



## REGULAR MEETING MINUTES

**Date:** 4/13/2026  
**Time:** 7:00 p.m.  
**Location:** Zoom.us/join – ID# 846 9472 6242 and  
City Council Chambers  
751 Laurel St., Menlo Park, CA 94025

### A. Call To Order

Vice Chair Ross Silverstein called the meeting to order at 7:02 p.m.

### B. Roll Call

Present: Ross Silverstein (Vice Chair), Katie Behroozi, Linh Dan Do, Katie Ferrick, Jennifer Schindler, Misha Silin

Absent: Andrew Ehrich (Chair)

Staff: Matt Pruter, Associate Planner; Kyle Perata, Assistant Community Development Director; Monica Roy, Planning Technician; Corinna Sandmeier, Principal Planner; Mariam Sleiman, City Attorney's Office; Chris Turner, Senior Planner

### C. Reports and Announcements

Planner Sandmeier said the City Council at its April 14<sup>th</sup> would introduce Planning Commission applicants and at the April 28<sup>th</sup> meeting it was scheduled to fill vacancies on various advisory bodies.

Commissioner Do recommended a book entitled "The Spaces That Make Us" regarding sustainable and humane architectural design.

### D. Public Comment

Vice Chair Silverstein opened public comment.

Public Comment:

- Ross Silverstein said he was speaking as a member of the public and asked about the possibility of the Planning Commission being allowed to request or add items to a future agenda.

Vice Chair Silverstein asked based on the feedback from the City Attorney's office in the last Planning Commission meeting and on the public comment just heard if an item might be agendized for a future meeting for a discussion, workshop or study session about the ability of the Planning Commission to potentially discuss, inquire or request items to be added to a future agenda.

Planner Sandmeier said that an item of adding items to agendas was not on this agenda, so she did not think it was possible. She said City Council policy included that "the Planning Commission

cannot direct staff to do work that will take more than an hour.” She said adding an agenda item, attending the meeting, and preparing minutes would be more than an hour.

Ms. Sleiman, City Attorney’s Office, said the Brown Act limited the ability to respond to public comments on items not agendized and the Planning Commission was limited to acting upon or substantively discussing items that appeared on the agenda tonight.

Vice Chair Silverstein said an exception in the Brown Act to not talk about non-agendized items was an allowed action to direct staff to place a matter of business on a future agenda.

Ms. Sleiman said an item that would require more than an hour of staff time would require City Council authorization.

Vice Chair Silverstein asked if staff would be required to attend a special meeting of the Planning Commission, and whether that would also violate any concerns regarding staff time, or whether special meetings would be exempt from that. Ms. Sleiman said she would need to look into that.

Vice Chair Silverstein closed public comments.

## **E. Consent Calendar**

- E1. Approval of minutes from the March 23, 2026 Planning Commission meeting (Attachment)

Vice Chair Silverstein opened public comment and closed public comment as no persons requested to speak.

**ACTION:** Motion and second (show of hands only) to approve the Consent Calendar consisting of the minutes from the March 23, 2026 Planning Commission meeting; passes 6-0 with Commissioner Ehrich absent.

Commissioner Behroozi expressed disappointment that the minutes on the Annual Progress Report were not more detailed for future reference purposes.

## **F. Public Hearing Items**

Commissioner Ferrick said she needed to recuse herself from this item based on guidance from staff due to a family members employed as a contractor at Meta.

- F1. Conditional Development Permit Amendment and Major Modification/Meta Platforms Inc./  
1 Hacker Way:

Request for review of a major modification to construct a three-story atrium between Buildings 12 and 14, and to construct exterior modifications and a new entry pergola at the main entrance of Building 10. The project would include interior demolition of gross floor area (GFA) to accommodate the additional GFA in the atrium. The project requires an amendment to the Meta East Campus conditional development permit (CDP) to increase the maximum height allowed for the new atrium to a maximum of 62 feet where the maximum height of Buildings 12 and 14 is currently limited to 48 feet. The proposed height increase would only apply to the proposed atrium and would not change the allowed height of Buildings 12 and 14. The proposed amendments to the CDP also include removal of conditions in the CDP for required roadway improvements that

have been completed and correction of existing building heights. Determine this action is categorically exempt under CEQA Guidelines Section 15301's Class 1 exemption for existing facilities. ([Staff report #26-008-PC](#))

Planner Turner presented the staff report on the item. He said the actions of the Commission were a recommendation to the City Manager for approval of major modification subject to City Council approval of the CDP amendments and then a recommendation to the City Council for approval of the CDP amendments.

Cherrelle Jarrett (Meta) and Erik Sueberkrop (STUDIOS Architecture) spoke on behalf of the project.

Vice Chair Silverstein opened the public hearing and closed it as no persons requested to speak,

Commission comments were generally supportive of the proposed changes. Replying to a question about the use of bird safe glass, Planner Turner noted sheet A7-22 and a requirement in the Office zoning district that no façade be more than 10% non-bird safe glazing so the applicant here was required to change the atrium so that everything except for just under the bus canopy height level would be required to be bird safe glass.

Vice Chair Silverstein said he would recommend the Planning Commission and Planning Department spend time determining reasonable height limits for various developments rather than making determinations through case by case actions.

**ACTION:** Motion and second (Schindler/Behroozi) to make recommendations for approval of the CDP amendments as presented by staff; passes 5-0 with Commissioner Ferrick recused and Commissioner Ehrich absent.

- F2. Zoning Ordinance Amendments to Chapter 16.79 (Accessory Dwelling Units): Consider and make a recommendation to the City Council to amend Chapter 16.79 (Accessory Dwelling Units) of Title 16 of the Menlo Park Municipal Code (the "Zoning Ordinance") by repealing existing regulations and adopting updated regulations for consistency with State law and incorporating local objective standards as allowed by State law. ([Staff report #26-009-PC](#))

Planner Pruter said staff had been working on an update to the City's Accessory Dwelling Unit (ADU) Zoning Ordinance for over a year. He said the City received a letter from the State Housing and Community Development Department (HCD) on December 5, 2025, which was 10 days before the December 15, 2025 study session with the Planning Commission on the ADU ordinance update. He said since staff had spent several months preparing revisions and beginning a new ministerial review for ADU completeness since January 1, 2026. He said tonight's agenda was to discuss the revisions and provide additional clarifications on those revisions since the December study session. He said this evening staff was looking for feedback and recommendation to the City Council. He said tentatively the goal was to have the City Council's first reading of the Zoning Ordinance Amendments on May 12, 2026 that would have City Council's second reading on May 19, 2026.

Planner Pruter said in the revised draft ordinance there were new terms for a simpler naming system for all ADUs, which were State ADUs and Local ADUs. He said State ADUs in previous documents were named state-mandated ADUs or 66323 ADUs. He said the ADU options required

by State law had very limited regulations guaranteed. He said the ADUs falling under State ADUs were new detached ADUs that were 800 square feet or less, conversion/internal ADUs, and Junior ADUs (JADU).

Planner Pruter said Local ADUs were those ADUs outside of the State ADUs and those were regulated by Government Code Section 66314 and could additionally be regulated by local objective standards that the City could adopt. He said previously these were named non-state mandated ADUs or 66314 units. He said that under Local ADUs (local ADU regulatory system) were attached ADUs, detached ADUs exceeding 800 square feet, and those located within a historic district.

Planner Pruter said items of concern regarding State ADUs from the December study session that affected a subset, which were new detached ADUs that were 800 square feet or less, Internal ADUs and JADUs. He said the first main concern was allowable maximum square footage. He said an internal ADU and a detached ADU both had maximum allowable 800 square feet. He said by definition a JADU could not exceed 500 square feet. He said the front setback was based on the feasibility of a site to construct an ADU, so no specific number was set for that. He said four-foot rear and side setbacks were required. He said it was possible that nonconformities might remain for internal ADUs and JADUs.

Planner Pruter said another concern was height allowances. He presented a few different possibilities based on factors. He said the ADUs/JADUs could be the same height as the existing building if it was a conversion using the same existing footprint. He said a new detached ADU had a 16-foot height allowance, but that could be 18 feet if located within a half mile of a transit stop. He said in Menlo Park that the Caltrain station was the one major transit stop that might be considered and the height allowance for a new detached ADU within a half mile of that station was 20 feet to accommodate a matching pitched roof depending on the primary residence. He said the height maximum for detached multi-family ADUs was 18 feet. He said there were no parking requirements for any of these ADUs.

Planner Pruter addressed Local ADUs noting they had some similarities with State ADUs but with some key distinctions. He said it included the attached ADU that was an expansion of a footprint involving an existing building. He said it was detached ADUs exceeding 800 square feet, if allowable, and ADUs located within a historic district. He said they were proposing that the setback and height requirements remain the same for Local ADUs with one exception. He said an attached ADU would have a different height limit working off state law that was to not exceed either 25 feet or the height limit of the respective zoning district, and whichever one was lower. He said it was likely that in much of the City's single-family residential zones the height was higher than 25 feet so it was probably 25 feet that would be the maximum height.

Planner Pruter said they proposed that the daylight plane and building profile requirements when applicable remain, noting that mainly would be an issue for attached ADUs to an existing residence. He said they also proposed that interior access could be allowed but would require two separate doors with independent locking mechanisms and in compliance with California Building Code (CBC) requirements. He said they had provisions to include an 18-inch eave encroachment into side and rear four-foot setbacks. He said covered porches could be no more than 20% of Local ADU livable space; exterior lighting was to be shielded downlighting and directed to avoid glare; and studio and one-bedroom ADUs had no parking requirements. He said for larger units parking would be required subject to exemption possibilities.

Planner Pruter said for Local ADUs the unit could not exceed 50% square footage of the existing primary dwelling or 850 square feet for one bedroom and 1,000 square feet for more than one-bedroom units. He said if the Local ADU was greater than 800 square feet then it was possible to exceed the floor area limit (FAL) by up to 800 square feet. He said they added a provision that a Local ADU if desired could be given an extra 100 square feet or a 900 square foot maximum/exceedance if the unit were accessible per ADA accessibility requirements as per the CBC.

He said following this meeting that two additional meetings would be the two City Council meetings to accommodate the zoning ordinance amendments' first reading, the second reading and ideally the adoption date. He said after that HCD would review the adopted ordinance and were allowed 60 days to provide feedback and any questions or concerns.

Planner Pruter said a revision was proposed to remove the exterior access pathway requirement or Section 16.79.070 (5). He said staff believed the recommended objective standards proposed would bring local regulations into consistency with State law and would incorporate new regulations to allow the City to effectively regulate local ADUs and support the City's existing policies to provide a mix of housing, He said the development standards within the local provisions were updated to reflect feedback from the Commission and community in December 2025, and specifically were for items concerning internal access, exterior access and maximum square footage. He said the Planning Commission was requested to recommend to the City Council approval of the ordinance amending chapter 16.79 of the Menlo Park Municipal Code.

Commissioner Behroozi said she was curious about the practical implications of the ordinance amendment noting a dependence on ADU production for some of the City's affordable housing goals that the Commission had discussed when receiving the General Plan Annual Progress Report recently. She asked if staff knew of any ADUs that had come to the Commission over the last year that would not have met the requirements in this ordinance amendments. She asked if there were ADUs, they had approved that they would not have approved with these proposed revisions, or that they would have required substantial changes to meet these.

