privacy they are going to have to do something in reverse. Maybe that in the language would
2 help so that you are looking at the privacy from both directions not just from one or the other.
3 We don't often think about that I think when we are doing it.

4
5 So basically, yes, I think we may want to experiment with this. Without knowing what the
6 guidelines are going to be and how extensive they are I'm a little uncomfortable saying yes go
7 ahead and do this because I don't what the true trigger mechanism and the true guidelines are.

8
9 Chair Bialson: Thank you. Kathy.

10
11 Commissioner Schmidt: I'd like to address some of the same things that Phyllis has brought up.
12 It may be wishful thinking but I think some things that would make a difference in the
13 experiences that Jon and Owen have had are the idea of inclusion. That the neighbors become
14 aware of what is going on before construction starts or before destruction starts if the house is
15 being torn down next door and education, helping the homeowner or developer understand better
16 the concerns of the community. I think both of those things inclusion and education really can
17 help make this concept work and that it would be different from the existing design reviews that
18 do happen in other communities.

19
20 I would just comment on something that Phyllis mention concerning the 25 days of review in a
21 design process. It would seem to me that this would occur at the schematic design stage and at
22 that point you could make changes in a project, you've not gone the expensive route of
23 completing your construction drawings. At that time things are rarely going fast anyway.
24 Having a few weeks of review in the City I don't think would hamper the schedule of most
25 projects.

26
27 Chair Bialson: Bonnie.

28
29 Commissioner Packer: Since we are talking about the process itself as it is in this package I
30 wanted to raise one point which concerned me and that was that anybody could appeal the
31 Director's Hearing decision. I don't think that would be wise. I think it should be limited just to
32 the neighbors and the people who would be immediately affected. We don't want some of these
33 gadflies. It also brings up the point that even though in these public meetings people talked
34 about privacy as a concern and the concern about massing some of the concerns that the public
35 expressed I think just came from a concern about change, the changes that they were seeing in
36 Palo Alto. They use the phrase loss of privacy but I think it was just reaction to change.
37 Something to keep in mind is that the neighbors that we have now are not going to be the
38 neighbors that are going to be there five years or ten years from now. Perceptions will change.
39 The second story windows that are there now are not going to be there five years from now. So
40 there is a fluidity that is just inherent in the way we live and trying to get everything perfect in
41 terms of the alignment of windows. Phyllis you are right, it is reciprocal. The person who is
42 building the window is going to be looked at just as much. But this is important in some other
43 aspects. Having the neighbors talk to each other I think is good about a project but approval of a
44 project dependent upon whether a window is five feet here or three feet there shouldn't be a basis
45 for disallowing the project or making the homeowner do something that would be very costly.

1 My question is was this an oversight that anybody could appeal?

2

3 Mr. Gawf: No, it is not. The issue as I understand it involves looking at the streetscape. Once
4 you start looking at the streetscape you broaden the people affected to beyond the immediate
5 neighbors. Our advice was that if that were the case then we need to allow more than the
6 immediate neighbors to have the right to appeal. That was as I understand it the reason for that.
7 We will also address it when we come back on the 11th we'll get a little bit more and give you
8 some options on that. But that is what I understand is the basis for that.

9

10 Commissioner Burt: I have a question for you and Jon. Were the design review processes that
11 you two were talking about that you felt were deleterious to the project, were they public
12 meetings or were they the type of meeting that is in this proposal?

13

14 Commissioner Byrd: Generally in a formal hearing process.

15

16 Commissioner Schink: Let me just quickly answer that. I try to do 95% of my negotiations in
17 the neighborhood setting and that is the experience where I know that if you don't have any
18 place to run and hide or some safe harbor of your own the negotiations will always end up with
19 privacy being the only issue.

20

21 Commissioner Byrd: When I commented on the potential downsides of a review process and I
22 said it tends to negatively impact the design of new projects I left out another important
23 consideration which is perhaps more important than just the aesthetics of getting the best houses
24 we can. That is that I know that single family design is a really politically salient issue in this
25 community and all around the region. But your home is also something to which there is deep
26 emotion almost non-rational allegiance. There is only so many bites of the apple the government
27 gets and if we want to provide services for the homeless and pass parcel tax and pay teachers and
28 fund shuttles and do a whole bunch of other things that we want to do as a community at some
29 point we run the risk of losing the consent of the governed when we trample around on a subject
30 that is so deeply held and so emotional. So while I don't like ugly houses any more than
31 anybody else the trade-off to me around instituting a system which may result in fewer ugly
32 houses at the expense of further alienating people from their government and making them less
33 likely to participate in stuff that I think frankly is more important than whether houses are pretty
34 or ugly, I think is a real valid concern.

35

36 Mr. Gawf: Annette I wonder if I could respond.

37

38 Chair Bialson: Certainly.

39

40 Mr. Gawf: I think you are right in that regard but I think it also can be said that you lose support
41 of the community if you don't address issues that they feel are strongly needed to be addressed.
42 I think that was the whole thrust of us forming an advisory group was to try to find the right
43 balance between the government role and private rights. You may recall my original suggestion
44 a couple of years ago that received such response was a pretty traditional design review
45 approach. That is, you have a single family home we set up an Architectural Review Board you
46 go in front of it and get approval or not. So I think we've tried to find a process that has a safe

1 harbor, that has a balance between those two very important needs. I think the community is
2 asking us to address the issue in some way. I think we also feel very strongly that trying to only
3 address it through prescriptive approach, through zoning code changes, will not address the
4 issue. In fact, I think in some ways will make it more complicated, more complex, and more
5 difficult to apply but certainly won't address the issues that we've heard at the community
6 settings.

7
8 Chair Bialson: Pat.

9
10 Commissioner Burt: I'm generally inclined to support the concept of the individual review. As
11 I've been listening to some of the issues raised by fellow Commissioners there may be some
12 modifications to the concept that would make it more palatable to the segments of the
13 community who are less inclined to support the concept. One was talked about on this threshold
14 for who gets to appeal. Ed, when you said immediate neighbors, you weren't talking about just
15 to either side it is the street. Seems to me that if nobody on the whole street opposes that is a
16 pretty good threshold to have passed and that we shouldn't necessarily feel obliged to allow
17 people across town to raise opposition to something that nobody on that block is opposed to. So
18 that might be something to reconsider. Second, I think that we are generally inclined to give
19 more latitude to our neighbors than to a spec builder. That if a neighbor wants to add something
20 to their home and they have this passion about their own private space and what they would like
21 to do with their home then we might be more inclined to give them some latitude than to
22 someone who is coming in and either building a new house or taking a house and building an
23 entire new second story. So we might want to look at the threshold where I think we were saying
24 that even 150 square foot second story addition to a current second story would trigger the same
25 sort of review as an entirely new second story home or adding an entire second story. So maybe
26 that is another area to look at whether we should give more latitude in that area. Thirdly, I'd be
27 interested even now what the co-chairs, recognizing that they can't speak on behalf of the entire
28 committee, think of this concept of an additional safe harbor where if someone was willing to
29 sacrifice whatever defined portion of the allowable FAR that they would be able to be removed
30 from either some or all of this process.

