



# PLANNING COMMISSION ACTIONS

Regular Meeting

August 25, 2003

7:00 p.m.

City Council Chambers

801 Laurel Street, Menlo Park, CA 94025

**CALL TO ORDER** – 7:00 p.m.

**ROLL CALL** – Bims, Fry (Chair), Halleck (Vice-chair; [excused at 10:20 p.m.](#)), Pagee, Sinnott, Soffer present; [Fergusson absent](#).

**INTRODUCTION OF STAFF** – Cramer, Heineck

**A. PUBLIC COMMENTS** - None

**B. CONSENT**

1. Consideration of the draft excerpts of the June 9, 2003 Planning Commission meeting. **COMMISSION ACTION: M/S Fry/Bims to approve with the following modifications, 6-0:**
  - Page 5, Line 3: Add “task force” between “review” and “process”; and
  - Page 6, Paragraph 6, Line 2: Change the phrase “no ability to say no and the zoning” to “no ability to say no, so the zoning”.
2. Consideration of the draft minutes of the June 23, 2003 Planning Commission meeting. **COMMISSION ACTION: M/S Fry/Halleck to approve with the following modifications, 4-0-2 with Commissioners Pagee and Soffer abstaining:**
  - Page 3, Paragraph 3, Line 10: Delete “a” between “for” and “major”;
  - Page 3, Paragraph 3, Line 11: Add an “s” to “firm” and the word “mostly” between “firms” and “in southern California”;
  - Page 3, Paragraph 3, Line 13: Add “neighbor’s” between “through a” and “window”;
  - Page 3, Paragraph 3, Line 14: Add “a wall of” between “eliminated by” and “13 feet”;
  - Page 5, Paragraph 4, Line 3: Change “form” to “from”;
  - Page 8, Paragraph 2, Line 2: Add “at least” between “surfaces are” and “60 percent”;
  - Page 8, Paragraph 5, First and Second Sentences: Rewrite as follows: “The Commission’s discussion raised alternative approaches to the regulation of FAL, including a reduction in total FAL on smaller lots related to a tiered approach and an approach that would allow for single-story development in Tier One and two story development in Tier Two, using the existing FAL formula for all lot sizes. Other alternatives included allowing a lower total FAL in Tier One and a higher FAL through Tier Two, and allowing between 35 and 40 percent of FAL on the second floor, either through Tier

- One or Tier Two.”; and
- Page 9, Paragraph 5, Line 4: Add the letter “d” to the word “include”.

3. Consideration of the draft minutes of the July 14, 2003 Planning Commission meeting. **COMMISSION ACTION: M/S Fry/Halleck to approve with the following modifications, 6-0:**
- Page 1, Bullet 9: Replace the word "intersecting" with "alternating";
  - Page 2, Paragraph 5, Line 3: Replace "30" with "300" and add "(It is the State required minimum for use permits.)" after "feet";
  - Page 3, Paragraph 2, Lines 1 and 2: Move the words "at another meeting" to between "reviewed" and "for" and replace "preference and qualification" with "prioritization";
  - Page 3, Paragraph 4, Line 4: replace "within" with "to", add the letter "s" to the word "setback" and delete the word "area";
  - Page 6, Paragraph 3, Line 14: Replace the word "general" with "generous";
  - Page 8, Paragraph 2, Line 5: Replace "setback" with "buildable area";
  - Page 10, Paragraph 3, Line 3: Replace "and" with "because", delete "the" and replace "they" with "there";
  - Page 11, Paragraph 2, Line 1: Delete "Fry"; and
  - Page 13, Paragraph 2, Lines 7 and 8: Replace "One" with "Two" and "Two" with "Three".
4. Consideration of the draft minutes of the July 28, 2003 Planning Commission meeting. **COMMISSION ACTION: M/S Fry/Pagee to approve with the following modifications, 6-0:**
- Page 2, Paragraph 3, Line 16: Add "limiting" between "basis for" and "the notice";
  - Page 2, Paragraph 3, Line 17: Add "have" between "development may" and "impact", add the letter "s" to "impact" and add "that affect" between "impacts" and "more than";
  - Page 2, Paragraph 3, Line 26: Replace "500" with "300";
  - Page 3, Paragraph 1, Line 10: Replace "contiguous" with "notified";
  - Page 3, Paragraph 3, Line 5: Replace "that" with "these";
  - Page 3, Paragraph 3, Line 7: Add "types of conditions that could be imposed during the" between "single-family" and "development review";
  - Page 4, Paragraph 1, Line 2: Replace "are" with "may be";
  - Page 8, Paragraph 1, Line 2: Correct the spelling of "change";
  - Page 8, Paragraph 1, Line 10: Delete "determine that";
  - Page 8, Paragraph 1, Line 19: Add "project, description, and" between "Fry said that the" and "Negative Declaration";
  - Page 8, Paragraph 1, Line 22: Replace "see" with "review" and "document" with "project and Negative Declaration";
  - Page 8, Paragraph 2, Line 5: Replace "counted" with "added" and add "using the current definition of what is counted as FAL" after "greater";
  - Page 8, Paragraph 2, Line 11: Add "and the height of one story houses generally is lower than proposed because of the way excess attic space is currently counted." at the end of the last sentence;
  - Page 9, Paragraph 2, Line 2: Replace "it" with "the proposal";
  - Page 9, Paragraph 2, Line 2: Replace "and would be" with "of current