Planner Pruter said he believed different varieties of ADUs the Planning Commission had reviewed incidental to projects requiring a use permit or other discretionary review in addition to those that were ministerial before had not really warranted concern as they had mainly focused on provisions that make locally objective standard type ADUs more feasible than before. He said for example with an attached ADU a few years ago they had additional requirements with respect to daylight plane and setbacks greater than four feet side and rear and more restrictive requirements. He said a lot of the ADUs coming forward more recently tended to be attached to a main residence and potentially just one larger footprint, and those were still a possibility with this pathway and still be ministerial. He said completeness review was only for ADU building permit applications purely for the ADU. He said he thought they had a much clearer understanding of separating out how these ADUs work, their functions and capabilities, and that provided information optimizing knowledge of what a property owner might do on their property.

Commissioner Schindler noted a reference for Local ADUs of allowing additional FALs. She said with the addition of a detached ADU of 110 square feet you could increase FAL by 800 square feet. She quoted from Table 2: "Lot coverage limits may be exceeded, only to accommodate one

detached ADU of at least 800 square feet of interior living space.” She asked if that implied the maximum lot coverage could increase.

Planner Pruter said that they allow that exceedance for the Local ADU in the sense of both building coverage and floor area.

Commissioner Schindler said with that understanding and turning to State ADUs the language for internal ADUs constructed with a new primary residence were subject to maximum FAL corresponding with that residential zone. She said that seemed to be a big difference from how things were done now and what the Commission had been reviewing. She said that the Commission essentially had been looking at proposals where there was a FAL or a coverage calculation, and then allow people to exceed up to 800 square feet. She asked if that was now going away.

Planner Pruter said the 800 square feet for an internal/conversion ADU would have to be within the FAL and maximum building coverage.

Commissioner Schindler referred to Commissioner Behroozi’s question and asked what would happen to ADUs they had been reviewing up to this point if a project like that came to the Commission that was 800 square feet over the calculated FAL that would have been an example of a project that would not have been approved.

Planner Pruter said that would be treated as a Local ADU. He said previously this was considered an attached ADU and would continue to be considered as an attached ADU, the same type of ADU in the example Commissioner Schindler gave. He said it’s just that it would not be considered an internal ADU.

Commissioner Schindler asked in just the case of an internal ADU if it were constructed at the same time as a new primary residence and was 650 square feet would any exceedance be given to the FAL or coverage beyond what the zoning permitted.

Planner Pruter said no not with an internal ADU. He said though for a lot with a 2,800 square foot FAL that a new 2800 square foot primary residence could be developed and to attach an ADU, that ADU would be considered an attached ADU subject to the local objective standards and was not an internal ADU. He said it would be allowed the 800 square foot exceedance. He said an internal ADU could not exceed the FAL and building coverage.

Commissioner Schindler said her understanding was that if someone wanted to build a home and go above the FAL through incorporation of an ADU that ADU was labeled an attached ADU, which by definition made it subject to local regulations rather than the state flavor.

Planner Pruter agreed and said conversely if someone wanted an 800 square foot exceedance and not be attached to the residence, a new detached ADU could be possible separate from the main residence.

Commissioner Schindler said with that understanding she thought some projects they had looked at over the last year would have had a different outcome or have been presented to the Commissioner differently.

Commissioner Behroozi referred to attached versus internal and said nearly every time the Commission saw for example a new Thomas James home it tended to use the extra 800 square foot allowance as an attached ADU and also often there was one door separating it from the main residence. She said she was trying to envision what the updated rule about two different locking doors instead would mean for those situations, noting that was the most common type of ADU the Commission saw.

Planner Pruter said they saw it like hotel connecting room doors that were separately operable and locked.

Commissioner Silin asked why the exterior pathway requirement was removed.

Planner Pruter said staff had discussions with the City Attorney about additional legal provisions regarding passageways and some state law language that actually prevented the requirement of such passageways between two points that the proposed ordinance language had identified as public type of area, public right of way, public easement, or perhaps an alley and the main entrance to the ADU. He said the determination was that it was not legally feasible to require.

Commissioner Silin asked if that legal issue applied to both State ADUs and Local ADUs.

Planner Pruter said it was a legal issue for state law for ADUs generally, but it was something they had tried to add on for Local ADUs. He said as it could not be applied to the State ADUs the proposed change is to remove it as a requirement for the Local ADUs.

Commissioner Silin asked if the HCD had a deadline for the City to adopt the ordinance amendments.

Planner Pruter said no specific deadline, but the City had a deadline to respond to the letter received in December. He said that it was met and the City had been in correspondence with HCD and they were aware that the City was making progress.

Mr. Perata said also, although he did not have the exact Housing Element program in front of him, he believed that the 6<sup>th</sup> Cycle Housing Element had a program identifying that the City would bring a new ordinance through and adopt within six months of receiving HCD feedback on any potential changes, which meant this proposal was on target timewise. He said the HCD letter identified that the City's ADU ordinance might not be consistent with state law but did not identify specific state law inconsistencies.

Vice Chair Silverstein referred to the remark that the only major transit stop in Menlo Park considered for the purposes of the 18 versus 16foot height limits was the Caltrain station. He asked if that specifically excluded major transit stops in East Palo Alto, Palo Alto and Belle Haven.

Planner Pruter said regarding transit requirements that the Public Resources Code was cited in the ordinance and some definitions. He said there was major transit stop that overlaps with other state requirements like SB9 and specifically for ADU parking. He said the threshold to be met for a major transit stop was high in terms of service. He said public transit (bus system) had an adequate level of service that was below the threshold to be considered a major transit stop. He said they assessed other types of services but determined those were limited to maybe five or six different SamTrans buses, both the Dumbarton Express that travel through the City. He said the

main point with the major transit stop determination was that the Caltrain Station could be included but the level of bus and rapid transit service lacked the intensity of intersecting bus lines and frequency to meet other criteria for a major transit stop. He said major transit spot was mostly rail-driven. He said technically they could look into Palo Alto stations some more but initially the half mile radius did not appear to cover any feasible distance for residences in the very south end of the City.

Vice Chair Silverstein said he thought Palo Alto had some but also in looking at the Caltrans state portal it showed an intersection of two bus routes with the same operation on the corner of Newbridge and Willow Road that had a frequency of 20 minutes or less during morning and afternoon commute periods.

Planner Pruter said staff would look into that.

Vice Chair Silverstein opened the public hearing and closed it as no persons requested to speak.

Commissioner Silin said looking at Google map live it appeared the measured distance (as crow flies) from the Palo Alto Caltrain station to Menlo Park for some properties on Creek Road might be within a half mile.

Planner Pruter said staff could look into that.

Commissioner Silin said he appreciated the summary of almost all of the major points proved by the Planning Commissioners at the December study session and that some of those comments were incorporated such as the internal access question. He said the pathway requirement was nice, but he understood removing it due to conflicts with state law. He said the stair landings and their size was another issue discussed and that was changed, and parking. He said he listened to the meeting recording of the study session, and he did not fully agree with the presentation of the modifications that were supported by the Planning Commission. He said one section listing things the Commission generally supported and another section listing things that some Commissioners supported. He said he tried to verify some things from the YouTube transcript and video clips of the meeting and found that certain things were mentioned only by one Commissioner such as the access pathway requirement and that was listed as a generally supported item, whereas other things were mentioned by multiple Commissioners such as increasing the maximum ADU size and those were listed under some Planning Commissioners. He said he thought he disagreed with the characterization of which things got more or less support. He said his bigger concern was that the new ordinance incorporated a lot of what he would consider smaller changes the Commission requested regarding parking and such but some of the bigger discussion points he recalled he, Vice Chair Silverstein and others had spoken about was that the City Council every year consistently sets housing as one of the top goals, and this was a chance to not only get in line with state requirements but also consider if the City wanted to go above those requirements as the City's latest Housing Element leaned further on ADUs as a way to add more housing units. He said they had proposed increasing the square footage allowed. He said the thought was that the state minimum was 1,000 square feet, than perhaps the City could allow more so people would want to build an ADU and even if initially those people used that in a private way that eventually those would become units that could be rented out down the line. He said those changes did not seem to be considered. He said the Commission had asked for incentives to add an ADU and he appreciated the incentive for an accessible unit, but he had hoped to see more. He said they suggested for example giving the homeowner more square footage on the main home if they had

an ADU, things like that. He said one of the items listed on the generally supported list was the idea of allowing the sale of ADUs and that was not included. He said the ordinance explicitly excluded that unless it met the requirements of state law which required it be built by a nonprofit that then could sell. He said what the Commission was imagining might be seen as controversial going above and beyond state requirements but since it was aligned with their City Council goals and supported by the public that they should at least be proposed for Council to review. He said what was being proposed was fairly conservative and would generally keep things in line with state requirements, adds a couple of things that were more flexible but not that really pushed the envelope in any major way.

Commissioner Ferrick referred to page 159 of the staff report and the sentence: "Staff has observed that many designs appear to be extensions of the primary residence and not independent units." She said she had too. She said only a few residential projects had come through recently without an ADU and those supported housing goals and were a great trend, but not when it was an obvious attempt to just add square footage to a single-family home and definitely not going to be used as two different residences. She said she appreciated the subtle changes like the double doors connecting primary residence and ADU. She said the reasons she might have a different point of view to that expressed by Commissioner Silin was that they were seeing a robust number of ADUs coming forward and she thought the laws were having the desired impact. She said it just took time when it was one unit at a time versus a project that was 100 or more units at once. She said she thought it was important to get the units and why she thought the changes were a good progression so that they were consistent with state law and open to further ensuring that the laws were not prohibitive, and remained encouraging but not in the wrong way.

Commissioner Schindler said she appreciated staff's work to clarify a complicated topic noting personally trying to differentiate in December attached, detached, internal, state and local, and like SB 9. She said she appreciated the component about accessible ADUs and finding the additional 100 square feet and that addressed two City priorities with one creative solution. She said anything she did not mention tonight meant she supported staff's proposal, but she wanted to discuss briefly and ask questions about the interior access, the proposed size limits, and if she had some creative energy left to ask about the Housing Element program regarding preapproval of ADUs.

Referring to interior access, Commissioner Schindler said like Commissioner Ferrick she appreciated the sentence that noted many of the single-family residential projects considered had ADUs as an extension of the primary residence and the naming of the "elephant in the room." She said the requirement of having two doors and two locking mechanisms also had to comply with building code. She said it was not in the State ADU regulations, but the City's building department has said it essentially meant you had to have this shared accessory room that met all the building code requirements of minimum area, minimum dimensions, fire resistant ratings and separations. She asked if the Local ADU had to have all those things and two doors and two locking mechanisms.

Planner Pruter said both would be required but the desire to do the two independent doors could be on either side of the accessory room that was shared. He said the option was where you wanted to position those doors.

Commissioner Schindler said with the Building Division's interpretation they would also to have that shared accessory room, which they had seen one or two already.

Planner Pruter said if that was pursued more that would be more likely. Commissioner Schindler said she was very supportive of that but the concern that occurred to her was whether the HCD would interpret that as an example where the local ordinance was more restrictive than the state requirement.

Mr. Perata said that was certainly a consideration and in conversations with the City Attorney's office. He said staff believed that this would create the likelihood that the units would be used independently so that if they were rented separately it had independent locking mechanisms between the accessory rooms so each could use the accessory room as however it was designed but they would not be able to just transit between the units, or could potentially be prohibited from transiting as it could be opened. He said if HCD reviewed this and flagged it as inconsistent with state law, staff would work with them to clarify the City's position, and if necessary, revise and bring back an ordinance amendment through the Planning Commission and City Council.