31
32 Mr. Northway: I'll take a shot at it and you can follow up. I get back to our problem definition,
33 privacy, bulk, massing and streetscape. What we found is that the major architectural elements
34 that violate this problem are second stories. So a smaller second story would not make the
35 problem be less. The reason that we had the second story be the trigger mechanism is because if
36 you simplify it down as best as you can, because people have to understand why these things are
37 happening, that the second story is the thing that is peering down, it is the thing that might be
38 disturbing an existing streetscape and the way the second story is massed and arranged on the
39 site has the most impact. So making it be 10% smaller doesn't really address the problems as
40 we've defined them. So the advantage of having defined what the problem is is that we are fairly
41 able to answer these kinds of questions. If you want to accept that the three basic items that we
42 have outlined in our problem definition then that is the reason that you look at second stories.
43 We are not doing it because we dislike second stories. We are saying second stories are the
44 major contributor to the change in privacy, the change in streetscape and the change in the way
45 massing and bulk is perceived along the street. Anything else can be said by the committee.

46

1 Commissioner Burt: As you've defined those three main problems of privacy, mass and
2 streetscape as I understand it, those problems as defined from the perspective of the neighbors as
3 opposed to from the perspective of the home builder. I think that in recent years we have paid
4 too little attention in our regulations to the perspective of the neighbors. And that that's what
5 this group was intend to attempt to address. But I'm not sure that in doing so we should define
6 the issue solely in terms of the perspective of the neighbors. There also should be some balance
7 to that home builder or remodeler. So my question is how do we strike that balance? What is an
8 appropriate balance? I don't think it is appropriate, as much as I've been in favor of this overall
9 concept and was part of the first advisory group, I don't think we should define the problem
10 solely in terms of the perspective of the neighbors. That issue and that perspective has been
11 undervalued in recent years and I would be hesitant to swing the pendulum too far the other way
12 and define the problem solely in terms of that perspective and those values. I know you've tried
13 to make some efforts to balance those things but I'm interested in this other safe harbor concept
14 at least in exploring it and if there is some way to strike some additional balance between what
15 are apparently going to be conflicting objectives.

16
17 Ms. Ashton: Just my perspective to add something different from John. I do think the envelope
18 is really what we are looking at and that is very important as far as what neighbors see. I do
19 think that when we took the tour it was so obvious that with good design you can hide almost
20 any of the problems. I just can't repeat that enough. Unfortunately not every single builder and
21 architect is as fine as some of the people on our committee. Maybe we should just limit it to
22 these architects and developers. I think the concept of a safe harbor by reducing the envelope
23 and giving some percentage conceptually sounds very good but if you look at the actual numbers
24 as far as what happens on a 5,000 square foot lot, this 10% only gives about 100 square feet
25 which is not very much. If you look at an 8,000 square foot lot we are only talking about 250
26 square feet which is a very small amount. So I personally, because I think you can do a lot with
27 the design, would go more for the idea we have in place as opposed to putting an envelope
28 around the house and give them a safe harbor which was a percentage unless the number was
29 dramatically less. About 70% I would say than 90%. But it is a small number. It is Murphy's
30 Rule that if you have that what is probably going to happen is those 100 or 250 square feet are
31 always going to be on the wrong side of the house and the mass is going to be in the wrong place
32 as far as the neighbor that is affected.

33
34 Chair Bialson: Jon.

35
36 Commissioner Schink: I have two questions and then I have another editorial comment. My
37 first question is I believe during the presentation Lisa pointed out that if a project is appealed the
38 that the timeframe can be up to 60 days. Does that include the step to the City Council? I was
39 having a little trouble reading the chart. I thought the 60 days was up to an appeal to the City
40 Council.

41
42 Ms. Grote: It is intended to include Council however sometimes that varies due to Council
43 agendas and date availability and things like that. It is intended to include the Council hearing as
44 well. It is predicated on the fact that four or more Council members agree to hear the appeal.

1 Commissioner Schink: Okay. The second question is there was some discussion about whether
2 there should be different standards for who could actually appeal a project. I'm wondering if
3 Staff could comment whether you can actually exclude certain members of the community or
4 just limit the appeal to a specific neighborhood?

5
6 Ms. Taylor: I'm not going to exactly answer the question.

7
8 Commissioner Schink: Maybe the City Attorney can answer it for us.

9
10 Ms. Taylor: Wynne is out there and I'm sure she would be happy to speak to it. The comment
11 that I wanted to make is that we did discuss this issue and we discussed it with Wynne at the
12 time. The problem has to do with either noticing only the adjacent neighbors or how would we
13 define it? As we mentioned, we discussed the fact that since we are going to include the
14 streetscape issues it seemed to be more reasonable that there should be additional houses or
15 people who own those houses who could appeal. The question becomes is it the block? How do
16 we define the block? So then you open up a whole new problem and that is where I see the
17 issue.

18
19 Commissioner Schink: I'd still like to know if you're allowed to limit the universe to one block
20 or the whole City.

21
22 Chair Bialson: I think what you are asking is a question for City Attorney. Wynne?

23
24 Ms. Wynne Furth, Senior Assistant City Attorney: We spent a lot of time thinking about this and
25 asking those questions and we'll I'm sure spend more time on it. There is one bright line and
26 that is a case called Horn vs. County of Ventura which says that when there are people who are
27 interested in and affected by in a property sense a decision they definitely have standing, they
28 definitely need to know, they definitely have to be able to appeal. The question of who has to
29 have standing to appeal on a matter doesn't have as many bright lines. I certainly have heard
30 from this discussion and previously heard from the Working Group that there is a great concern
31 about mischievous appeals. I thought that one way to avoid those would be to try to make a
32 smaller circle of people who could appeal. I don't see a problems with that when you are talking
33 about this privacy issue because I think that does involve a very small group. You could argue
34 that what we want is a well built City and well built City is one in which houses are built to
35 respect each other's privacy. So there is a communal interest just like you want light and air.
36 When it comes to talking about massing and streetscape you are usually talking about how it is
37 viewed from the public right of way and from folks going by. There I see it as more difficult.
38 We will work harder. That's why we talked about call up appeals because I think that gives the
39 Council the power to limit their review to situations where they think there is serious evidence
40 that Staff is not understanding Council direction as opposed to a situation in which somebody is
41 unhappy which is a much broader group of situations.

42
43 Chair Bialson: Owen.

44
45 Commissioner Byrd: Pat raised one issue which I think we need to address before we go farther.
46 I think he was correctly identifying a sentiment in the community that a lot of people sort of feel

1 that an individual homeowner builder who is remodeling or scraping and rebuilding is somehow
2 both more deserving of protection of their property rights and in turn more likely to be
3 responsive to the concerns of their neighbors as opposed to a “spec builder.” I think that is a real
4 slippery slope for us to travel. When we start legislating in terms of people’s status we bring up
5 a whole host of really ugly history in this community and in this country. It may in fact be true.
6 You may be able to prove it empirically but I would strongly urge us to steer well away from
7 trying to design rules that distinguish between someone who lives on site and is rebuilding
8 versus someone who owns the property and is building it intending to sell it. If you own it, you
9 own it.

10
11 Commissioner Burt: Owen, I wasn’t proposing that we make that distinction. What I was
12 suggesting is that people who do small additions to a second story are generally within that
13 category of homeowners who are doing modifications to their own home. I wouldn’t suggest
14 that we would legislate based upon whether or not it is that homeowner. I was suggesting that
15 the smaller additions to a second story might deserve to have a lower standard than an entire
16 second story addition or a scraper. In distinguishing based upon a square footage or some other
17 distinction of a minor addition to a second story you would indirectly be addressing the issue, not
18 directly.