- development regulations; instead, it appears to be”;
- Page 9, Paragraph 3, Line 9: Add “, and reduced reviews of projects and of excavation for below grade structures in setbacks” between “square footage” and “would have a potentially”;
- Page 9, Paragraph 3, Line 10: Correct spelling of “population”;
- Page 9, Paragraph 5, Line 12: replace “to” with “into”;
- Page 10, Paragraph 1, Line 6: Add “City staff member” before “Pat Stone”;
- Page 10, Paragraph 1, Line 9: Replace “they” with “the Planning Commission” and add the letter “s” to “review”;
- Page 10, Paragraph 1, Line 10: Replace “almost” with “approximately” and add “and 100 percent of excavation into setbacks” between “half of the projects” and “and it was not”;
- Page 10, Paragraph 1, Line 12: Add “because the Planning Commission imposes conditions that mitigate this sort of possibility.” to the end of the last sentence;
- Page 10, Paragraph 3, Line 5: Add “partially” between “managed” and “by the discretionary”;
- Page 10, Paragraph 3, Line 8: Replace “an” with “a”, add “potentially significant” before “impact” and add “unless mitigated” after “impact”;
- Page 10, Paragraph 3, Line 9: Replace “less than” with “as potentially” and “or significant with mitigations.” with “unless mitigation.”;
- Page 11, Paragraph 2, Line 3: Replace “an” with “a” and add “potentially significant” before “impact”; and
- Page 11, Paragraph 2, Line 7: Replace “sprinkles” with “sprinklers”.

## C. REGULAR BUSINESS

1. **Zoning Ordinance Amendment and Negative Declaration/City of Menlo Park:**  
Review of a draft Zoning Ordinance amendment modifying the review process and development regulations related to single-family residential development and the associated Negative Declaration prepared for the ordinance amendment. The Commission’s action will be in the form of a recommendation to the City Council.

### **COMMISSION ACTION:**

1. M/S Soffer/Pagee to recommend the following actions related to the Initial Study and Negative Declaration to the City Council, 4-1-1 with Commissioner Sinnott opposed and Commissioners Bims abstaining:
  - a. Make a finding that an Initial Study and Negative Declaration has been prepared and circulated for public review in accordance with current California Environmental Quality Act (CEQA) Guidelines.
  - b. Make a finding that the Planning Commission considered the Initial Study and Negative Declaration prepared for the proposed project and any comments received on the documents.
  - c. Deem the Initial Study and Negative Declaration inadequate and reject the

documents based on the findings listed below:

- The project description is incomplete since it does not include specific parameters for all regulations, but leaves the subject open to further discussion, and is misleading in that the proposal states that the ordinance amendment would further restrict or maintain existing development regulations, but instead would be less restrictive for a majority of projects. Specific examples include the maximum Floor Area limit (FAL) which the Initial Study states would not increase, but which would be increased by the change in the definition of FAL, the height of one-story homes that would be reduced in the proposal but which would be greater than what is generally seen by the Commission during project review, and second floor FAL which would be reduced in the proposal, but which would be greater or equivalent to what is generally seen by the Commission during project review.
- The land use and planning impact analysis does not address the General Plan goals and policies regarding maintaining and enhancing the residential quality of life, promoting development that has human scale and is pedestrian friendly, and the protection of open space and natural resources. In addition, the analysis does not address the loss of the use permit process as a way of providing public review and including mitigation for projects with potential adverse impacts on adjacent properties, the neighborhood and community and may, therefore, result in development that is incompatible with existing development patterns.
- The housing and population impact analysis does not address the potentially significant loss of affordability and population increase that would occur as a result of the change in the FAL definition that would allow for larger structures to be built, including larger basement areas.
- The geological impact analysis does not address the potentially significant impacts related to soil stability due to excavations.
- The water impact analysis does not address the potentially significant impacts to the capacity of the City's storm drain systems, San Francisquito Creek and its regional watershed, and changes in absorption rates and drainage patterns as a result of an increased ability to construct below grade structures into setbacks. In addition, the analysis does not address the loss of the use permit process as a way of providing public review and including mitigation of potentially significant impacts on adjacent properties, the neighborhood and community.
- The transportation and circulation impact analysis does not address the potentially significant impacts related to the increase in allowed building size, including basements and other below grade structures. Potentially significant impacts include insufficient parking capacity on-site, setback

protrusions that would limit emergency access to properties and an increase in truck traffic for hauling of dirt from excavation sites. In addition, the analysis does not address the loss of the use permit process as a way of providing public review and including mitigation of potentially significant impacts on adjacent properties, the neighborhood and community.