Commissioner Schindler said having the two doors and two locking mechanisms was beneficial to the ultimate goal of potentially having two independent living units. She said per their conversation in December and her continued support for that those were good things she thought.

Commissioner Schindler said the State said that if the City set a limit for the size of a Local ADU that the minimum was 850 square feet for a one-bedroom and 1,000 square for two-plus bedrooms. She said those were the numbers in what was being proposed. She said she did not find a clear explanation in the report as to why those were chosen as the proposed numbers and not bigger numbers.

Planner Pruter said one factor was that ADUs were secondary to a primary residence and were not to be equal or greater in size than the primary residence. He said with that understanding they considered the square foot thresholds in the staff report. He said there were ways to get larger sizes and larger types of ADU units via SB9 that potentially would be greater than 1,000 square feet, could be two-story, and on the same lot as a primary unit. He said staff believed SB9 provided a lot of provisions to achieve the higher levels with the same setbacks and same kind of lot area given on these different and mostly single-family type zone properties.

Vice Chair Silverstein asked if the reason the minimum square footage proposed for Local ADUs was because SB9 existed.

Planner Pruter said he did not think they would characterize it that way, but they believed there were options currently available with state laws. He said they were working on updates to that in their local code and that it would be coming to the Commission fairly soon this year, but the main focus was that SB9 allowed units to match in size, location, and setbacks. He said he would not state that SB9 is a reason to not have certain ADUs. He said there were still provisions to allow for a larger ADU through a use permit.

Commissioner Schindler said she was just trying to be sure that they understood how numbers were being applied to respond to some of the questions and sentiments that were raised last time, which were, how do we provide options and incentives to build more ADUs or genuinely second residences under SB9. She said her interpretation was that 850 square feet seemed like the right

cap for an ADU and think there were other solutions to allow for building bigger additional structures whether through SB9 or use permit process.

Replying to Commissioner Schindler, Planner Pruter said that was generally accurate. Commissioner Schindler said she would support the cap of 850 square feet as she understood the sentiment and it seemed large enough, and she was comfortable enough that there were other paths for larger structures to be pursued. She said she had asked Planner Pruter about the applications the City received for preapproved ADUs and the nature of those companies. She said paraphrasing Planner Pruter that there were two companies doing that and they were kind of prefabricated ADUs. She said their business was building the structures before and then installing and that in general those were detached ADUs. She said her question was whether there was a local developer that had built enough ADUs, so they wanted something preapproved, and started the process for doing that, but that did not sound like that was the case.

Planner Pruter said her statement was correct and added that the two companies had done some work in the City on standalone, one-off building permits. He said they had a few of the prefabricated ADUs today. He said they had had a limited presence at that before the preapproved ADU process came along and that was an opportunity for them. He said they have reviewed, provided comments, and working to ideally eventually approved their preapproved ADUs with the hope they would get something online soon. He said both companies generally have a similar model of prefabricated homes generally shipped and built onsite very quickly.

Commissioner Schindler said they could help accelerate the housing goals they were talking about. She referred to the Housing Element Program H4F and that it included marketing and promoting ADUs. She said she hoped that once these ordinances were changed and updated on the ADU website that they might be pushed through for example the Community Development subscribed emails and ways to push this updated information to the general public and raise the visibility of ADUs. She said changing the ordinance was a good time to do it.

Commissioner Do noted she had not attended the December meeting and wanted to acknowledge the hard work that staff and the Commission had done to get to this point in the process. She said watching the recording of the December 15<sup>th</sup> meeting that Commissioner Silin's comment stood out for her and pushing the envelope to allow to go incrementally beyond one ADU. She said on her previous Commission when she looked into information on ADUs she found that typically you would see one with a home, so she was interested to learn that state law allowed up to three units under 66323 or one under 66314. She said she wanted to support pushing the envelope to incentivize ADU construction and possibly more than one on a single-family lot. She said maybe realistically that it would be a lot to manage but she found it intriguing after looking at some of the ADU websites.

Commissioner Behroozi referred to the comment on getting the ADU information out and suggested a library of creative ways Menlo Park residents have added ADUs that were approved and are working out for them. She said to include sample plans that have worked for people to consider. She said also if there were financial strategies that other communities were promoting perhaps the City could do so too. She said a hurdle for people to not redevelop their property and add an attached ADU was the expense. She said it was expensive to just build an ADU, especially a detached one. She suggested finding ways they could help people make the math work for them would be good.

Vice Chair Silverstein said overall he was not supportive of the recommendations as they stood. He said he was generally aligned with Commissioner Silin's comments. He said this came down to the philosophical discussion of what the purpose of ADUs were withing Menlo Park. He said historically ADUs had been used to add a guest room, a guest house, or an extra bedroom and not to truly increase housing. He said the conversation in December, and this evening was anchored to the premise that City Council's top priority was housing and that they were attempting to improve the housing crisis. He said what was being proposed was much closer to the minimum state requirements they were legally required to do than actually getting creative and really attempting to use ADUs as a way to genuinely increase housing stock within the City. He said philosophically was the purpose of ADUs to be truly accessory; or was it temporary so as to accommodate a guest visiting; was it a nanny flat; or was it genuinely the City's attempt to actually increase housing. He said housing came in all forms and it had been said many different times on how valuable it was for people to have the ability to live in whatever housing meets their exact needs at any point in time-a studio, a one-bedroom, a two or three-bedroom, or a massive single-family house-but right now the City did not have a lot of the smaller ones because almost all of Menlo Park was single-family zoning. He said he wanted to use this ordinance amendments to have ADUs be that opportunity for smaller units. He said in December the value of using ADUs as a way to own a starter home was mentioned. He said California had AB 1033, which Menlo Park would need to adopt but has not chosen to do so and provide a way for people to own a first home. He said 850 square feet was plenty for a single person, but it was not if you were a family trying to work in Menlo Park, who was trying to live in Menlo Park and not have a long commute, and not live necessarily in the East Bay, and it was not plenty if you had multiple children. He said he would not support any recommendation to City Council. He said why would the Commission be the gatekeepers to City Council being the people who said this goes too far. He said he did not want to be the persons that said this was definitely too far and was happy to defer to City Council or elected officials on that. He said he wanted to be inspiring, to push the envelope. He said he thought they should not have any parking minimums and right now a majority of those would be exempted for studios, one-bedrooms and half mile from major transit so simplify it and potentially not decrease the ability for someone to build a two-bedroom ADU because they lacked space for an extra parking space. He said they should get rid of that. He said in terms of square foot that they were picking the minimums, and he would want to push it up for someone to be reasonable able to live with multiple people or with children in a family in one of these ADUs. He said regarding height limit standpoint it was basically where a second story could not be built. He said 16 was a fairly tall single-story but he recommended increasing the height to 20 feet to accommodate a second story with a staircase. It would be small, but it would be possible. He said he had mentioned AB 1033 in terms of selling starter homes. He said he thought the Planning Commission should take more time to push back, and not necessarily on staff as they had done so much work on this and implemented a lot of different proposals and doing a great job in presenting. He said he wanted to push back on the acceptance that what was proposed was enough. He said this type of ordinance amendment basically was done once a decade and the Housing Element was done every eight years. He said they were only doing this now because the City was legally required to and they did not revisit it often. He said if they did not get it right now, there was just going to be another decade of lack of housing. He said he would vote "no" unless in their recommendation to the City Council they push the envelope more.

Commissioner Behroozi said there were a couple of ADUs in the Willows she had noticed multiple times biking past them on the alley behind 1922 Menalto Avenue and the adjacent property. She said they were two-story and obviously rented. She asked if the City approved something that did not accord with their height limits.

Planner Pruter said they would need to look into that.

Commissioner Silin said basically he was on the same page as Vice Chair Silverstein. He referred to the square footage limit and noted that he was not saying increasing the square footage limit of an ADU was going to be a huge unlock in terms of getting a lot more units built, but since they had talked about it quite a bit at the study session, he recalled Chair Ehrich mentioning that he had a large family and he would like to see bigger units, as an example. He referred to the use permit process for a larger ADU and said in general there were certain things that you could get a use permit for and then certain things that required a variance. He asked if there was a point at which he could get a use permit for a 5,000 square foot ADU. He asked was there a limit at which it went from use permit to you cannot get a use permit and it had to be a variance, or it was completely off the table. He asked if there was another tier above that.

Planner Pruter said the maximum you could propose was related to the maximum you had on your property. He said as they currently have been applying this you could only exceed by 800 square feet and the capability of an ADU would be dependent on that 800 square feet and potentially any kind of backfill additional square footage you might have on site for FAL, building coverage, maybe FAR if the lot was R3, but that would define for the lot how large the ADU proposal could be. He said they needed for any ADU proposal apart from this FAL exceedance question to start with, that would all be through a use permit and not a variance. He said there is no variance path. He said if a 1200 square foot ADU was proposed and you had 400 square feet to spare then with the 800 square foot allowance that would be the path for the 1200 square foot ADU to be feasible. He said exceeding beyond that was not possible. He said if a three foot instead of four foot side setback was desire that was reviewed through a use permit. He said if you proposed a height exceedance that would also be considered through a use permit. He said if a two-story ADU was desired that would be more complex but there was a path to request a use permit to exceed the height limit relative to the ADU being proposed.

Commissioner Silin said that he felt in the study session that the Commission had expressed some of these comments about thinking outside the box and trying to push the envelope. He said looking at the staff report and the list of comments from the Commission that he would not say that was totally reflected in that. He asked if the feelings was that maybe those comments were not salient enough, not noticed, or perhaps they are misremembering how those comments were made, or was that this was not the right time for that kind of thing.

Planner Pruter said speaking first and foremost to the issue of square footage and the maximum area you could get with ADUs, staff had looked to SB 9 as the major pathway for larger sized units. He said that there were ways to get larger second units on site. He said in the case of SB 9 technically if mapping two new units with a division of a lot into two lots you could also get two ADUs on top of that, one each per lot, resulting in four units and additional square footage perhaps depending on the development of that four-unit configuration. He said there was initially that understanding SB9 offered numerous options already without any action from the City. He said they needed to update their SB9 provisions, but state law was already giving that to us.

Commissioner Silin said he recalled mentioning at the study session an idea of giving the main house additional square footage if a second ADU was proposed or if the ADU was somehow set to affordable rent levels or something like that. He asked if staff recalled discussion along those lines; he said he thought there were multiple things in that vein said by multiple people at the study

session. He asked if that had been discussed by staff and wondered reasons for why those ideas were not being looked at.

Planner Pruter said what staff had worked on and reflected upon were what they understood as the key items of concern. He said they tried their best to distill the topics brought up by the Commission at the study session and provide responses or updates based on those key items.

Commissioner Silin asked about a couple of other items he remembered discussing and whether staff considered those items, and if there was maybe a legal reason it was not added or some other reason. He said a couple of Commissioners at minimum indicated they would support the idea of at least considering the ability to sell the ADU. He said a state law recently passed that basically said cities could if they chose allow folks to sell the ADU separately from the main residence. He asked if that was considered for inclusion in the ordinance,

Planner Pruter said they considered it and could work on it as a separate work item for the future as it would require additional effort for staff to work that out.

Commissioner Silin said as far as outside the box thinking that he liked the 100 square foot extra to meet accessibility code. He asked if staff considered any similar bonuses or incentives.