19
20 Chair Bialson: You have gotten a lot of input here. From my perspective I think the issue of
21 having the safe harbor be the second story is the problem. It is one I certainly understand and my
22 issue of enforceability with respect to a percentage may be something that Annette responded to
23 by saying that 90% difference is small enough that it might not be spotted and maybe 70% is
24 more appropriate. Am I incorrect, Annette?

25
26 Ms. Ashton: I didn’t say spotted. It is a very tiny amount when you look at the mass of the
27 house. Actually the numbers were a little wrong it was 200 to 350 square feet but still the mass
28 is usually placed in the wrong place as far as the perspective.

29
30 Chair Bialson: Right. I think we are pointing to the same issue which is you need a brighter line
31 and the issue of all these other items such as the massing, privacy, etc., flow from having a
32 second story. I think we are all talking about how we avoid the tyranny of “unreasonable
33 expectations” of neighbors and others. We are changing the dynamic somewhat from the
34 regulating body, the governmental entity and the homebuilding to interject the neighbors. That is
35 a problem and perhaps broader than just the neighbors or the gadflies or activists in our
36 community and we are looking at the harm they can do to the homeowner by having appeals
37 processes such as that. Even if you have a call up process, how often have we seen the City
38 Council bow to what they perceived as the opinions of important individuals, outspoken
39 individuals and have heard matters that we sitting here have felt probably don’t need a de novo
40 sort of review process. So I’m not very comfortable saying that City Council will discipline
41 themselves. I think they will take up these things because it is always easier to say yes than it is
42 to say no. I again go back to you would have to educate both the Staff that is dealing with this
43 issue and the community as to the expectations that they could have, the limitations on their
44 powers and I think with that I for one could see the individual review as being the best way to
45 go. But I think it is a very dangerous process that slips into design by Staff or worse yet by
46 neighbors. It could be terrible in its operation and that’s where the annual review would be

1 appropriate. I might also suggest perhaps a sunset clause. We may end up having something
2 that spins out of control to the point where we want it to die and not necessarily put it on
3 anyone's agenda to actually kill it. There will always be those people who find it to be
4 something they like. So I think a sunset clause would make me feel more comfortable with it in
5 addition to the annual review. All this takes a very light touch. I don't know how we can have
6 the regulators and the neighbors have that light touch. We have problems and we are all sitting
7 here looking at the gross problems. Maybe the tour that you are recommending will take us to
8 the point where we don't think all remodels or buildings that are new are terrible but those are
9 the ones we all react to. Do you have enough response with regard the approach at this point?
10 Would you like to hear from Jon or Owen again?

11
12 Commissioner Schink: I think this is the biggest issue we as the Planning Commission are going
13 to tackle for a long time and I don't think an hour and one-half of discussion is sufficient.

14
15 Chair Bialson: No, I don't mean with regard to everything. I talking about with regard to the
16 issue of the individual review.

17
18 Commissioner Schink: Yes, I think the issue of individual review is one of the biggest issues the
19 Planning Commission is going to tackle for many years and I think we should spend more time.

20
21 Chair Bialson: Fine, but let's go on from where we were.

22
23 Commissioner Schink: There are a lot of other issues and let me come back to we focused on
24 privacy. I think that's one of the value decisions we were looking at that the committee brought
25 to us as a decision. I for one am again struck with creativity and freedom are not one of the
26 values that were up on the list. That's fine because that is what didn't flush out in the community
27 but those are values that I have and now I am trying to impose those on what you have brought to
28 me and how do they come out in the wash is the question. Could you as a committee sort of give
29 me your sense if the project on Emerson and Addison Street that recently got a lot of publicity as
30 an environmentally friendly house, what would happen?

31
32 Mr. Northway: It would certainly be my hope in the system that is set up that that house would
33 not have been tampered with. I think the forms that house takes and the orientation that house
34 takes has very logical sane reasons behind it with orientation towards the sun and efficiency in
35 capturing solar energy. We wrestled with this. To give you some historical perspective we had
36 an ad hoc committee formed in 1997 that started looking at this problem, George Stern, who is
37 out in the audience, was on that committee. One of his very astute observation which I hope we
38 all never forget in the report from that committee which was working on defining the problem
39 we talked about conserving and change. The observation that George made is that throughout
40 the history of this country there has always been a tension between those who want to change
41 and those who want to conserve and there always will be that tension. We will never reach a
42 solution on this particular problem because this is dealing with that tension where the tension
43 disappears. The best we can do in looking at the solution is to try to minimize the tension, to try
44 to reduce it, but we can't eliminate it. I think as an architect and the other architects on the
45 committee we approach design review with trepidation but when you looked at the alternative to
46 solving some of the problems that were identified it was a very heavy duty set of regulations at

1 which point I would be in to the Zoning Administrator on a weekly basis asking for some kind of
2 relief under HIEs or Variances or something. A simple little example, a nice scenario that would
3 actually work and be aesthetically pleasing, windows on the side of the house. Let's just say you
4 have to use clear story windows in the rooms on the side of the house on the second story. Clear
5 story windows start maybe around five feet and go to eight feet. They still provide light, they
6 still provide ventilation and they actually look very nice. Now you have to get up on a stool if
7 you want to stare at your neighbor. Conflict: uniform building code says if you have a bedroom
8 on a second story you have to have at least one window that is only three feet off the ground that
9 you can get out of as a fire escape. That is just one example of many that we kept coming
10 across. The whole thing boiled down to trying to find something that would address the issues
11 that we had identified and would still give the creative freedom to the applicant. We all felt that
12 was enormously important. One of the worst things about the whole failed Interim Historic
13 Ordinance is we had someone in City Hall trying to dictate style and design and that was awful
14 and everybody hated it and it died a very appropriate death. If anything that was there in front of
15 us the whole way through, that we did not in any way want to create a situation where a small
16 group of people were dictating to people what their design should be. That's why we wanted to
17 keep it to design issues like massing, scale, articulation. So that a Bob Pederson can do a house
18 like he did or the house we just discussed can be done and can work within a neighborhood and
19 not have the strong arm of government censorship placed upon it. We wrestled with this very
20 hard. It really did come down between excessive regulation versus the chance that a more
21 benign way of reviewing the design on an individual basis so you go in and make your individual
22 design case would be a better way than constantly trying to get around regulations that didn't
23 think about the circumstances that exist on your lot.

24
25 Commissioner Schink: Can I follow up on that?

26
27 Chair Bialson: Okay Jon then Owen.

28
29 Commissioner Schink: My understanding that I heard from a number of the neighbors is that
30 they were very displeased with that house. I thought we were trying to protect the
31 neighborhood's interest and the neighborhood's interest as I understood were contrary to what
32 happened on that site. So how in this process are we going to balance that?

33
34 Mr. Gawf: A couple of things. That house plus several other houses might be looked at as a
35 little different than the rest of the neighborhood were included on our tour. We wanted some
36 feedback on the very question that you are asking. We did the tours as individual groups.
37 Usually we had a Staff person, an architect and a civilian in the car and we had discussions as we
38 went around. I can't remember if there was a conclusion when we had finished and got together
39 again but I know in my group I just know that the issue that you identified would come up. It is
40 interesting. Some people said I like some people said I don't like it but almost everyone said it is
41 probably within the range of meeting our goals, the privacy, massing and streetscape and
42 therefore should be approved. That was one of the real reasons why we called it individual
43 review and not design review. It is not intended to be reflective of personal taste but of the
44 factors that have been identified whatever those factors are.

45

1 Commissioner Schink: I understand all that but what is there in the material that is in front of us
2 that would suggest that that would pass muster?