- The energy and mineral resources impact analysis does not address the potentially significant impacts related to the increase in allowed building size, including basements and other below grade structures. Potentially significant impacts include fewer trees being able to be planted in setback areas, increased energy costs, and increased use of nonrenewable energy sources. In addition, the analysis does not address the elimination of solar access protections.
- The hazards impact analysis does not address the potentially significant impacts related to possible water pressure inadequacies and the need for stronger requirements for fire sprinklers in residential development. The Commission also noted that proposed intrusions into the setbacks would likely result in greater limitations on emergency access to properties. In addition, the analysis does not address the loss of the use permit process as a way of providing public review and including mitigation of potentially significant impacts on adjacent properties, the neighborhood and community.
- The public service impact analysis does not address the potentially significant impacts related to the increase in allowed building size, including basements and other below grade structures. Potentially significant impacts include an increased need for water due to the construction of larger structures and more structures since development review would be fast-tracked, increased need for street maintenance as more large trucks and construction equipment would put added stress on street surfaces, a decrease in water absorption on properties due to larger basement areas, and greater use of electricity due to the elimination of solar access protection.
- The aesthetics impact analysis does not address the potentially significant impacts related to the creation of light and glare and aesthetic impacts on a neighborhood that would derive from the elimination of the use permit or other discretionary review process.
- The recreation impact analysis does not address the potentially significant increase in demand for recreational facilities as a result of the larger population that could be housed in larger homes.
- The analysis for mandatory findings of significance does not address several issues including that the ordinance amendment has the potential to

significantly affect peak runoff to San Francisquito Creek and its regional watershed, the use of nonrenewable energy and public services as a result of the elimination of solar access protections, and residents of smaller properties because of the increased size of homes allowed to be built, loss of light and air, loss of landscaping potential and loss of a sense of privacy that results from the proposal. In addition, there is significant pressure to change existing neighborhoods and this pressure would go unchecked and have significant impacts as a result of the elimination of the use permit process, neighborhood notification and lack of design guidelines.

2. M/S Soffer/Pagee to recommend that the City Council deny the Zoning Ordinance amendment based on the following findings, 4-2 with Commissioners Sinnott and Bims opposed:

- The ordinance amendment does not meet the Planning Commission's review criteria, including whether and how well the proposal addresses the problems the Commission experiences or sees, whether the proposal introduces new problems or unintended consequences, whether the proposal is as stringent as the current regulations, whether the proposal protects solar access, sunlight, air and privacy, whether the proposal protects against noise impacts, whether the proposal encourages neighborhood-compatible development, and whether the proposal addresses the General Plan provisions for a planned community, building to human scale and protecting open space.
- The ordinance amendment ignores the concepts of community and neighborhood by creating more flexible rules and eliminating the public review process that could be used to help mitigate the potential impacts of the proposed ordinance amendment on neighbors, the neighborhood and community.
- The ordinance amendment eliminates the current system of checks and balances in project review.
- The tiered approach outlined in the ordinance amendment is vague and does not address the problems typically seen by the Planning Commission in project review.
- The ordinance amendment does not provide certainty to the development community.
- The ordinance amendment does not address building mass and bulk concerns and creates loopholes that may encourage the development of mass and bulk.
- The ordinance amendment does not include provisions for energy efficient designs.

3. M/S Halleck/Fry to recommend that the City Council consider the Commission's

recommendations for modifications to the proposed ordinance amendment and environmental analysis (included as an attachment), 6-0.

**D. COMMISSION BUSINESS - None**

**ADJOURNMENT – 10:40 p.m.**

**Future Planning Commission Meeting Schedule:**

Regular Meeting	September 8, 2003
Regular Meeting	September 22, 2003
Study Meeting	September 29, 2003
Regular Meeting	October 13, 2003
Regular Meeting	October 27, 2003
Regular Meeting	November 3, 2003
Regular Meeting	November 17, 2003

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## **Planning Commission Recommendations on Draft Zoning Ordinance Amendment and Negative Declaration Related to Single-Family Residential Development**

**August 25, 2003**

In its consideration of the draft Zoning Ordinance amendment and Negative Declaration, the Planning Commission developed recommendations on the overall approach to the review of regulations for single-family residential development and more specific recommendations based on the actual provisions of the ordinance amendment and analysis in the Negative Declaration. The recommendations on the overall approach are stated below, followed by the more specific recommendations. For the detailed discussions and positions of individual Commissioners on the ordinance amendment and Negative Declaration, please refer to the minutes of the meetings.

Regarding the overall approach, a majority of the Commission stated that the problems with the current review process and regulations have not been clearly identified or analyzed and that the root causes of the problems are not clearly understood. Commission members specifically noted that the ordinance amendment does not address the problems the Commission has experienced in its review of proposed projects. Members of the Commission believe that the proposal may be addressing the streamlining aspects of the review process at the expense of issues related to neighborhood and community compatibility.

The minority opinion on the Commission believes that the ordinance amendment serves to close loopholes in the existing regulations and create a more workable review process with clear and consistent regulations for project applicants. It is believed that with minor revisions, the ordinance amendment is appropriate but would benefit by a review in 18 months. Other Commissioners believe that a lengthy review period without benefit of some type of safety net or more restrictive regulations in the interim will allow for irreversible impacts on some properties.

The majority of the Commission is recommending that the Council subcommittee work with the Planning Commission to develop a complete project description, analyze the potential impacts based on the revised project description, and rewrite the ordinance amendment and required environmental document. The majority of the Commission has also suggested that an advisory vote on the issue may be appropriate.