Planner Pruter said they considered some other factors, but quickly determined that that was a truly feasible way to achieve some additional square footage and work towards Housing Element goals. He said accessibility seemed most tangible and realistic in terms of providing it and then seeing people make that happen.

Commissioner Silin said his summary of what he has heard just now and what he voiced earlier was that in his recollection of the study session there were more calls for bolder approaches. He said he was really looking forward to seeing some exciting outside of the box ideas for this agenda item. He said perhaps Council would reject those ideas but that was okay. He said he wanted the Commission to kind of push the envelope noting the Vice Chair's comments that these ordinance amendments were not done often. He said as a Commission they often review individual projects and that was an important function, but another important part was planning. He said thinking about planning this was a huge opportunity to reach toward their goals as a city. He said at the study session he shared the example of Portland a city that seemed to be ahead of where California was with ADUs and allowed people to sell them. He said there a single-family home could be redeveloped into 10 ADUs and each sold as a small unit. He said he was not suggesting to go that far but perhaps take one step in such a direction or at the least consider doing so because the state had sort of created ADUs as a less friction path to build more housing units. He said all the legislation written about it starts with a proclamation of a housing shortage in California, the need for more housing and that was why this bill was written. He said although each ADU legislation might tackle multifamily properties near transit, or single-family parking, or whatever, as a collective whole there was clearly an effort being made to add more housing stock in California. He said he thought Menlo Park: ADU legislation might tackle, you know, multifamily properties near transit, or single-family parking, or whatever it may be. As a collective whole, there was clearly an effort being made to add more housing stock in California. He said if they thought different tiers of government, it was often the smaller governments that kind of push the envelope on things, and then those get adopted up top. He said in California with more recent housing progress, it was kind of the opposite, where the state was kind of dragging along the smaller jurisdictions, because it was a difficult issue locally. He said nonetheless, he really wanted to see

Menlo Park be one of the places taking a stance of local leadership and consider using ADUs, SB9, and all the tools available. He did not support the stance that they would not do something with ADUs because that could be done with SB9. He said they should have a menu of things that people could choose from when building on their property. He said if there were things that the Planning Commission thought would help reach the City 's goals then he thought those should be considered. He said he would not support the current proposal, and whether it passed or not, for future reference he would like to see something that the average person could see that the City was really trying to make a dent in their housing goals. He said ADUs were just a small part of that, but if the City was tackling housing from all angles, that set the tone that it would not be done with the bigger projects, but through the smaller projects and the medium-sized projects. He said he reiterated that ideas had been suggested tonight and in the study session and he knew other cities and states were trying different ways to do it. He said his request was for staff in the future if this item were to come back, or a similar item, to look at more creative ways to add more housing units to meet their RHNA goals and tackle their housing shortage.

Commissioner Do said, listening to Commissioner Silin and Vice Chair Silverstein, she had heard good ideas and wondered why those were not chosen. She said she was not going to try to tackle the maximum area as staff had reiterated their position on that, but she thought parking should be eliminated as a requirement for ADUs noting that it was already eliminated for a studio and one-bedroom ADU. She referred to the height limit of 16 feet. She said she spoke earlier this afternoon with Planner Pruter, and it seemed the rationale for that height was that ADUs previously had been successfully constructed at that height, so it seemed logical to maintain that. She said it aligned also with the state regulation. She said however she was appreciative of the point that was not enough for a two-story while a 20-foot height was. She said rather than looking back at what worked, why not look forward and consider what would be allowed if the height was changed. She asked why the ADU parking requirement was not being eliminated and why the height limit could not be increased to 20 feet.

Planner Pruter said staff acknowledged that a number of parking exemptions currently existed. He said it was possible that they could do away with parking requirements altogether, but post the study session, they had gone into the revision work with the impression that, curtailing the parking requirement for a studio and one bedroom was generally going to capture a lot more ADUs that were smaller in size. He said regarding a two-bedroom ADU that it could require parking, but there were ways it could be exempted outside of the exemption they had created. He said it seemed that a limited few ADUs might have an issue adding parking, but the parking requirement that we have was to provide one space on the lot. He said it could be on a driveway where the driveway width was no more than 9.5 feet if it was next to a wall or 8.5 feet if was not next to a wall or fence, and a 16.5 foot depth. He said that was not as difficult as providing two new parking spaces in a single-family residence project with 20-foot by 10-foot parking in a garage. He said providing an ADU parking space was less cumbersome for an ADU than for a single-family home, and the requirement would task mainly larger ADUs in areas not covered by public transit. He said this would generally apply geographically to the west of the City. He said they felt applying no parking to a one-bedroom or a studio ADU would cover more of the ADUs.

Planner Pruter said regarding height issue that previously detached ADUs were required to have a daylight plane, and that was no longer allowed to be required per state law. He said the City had other restrictions geared towards lessening the impact of the ADU on a neighboring property, noting closer setbacks for an ADU than what a single-family residence had. He said it was also a matter of trying to understand how ADUs on a lot, with potentially more than one on a lot, would

impact neighboring properties. He noted the desire and push for more housing but the need to carefully understand the implications of ADU development. He said that was why the height requirement was 16 feet. He said it did not necessarily guarantee a two-story ADU, but it did provide ample space for an ADU to grow and be built.

Vice Chair Silverstein said from his perspective that part of the creativity that Commissioner Sillin might have been alluding to was thinking through the problem of height limits and daylight planes. He suggested possibly allowing higher heights and because it was not state-mandated at a four-foot setback, that a six-foot setback would be a way to creatively allow higher heights while still mitigating some of these impacts. He said he was not officially recommending that, but that it was an opportunity to collaborate to solve these problems, as opposed to saying, well, a neighbor might not like it. He said regarding parking that it seemed they were adding confusing codes that required the tracking of maps and public transit and everything, just for an incremental couple of percent of ADUs that might have enough parking already. He said from a simplification standpoint and ensuring that two-bedroom ADUs were not precluded that any parking requirement should be eliminated.

Commissioner Schindler said she appreciated the creativity, enthusiasm, and passion that her fellow Commissioners brought to this item. She said that the updates were essentially zoning, and zoning was one of the myriad things that the City could do to advance its goals. She said the staff report talked about all of the components of H4F including that the zoning ordinances needed to be updated, a program for working with developers to have pre-approved plans, and marketing. She said zoning was within the Planning Commission's purview as well as the General Plan. She said when someone wanted an exception whether it was parking, the size of an ADU, a building façade, or the amount of permeable space on a lot, the Commission was part of the path for an exception to a rule. She said to do that they needed to have the rules and zoning set as the starting point for their dialogue. She said zooming out ADUs were a component toward solving the City's housing problems. She said she did not think anybody completely followed the numbers that she ran through last week, but what she would like as a takeaway and what she wanted to reiterate was that mathematically it was not the strongest tool the City has. She said even if they projected forward the run rate on their ADUs for the last couple of years, that did not get them to their housing goals. She noted that the City had ten tools to use to advance ADUs and 50 tools toward solving housing that were not ADUs. She said she believed in the expertise of staff to bring a strong proposal forward and that was something that could be managed on an ongoing basis. She said she had no insight into what the time requirements were to manage these proposals, but she was willing, in most of these cases, to make an assumption that staff has used an understanding of their own resource allocations, years, even decades of history in putting these particular zoning requirements in the broader context of all the ADU tools, and then all of the Housing tools. She said she absolutely appreciated the cons, to push the boundary, and to advocate. She said the Planning Commission had a few of the tools to be part of the broader suite of all the things the City was trying to tackle. She said she appreciated that in this dialogue they had gotten more clarity about what else staff considered, or why not? She said she was comfortable supporting the proposal as presented.

Commissioner Behroozi said she appreciated that perspective. She said she thought it was hard to know whether ADUs could be a bigger part of the City's strategy because of the limits that they had imposed. She said she just looked up a report from Seattle about what happened after Seattle started allowing sales of ADUs. She said she did not know if they were just attached ADUs that Seattle was producing, but were now condo-sized for sale units, which were a huge part of their

strategy to introduce missing middle housing into neighborhoods that had historically been getting more and more expensive. She said that was a pattern in Menlo Park, too. She said the City has a lot of land dedicated to single-family homes and SB9 had been so compromised over the years that though it seemed like a good idea, not much was happening with it. She said she was still tantalized by the idea that people could build smaller for-sale units on their large lots, especially as some had been living on them for a long time. She said she sort of wished that was an option they had but that kind of updated ordinance was probably not something that could just be shoehorned in and probably merited a separate, bigger discussion. She said she thought it was an extremely important topic and probably more important than the parking. She said she would probably vote to support tonight, but as a condition of her support, that it include a list of ideas for Council that the Commission identified to expand ADUs. She referred to the variances that people ask for and the idea that the City had to have rules. She said it concerned her some that before things ever get to the Commission people might have been dissuaded from asking for an exception to the rules. She said it was hard to know whether they would ever have the opportunity to consider an application to build a 1,200 square foot three-bedroom ADU for rental on a 10,000 square foot lot. She said such an application seemed aligned with City objectives, but she worried it would never get to Planning Commission as most things they saw hewed very narrowly to the rules in place. She said she would like us to go ahead and approve this, but also to include this list of ideas for making their ADU strategy better that the City Council could maybe tackle.

Commissioner Ferrick said she agreed with Commissioner Behroozi's comments. She also said that Commissioner Schindler had articulated well the context and scale for the problem they were trying to address. She said she appreciated that they were aligned in that they wanted want these to be real units and to make these ordinance amendments meaningful. She said regarding for sale units that it was one of the ideas that the staff report mentioned that the Commission had suggested, page 152, about two-thirds of the way down, the 6th bullet down. She said she did not think it needed to be shoehorned into this ordinance right now, but it was worthy of exploration. She said she agreed that people might be afraid of asking for more than what was given by right because of the process, the expense, and the uncertainty what the Planning Commission action would be. She said the body of this commission might change over time, and perhaps not be quite as friendly toward housing. She said she wanted to ensure that they had the right ordinance to encourage actual ADU units. She said as a future matter of work that she hoped the Council would encourage staff to embark on a for-sale strategy.

Commissioner Ferrick said she really could not think of more than five single-family homes that the Commission had seen in the last three years that did not have an ADU. She asked if that was also the case with single-family home projects that did not require Planning Commission review.

Planner Pruter said anecdotally that the ratio was not as high for ministerial single-family projects to have an ADU, but they did get number ADU only projects. He said at the same time the data probably would still indicate more concentration here for single-family residences, strictly involving new single-family residential development. He said he thought a lot of building permits to this day still involved focus on one unit at a time, so you might have an ADU project that was the main focus; or you might have a remodeling project, or perhaps an addition to their existing home, and while a bit more limited in terms of the scope, it was focused on the one unit, and not necessarily with an ADU.

Commissioner Ferrick said one of the biggest hurdles to doing ADUs was the cost, and that was not something the ordinance could address. She said just to add a modest number of new square footage was super expensive, so it was not something every homeowner across the community was able to do, even if there was a business opportunity to be had, like selling it or renting it. She said she had no doubt that through their comments tonight and their liaison and the staff that the Council would understand our ambitions to make sure that they were doing everything possible to advance housing in the community, including through this ordinance, but that the work was not done.

**ACTION:** Motion and second (Silverstein/Behroozi) to hold a five-minute recess: passes 6-0 with Commissioner absent.

Vice Chair Silverstein reconvened the meeting at 9:55 p.m.