3
4 Mr. Gawf: One of the things that I think we'll don on April 11th is give you a little bit more
5 background on some of the design issues that we tackled. We spent a lot of time I think on all
6 the issues actually but one of the areas we did as Jon said to educate ourselves on what is
7 massing, what is privacy, what is appropriate streetscape. We shortcut that tonight and I think
8 we will add that to our presentation on the 11th. That may give you a better sense of some of the
9 areas we are looking at.

10
11 Commissioner Schink: Maybe you could include a picture of that house and say this would pass
12 so it is in the record.

13
14 Chair Bialson: Owen.

15
16 Commissioner Byrd: I notice that the tour excluded Downtown North. I'm sure Michael Griffin
17 wanted people to come to our neighborhood and look especially because we have had so much
18 discussion of Bob Peterson's house tonight which is in Downtown North. At the risk of
19 violating Bob's privacy here I was thinking about your comment that it would probably pass
20 because in my mind's eye streetscape and massing issues are in fact addressed but that house
21 orients sideways on the second floor with a great deal of interior open space and glass that
22 directly violates, I use that term advisedly, but violates the privacy next door. You think Bob
23 Peterson's house would pass this process?

24
25 Mr. Northway: If I didn't I wouldn't support it.

26
27 Commissioner Byrd: In fact, I would encourage people to come visit my and Michael's
28 neighborhood. We have a number of different expressions of modernism in that neighborhood
29 some of which I think work and some don't. But again, that's my subjective view. I'm
30 interested in Jon's suggestion. Go around and take pictures really unorthodox houses that would
31 still pass to give some sort of assurance that the problem wouldn't wash out creativity and
32 freedom.

33
34 Chair Bialson: Would you want those pictures to be part of whatever process we come up with
35 so that Staff that maybe has not gone through the process we have hear of education and
36 hammering out what we want and don't want would be incorporated as part of the regulation?

37
38 Commissioner Byrd: I'd have to think carefully about that. I don't want to compromise any of
39 those homeowners privacies by having pictures of their homes included in guidelines or code. I
40 like Jon's idea. Bring us some examples of really unusual houses that would still pass muster.

41
42 Chair Bialson: That was very fast.

43
44 Mr. Northway: I want to give you guys a homework assignment, I don't know if you've done it
45 or not but I think it is vital that you drive that route that is in your packet. Quite frankly if you
46 need help I'm sure any of the architects on the committee including myself would be happy to

1 ride with you. It is really important that you take that tour because clearly one of the problems
2 of having worked on a problem for over a year is that we know the problem backwards and
3 forwards. We got the benefit of having the Architecture 101. We will give you a little of that
4 benefit at the next meeting. We had the benefit before we started the discussion of actually
5 having defined all of these terms so we all knew what we were talking about. We will give you
6 that at the next meeting. I would really ask that you drive this thing and if you want help from
7 any of the members of the committee we'd be happy to get a group of you and go with you.
8

9 Mr. Gawf: Jon, we didn't include Downtown North because Michael wasn't assertive enough.

10
11 Chair Bialson: I think your points are well taken. I think what you are hearing here is respect
12 for all the work you've done and respect for the fact that yes, we agree with you that you would
13 find these homes to be acceptable, this group right here, this Staff right here. What you are
14 hearing is fear of what happens one year or two years down the road and how these things
15 migrate and get reinterpreted by individuals. Am I correct Jon?
16

17 Commissioner Schink: Yes, I think it is essential that we have in the record some wonderful
18 creative examples so someone can come back and say wait I thought I was supposed to be able to
19 do this.
20

21 Chair Bialson: Some articulation I think that while you mentioned privacy which I think is a
22 very loaded word, and I think you've got to change that, massing and streetscape I think you've
23 got to have as priority number one the freedom to design something different and say that all
24 these things are a balance. It is not an absolute given the neighbors will accomplish these things.
25 Jon you can speak and then we will go back to the Commission.
26

27 Mr. Northway: I don't think anyone on our committee would disagree with Jon's statement that
28 this is probably one of the most important issues that the Planning Commission will address and
29 also the City Council. One of the reasons that we literally limited the number of issues that we
30 brought forward was because we have great respect for the fact that for 107 years this town put
31 itself together without an enormous amount of help from City Hall and it's a pretty good town
32 that a lot of people would like to live in. This is a change. This is a change in how we are
33 looking at our neighborhoods and it is a change in how we are looking at how the structures that
34 are going in the neighborhood are going to interact with each other and it needs very careful and
35 full community debate. It is a change and it's a big change. It shouldn't be taken lightly. I
36 really personally appreciate the feedback you've been giving. You've pointed out some fears
37 that I've had. I think certainly the discussion about privacy and the definition of what the
38 expectations is, obviously we have to be very clear to the community on that. We appreciate
39 your feedback.
40

41 Commissioner Packer: I'm looking forward to when we see the guidelines and I can have a
42 feeling for how this process is going to work. What I hear on one hand is we have very skilled
43 talented architects and people with a good sense of what makes a good fit in the streetscape and
44 the massing who would be looking at the applicant's proposal. Then on the other hand you have
45 the neighbors who are not architects but have their own personal views about what the applicant
46 wants to do. I'm not sure how the neighbors' concerns are going to be translated and

1 implemented in the context of the guidelines which are sort of architect driven as opposed to
2 neighbor driven. I see two things happening here. There is review with Staff and architects and
3 then the neighbors come in. The neighbors will not have had the benefit of this tour or
4 Architecture 101 or all these other things. So how would that work and what additional burden
5 are we imposing on the applicant in dealing with this?
6

7 Chair Bialson: Annette.
8

9 Ms. Ashton: Thank you. I feel really compelled to say something about changing
10 neighborhoods and why we need to do something. We haven't talked about the Comp Plan
11 which I think is very significant and the need to change something with zoning. When you look
12 at Jon's comment about the town being able to run itself for 150 years I'm really struck by some
13 comments I heard recently by Ray Swarez, many of you went to the Leaders Forum, as he talked
14 about our changing neighborhoods. For many years we didn't have these dialogues because
15 everyone had the same mindset. Now as our culture has changed and people's values change we
16 do have this clash of what we should do in our City. I was additionally struck by a comment that
17 Commissioner Burt made the other night. He was talking about in Crete where he lived how
18 someone had put in this beautiful low-level low profile sort of houses and Eichler even a
19 gorgeous ranch style house how that would be so disrespectful of the neighborhood. I think that
20 is the perfect analogy of what we are trying to achieve. We don't want in our environment that
21 clash to be so dramatic. So I think it is time to do something and just wanted to share that
22 thought.
23

24 Chair Bialson: Kathy.
25

26 Commissioner Schmidt: I want to come back to something we talked about that Jon brought up
27 of wanting to make sure that we can still encourage the creativity of design and the homeowner
28 has rights here too. What has come to us is primarily looking at it from the rest of the
29 community. I think we do really need to have in this, and as others have said too, the statements
30 about the big picture. That we want to encourage good design, creativity, individuality, whatever
31 needs to be said there but that it is not the written guidelines go out and the community outreach
32 that occurs helps to convey that idea too. That it is not just the neighbors saying we want you to
33 do it our way. I think that both sides have to be given weight in the documentation and
34 education they have.
35

36 Chair Bialson: Owen.
37

38 Commissioner Byrd: I'll make one last comment that is directly on point. In terms of the
39 threshold for review my concern with a threshold that places a great deal of emphasis on second
40 stories in turn because second stories are perceived as most impactful of privacy has an
41 underlying value judgment to it that runs counter to a lot of the other thinking that infuses our
42 Comp Plan and our region. We live in the fourth largest metropolitan region in the nation, we
43 need to grow up and not sprawl out and whether that is the region or whether it is by lot in order
44 to protect permeable surface and protect natural environment, in general it is better to go up and
45 not out. I understand that when you go up and not out that can be at cross purposes from
46 protecting privacy. I know that this Commission has got its chops busted by the City Council for

1 our resistance to single story overlays which was in part premised on our belief that in general it
2 is better to go up than out. So as we look at threshold for review and as we consider this desire
3 to protect privacy, however it is defined, that needs to be balanced against values including sort
4 of the regional notion that we grow up not out and that we protect the environment. Every single
5 square inch that we pave over, whether it is on my lot or across this region, generally diminishes
6 the quality of our natural environment. So I think that is a value that deserves expression in this
7 process too.