## RECOMMENDATIONS ON DRAFT ZONING ORDINANCE AMENDMENT

The Commission's specific recommendations on the draft ordinance amendment are presented below and in the same order as the provisions of the ordinance amendment. In addition to the recommendations, the Commission has identified areas of interdependency between regulations that it believes are important to consider. The list of interdependencies is provided after the summary of recommendations on the ordinance amendment. It should be noted that Commissioners names are listed where votes were taken on the specific statements. Where Commissioners names are listed, the Commissioners explicitly supported the comment. The absence of a Commissioner's name generally means that the Commissioner did not support the statement.

### Section 1 Deleted Definitions

- Architectural control committee
- Dwelling group
- Garage or carport

The Commission supports the proposed deletion of the definitions (unanimous; Bims and Soffer absent).

- Solar access
- Solar envelope

The Commission recommends the following:

- The definitions related to solar access and solar envelope should be retained and rewritten to more effectively address solar access on neighboring properties (Fergusson, Fry, Halleck and Pagee; Bims and Soffer absent);
- There should be separate regulations for the control of the building envelope and solar access protections (Bims, Fergusson, Fry, Halleck and Pagee; Soffer absent); and
- The solar access provisions should allow for appropriate landscaping by either eliminating existing heritage trees from the provisions or preparing separate regulations for landscaping and buildings (Halleck, Pagee, Sinnott and Soffer; Bims absent).

### Section 2 New or Modified Definitions

*In addition to the definitions listed below, a member of the Commission suggested adding definitions for "dormer" and "landscaping" (both hardscape and softscape). It was also suggested that a definition of "bay window" be added that would require that the bays have windows and no floor area (unanimous; Fergusson absent). In addition, members of the Commission suggested modifying the definition of "building, and/or structure, accessory" to add limitations on the types of uses that may be conducted in the buildings (Fry).*

- **Attic**
- **Basement**

The Commission supports the proposed definitions (unanimous; Bims and Soffer

absent).

· **Contiguous property**

Some Commissioners expressed concern that a notice only to contiguous neighbors may be insufficient. However, assuming that the noticing of contiguous neighbors is retained, the Commission supports the definition with an added clarification that properties with a corner-to-corner contact should be considered a contiguous property (unanimous; Bims and Soffer absent).

· **Daylight plane**

The Commission recommends changing all references to “daylight plane” in the ordinance to “building envelope” (Bims, Fergusson, Fry, Halleck and Pagee; Soffer absent).

· **Family**

The Commission supports the proposed definition (unanimous; Bims and Soffer absent).

· **Floor Area**

The Commission expressed the following positions.

- The typographical error in paragraph (a) should be corrected by deleting the “s” from the word “exceeds”.
- Staff should review and, if necessary, modify the wording of paragraph (d)(8) to ensure that the measurement is to the topmost point of the structure.
- Attics over five feet in height should continue to be included in the FAL calculations (Fergusson, Fry, Pagee and Soffer).
- Staircases should be included in the FAL calculations at 200% (Fergusson, Fry, Halleck and Pagee; Bims and Soffer absent).
- Basements, sunken patios and similar outside areas, including all egress (lightwells and stairways) that is beyond the minimum required by the Uniform Building Code, that extend beyond the first floor building footprint should be included in the FAL calculations (unanimous; Fergusson absent).

· **Grade**

The Commission supports the proposed definition (unanimous; Bims and Soffer absent).

· **Height of structure**

The Commission recommends that the definition be modified to include elevator equipment rooms, ventilating and air conditioning and similar equipment in the height limitations for single-family zoning districts.

· **Parking, covered**

The Commission recommends that the reference to allowing tandem parking in single-family zoning districts be eliminated (unanimous).

- **Parking, uncovered**
- **Permeable surface**
- **Story**
- **Yard**

The Commission supports the proposed definition (unanimous; Soffer absent).

### **Section 3 Districts Established - General Regulations**

- **Purpose of development regulations**

The Commission supports the proposal (unanimous; Bims and Soffer absent).

- **Excavating**

The draft ordinance amendment would eliminate the use permit requirement for excavation in a required setback and replace it with below ground setbacks for permanent structures. The Commission recommends retention of the existing use permit requirement for excavation in addition to the establishment of below ground setbacks (unanimous).

Based on Commission discussion, staff would recommend that the term “existing grade” in the existing regulation be changed to “existing ground level” to distinguish it from the proposed definition of “grade” and allow the excavation regulation to establish an excavation limit of one foot in depth at any point on the property rather than basing the limit on an average of the existing grade (Bims). In addition, staff would recommend the following additional words (shown underlined), “...foundations for main and accessory buildings...” in order to explicitly allow for required excavation associated with a main residence that is located on the setback line.

### **Section 4 (R-E District), Section 5 (R-E-S District), Section 6 (R-1-S District) and Section 8 (R-1-U District)**

In addition to the specific regulations listed below, the Commission discussed the concept of the tiered approach and identified the following three approaches to the types of development that would be permitted in each district. (This would require changes to Section 16.\_\_\_\_.010 *Permitted Uses* in each of the four zoning districts.)

- Tier One would allow only single-story development and Tier Two would allow for two-story development with the use of design guidelines, modified decision criteria and neighborhood notification (Fry, Halleck and Pagee; Fergusson absent).
- Tier One would allow for single-story and two story development, with second stories not exceeding between 35 and 40 percent of the allowed FAL and Tier Two allowing for larger second stories (Sinnott and Bims).
- In lieu of the tiers, a discretionary review process that includes the use of design guidelines should be developed that would effectively address development issues often encountered by the Planning Commission. This could include the retention of the existing use permit process, but with a revision to the definition of substandard lots to include more parcels (Soffer).