Vice Chair Silverstein restated for the record that Commissioner Behroozi asked a question about the consequences and potential ramifications of eliminating parking minimums under all circumstances, as opposed to just the enumerated ones in the proposal.

Mr. Perata said staff has evaluated parking and was looking at it from the constraints of the overnight parking prohibition in Menlo Park, and ensuring that larger ADUs did have parking provided. He said certainly the Planning Commission could provide a recommendation with the resolution to direct that parking be removed, which staff would forward to the City Council for its consideration.

Commissioner Behroozi said the report mentioned that all of the Commissioners had talked about the for-sale units, about adopting AB 1033. She asked which other municipalities in the Bay Area had adopted that and whether it was done through a separate public process or was it done as part of an updated ADU ordinance.

Planner Pruter said they understood some jurisdictions had this on the books already, but to determine how those were adopted, they would have to do more research.

Mr. Perata said the City's subdivision ordinance, Title 15 of the Municipal Code, would regulate subdivisions, whether those were condos for sale or in this instance of ADUs through the condo mapping process. He said that it was through a separate title of the Municipal Code and would not be part of Title 16, this zoning ordinance amendment.

Vice Chair Silverstein asked if that would pertain to subdivisions related to SB9.

Mr. Perata said he thought it was still separate from SB9. He said SB9 actually had two components to it, the Title 15 component, which was the lot split component, and then the Title 16, the zoning component. He said there is a study session regarding SB9 planned for the next Planning Commission meeting on April 27<sup>th</sup> to consider amendments to the zoning ordinance side of that, not necessarily Title 15 per se.

Commissioner Behroozi said they had some really large lots in our city, especially in the western part of the city, that were 10,000 and even 20,000 square foot lots. She asked if they ever considered allowing larger ADUs on larger lots.

Planner Pruter said they had looked into the size differential and landed on those that they had listed in the ordinance now. He said there were some lots that were considerably larger, but they did not necessarily look at a singular approach to giving different priorities or capabilities for those lots as there was SB9 and other opportunities were there for these sites. He said these sites would have a much larger FAL, so potentially they could have a lot more square footage of accessory buildings and other types of buildings on site that were not ADUs. He said they could certainly look into that more, but they had not necessarily tried to diversify based on zoning and lot sizes, different approaches for different types of ADUs, knowing that ADUs intrinsically are a certain type of unit. He said he thought the types of units she was getting at were whether a 2,000 square foot ADU was possible on a 20,000 square foot lot. He said proportionally, that seemed maybe appropriate for that particular lot, but they had looked at ADUs for the city as a whole, and not necessarily creating some separate ratio systems for these larger zoning districts.

Commissioner Behroozi said she read recently about a guy who when San Jose allowed people to sell ADUs, was able to build a 1,200 square foot ADU on his large lot and sell it. She said for such a property owner in the City that would not be possible as the limit was 1,000 square feet. She said she was just trying to figure out where we could push the envelope a little bit so that people could have an idea of what was possible.

Commissioner Silin said he appreciated how Commissioner Schindler stepped back and thought holistically about what was happening here. He said he was not personally satisfied though by the explanation of why certain things were not considered. He said part of it was maybe a difference in recollection of the sentiment presented in the study session. He said they did not vote that night, so potentially if they had voted, maybe it was not a general sentiment that they all agreed upon. He said that he heard Commissioners asking, for example, why did we choose to limit, or only allow no parking for studio and one bedroom. He said the answer he heard was because there were other exemptions available, parking was possible in the driveway, and the City has an overnight parking ban. He said in response to the question why they had not considered increasing the height limit, he heard because of the impact to neighboring properties. He heard the response to why would they limit square feet as there were other options, such as SB9. He said he thought it was the mindset. He said if the mindset was - let's get aggressive, let's think outside the box – then he did not think those were great reasons. He said if the mindset was what could we push on a little bit, then he thought what was presented tonight was okay, and I would accept those reasons. He said it just came down to how they viewed what they were doing with this ordinance, and direction given by the Planning Commission at the study session. He said in presenting to Council, that there was an anchoring effect that happened with recommending the basic things with a few extra versus a more aggressive recommendation that maybe then Council would have to sort of walk some of it back based on their views. He said if you want something done, then you should present it as, this what we're doing, and then someone has to say, no, we are not. He said people could always apply for a use permit or a variance if they wanted something sort of outside the box but again it was another example of anchoring. He said there were many other tools that the City has to incentivize housing. He said perhaps ADUs were not one of the strongest ones, but if they set the tone that every housing-related thing they looked at, since housing was a higher City priority and they really tried to push on it, then he thought that would be a good way to go. He said when they were doing long-term planning and changes to the zoning code that was a good place to set a flag and he did understand the concern that they could push too far, and it could go all the way through and get approved, and then they started seeing projects come through, and all of a sudden, residents were asking – what is this tall ADU right next to my

fence - what are these cars doing on the street. He said it could be that they made a mistake, or that people did not pay attention to what the City was proposing and later got upset, but he did not think that was a reason not to do it. He said that was a reason to continue to push forward and change direction after. He said they could always change the code after the fact. He said the fact was that their goal as a city was to add more housing. It continues to be a top priority for Council at their priority-setting meetings. I think I've heard it as a top priority for many people on the Commission.

Commissioner Silin said the Commission was not the approving body on this item, and that there was an option to approve the resolution as presented or an option to approve the resolution with comments. He asked if the Commission did not adopt the resolution to recommend to the City Council to approve the ordinance, would the ordinance still go to Council with the reasons why the Commission did not recommend approval or would it have to come back revised for the Planning Commission to make that approval recommendation.

Vice Chair Silverstein said he wanted to continue the item with specific feedback for staff.

Ms. Sleiman noted that the City was on a deadline to get this adopted for HCD, and advised that the Commission reach a decision this evening. She said if the Commission did not recommend approval, it would still go to Council with comments.

Planner Pruter said the staff report and minutes would describe the discussion that led to the Commission recommending denial, but the item would be presented to Council for them to make their decision. Either they take your recommendation and deny the project, or perhaps proceed a different path, but they were able to do so at the meeting itself.

Vice Chair Silverstein asked if they continued the item, would that delay that timeline.

Mr. Perata said as the City Attorney mentioned, they recommended a decision tonight. He said the Planning Commission could recommend that Council adopt the ordinance, recommend the Council adopt it with modifications that could be enumerated, that staff could then forward and incorporate, or recommend denial of the ordinance. He said continuance as the City Attorney mentioned would get problematic from a timing standpoint given the six months from December to get this to HCD.

Vice Chair Silverstein said he found this tight timeline that they were working on to be unfair to them as commissioners, and as he had mentioned, they were dealing with something that they revisited maybe once in a decade. He said they were dealing with something that was very complex, that had nuance, and it felt like they had to make a decision one way or another, without any opportunity to revisit, to give feedback, to revise, and to go back to the drawing board. He said it was unfortunate, and he did not know specifics on what could have been done ahead of time to avoid this specific issue, but it was unfair to their deliberation to force an issue, which had this level of not only complexity, but in theory, permanence.

Commissioner Do said she believed Commissioner Behroozi at one point wanted to make a motion with a list of bullet points and themes they were coalescing on. She said if so, maybe that was something that other commissioners could work against or with.

Commissioner Behroozi said her preference for tonight would be to come up with recommended modifications. She noted they had had a study session back in December, so this was not the first time to consider this item. She said they had had a few months where they could have done more research if we wanted to on our own, so she was not feeling as slighted by the timeline. She said she really wanted them to keep on schedule with HCD, bigger picture. She said the modification she would like explored was removal of the parking requirement. She said she understood the main objection to a more than 16-foot ADU was that it was four feet from somebody else's fence. She said some people had really big lots and they might want to build a 16- or a 20-foot ADU that's 10 or 15 feet away. She asked if allowing more height, about the same amount of height allowed for more conventional residential setback, was something that could be explored. She said she would like to make a strong recommendation, even though it was a different building code, that Council explore the condo-ization idea of ADUs. She said she would also be willing to see the City push up multi-family, multi-unit, and multi-bedroom units to 1200 square feet. o some of the... we've all been going around, so it might have seemed like a while ago.

Vice Chair Silverstein said he could not imagine any suggested changes the Commission sent along with the recommendation that the City Council adopt the ordinance would be incorporated into the ordinance by them and passed. with a note saying by the way the Commission also wants you to consider these other things and give that to City Council. I have a very hard time imagining that that would pass. He said if they wanted to generate a list of recommendations, that needed to be the proposal.

Commissioner Behroozi said her thinking had evolved because staff mentioned lists with modifications. She said the last time they saw something really big was, a couple weeks ago, and staff had to present to Council the very next night, which meant they did not really have a chance to incorporate all of the Commissioner's feedback into the report to Council. She said she wanted to give them the space to do that for this.

Vice Chair said he did want to continue, but he cared more about getting it right. He referred to the comment on exceptions, and one of the Planning Commission's purposes was to be an exception grantor, where if you needed a use permit that almost by definition was an exception, and we have that opportunity. He said he agreed that it was a path, but he entirely agreed that if something was not explicitly allowed, there was a chilling effect of what people proposed in the first place, and potentially what staff would then even recommend to be granted an exception or a use permit. He said he strongly believed that the culture he wanted for the Menlo Park housing plan was to go farther than the minimum. He said he strongly believed in the concept of this culture, and that they did not start from the minimum, but from something that was significantly higher than that. He said as mentioned that they might make mistakes, and he did not want to make mistakes, but for the last 30 to 60 years, he would argue that they had made the mistake of not building enough housing. He said they still were not building enough housing. He said if they had to make a mistake, why not just once in the last 60 years, try to make the mistake too far, and then if needed, revisit and revise. He said there had been no articles written about how Menlo Park improved housing because of all the ADUs that they were building, but there could be. He said he did want to continue or reject the item, but he would not vote yes unless there were specific changes made.

Vice Chair Silverstein noted a provision granting amnesty to ADUs up to 2023. He asked why that year, and why not now with the proposed ordinance amendments.

Planner Pruter said initially they had chosen a later date, not as late as today or this year, but they had felt that the Housing Element date was more in alignment with the Housing Element adoption.

Vice Chair Silverstein said if there was an ADU that upon this ordinance amendment adoption would be legal under the new laws, but was not legal when it was built in 2024. He asked if that was correct.

Planner Pruter said he did not think it would have the amnesty provisions allowable.

Vice Chair Silverstein said it confused him why they would not legalize something that by passing this amendment was deemed to be allowable, even if it was not previously.

Mr. Perata said the amnesty was specific to an ADU that was built without the benefit of a permit, and would not meet the zoning requirements. He said the amnesty actually allowed provisions where the ADU did not have to meet setbacks by state law or local law, so there was a lot of flexibility granted in amnesty. He said what he understood the Vice Chair to be saying was that a unit built in 2024 that now complied with the current code that they were potentially adopting in the near future, would just need a building permit to be legalized. He said amnesty required certain specific requirements for health and safety.

Vice Chair Silverstein said a potential recommendation not discussed was the concept of impact fees. He said he understood that there would be no impact fees assessed to an ADU less than 750 square feet, and there would be above that threshold. He asked for an example of the order of magnitude of that impact fee. He said he believed it scaled with the square footage of the ADU. He asked why not eliminate impact fees entirely as an incentive to build more ADUs.

Mr. Perata said waiving impact fees was not really within the Planning Commission's purview so that should not be part of the consideration this evening.