8
9 Chair Bialson: Phyllis.

10
11 Commissioner Cassel: I was hoping that in doing a review process for second stories that we
12 would allow second stories with less resistance to what we have now. What we are getting now
13 is people are very angry when someone puts up a second story. Yet, when we do our tours we
14 know that the second story is only uncomfortable in certain cases. We can't identify the larger
15 home by looking at the second story. You look at the house and you look at two or three houses
16 down the street and you cannot tell which house is the largest house by looking at the front of the
17 house because some houses are very nicely done and it fit in such a way that it doesn't appear as
18 big and other houses just feel massive by the design. Second stories should be welcome and
19 wanted in the community. Houses that reflect different cultures should be welcome and wanted
20 in the community. I was hoping in allowing the review process we'd build it in such a way that
21 it feels comfortable in the community and we can stop being angry at people for having second
22 stories. Maybe if we do this with that intent some of the anger might go out of it. Even though I
23 very much want the next step and that is to allow people to build on the first floor if they want to
24 build on the first floor, environmentally that is not the way to go. Second stories are the way to
25 go. It is much better to heat. It is much better to cool. It is much better for impervious surface.
26 But people are angry because of these other issues and somehow we're trying to resolve these
27 two conflicts. I hope we can look at this in a more positive way to build second story units that
28 feel comfortable that allow flexibility, that allow different cultures to express themselves in a
29 environment. One size does not fit all and it's not comfortable. It gets pretty boring to drive
30 through New England they are all the same looking house.

31
32 Chair Bialson: Jon.

33
34 Commissioner Schink: I'll try to make these my final comments. I think first I would hope that
35 we make it very clear to the community in sort of simple terms that you translate what is being
36 proposed in terms that the community can understand, that a 150 square foot second story is
37 going to trigger design review. That essentially means if someone wants to add a walk-in closet
38 on the second floor of their home they will come in for design review. I think that the whole
39 community needs to grasp that issue.

40
41 Speaking to the point that Phyllis raised, I want to tell you from personal experience this process
42 is not going to reduce the tension in the neighborhood in any way whatsoever because when you
43 get people participating and negotiating over what's happening it just raises the level of tension
44 unless you allow the parties a way to opt out. By that I'm advocating my trigger on the second
45 floor. If you give a trigger, maybe I'm reaching too much for 90% maybe it needs to be 80% but

1 you have to have that trigger, or you will not have a reasonable relationship between neighbors
2 let me assure you. I've been there.

3
4 Speaking to another point that was raised. Another community I work in is Carmel. Carmel
5 essentially has design review through various manipulations for almost everything that happens
6 in single family homes. It is my observation that about 30% of all the projects get appealed and
7 they generally get appealed by just one or two gadflies around the community who appeal
8 everything. So you need to be very careful about that aspect of the ordinance. There is an
9 enormous amount of work that flows up to the Council.

10
11 The final point that I would hope speaks to an issue that Pat raised is that, and again speaking in
12 favor of second story triggers, I think the wonderful thing is that there should in some way be a
13 slightly different standard developers than there are for neighbors. The interesting thing that you
14 will find is that a developer has to achieve 100% build out to make a project profitable because
15 he paid top dollar to get the land he has to achieve the 100% build out. An end user who is going
16 to live in the home has much more flexibility about what they do. So in this process, the
17 wonderful thing about it is it will require developers who want to stay in business in town to go
18 through the design review process. Then they will have to work out the issues with the
19 neighbors. If someone is going to live there they can escape because they can generally work
20 with less. To give you an illustration as to what it means to a developer, a 10% cut on the
21 smallest lot in Palo Alto is 2,250 square feet, so it's 225 square feet at \$900.00 per square foot
22 that is essentially \$200,000 on the smallest lot in Palo Alto and going up from there. To be
23 competitive in the market you are going to capture all the developer proposed homes. So again
24 I'd advocate you look at some kind of a trigger that lets your second stories go through and you
25 will achieve a more reasonable balance in the whole process.

26
27 Chair Bialson: Bonnie.

28
29 Commissioner Packer: I'd like to go back to the issue I raised at the very beginning. The second
30 story new house or remodel that goes up between two other existing second stories or in a
31 neighborhood that is predominantly second story. In that situation wouldn't a less rigorous
32 review, a different set of guidelines, something that doesn't put such a burden on a homeowner
33 or a developer in that situation be better? The streetscape is already all second story. It is not the
34 same impact on the neighborhood as in other situations that you tried to address. So that could
35 be another variant, another safe harbor, or another aspect of this threshold you might want to
36 consider.

37
38 Chair Bialson: I assume from all our discussions that we are agreed that we do not want the
39 alternative of prescriptive regulation that would be in lieu of having the individual review. Is
40 that correct? Are we taking that as a given?

41
42 Commissioner Byrd: Not yet because I don't know what the definitions of the three primary
43 concerns are and how they are going to be applied. So really the devil is in the details. I've got
44 to see the guidelines before we know what process is appropriate to implement them.

1 Chair Bialson: I hear what you are saying. So you would be still amenable to having
2 prescriptive regulations assuming we are going to do any additional regulation of this area the
3 approaches that are given to us go down from doing nothing to prescriptive regulations. We are
4 now in the middle and you're saying?

5
6 Commissioner Byrd: By prescriptive regulation I presume you mean just relying on zoning
7 changes.

8
9 Chair Bialson: Yes.

10
11 Commissioner Byrd: And Ed is right that that is a pretty blunt instrument. Before we go there
12 we need to look at the other stuff. But again, that Staff diagram of the continuum of levels of
13 oppression can be useful to us once we know exactly what is being imposed.

14
15 Chair Bialson: I appreciate that but it seems a lot of the comments made about individual review
16 guidelines speak to how you feel about them absolutely not in line with the alternative of being
17 prescriptive regulations. It seems to me that you've got to keep in mind what the alternative is.

18
19 Commissioner Byrd: I admire Staff's attempt to distinguish individual review from design
20 review. I am even more opposed to design review. Before I'm on board for individual review as
21 opposed to simple code changes I've got to see the guidelines.

22
23 Chair Bialson: Jon.

24
25 Commissioner Schink: I would say the same thing, I want to see the guidelines but I also want to
26 see a threshold trigger. If I don't have a trigger that allows me to put a second story I would say
27 that zoning code revisions are definitely the way to go.

28
29 Chair Bialson: Okay. I hate the prescriptive regulations from a personal perspective. It seems
30 that we have given you our view. I think the review all single families is clearly out. The
31 extensive code changes are what I was looking at at this point. I'm trying to narrow our
32 discussion.