It was further suggested that design guidelines addressing such issues as privacy, solar access and neighborhood pattern are needed (Fry and Pagee).

· **Minimum Yards (setbacks)**

The majority of the Commission expressed concern with the proposed setbacks for below grade structures, emphasizing adverse impacts to neighbors, the water table and storm water run-off systems. The Commission discussed the following options:

- No setback encroachments for below grade structures allowed in Tier One (Fry; Fergusson absent).
- Tier One would allow for below grade encroachments into the front and rear setbacks for egress that does not go beyond the minimums required by the Uniform Building Code. No encroachments into side setbacks would be allowed (Bims, Halleck, Pagee and Soffer; Fergusson absent).
- Tier One would allow for below grade encroachments into the side setbacks for egress that does not go beyond the minimums required by the Uniform Building Code subject to a minimum clearance between the encroachment and the property line of four feet (Sinnott).
- Tier Two would allow for below grade encroachments into the side setbacks for egress that does not go beyond the minimums required by the Uniform Building Code subject to a minimum clearance between the encroachment and the property line of four feet and neighborhood notification (Fry).

· **Permeable Surfaces**

The majority of the Commission expressed concern that the minimum requirement for permeable surface of 25 percent is not adequate because the current average for residential properties in the city is 60 percent. In addition, the Commission commented that the issue of permeability is directly linked to storm water run-off and management, noting that the requirements should be linked to storm water management or that separate regulations should be developed for storm water management. A member of the Commission recommended that the requirement should be consistent with future NPDES requirements for storm water runoff.

The Commission discussed the following options:

- Increasing the permeable surface requirement for a property within a range of 25 to 80 percent (Fry);
- Supporting the proposed 25 percent requirement for permeable surfaces (Bims, Halleck, Pagee and Sinnott)
- Establishing different percentages of permeability based on lot size; and/or
- Establishing different requirements in different areas of the lot, such as the front yard or in required setbacks.

· **Floor Area Limit (FAL)**

Members of the Commission raised a number of alternative approaches to the regulation of FAL, concluding that more discussion was necessary. Alternatives include the following:

- A reduction in total FAL on smaller lots, either by setting a lower square footage base or by applying the existing formula to all properties regardless of size,

- potentially resulting in a one-story house that would then be subject to a Tier One approval (Pagee);
- Allowing a lower total FAL in Tier One and a higher FAL through Tier Two (Soffer);
- Allowing between 35 and 40 percent FAL on the second floor in Tier One and potentially a larger second floor FAL through Tier Two (Sinnott and Bims); and
- Allowing a 50 percent FAL on the second floor in Tier Two (Fergusson).

In addition, the Commission commented that more than just contiguous neighbors should be notified of projects within Tier Two requirements. Suggestions include the following:

- Noticing all properties within 60 feet of the property (Bims);
- Noticing flag lots in proximity to the project site (Fergusson);
- Noticing all lots potentially impacted including properties across the street;
- Noticing all properties within 300 feet, the same distance required in the use permit process (Fry, Pagee and Soffer); and
- Noticing contiguous properties as is currently proposed (Sinnott).

#### • **Horizontal Length of Second Floor Side Wall**

Members of the Commission raised a number of alternative approaches but did not come to a consensus. Alternatives included the following:

- Restricting Tier One to single-story residences (Fry and Pagee);
- Limiting second floors lengths to 30 feet before a three foot articulation inward is required in Tier One (Bims), in Tiers One and Two (Sinnott) or in Tier Two with the use of a discretionary review process and design guidelines (Pagee);
- Applying the regulation to rear walls in addition to side walls (Bims);
- Requiring greater articulation than is required in the proposal (Fry); and
- Establishing second floor side setbacks of 150 percent of the first floor side setback in addition to limits on wall length (Fry).

In addition, the Commission commented that more than just contiguous neighbors should be notified of projects within Tier Two requirements. Suggestions include the following:

- Noticing all properties within 60 feet of the property (Bims);
- Noticing flag lots in proximity to the project site (Fergusson)
- Noticing all lots potentially impacted including properties across the street; and
- Noticing all properties within 300 feet, the same distance required in the use permit process (Fry, Pagee and Soffer); and
- Noticing contiguous properties as is currently proposed (Sinnott).

#### • **Height**

The Commission supports the proposed height provisions, subject to attics over five feet in height being included in FAL calculations.

#### • **Daylight Plane**

The Commission's comments on daylight plane regulations are listed in Section 15 below.

## **Section 7 R-1-S (FG) District**

The Commission supports the draft ordinance amendment (unanimous).

## **Section 9 R-2 District**

The Commission supports the draft ordinance amendment (unanimous).

## **Section 10 Lots**

The Commission expressed the following positions.

- The proposed elimination of substandard lots (above 5,000 square feet in area) as the use permit trigger is appropriate (Sinnott, Bims and Halleck).
- The elimination of substandard lots as the trigger for review would only be acceptable if development regulations for FAL and daylight plane were more restrictive and if regulations were included to address issues of privacy and solar access (Fergusson and Fry).
- Replacement of lot dimensions with potential impacts as the trigger for review would be acceptable depending on the types of development allowed under the tiers and the use of specific decision criteria, design guidelines and neighborhood notification (Fry).