Planner Pruter said the general approach for impact fees was really predicated on state law, and just initially aligning with that. He said they had looked at a lot of other components, and with impact fees, to Mr. Perata's point, they did not feel that was a front and center item they wanted to tweak for this ordinance.

Vice Chair Silverstein said it was mentioned that a use permit was not obtainable to exceed FAL, and that for an ADU there was FAL plus 800 square feet. He asked if 800 was a fixed number, or a placeholder for the allowed ADU size, He asked for example, if you had a two-bedroom ADU that was 1,000 square feet were you now allowed the FAL 1,000 square feet or was 800 square foot figure set in stone?

Planner Pruter said the 800 square foot value was effectively set in stone as an allowed exceedance, and it was based on the 800 square foot guaranteed allowance initially. He said a lot of the ADU provisions involved 800 square feet. He said if you take the State ADU path, you get an 800 square foot exceedance for the new detached ADU. He said if you take the local ADU path, you get a one time 800 square foot exceedance. He said if there was more square footage you were allowing on your lot, and you were not maxing out your primary residence, or building accessory buildings, sheds, or other things, then you could have a larger ADU as long as that difference still resulted in no more than 800 square feet exceeding.

Vice Chair Silverstein said even if their ADU ordinance allowed a 1,000 or 1,200 square foot ADU, that if a property owner had maxed out their single-family residence in terms of square feet, they would not be able to build more than 800 square foot. Planner Pruter confirmed that was correct.

Vice Chair Silverstein asked if the Commission tonight had the ability to change that 800 square foot exceedance or make it dynamic per the size of the ADU allowable. He asked could they allow someone to build the maximum allowable ADU irrespective of however many square feet their primary residence happened to have. Planner Pruter said in theory, the answer was yes.

Vice Chair Silverstein said he would not be comfortable voting in favor of the current proposal, but maybe they could coalesce around some things they had discussed. He said he would like to discuss elements independently, and figure out through a straw poll what the support was for each to then included in a formal recommendation. He said he would start with parking minimums. He said multiple Commissioners have expressed a desire to eliminate parking minimums, sometimes for the simplicity, or for the incentive toward building more multi-bedroom ADUs. He asked in general was there agreement that their recommendation would include no parking minimums in the proposal. All six commissioners raised their hands.

Vice Chair Silverstein said the next thing discussed was height limits. He said the way that they could potentially tackle height limits was a blanket height limit. He said there were different restrictions relating to distance to a major transit stop, but as Commissioner Behroozi had mentioned, in theory, you could also have a dynamic height limit, which would be a function of the setback as well. He said if one of the major pushbacks of having a two-story ADU was that the setback required for said two-story ADU was less than the setbacks required for a primary residence, in theory, they would be able to merge those, or at least get closer, in order to ensure that some people, if they had enough space, would be able to build a two-story ADU without encroaching or disturbing their neighbors as much, and if you did not have the space, and you only truly wanted to abut the fence within four feet, then maybe your height limit would stay at the existing height limits. He said with those three options: I want height limits to stay exactly as is. I want height limits to go way up regardless, or not necessarily way up, like, higher than currently mentioned, regardless, or the middle ground. Or having some form of dynamic, and it's not going to be truly dynamic, then they would set maybe two thresholds, I'm thinking. He asked if people were interested in the dynamic concept of allowing higher height ADUs if the setback was further than four feet.

Commissioner Schindler said she did not think they should mess with setbacks as that was the most consistent and most protective. She said getting into an algebraic equation that said you could go up two feet if you came in two feet, she did not know that they were the body to make that recommendation, certainly not here tonight. She said she did not think she could get comfortable with doing a trade-off between those two metrics. She noted that between the State level ordinance and the Local level ordinance the simplicity of sticking with the state-level ordinance was something they had discussed, and suggested keeping that in mind as an option.

Commissioner Behroozi said she never really understood why you would get an extra two feet of height if your home was a half mile from major transit if height was problematic because of a setback reason. She said that it would be true, whether or not somebody lived closer to Caltrain. She said they had talked about the difficulties of mapping transit stops and things, and proposed allowing 18 foot height in all zones. She said this went against the principle Commissioner

Schindler just mentioned. She asked if anyone was interested in bumping height up to 18 feet for Local ADUs.

Vice Chair Silverstein said he did not agree with the principle that following the state ordinance was the most simple. He said it was the most simple for them to pass, because it took the onus off of them, but in terms of writing the code itself, it was less simple, as noted, where they could just pick a height, and the height was the height, and then they did not need to map out transit or do anything. He said they could pick 18 feet or maybe something higher than 18 feet. He said he would like to understand if building a second story at 18 feet was reasonable. He said if they felt an 18-foot height limit would be totally fine to build that second story. He said he agreed with the general principle that we should not necessarily be in the business of mapping to transit stops as if they could simplify it.

Commissioner Schindler asked for staff advice about the feasibility of 18 foot height for a second story.

Mr. Perata said it depended. He said there was minimum height requirements for habitability from a building code standpoint. He said it would be tight with foundation and the floor plates between the levels and the roof, but in theory, there could be a design that gets that to two stories, or at least a loft-like development.

Vice Chair Silverstein said if it was a question of just doing the state minimum, or 18 feet, that he would prefer 18 feet.

Commissioner Silin asked if they voted on a resolution, and had this list of recommendations for Council, was it correct that staff would not modify the ordinance in any way between now and when it was presented to Council. He said the ordinance as is would go to Council, and the things on the Commission's list tonight would be in the staff report so if Council wanted to remove parking minimums across the board, or include dynamic height changes based on setbacks, then Council would essentially have to adopt the ordinance with these following specific changes.

Planner Pruter said staff would revise and incorporate the changes into the ordinance based on what the Commission provided this evening to go to City Council. He said if there was some reason that something could not feasibly be provided in the ordinance, staff would provide a reason and explanation for that.

Commissioner Silin said he thought staff would need the Commission to be pretty specific as far as what we want edited. He asked if they could give direction to staff to do something akin to what was referred to in the December meeting, where they said, let's go bold and think of ideas to incentivize ADUs, and, let's find a way to incentivize building two ADUs instead of one. He said he assumed staff was looking for something a lot more specific than that, with concrete numbers to incorporate.

Mr. Perata said yes, in general. He said if there was a clear edit, that's where staff could make that edit, incorporate it, and explain the Commission's recommendation to Council. He said if it was a much broader topic to look into, staff would certainly evaluate that, and potentially edit the ordinance, or if there was a recommendation not to amend the ordinance for a reason, we would explain that recommendation to the Council. He said they would say this was what the Planning Commission recommended, and this was why it was not incorporated. He said in general some

clear specifics like removing the parking minimums was pretty straightforward. He said a dynamic height limit would be something that they could explore, but it would be much more difficult for staff to input that into the ordinance, and accurately capture the sentiments of the Commission in that sense.

Commissioner Silin said they heard from the City Attorney and staff that there was a bit of a time crunch with HCD to get in line with a lot of the state legislation that's been passed since last adopting an ordinance in 2020. He said he wanted to make sure the City was legally compliant, but he also recognized what Vice Chair Silverstein was saying earlier about it feeling unfortunate to have such a time crunch for such an important issue. He said he sensed that staff's intention was to get in line with the state code, and while at it take the opportunity to kind of revisit ADUs in general and make a few tweaks, and then here he was saying, no we want to do bigger things, but we don't have time for that. He said in the future, perhaps, it could be split into two separate paths, where they could quickly pass something that did everything that needed to be done to get in line with the state requirements, but at the same time, to have more time to explore other changes they wanted to make at the local level outside of what the state is requiring. He said he was saying that because, especially at this hour, he was having trouble thinking of very specific, concrete things to change in the ordinance that were in line with what he was hoping to see. He said he had hoped that tonight they would have had proposals from staff that were researched, interesting and feasible to choose from. He said he was throwing that out for these future meetings about SB9 or what have you.

Commissioner Silin said regarding heights that he was on the fence, because having the ability to do two stories would be nice, but he also understood two stories right up to a four-foot setback could feel aggressive. He said 18 foot height was also kind of interesting. He said they had an ADU project where he believed the architect had said that a second story was almost impossible with a 20 foot height.

Commissioner Do said yes to limited parking minimums and to exploring condo-ization. She said regarding height limit she would want it to be simple. She said she liked the idea of the rolling setback thing, but then with more thought believed simplicity was important. She said she would opt out on changing height limits.

Replying to Vice Chair Silverstein, Commissioner Do said she thought it was arbitrary but supported staff proposal for 18-foot heights within a half mile of major transit stop.

Vice Chair Silverstein said the proposal was to allow 18-foot heights everywhere independently of proximity to transit.

Commissioner Do said that it was supportable and simple for someone looking at the rules.

Vice Chair Silverstein said between an 18-foot height limit citywide, versus a 16 foot or 18 foot height limit based on proximity to public transit, he asked for a general show of hands whether they would prefer the staff report version of having different limits based on the state minimum, different limits based on proximity.

Mr. Perata asked before they did the straw poll here, could they clarify if there would still be a differentiation between a State ADU and a Local ADU. He said if it was a State ADU that would

still have the 16, 18, 20 foot allowances and they would not be modifying or amending that. He said this would apply only for Local ADUs subject to Government Code 66314.

Vice Chair Silverstein said that their discretion was within the purview of the Local ADUs, but right now, as written, the Local ADUs would also have that variable height limit, and they did not need that. He said they could standardize that for the Local ADUs. I want to turn this to our city attorney,

Ms. Sleiman said what was in the proposed City ordinance was exactly what was in 66314, so it was 16 feet in state law. She said it was 16 feet for a detached ADU with an existing primary dwelling, 18 feet for within a half mile of a major transit stop and 18 feet for a detached with an existing or proposed multi-family, and then 25 feet for an attached. She said you could consider the 18 feet to apply maybe to more ADUs but there was the 25 feet for attached ADUs, or whichever is lower per the underlying zone. including the half a mile, you know, 18 feet height.

Vice Chair Ehrich said the goal in talking about this was to make the baseline height 18 feet and that would only apply to Local ADUs and they would never go below State ADU height limits under any circumstances. He asked would the Commission rather stick with State for which the Local ADUs would still have that different height based on proximity to transit, or would we rather simplify our Local ADU height limits to 18 feet.

Commissioner Do said she thought this would lead to confusion on a website where a resident would looking at State ADUs versus Local ADUS. She said it was simpler staying with that 16, 18, 20 height limits, but I feel like if we say it's only 18 for Local ADUs, it was not simpler. She said if she were designing the website for ADUs, she would not distinguish between state and local as she did not think that it really made a difference to someone building an ADU She said she did not want to organize information in that way.

Commissioner Silin referred to the HCD handbook, and one line in the Q&A section that asks can maximum unit sizes exceed 1,200 square feet for ADUs? He said the answer was yes, maximum unit sizes could exceed feet for ADUs through the adoption of a less stringent local ADU ordinance. He said State ADU law does not limit the authority of local agencies to adopt less restrictive requirements for the creation of ADUs. He said he knew they were talking about heights and not square feet, but he was always under the impression that a city could provide more height than what the state required as a minimum. He said could not they say the minimum height for State ADUs was 16 feet, but could they not say the City was willing to go higher than that.

Mr. Perata said in general, our practice with this ordinance was to not amend or modify Government Code 66323. He said there were some very limited exceptions in the staff report, but they had been very mindful of not modifying Government Code 66323.