33
34 Mr. Gawf: Here is what I'm hearing, again let me try this, the Commission seems to be saying
35 that given the choices individual review is probably the appropriate direction if the guidelines are
36 appropriate in addressing the issues and there is a threshold or safe harbor that is realistic and
37 gives one a reasonable choice to opt out. Those are the two major considerations that we will
38 look at as we come back on the 11th.

39
40 Chair Bialson: I think what we are also saying is we don't want to end up in a situation where
41 we have necessity to negotiate with the neighbors. We don't want to end up having design by
42 neighbors or tyranny by the neighbors.

43
44 Mr. Gawf: We will add that as a third because we have talked a lot about that actually and that is
45 where the mediator comes into play. That's where a checklist and we've outlined how this
46 checklist might work. We will address that as a third issue as well.

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Chair Bialson: I think in that regard you have got to recognize that even if we can come up with regulations that while they address the neighborhood need to know what is happening, etc., it does not empower them to delay the process whereby the weapon of delay can be used to accomplish whatever they wish with regard to design. Is that correct, Jon?

Commissioner Schink: Yes, I think you are basically getting the issue. Ed, unless you have a hard number in there it won't work.

Chair Bialson: Thank you. Kathy.

Commissioner Schmidt: I have a question for Jon. When you were giving your example of the builder losing the couple hundred thousand dollars on the smallest lot does that include the building doing a full basement under the house as well?

Commissioner Schink: The value of the basement is significantly less. You lose square footage upstairs you lose square footage. There is no way to compete. There are enough people around and everyone is going to assume 100% so you have to get 100%. That means you have to get neighborhood satisfaction.

Commissioner Schmidt: 100% above grade?

Commissioner Schink: You have to get 100% of your FAR or it won't work out. So this system is wonderful. You'll capture every spec builder and the ones that can't work with the neighbors will soon be gone.

Chair Bialson: I do see some value in spec builders by the way but I also recognize that not all spec builders are reasonable or smart. So while I hear you with regard to what a smart spec builder would do I don't think I expect that in all of them.

Commissioner Schink: It is not whether there are no smart or reasonable spec builders but the market forces will take care of them more quickly if the builder cannot satisfy neighbors to get 100% of FAR.

Chair Bialson: I noticed in the Staff report you wanted us to address this moving of the daylight plane from regulations to the guidelines.

Ms. Grote: I think before we do that we would like to hear from our co-chair Carroll Harrington who would like to talk about the educational and outreach program. Then if we have time we can move into some of the specific regulation changes or we can handle that at the upcoming meeting.

Ms. Carroll Harrington, Co-Chair, R-1 Advisory Group: I think several of you have mentioned tonight the importance of outreach and education in the community. The Advisory Group strongly advocated that we do have an education program after all this is adopted. Part of the problem that people in this community seem to have is because they don't know who to ask a

1 question of, they don't know what the regulations are, they hardly know where City Hall is. So
2 what we would like to do is develop a community and Staff awareness program and we
3 especially want to include the Staff in this because we realize that Staff will be changing through
4 the years and we want to be sure that we are all operating from the same database, so to speak.
5 In putting this plan together, first of all we were thinking of going out to the community and then
6 we realized no, our first target audience would be the Planning Commission and the City Council
7 and then to our neighborhood associations. So we are reaching out into the community that way
8 and we are developing dialogues much as we have tonight because while we've had some very
9 interesting discussions in our group we kind of need a reality check. What we discussed tonight
10 has given us a reality check so that we can see there are some other issues we need to address.
11 After all of the zoning code is adopted and changed and we have the guidelines and we are ready
12 roll then the real work begins. That is to have this community at large education program.
13 Again, keeping in mind that it is very important for the Staff to be involved in this. I would like
14 to say that the Staff is very enthusiastic about it.

15
16 We've talked about a variety of ideas all the way from developing a joint Palo Alto Adult
17 School, City of Palo Alto class. The neat thing about doing it with the Adult School is their
18 catalog goes out to 55,000 people and it is the best way to reach out to the community. I would
19 like to add here that the remodeling class that they have been having at the Adult School has a
20 waiting list. So it is obvious that people are interested in hearing about this. This class would be
21 one that we would work out with the City Staff and with other people who would be interested.
22 We also talked about the importance of reaching out into the community by having
23 neighborhood meetings or public forums, working with Impact to develop a series on cable TV,
24 to have a bibliography of articles, magazines and books. The two books that we found very
25 helpful in our group are by Suzanne Susanka. There was a very good interview with her in the
26 Mercury News on Saturday where she is talking about how the philosophy of having a great big
27 house is changing back to a smaller house is more beautiful. Then of course a web site. We
28 could develop a very exciting web site where people can get this information and talk to each
29 other. Then an annual design award so that we can point out good examples in the community
30 and people would see that there are some good examples. For me that was one of the most mind
31 opening experiences I had, going around town and seeing the good examples of remodels. I just
32 have to go from 830 Melville over to Lucile Stern and I think there are eight rebuilt or remodeled
33 and I love all of them. They are all very different, some are very contemporary. I live in the
34 Eichler which is at one end and then there is an historic house down the street that is being
35 remodeled. So to appreciate the good things that have been happening and to point it out. What
36 we would like from the Planning Commission is support to go ahead and develop this
37 community and Staff awareness program.

38
39 Chair Bialson: Comments from Commissioners? Kathy.

40
41 Commissioner Schmidt: Yes, I think that is absolutely necessary. I'm always a proponent of
42 education and participation in this way. I think the program won't work unless you have an
43 excellent way to communicate and educate.

44
45 Chair Bialson: Bonnie.

1 Commissioner Packer: I agree of course we need education but one comment I'd like to make is
2 that we live in a community that is very diverse culturally. I wish it were more diverse
3 economically. I don't know that we have talked or had focus groups with people from different
4 cultures in terms of what expectations people have in a house. What are they looking for? What
5 is beautiful to them? I know this is not design review it is individual review but there may be
6 aspects of massing and streetscape that translated into design or cultural expectations. I think
7 that's an area we may want to reach out into other groups because if you look around we are all
8 pretty uniform here culturally and I don't think we are representing the community.

9
10 Ms. Harrington: This might be an area where we could explore something with the Adult
11 School. I keep saying the Adult School because it is one of the best ways to reach out into the
12 community. This is also an area where we could use the local newspapers and the neighborhood
13 associations. I think you have a very good point there and it is something that we can explore
14 further to come up with some new creative specific ideas.

15
16 Chair Bialson: Owen.

17
18 Commissioner Byrd: I couldn't agree more with Kathy that making a new program work
19 depends heavily on community outreach and awareness. So I have no criticism of any of the
20 substance of the proposed program. My only concern is that we allow the City's decision-
21 making process to play itself out before we begin to conduct outreach or education because we
22 may not have a program or if we have a program it may look different than its current form. So
23 we wouldn't want to start educating people about something that isn't yet in final form.

24
25 Ms. Harrington: Something that I have said to my committee from the very beginning is we
26 can't even go out to talk to the Planning Commissioners until we have something in writing
27 about what we are presenting. We certainly don't want to put together a public education
28 program until we know what we are representing. I think we need to approve the concept of it
29 much like we were talking about individual review so that this is a component of what we do. It
30 will have some Staff implications and it will have some budget implications.

31
32 Commissioner Byrd: To follow up, I absolutely think that if we do anything on the subject of
33 single family design it should contain an awareness and education program but we don't yet
34 know if we are going to do anything. That is my only concern.

35
36 Chair Bialson: Jon.