## **Section 11 Encroachments and Balconies**

A majority of the Commission recommends that permitted intrusions of architectural features be subject to the tiered approach, allowing for eave encroachments in Tier One and other encroachments (cornices, canopies, fireplaces and bay windows in Tier Two. It was further suggested that second floor bay windows intrusions be prohibited in both tiers (Fry and Pagee). The current and proposed depth of the intrusions is acceptable (Fry, Pagee, Halleck and Fergusson). Alternative positions noted included acceptance of the draft ordinance amendment as proposed (Sinnott) and a complete prohibition on any intrusions (Bims).

## **Section 12 Dwelling Groups**

The Commission supports the proposed deletion (unanimous).

## **Sections 13 and 14 Solar Access Related to Landscaping and Buildings**

The majority of the Commission recommends that these two sections be retained but comprehensively rewritten to provide objective and measurable standards that provide adequate solar access protection for properties. Commissioners specifically noted that the provision should allow for the protection of active and passive solar collectors and for existing heritage trees. The Commissioners suggested that the Environmental Quality Commission work with the Planning Commission to develop the new provisions. It was further suggested that solar studies be considered as a requirement in Tier Two

applications and/or included in design guidelines (Pagee, Fry, Halleck and Fergusson).

## **Section 15 Daylight Plane**

The Commission recommends changing the name of the regulation to “Building Envelope”.

### **· Purpose**

The Commission believes that the reference to protecting solar access for neighboring properties should be deleted from the purpose statement and recommends that the purpose be revised to instead address mass and bulk issues of building design (Fry and Pagee).

### **· Daylight plane and allowed intrusions**

The Commission expressed the following opinions.

- The draft ordinance amendment is appropriate (Sinnott).
- The regulations should ensure that two-story tall walls cannot be constructed under Tier One (Fry, Pagee and Soffer).
- The regulations should require a second floor setback under Tier Two, assuming Tier One is limited to one-story construction (Fry and Pagee).
- The term “dormer” should be defined in a manner that indicates that it should serve to effectively lower rooflines. Dormer intrusions should continue to be allowed on only one side of a property (Fry and Pagee).
- The regulations should limit intrusions of bay windows to the first floor, subject to a revised definition that requires windows in the bay and prohibits floor area within the bay (Fry).
- The daylight plane should start at the grade of the property with no exception for properties located in a flood zone (Fry, Pagee and Fergusson).
- Tier One should allow for the same daylight plane as is currently used in Felton Gables and Tier Two should allow the proposed daylight plane at a height of 17.5 feet (Fry, Pagee and Soffer).
- A lower daylight plane should be established for single-story structures (Pagee and Fry).
- There should be no daylight plane intrusions (Bims)

## **Section 16 Accessory Buildings**

The Commission expressed the following opinions.

- The draft ordinance amendment is appropriate (Sinnott).
- The regulations should include provisions that provide protections from the noise of mechanical equipment, such as a 10 foot setback for the equipment with the ability to move the equipment closer to the property line with documentation of lower noise levels (Bims, Fry and Pagee).
- The regulations should include a provision that requires a setback for accessory buildings that house a living purpose that is equal to the setbacks for detached secondary dwelling units (side setbacks the same as for the main residence and 10 foot rear setback) (Fry).
- Accessory buildings should be included in the tiered approach (Fergusson).

## **Section 17 Off-Street Parking**

The Commission recommends that the reference to allowing tandem parking in single-family zoning districts be eliminated. The remainder of the draft language is acceptable (unanimous).

## **Section 18 Nonconforming Uses and Structures**

The Commission expressed the following opinions:

- The draft ordinance amendment is appropriate (Sinnott and Bims).
- The limit of new work at 100 percent of the replacement cost of the structure would be acceptable if the work does not include significant changes to the exterior of the building (Fry).
- The limit of new work at 100 percent of the replacement cost of the structure would be acceptable if the work does not include any additional second floor square footage (Pagee).
- The amount of new work should be unlimited if there is no additional square footage (Fergusson).
- The amount of new work that should be allowed is directly linked to what types and amounts of development are allowed within the tiers.

## **Section 19 Nonconforming Family**

The Commission supports the proposed deletion (unanimous).

## **Section 20 Single-Family Development Permits**

Several members of the Commission expressed concerns about the proposed Single-Family Development Permit process, noting that it was inappropriate to create a new process that encourages two-story development that will impact neighbors' privacy and solar access, create loopholes and limit public notification as a substitute for the current use permit process (Fry, Soffer, Pagee and Fergusson). In addition, a Commissioner felt that the review process should identify the types of impacts that need to be addressed and evaluated in each development proposal and should extend review to those property owners who don't currently have protection (Fry).