Ms. Sleiman said 66323B prohibits any standard that was not in 66323 and this included the height. She said for State ADUs, I would keep it exactly as what was in 66323. She said they could go up to 18 feet for 66314, which as you were discussing, is more permissive.

Vice Chair Silverstein said the implication was that if you wanted to take advantage of the 16 to 18 foot gap, then you would convert from a State ADU to a Local ADU.

Ms. Sleiman said that would depend; that was one outcome. She said it depended on how the facts shook out.

Commissioner Silin said hypothetically couldn't they have a State plus ADU that was the exact same as the state-mandated ADU plus the additional 2 feet in height? He said basically nobody would go for this ADU because we have this State Plus version.

Vice Chair Silverstein said they could do lots of things that were more permissive than state minimums, but that they had to decide to do that. He said he was getting the impression that there was no consensus on increasing the heights beyond what the state minimum was. is. If other people feel strongly to... that they want to fight for higher minimums.

Commissioner Schindler said she supported leaving the local at the state numbers.

Commissioner Silin said he did not think they needed full consent for each thing so perhaps they could do a straw poll for each item.

Vice Chair said he was not looking for unanimity, but general consensus of three to four commissioners, at least. He said it did not seem enough people wanted to fight to increase the height limits.

**ACTION:** Motion and second (Silverstein/Schindler) to extend the meeting to 11:30 p.m.; passes 6-0 with Commissioner Ehrich absent.

Vice Chair Silverstein referred to the concept of total square footage and the related topic of FALs. He said per the discussion with City staff that given that they wanted to allow for ADU size to be the ADU size, he would very much not want to have a restriction of total FAL be any lower than what was allowed for the ADU. He said as it was currently that to have a 1,000 square foot ADU, or anything beyond 800 feet that would not be possible if the FAL was maxed on the primary residence. He said that violated the spirit of what they were attempting to do. He said he would like to have a conversation around total square feet, but asked if that made sense. He asked staff if that was complicated to implement, or relatively straightforward.

Replying to Commissioner Schindler, Vice Chair Silverstein said right now they had a hard cap of allowable square footage on a property plus 800 square feet for an ADU. He said using 2,000 plus 800 that meant the total allowable square feet could not go above 2,800. He said under this ordinance, a person was able to build a 1,000 square foot ADU, because it has 2 bedrooms, but if the primary residence was 2,000 square feet, they could not as the ADU was capped because of that total FAL across both structures. He said his position was that ADU size should be ADU size, and if they allow 1,000 square feet for an ADU, they should just allow that, and they should not care whether or not the primary residence was smaller than maximum, or a little bit smaller, or at the maximum. We should just allow for the ADU to be whatever limit the ADU was allowed to be.

Commissioner Schindler said you could build an ADU that was bigger than the 800 square foot with an exceedance allowance of 800 square feet.

Vice Chair Silverstein said if the primary residence was at the maximum FAL for the primary residence, an ADU above 800 square feet would not be allowed.

Planner Pruter said that was correct and 800 square feet was what the City considered an allowable exceedance per property for ADU construction one time. He said if someone only wanted to do a 600 square foot ADU and not go to 800 square feet then that one time they did the

exceedance was the only time they would get, and they would not get to make up the extra exceedance they could have had.

Vice Chair Silverstein said his proposal would be that the allowable exceedance be the size of their allowable ADU, and if the allowable ADU was 1,000 square feet, why would we not let them build a 1,000 square foot ADU.

Commissioner Schindler said she saw the symmetry and the logic of it but without significant time to think through all of the game theory, what she saw also was there was going to be somebody who would do what they had seen repeatedly, and that they were going to say, aha, I have found a way to get more square feet, and I will bend every rule that I need to get it whether it was in the spirit of actually building an ADU or providing additional housing units or not. She said without significant research and thought process and supportive staff in thinking through this case, she would not be able to support that tonight.

Vice Chair Silverstein asked even though this was by definition the most restrictive. He said they were restricting ADU size if a person was maxed out on their primary residence square footage. He said if the existing house was at the max, then a property owner could not build an ADU bigger than 800 square feet, even if the Commission said today and made a decision that they wanted 1,000 square foot ADUs, and wanted to encourage and incentivize the building of 1,000 square foot ADUs, this particular property owner would not be able to.

Commissioner Schindler said it was because the City had set limits for how much coverage a homeowner could have on their property.

Vice Chair Silverstein said that they were setting those limits today; they could choose the limits. We have the opportunity to change the limits that we've arbitrarily set in the past. He said if they wanted 800 square feet ADUs, then he was totally fine with that. He said if they wanted 1,000 square foot ADUs, then why were they restricting it to 800 square foot ADUs.

Commissioner Ferrick said that many of their neighborhoods were full of substandard lots, and they were quite small. She said when the developable square footage was vastly exceeded that it really started to have a different impact on the neighboring properties assuming this happened over and over again throughout the city. She said it was not necessarily bad, but she thought there was a maximum FAL of 2,800 square feet for many of these lots, but the City would still give that exceedance of 800 square feet. She said as a matter of things that they did from the dais, it should not be something like this that could have some more significant unintended consequences. She commented that the exceedance as a one-time thing seemed arbitrary, and that does not require math and shadow studies and such. She said if they then thought they wanted the second unit on the property to be a three-bedroom, 1,000 square foot unit then they might want to reconfigure things, perhaps change the main house. She said she would not want that property to never be able to be redeveloped again, because that was a short-term thinking. She said in 30 years that property might need something totally materially different. She said that was something that caught her attention that she would definitely be willing to make a recommendation on, but she would not. She said it was not a good idea for them, noting the hour and depleted energy, to make math decisions about square feet footage changes.

Vice Chair Silverstein asked staff whether tonight they had the ability to change the one-time allowance to be an end-time allowance.

Planner Pruter said their current practice, which they had held and would be maintaining, would be to give an ADU developer, a property developer, an opportunity to make a one-time exceedance. He said that was the current practice, what was in the ordinance would maintain that. That we would be maintaining. He asked if the question was if a developer were to slightly exceed by a few hundred square feet instead of 800 square feet, would they have a second chance, or no limit, no variable limit, in terms of the number of times to get to the 800 square foot maximum.

Vice Chair Silverstein said he was asking if a property owner built a small casita and then a shed, could you have an exceedance not exceeding the 800 square feet, but could happen in two separate instances.

Planner Pruter said if the property developed a casita, for example, or something along those lines, the City would only allow the exceedance via one ADU. He said the only scenario he was envisioning with that question was if you had an ADU that was 600 square feet, and wanted the other 200 square feet later, would the City in that scenario be open to, or able to take down this suggestion to make it a second chance, or multiple chances, maybe 100 square feet more, and then another 100 square feet more, until you get to the maximum, multiple chances, multiple times, no limit on the number of times to get to the maximum exceedance.

Vice Chair Silverstein said that was his question, and not necessarily a recommendation, but did they have the ability.

Planner Pruter said yes.

Commissioner Behroozi said she liked Commissioner Ferrick's suggestion.

Vice Chair Silverstein said he did not envision someone entertaining eight independent, 100 square foot additions. He said there was a theoretical potential for increased administrative burden by exceeding that allowance, but conceptually to Commissioner Ferrick's point, he did not see why they would necessitate restricting the exceedance only a single time if the person did not reach that limit, or if they wanted to do a remodel and were taking away square footage that they might want to add something somewhere else in theory.

Commissioner Ferrick said she had not entertained the idea of 10 separate ones, but she thought the more common occurrence was that years later a property owner needed to do a whole project on the house, and found this weird restriction limiting the size, because 30 years ago, the prior owners decided to build only a 600-foot ADU.

Vice Chair Silverstein asked if staff had any concerns with that recommendation.

Planner Pruter said he did not think staff had any concerns with that but to state very clearly that this was strictly for the Local ADU type of scenario and there was no sense of provision here where they could somehow alternate that with maybe the primary residence getting a chance to add on instead, or some other kind of alternating situation. He said just to be extra clear with the Commission and everyone, that they were focusing on the ADU's capability to have multiple iterations of additions to the extent necessary for the 800.

Vice Chair Silverstein said if you built an ADU at 600 square feet and you want to 10 years later, change that to 800 square feet, you would still be able to do that, assuming you were not exceeding the total exceedance.

Mr. Perata said to sum up what he was hearing the recommendation would be that one ADU could exceed up to 800 square feet, and it was total FAL plus 800 square feet, and that could be kind of mixed and matched over time. He said he thought that it was the FAL plus the 800 that was the key here. He said he thought they could work with that guidance to craft something in an amended ordinance for the Council's consideration, if the Commission recommends that, of course.

Vice Chair Silverstein asked if any other commissioners thought as he did that the exceedance should not be limited to 800 square feet as opposed to limited to 800 square feet. He noted that Commissioner Silin acknowledged yes. He said it did not seem like people cared about including that. He said the last topic he wanted to talk about was the total allowable square footage for an ADU. He said he would prefer to see the allowable square footage to be greater than currently proposed. He said he had mentioned his rationale before on wanting to see ADUs as an opportunity for people of all sorts of families and sizes to be able to live in Menlo Park, and as increasing their total housing stock. He said his recommendation would be one, to simplify and not have a distinction between studio or one-bedroom or two-bedroom units, and he acknowledged the intention behind that of wanting to encourage more bedrooms, which also, in theory, encouraged more housing stock. He said there was an optimization function of complexity versus trying to granularly achieve their goals. He said he would potentially consider eliminating those nuances, but he also would want to push the total maximum to 1,200 square feet. He said his general rationale was he wanted Menlo Park to be a city that allowed for ADUs, and allowed for people to have multiple bedrooms. He said they had lots in Menlo Park where that would not be feasible, and it was very likely that the homeowner or the property owner would not do that, but they also had many lots where that would be entirely fine, because they had a massive backyard, or were located in the RE zoning district. He said they should have the ability to build a bigger ADU with more bedrooms, and he felt they were being overly restrictive.

Commissioner Schindler said if they were going to increase the numbers, she would only be able to get comfortable with that if we maintained a distinction between larger and smaller. She said she had a picture in her head of someone who, to your example, had a very large piece of property and decided to build a bigger ADU that was a giant TV room. She said getting to discussing the numbers of bedrooms was highly relevant, if they were sticking to that as the goal.

Vice Chair Silverstein asked as a follow-up on that what would be preferred – to have three tiers of one-bedroom, two-bedroom, three-bedroom, or to just say two-bedroom plus could move increase to 1200 square feet.

Commissioner Schindler said she was comfortable leaving it at the two that there were. She said it was relevant for them to remember that in the situation where they were talking about someone with a large piece of property that was capable of building a 1,000, a 1,200 or even something bigger than that then you were also talking about somebody who probably had a five, seven, or 10 million dollar piece of property. She said the question was what the use case was going to be. She said it would be awesome if they intended to build a two-bedroom ADU and rent it out. She said she was wondering if they were considering such a boundary use case that they were tying ourselves in knots, and hand-tying the limited staff that we have, so she requested that be kept in mind.

Vice Chair Silverstein said he appreciated that and he also wanted to make sure that they were thinking not only about the use cases today, but the use cases of tomorrow, where someone inherited a \$10 million estate but did not necessarily want to live there and wanted to be able to develop an ADU and sell it or rent it out.

Commissioner Behroozi said she knew at least a couple of people among her acquaintances, who inherited property from their parents, and they have a sibling who might want to live there, and an SB9 split is complicated. She said she was comfortable with 1,200 square foot allowance with at least two bedrooms.