37
38 Commissioner Schink: I would agree with Owen but then to give some specific advice about it, I
39 think the educational concept is wonderful but I would suggest that you start right from the
40 mindset of trying to work with the entire community to understand that change is something that
41 is part of life. I will give you an example that I recently came across that I thought was
42 somewhat interesting. I was reading a Noel Coward play, Design for Living, written in 1932. In
43 there was a line in which one of the characters reflects on Paris that they were in Paris last year
44 and how terrible it was because they were pulling buildings down all over the place. I thought
45 my goodness, 70 years ago outrage in Paris about buildings being pulled down all over the place
46 and we go there now and it just looks absolutely incredible. So these feelings that we are having

1 in the community have been around for a long time. I think that we need to try to make people
2 realize that what we are doing here as a group is manage the change but the change is inevitable.
3 So that we try to get over that initial reluctance to change.

4
5 Chair Bialson: Phyllis.

6
7 Commissioner Cassel: I think there are some things that have already been done that could be
8 included in classes that already exist. I don't think it is a black or white issue. The tour that you
9 have put people on and why, for instances. I think if we look at other issues that we've done
10 with just questions back and forth and issues back and forth, the awareness of what's happening
11 when someone is doing a project. I don't see that there is any right or wrong in that. I don't see
12 why that couldn't be included if you are working with some of the public education materials
13 that you are talking about, the class that already exists. I think it would be very helpful as a
14 matter of fact.

15
16 Chair Bialson: I also agree that the public education and outreach is very important. I don't
17 know how we change the predisposition in the community to take our opinions as facts. I really
18 have a problem with that and I have to admit that I am susceptible to the same tendency at times
19 but not that often. I also am somewhat concerned about the amount of Staff time and resources
20 that we dedicate to the educational process. I think we have to be aware of the scarcity of
21 resources that we can put to that education. I'm very concerned about the fact that you all put
22 such huge amounts of time into this and ended up with a wonderful product and it will be
23 debated by people who do not have the education or the background or the qualifications to
24 really speak to some of the work you've done. It will be debated on the pages of the newspaper
25 as a result of angry letters back and forth. Whatever we can do, whatever the outreach is that can
26 be done to try to tone that down or perhaps reduce it as much as possible, it is the outreach that I
27 am most concerned about right now. I don't know if you have addressed that at all, Carroll.
28 Have you?

29
30 Ms. Harrington: Well all along I've felt that it is very important along the way because this has
31 been our main vehicle is to talk to the newspapers. We've met with the Weekly and we've met
32 with the Daily News yesterday. We've talked to Dave Price before. I think the result today was
33 a very good article that told about where we are now. We can't develop a public education
34 program about where we want to be a year from now but here is where we are now. This is the
35 process we've gone through. We worked very hard to get a variety of people in the community
36 to speak. We've had public meetings. There has been a whole public process and we are going
37 to go ahead and all along the way we want to be sure to have a dialogue and an evaluation of
38 what we are doing which I think is very important. What I was thinking before I came here
39 tonight might be quite different after the two or three hour meeting that we've had here. I think
40 we need to keep our minds open. In my grandiose way I would like to think about this education
41 program as we promote a feeling of community spirit in the kind of community we want to have.
42 Just having people talk to each other is a beginning point for that.

43
44 Chair Bialson: Now, I'm hearing that some of the things that are set forth in the Staff report are
45 items you don't necessarily want to discuss. Is that what you are saying, Lisa, at this point?

46

1 Ms. Grote: I think at this point there are a couple of things. One is that I would like to ask that
2 we be able to return on the 11th with some form of design guidelines but I need to ask you what
3 you would expect in that respect. We can have concepts and some ideas and thoughts put
4 together. We wouldn't have completed design guidelines by that point. Would those concepts
5 and ideas be sufficient for you then to continue your discussion and make a recommendation to
6 the Council?
7

8 The other thing is I believe there are many Working Group members here tonight that would like
9 to speak to some of the issues. So you might want to allot some time for the Working Group
10 members to talk to some of the issues and ideas you brought up tonight.
11

12 The third and final thing is that in the article that Carroll referenced, I believe there is an
13 incorrect date mentioned that the next Planning Commission hearing on this item would be April
14 8th. It is actually April 11th. So I just wanted to make that clear.
15

16 Ms. Harrington: I've already sent an e-mail to Dave Price about it. I neglected to mention the
17 most important thing. I really want to thank the co-chairs, the advisory group and the Staff.
18 This has been an incredible process and very positive. Thank you for your input tonight.
19

20 Ms. Grote: So to get back to your original question, some of what we put in the Staff report we
21 would like to cover on April 11th rather than tonight.
22

23 Chair Bialson: Thank you. John.
24

25 Mr. Northway: I would just like to follow up on Lisa's request as a member of the committee
26 that is trying to grapple with these guidelines and it is semi-catch-22 for us because if the
27 concept of individual review is not going to move forward we don't want to spend the 1,000
28 hours it is going to take to a refined package of guidelines together. We are perfectly happy to
29 craft something for you if you can give us some specifics of exactly like to see knowing full well
30 it is not going to be a finely tuned publication that you'll be viewing on the 11th.
31

32 Chair Bialson: Owen.
33

34 Commissioner Byrd: I'm unclear. Are you going to bring us an ordinance that we are going to
35 recommend approval or disapproval to Council? What is the product?
36

37 Ms. Grote: What we would be bringing to you in terms of the guidelines is a preliminary or a
38 first draft document that would include the concepts that would be covered and the topic areas
39 that would be covered and some of the ways that we are thinking of approaching those areas.
40

41 Commissioner Byrd: So it would be another study session?
42

43 Ms. Grote: No, actually it would be for you to make a recommendation. It wouldn't be in
44 ordinance form it would be a design document.
45

1 Commissioner Byrd: I tend to agree with Jon this is going to end up being one of the more
2 important things we've done. If you look at the number of hearings we've put into things over
3 the years from Sandhill to Comp Plan to other things we may as well put in the effort this one
4 takes. If you are looking to poll us on is there a possibility that individual review is going to pass
5 muster with this group, I can't speak for everybody, I've heard reactions that range from yes to
6 maybe to maybe not. It all depends on what is in the content. So I would encourage you to give
7 us the opportunity to comment on whatever will go to the Council in final form. I'm not going to
8 be very comfortable given the seriousness of this making a recommendation to Council on
9 something that is not in final form. But that is just me.

10
11 Chair Bialson: Jon.

12
13 Commissioner Schink: If you do bring the guidelines forward what I think would be incredibly
14 insightful from my perspective is if we could see three or four or five houses of various types in
15 the community especially if you took some of the more innovative houses and applied the design
16 guidelines to those and told us it is going to pass here and it is not going to pass there. So we
17 could see how the end product appears. Or some of the bad examples, the things we are trying to
18 solve, why it solve the problem with this house and why it would allow this house to go through.

19
20 Chair Bialson: Kathy.

21
22 Commissioner Schmidt: Would it be possible to have another type of working session instead of
23 saying we'll come to you with something and then we'll go to Council. I would really prefer to
24 see concepts for guidelines rather than say go away and come back with full blown guidelines
25 that we have no idea what you're thinking. I think it would be asking too much to ask you to
26 come back and we say yes or no and you go to City Council. So is it possible to do another
27 working session answering Jon's questions, come in with concepts, thinking about some of the
28 things we brought up tonight if we extend your timeline a bit?