Members of the Commission raised a number of additional considerations regarding the provisions of the Single-Family Development Permit including the following:

- The purpose statement should address neighborhood impacts associated with new homes and remodels (Fry);
- The applicability statement should be expanded to include broader interests of the neighborhood, instead of only contiguous neighbor approval (Fry and Pagee);
- The application requirements should include: (1) more explicit language on the drafting quality and level of details that should be included in plans submitted for review (Fry, Soffer, Fergusson and Pagee), (2) three-dimensional drawings (Fry, Soffer and Fergusson), (3) larger scale streetscape elevations in order to evaluate

the relationships between proposed projects and existing structures (Fry), (4) a requirement for story poles to be installed (Pagee) and (5) a fact sheet for the existing property and proposed development;

- The review and approval authority section should be modified to include:
  - Replacement of the phrase “limit adverse impacts” with “mitigate adverse impacts” related to conditions of approval that can be imposed by the Planning Commission (Fergusson);
  - Addition of “such as” after “impose conditions” to prevent limitations on review considerations (Soffer);
  - Allowance for consideration of landscaping and parking as part of the conditions of approval (Soffer);
  - Allowance of considerations for use permit approval (noted below) (Fry);  
*The Planning Commission shall determine whether or not the establishment, maintenance, or operation of the use applied for will, under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, or whether it will be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the city.*
  - Allowance for consideration of proven practices from other cities as decision criteria (Fry); and
  - Use of design guidelines in the review and approval process (Fry).
- The notification provision in the review process section should be modified to extend the notification timeline and geographic boundary (Fry, Soffer, Fergusson and Pagee). Members of the Commission made the following suggestions:
  - Expand the time frame for notification to greater than 10 days (at a minimum consider the current 25-day notification process) (Pagee and Fry);
  - Expand notification boundaries to:  
Current use permit notification requirement of 300 feet (Fry, Pagee and Soffer);  
Include properties across streets and alleys and consider properties located across alleys as contiguous properties since alleys are not “owned” by anyone (Fry and Pagee);
- The review process section should be modified to include specific language that requires the Planning Commission to consider specific impacts to privacy, access to sunlight, neighborhood compatibility and infrastructure (Fry).
- The approval language in the Planning Commission Decision provision of the review process section should be clarified to indicate that the Planning Commission may add conditions of approval to mitigate impacts to adjacent properties and the neighborhood (Fergusson).

## **Section 21 Granting Use Permits**

The Commission supports the deletion of language stating that use permits are issued to the resident and not the property in order to be in compliance with State law (unanimous).

A suggestion was made that the Commission should give further consideration to the findings for use permits, keeping the same findings as are currently outlined in the Zoning

Ordinance and adding findings for privacy, solar access and neighborhood compatibility (Fry and Soffer).

## **Section 22 Public Hearings**

The Commission supports the change in the noticing period from 5 days to 10 days in order to be in compliance with State law (unanimous).

## **Section 23 Amendments (Zoning Overlays)**

The Commission agreed that the survey response provisions should be consistent with the provisions established in the Zoning Overlay District section.

## **Section 24 Zoning Overlay Districts**

The Commission made the following recommendations for changes to the provisions for the zoning overlay:

- The mailed City written survey should include a copy of the preliminary survey results (Fry, Bims and Fergusson);
- The results of the City written survey should be changed to allow an overlay district to be considered by the City Council with 60 percent of the survey respondents indicating support for change (Fry, Pagee, Soffer and Sinnott);
- The provision should be modified to eliminate the statement that “no response shall be considered opposition to the proposal” (Fry, Pagee and Soffer);
- Require a majority of property owners to approve a proposed zoning overlay (Bims);
- Each property should be limited to one vote (Halleck, Fry and Sinnott);
- The survey response time should be extended. The proposed 15-day response period is too short. The process should be extended to 45 day (Fry, Fergusson); and
- Change the sentence on identifying properties eligible for zoning overlay to read: “Fifty properties in a defined area, including but not limited to one or more entire city blocks, or one or more subdivision tracts, or properties fronting on both sides of a street” (Soffer).

A suggestion was made that some neighborhoods may benefit from the ability to propose modifications to the review process (Fry).

A suggestion was made that the fee for a zoning overlay be reasonable so as not to discourage neighborhoods from pursuing this option and discourage frivolous attempts (Fry, Soffer).

## **INTERDEPENDENCIES BETWEEN REGULATIONS**

The Commission recognizes that the proposed ordinance amendment includes a significant number of interdependencies such that a decision in one area will have an impact on how a decision is made in another area. The Commission has identified the following interdependencies between the regulations.

- The appropriate development levels allowed in the tiers are dependent on the development regulations established for each tier and the degree of impact those development regulations would create on immediate neighbors and the greater neighborhood.
- The appropriate development levels and review process allowed in the tiers is dependent on whether design guidelines would be used in the review process.
- The replacement of lot dimensions with potential impacts as the trigger for review would be acceptable depending on the types of development allowed under the tiers and the use of specific decision criteria, design guidelines and neighborhood notification.
- The type and extent of noticing for Tier One depends on the type of development allowed in Tier One.
- The appropriate number of stories and height limits in the tiers are dependent on the regulations established for building envelope (daylight plane) and solar access.
- Allowed encroachments for architectural features are dependent on the regulations for building envelope (daylight plane) and solar access.
- The inclusion of basements and other below grade structures in the FAL is dependent on whether such features are allowed to encroach beyond the first floor building footprint or into setbacks.
- The amount of renovation allowed on a non-conforming structure before a use permit is triggered is dependent on the level of development allowed in each tier.
- Whether excavation should be reviewed through a use permit process is dependent on whether below ground setbacks are established for permanent structures.