Commissioner Ferrick asked if this was meant specifically for the RE zoning district, or if there was a minimum of lot size.

Vice Chair Silverstein said that was an example of potential properties that would easily be able to fit a 1,200 square foot ADU, but he did not want to make that restriction by any means. He said if anyone was able to, within setbacks and heights, and within their desire of limiting their current backyard, to build a 1,200 square foot ADU on their property, then they would be able to do so with the exception of the 800 square foot FAL exceedance that they had discussed.

Commissioner Ferrick asked staff if this was something that would be simpler and easier to implement if there was R-2 zoning in a larger swath of the City.

Commissioner Ferrick said she felt like this was becoming too complex solving for different scenarios.

Mr. Perata said there was an allowance for larger units in a two-unit configuration without a lot split in SB9. He said it allowed a minimum of 800 square feet, regardless of the existing condition, and encouraged the larger, more missing middle housing. He said he thought that was what you would see in all the literature around SB9, whereas ADUs were really intended to be those ancillary, smaller units. He said given the size, they were also intended to be more affordable, or the design was intended to make them more affordable than a larger unit that you would see under SB9, either in a two-unit or a lot split up to four units. He said that was part of staff's evaluation and why they landed on 1,000 square feet here versus the alternatives that were available through SB9.

Commissioner Ferrick asked what staff was seeing with projects coming in and was there demand for this type of project from the homeowners. Mr. Perata asked in terms of a 1,200 square foot ADU. Commissioner Ferrick said she was wondering if there was an unmet need that staff thought would move the needle on this problem, or did they feel that we would get a lot more structures that were not actually providing housing being built - accessory structures, but not accessory dwelling units.

Mr. Perata said he appreciated the question and would respond, but wanted to recognize that the Commission could deliberate and provide their recommendation this evening. He said staff's perspective, or staff's recommendation, was in the staff report, and so the size limits in the staff report or in the draft ordinance reflected staff's perspective and goal of creating an ADU ordinance that would foster these smaller, more ancillary units with the recognition that the ability was out there through SB9 to do two units on any single-family zoned property, and have a guaranteed minimum of 800 square feet there, where that's the floor, and the maximum is set by the overall FAL for that zone. He said using the example earlier, a 2,800 square foot FAL limit for a lot of

5,000 to 7,000 square feet in R1U zoning would be allowed 2,800 square feet, so that was 1,400 per each unit, so you would start to see those larger units that way. He said that's where staff was coming from, but certainly the Commission could provide a different direction to increase that maximum square footage for ADUs, but staff's evaluation was really to differentiate between ADUs in this ordinance, and then they would be looking at SB9 separately later. He said what they had in SB9 ordinance, they obviously applied state law and state law allowed for that flexibility in those two-unit housing developments.

Commissioner Ferrick said she was inarticulately referring to Commissioner Behroozi's statement that SB9 was a complicated thing to use.

Vice Chair Silverstein said it specifically required you to split your lot, whereas an ADU would not.

Mr. Perata said that was not actually correct. He said you could do two units on an existing lot without a lot split through SB9.

Commissioner Behroozi asked how the impact fees associated with SB9 were different from impact fees associated with ADUs. Mr. Perata said without a lot split, the impact fees would be relatively similar, and the transportation impact fee (TIF) would apply. He said he did not know off the top of my head if there was a difference in an ADU TIF versus a main residence but many of the impact fees would apply unless an ADU was less than the 750 square foot threshold. He said with a lot split, it was different as Title 15 would come into play, and the City's rec-in lieu fee, but that was a whole separate discussion and not for tonight.

Commissioner Ferrick said it sounded like they would be taking up SB9 at a later date, so she would not want to get too hung up on that. Great. Okay.

Vice Chair Silverstein said he was at the point of making a motion including eliminating parking minimums, eliminating the one-time exceedance for the FAL, and increasing the square foot of ADUs with greater than one bedroom from 1,000 square feet to 1,200 square feet. He asked before any motion was made, whether anyone wanted to amend any of those three, or add an additional one.

Commissioner Schindler said to clarify that he had said from 1,000 to 1,200 square feet for two-plus bedrooms.

Vice Chair Silverstein said for greater than one bedroom, which was the language that was used.

Commissioner Ferrick said that was the one she would not want to mess with tonight, here on the dais. She said she thought she was fine supporting the other two. She said she thought 1,000 square feet was ample noting her home was a three-bedroom about that size.

Vice Chair Silverstein said he would ask for a show of hands of those who would rather keep it at 1,000 versus moving it to 1,200. He noted three hands raised. He asked for those who would rather increase it to 1200 and noted three hands raised. He said he planned to make the motion, which would include the ,200 square feet, and that would potentially put them at an impasse. He said we could talk about it further, but if any of the commissioners felt strongly enough to vote no on the overall resolution, then they could either that, or...

Commissioner Ferrick said you could split the motion into two different parts, so they could vote yes on the items that they wanted to support.

Vice Chair Silverstein asked if he could.

Mr. Perata said they had one resolution and the way that he was envisioning this going, and appreciated Commissioner Ferrick's question, was one vote with adopting the resolution with modifications. He said he did not think they were set up this evening to do two votes, because they were not two separate actions.

Ms. Sleiman said she agreed to have one motion with the modifications that the Commission would like.

Commissioner Schindler said she could support 1200 square feet but would like the option that when they discussed SB9 in two weeks and had a deeper understanding of that process that if they needed to update their consensus on this to City Council that they would find some mechanism to do so before this gets to City Council in May, whether it's a public comment at that meeting or some other forum. She said they would find a way to be intellectually honest about looking at the two processes side by side once they had the same level of understanding.

Vice Chair Silverstein said he fully agreed with that, assuming that they were able to discuss the details of this during a discussion on SB9 pending Brown Act considerations. He said if their discussion on SB9 dramatically affected any individual Commissioner's interpretation of what was voted on tonight, then that individual would have the opportunity and the right to opine to City Council before they see this on their perspective, and how it might or might not have changed.

Commissioner Do asked if the condo-ization and selling of ADUs separately although not in the motion would be included in their recommendations to City Council.

Vice Chair Silverstein said he believed staff had already written a note that they would like that to be further explored and would like City Council to be aware of that, but the official resolution they made tonight would not mandate that. He asked if that instruction was communicated.

Mr. Perata said it had been communicated. He suggested to make that as part of the recommendation, but not to amend the ordinance. He said for tracking that the modifications were to remove the parking minimums, allow for one ADU to exceed up to 800 square feet, but not limited to one time, and increase greater than one bedroom ADU maximum square footage to 1,200 square feet, and to recommend that the City Council direct staff to evaluate a subdivision ordinance for ADUs.

Vice Chair Silverstein moved to recommend approval of the ordinance amendments to the City Council with the modifications to remove the parking minimums, allow for one ADU to exceed up to 800 square feet, but not limited to one time, and increase greater than one bedroom ADU maximum square footage to 1,200 square feet with a recommendation that the City Council direct staff to evaluate a subdivision ordinance for ADUs. Commissioner Behroozi seconded the motion.

Commissioner Ferrick said she would like to ensure that the staff report with staff's recommendations tonight, with the 1,000 square feet, was communicated to City Council regardless, because she felt like they were making a pretty unstudied recommendation to Council,

with a kind of arbitrary number that had been thrown out, and now apparently will get supported. She said she did not love the way this was going to end, because she was being forced to vote yes on something with the one detail that she did not support. She said she had to either make a no vote on this, which was not okay, or vote for something that was expressly not a good policy for their Commission to do from the dais – to change a square footage of a recommendation from staff with not any data.

**ACTION:** Motion and second (Schindler/Silverstein) to extend the meeting to 11:40 p.m.; passes 6-0 with Commissioner Ehrich absent.

Vice Chair Silverstein said he acknowledged that as a function of them having to loop together specific items that individuals might or might not be comfortable with, that any given person was put in the position of either taking the whole or one. He said that was part of the reason he wanted to potentially have more time to discuss these things, and to potentially get another round of feedback or understanding. He said also to Commissioner Silin's perspective on wanting to have had more options to consider. He said they have one proposal that they had to vote on, and for expedient's sake, they could not vote no. He said they were put in this position, and it was not a position that he put them in. He said he believed that they had a motion and a second on the floor.

Commissioner Silin said he did not plan to support the motion, because of what he alluded to earlier, which was that the items proposed tonight did not meet his test of bold, needle-moving proposals that impacted ADU production. He said he thought if staff said we know that if the square footage was increase from 1,000 to 1,200 there would be a 25% increase in ADUs, because we have so many people asking for this, and they were just waiting for this change. He said he thought they were sort of guessing, trying to move things a little bit here and there, which is good, but since this was going to Council regardless, he wanted to be aligned with state law, but not at the expense of not boldly pushing on significantly increasing housing production in Menlo Park.

Commissioner Do said she was going to support this, because she wanted to move this forward, but she agreed with Commissioner Ferrick. She said she had similarly felt about the height discussion that they had as it felt like they were messing with numbers at the 11th hour after staff had clearly put so much analysis behind what they brought forward. She said for the record that she appreciated Commissioner Ferrick's suggestion to present what staff had provided tonight to Council also.

Vice Chair Silverstein called for the vote.

**ACTION:** Motion and second (Silverstein/Behroozi) to adopt a resolution recommending approval of the proposed ordinance amendments to the City Council with the following modifications to remove the parking minimums, allow for one ADU to exceed up to 800 square feet, but not limited to one time, and increase greater than one bedroom ADU maximum square footage to 1,200 square feet with a recommendation that the City Council direct staff to evaluate a subdivision ordinance for ADUs; fails 3-3 with Commissioners Behroozi, Do, and Ferrick voting in favor, Commissioners Schindler, Silin and Silverstein voting against, and Commissioner Ehrich absent.

Vice Chair Silverstein said he did not like how this went as well, and that they were strong-armed into coming together on things that no one particularly agreed with, and some wanted more, and

some wanted less. He said this would go to City Council, and they would have the perspective of the Commission, and the original recommendation from staff.

**ACTION:** Motion and second (Ferrick/Behroozi) to recommend to City Council to adopt the proposed ordinance with the following modifications and one recommendation; passes 4-2 with Commissioners Behroozi, Do, Ferrick and Schindler in favor, Commissioners Silin and Silverstein opposed, and Commissioner Ehrich absent:

1. Remove parking minimums and
2. Allow for one ADU to exceed up to 800 square feet, but not limited to one time,
  - o Recommend that the City Council direct staff to evaluate a subdivision ordinance for ADUs.

## **H. Informational Items**

### **H1. Future Planning Commission Meeting Schedule**

- Regular Meeting: April 27, 2026

Mr. Perata said the April 27<sup>th</sup> agenda would have a study session on SB9, amendments to, or potential amendments and some considerations, for, bringing the City's ordinance into compliance with state law there, as well as a broader discussion about single-family lots and the substandard requirements or substandard zoning ordinance considerations there. He said they would also have a review and potential recommendation on a SB 79 local exclusion ordinance for certain parcels that met certain eligible requirements within the transit-oriented development stop area.

- Regular Meeting: May 4, 2026

## **I. Adjournment**

Vice Chair Ehrich adjourned the meeting at 11:35 p.m.

Staff Liaison: Kyle Perata, Assistant Community Development Director

Recording Secretary: Brenda Bennett

Approved by the Planning Commission on May 4, 2026