29
30 Mr. Gawf: It is but let us take your thoughts and discuss those and see how we can best address
31 them. One of the things that the Advisory Group has told me, because I pushed very hard to
32 move this along because I think the community has asked for us to address it in some way, what
33 they have told me is it is an important issue and we need to do it right and if it means we take a
34 little bit more time then we take a little bit more time. So let us take your comments and discuss
35 it and move forward that way. I would also like to confer with the co-chairs about their thoughts.

36
37 Chair Bialson: I think it would be appropriate to hear some comments from the rest of the group
38 now. I don't know how you want to choose among yourselves or who is to speak. I would
39 appreciate some comments and I will limit the time.

40
41 Mr. Gawf: Let's do like we do at the Advisory Group. Everyone has five seconds.

42
43 Mr. Michael Griffith: Thank you for listening to our proposal tonight. We very much appreciate
44 your concern about passing on an incomplete process. We will go back to the drawing board and
45 tune it up more for you. I think that's a reasonable thing to request and I think you've got a lot
46 of empathy here in this group for just the point that you have been making.

1
2 Ms. Judith Wasserman: I would like to thank you all for paying attention to us and respecting
3 the work that we've done over the past two or three years. This specific group has been meeting
4 since a year ago January. I'd like just to remind you that we didn't get together because there
5 was not a problem. We didn't make this up. This is something the community has been talking
6 about literally for some time now. It is an issue that is not going to go away. If I had a nickel for
7 everybody who said how did that get by in reference to a single family house not realizing that
8 there was no design review or any kind of review for that matter on single family homes in Palo
9 Alto. Most people expect it and are furious when they listen to me. I am an architect and I
10 design single family home additions and remodels. I have no problems with this process that has
11 been proposed.

12
13 Mr. Richard Elmore: Thank you very much for hearing our concerns. We've worked really
14 hard. I've been on hundreds of committees all over this country dealing with design. I've been
15 involved with all kinds of design from large projects to what I do most every day is design
16 personal homes for the constituencies of this town. It is very badly needed and you know that so
17 we don't need to tell you but I have to tell you how badly needed it is. I'm in the trenches every
18 day, a different trench maybe than the Staff is but yet we share that trench many times trying to
19 do the right thing for the community. Trying to get decent projects across that are appreciated by
20 most of the people and that are gifts to the street. Jon Schink said something very important. He
21 said this is one of the most important issues that this Commission will debate for a long time. It
22 is very important because there is so much animosity about the system that is in place now. The
23 system that is in place now is giving us what stinks and that's why there is the problem that we
24 have now. So we've got to change it. What we've come up with is a very good way of doing it.
25 I work in many different communities, I am very used to design review, it doesn't bother me at
26 all. I think it brings out better design because I think each design is weighed on its own merit. It
27 is weighed for what it is instead of just a bunch of numbers and calculations. So that's why I
28 have been so into making this happen. I think that we should as a group hone in on some of the
29 things that you've said come back to you on the 11th with a good preliminary concept because we
30 can't finalize it between now and the 11th. We need to do this right instead of in a hurry. So
31 again, I want to thank you for hearing us tonight and we'll be back on the 11th.

32
33 Mr. David Olerich: I concur with the rest and I want to thank you for doing our initial test. I
34 think there is a consensus in the room that something has to be done and you've given us some
35 great things to work with so we look forward to coming back with additions and alterations that
36 you might find more palatable.

37
38 Mr. Mark Kniss: Again, thank you for your attention tonight. There are a couple of observations
39 that I'd like to make. One is that I think that we might have rushed the presentation a little bit
40 this evening and it might have gone a little better from my perspective if we had summarized and
41 spent some more time on the problem resolution and problem identification. But we spent
42 literally months working that through. I think if we had laid out more a summary of that and a
43 statement of the feedback we received, I know that was in the slides but I don't think we spent a
44 lot of time with that, the impact might have been perhaps more convincing from your
45 perspective. That is just an observation on my part. Another is that the notion of individual
46 review is not a radical idea. There are many communities that have implanted this successfully.

1 With all due respect to some of Jon Schink's comments my personal belief and having
2 experienced this whole process is that individual review introduces more creativity into the
3 potential end result, not less. Maybe that is not a message we got across very well tonight
4 judging from some of the comments we heard but I think that is a very important aspect of
5 individual review. It is really resulting in projects that we can all be more proud of and take
6 heart in in the community. Thank you.

7
8 Ms. Catherine Carroll: I'll repeat thank you again. We are glad that you are listening to us but I
9 heard there was some concern about too much power to the neighbors. One of the things I would
10 just like to comment about that in the group we really focused on the harmony that we feel that
11 can be brought in the neighborhoods from individual review and from the neighbors having some
12 say. Right now they are virtually powerless except to a very cumbersome thing of trying to get a
13 single story overlay. They really don't have anything to say about what is happening around
14 them. I like to look at it as bringing a harmony rather than bestowing too much power. I hope
15 that can be carried through the whole thought of the process of the individual review. I think it
16 will really be a positive thing. Thank you.

17
18 Ms. Susie Thom: I too want to thank you for listening to us tonight. I think the whole crux of
19 the issue is how can we protect an individual's property rights and still respect the neighbors.
20 That is what this is all about. I think that going through our thought processes we have come up
21 with some solutions. I think you have given us some insights tonight. I think sometimes you
22 don't see the forest for the trees. While we all know what privacy is we have to find a way to
23 communicate that a little bit better. Thanks again for all your insights and we'll be back.

24
25 Chair Bialson: Thank you very much for your hard work and we hope to end up with a better
26 result as a result of the push and pull that goes on between us coming in at this point in time after
27 you have spent a year plus working the issues and we take a look at them, our comments are not
28 in any way disrespectful of the time and effort you have put into this process but perhaps
29 indicative of the education that you have to go through of the people that are going to receive and
30 work with whatever you come up with by way of a process.

31
32 What else do you want us to say at this point in time, Ed?

33
34 Mr. Gawf: I think we've got good comments tonight. Let us sit down, outline the issues as we
35 see them and where we go from here. I don't know about the Commission but I think after a
36 couple of hours that we have hit the wall and we've gotten some things that we can take with us
37 and we'll be back. Also let me say, I think that was just reflective as you heard the individual
38 Advisory Group members comment and the thoughtfulness and their ability to express the
39 different perspectives is just indicative of the process over the last year. I think that's why it has
40 been a good process. The co-chairs and also the quality of the meetings that we've had and the
41 people participating in it. We'll see you in a few weeks.

42
43 Chair Bialson: Fine. Kathy has a final comment.

44
45 Commissioner Schmidt: I want to make a commendation here too that I think this really
46 deserves lots of gold stars. This is a really, really hard problem and I think you have been really

1 creative in trying to come back with some non-standard solutions to how one might approach
2 this situation. As Ed just noted and I heard from many of you tonight that this process that you
3 have gone through has been a unifying process. Something that we want to come out of this that
4 happens with design review if we have it. Bringing things together, bringing diverse opinions
5 together, coming up with things than one can agree on. I think that your process has exemplified
6 what we want to see more of in the community rather than the processes where people come
7 together and they just get disinterested and don't like what is going on and go away unhappy.
8 You guys are just the good example of how things can work. We made a lot of comments
9 tonight that might cause some rethinking but I think you are doing a great job. Thank you very
10 much.

11
12 Chair Bialson: I'm sure the whole Commission feels the same way and we'll close this item off
13 at this point in time. I don't think there is anything else on the agenda. We will adjourn the
14 meeting. Thank you very, very much.