## **REVIEW OF NEGATIVE DECLARATION**

In general, the majority of Commissioners expressed that it believes that the impacts of the proposed ordinance amendment are potentially significant and may require an Environmental Impact Report (EIR). It expressed concern that the project description is incomplete and misleading in that not all of the proposed regulations are clearly defined and that, although

the project description states that the proposal includes changes to regulations that would further restrict development, provisions such as the exclusion of attic areas from FAL and the allowances for below grade structures in setbacks will functionally increase the size of houses. As a result of the problematic description, the Commission believes that the City may be subject to a lawsuit. In addition, the proposal will eliminate a discretionary review process that is designed to protect neighbors from impacts from new construction and substantial additions. Consequently, as a result of the increase in the size of single-family homes and the loss of the discretionary review process, the Commission identified potentially significant impacts related to the potential increase in the population, demands on utility services, impacts to the City's storm water management system and impacts from potential hazards, such as fire, and stated that a greater degree of analysis is needed. One member noted a concern that the analysis done relies on the 1994 General Plan, which is an outdated document. (Fry, Halleck, Pagee, Fergusson and Soffer).

A suggestion was made that the Commission be provided the opportunity to review any revisions made to the environmental document (Fry).

The sections below provide additional comments on each section of the Negative Declaration. The sections are identified by the same numbering system as used in the Negative Declaration.

### **Land Use and Planning (Section 1 of the Negative Declaration)**

The Commission did not recommend changes to this section, however the Commission did make the following two comments:

- The proposed ordinance amendment is in conflict with the existing General Plan regarding provisions that address enhancing the quality of life for all residents, promoting development that is human scale and pedestrian friendly and protection of the City's open space and natural resources (Pagee); and
- By eliminating the use permit process the review of potentially adverse impacts beyond those on an immediate neighbor is lost (Fry).

### **Population and Housing (Section 2 of the Negative Declaration)**

Members of the Commission stated that there is a direct relationship between the proposed ordinance amendment and the ability to provide and maintain affordable housing. Members noted that if larger homes were allowed to be built, the result would be increased home prices. In addition, members expressed concern that because larger homes could be built, there is a potential for an increase in population. Members recommend changing 2.a *Cumulatively exceed official regional or local population projection* and 2.c *Displace existing housing, especially affordable housing* from "No Impact" to "Potentially Significant" (Fry and Fergusson).

### **Geologic Problems (Section 3 of the Negative Declaration)**

A member of the Commission expressed concern that the impacts created by allowing excavation in setbacks needs to be evaluated further and recommends that *3.f. Erosion, changes in topography or unstable soil conditions from excavation, grading or fill* be changed from “No Impact” to “Potentially Significant Unless Mitigation Incorporated” (Fergusson).

#### **Water (Section 4 of the Negative Declaration)**

The Commission expressed concern that the impacts created by allowing excavation in setbacks needs to be evaluated further and recommend changing *4.a. Changes in absorption rates, drainage pattern, or the rate and amount of surface runoff* from “Less Than Significant” to “Potentially Significant” and changing“, *4.b. Exposure of people and property to water related hazards such as flooding, 4.c Discharge into surface waters or other alteration of surface water quality* and *4.d. Changes in the amount of surface water in any water body* from “No Impact” to “Potentially Significant” (Fry, Fergusson, Pagee and Soffer).

#### **Air Quality (Section 5 of the Negative Declaration)**

No changes are recommended for this section.

#### **Transportation and Circulation (Section 6 of the Negative Declaration)**

Members of the Commission believe that the proposed changes to the review process will eliminate discretionary review of residential development projects. The loss of discretionary review removes the potential for the Commission to evaluate transportation and parking issues. Without this review, members believe that there is a potential for impacts. Members recommend changes to *6.a. Increased vehicle trips* and *6.c. Inadequate emergency access or access to nearby uses* from “No Impact” to “Potentially Significant Unless Mitigation Incorporated” and changes to *6.d. Insufficient parking capacity on-site or off-site* from “Less Than Significant” to “Potentially Significant Unless Mitigation Incorporated” (Fry and Fergusson).

#### **Biological Resources (Section 7 of the Negative Declaration)**

No changes are recommended for this section.

#### **Energy and Mineral Resources (Section 8 of the Negative Declaration)**

Members of the Commission believe that excavation extending into the setback would impact energy costs and the use of nonrenewable energy sources (Fry, Fergusson and Pagee). In addition, members noted that the proposed daylight plane changes will not mitigate concerns for active and passive solar energy and has the potential to negatively impact adjacent properties (Fry and Pagee). Members recommend that *8.a. Conflict with adopted energy conservation plans* and *8.b Use non-renewable resources in a wasteful and inefficient manner* be changed from “No Impact” to “Potentially Significant”.

#### **Hazards (Section 9 of the Negative Declaration)**

A member of the Commission stated that because the ordinance amendment includes ranges for consideration of certain provisions, such as lot coverage, the impacts are impossible to evaluate (Fry). She noted that the Fire Marshall has stated that the City has areas where there is insufficient water pressure, that homes need to be sprinklered, and that adequate emergency access to the rear of properties is needed. She expressed that with the elimination of a discretionary review process these issues may not be addressed individually because the Fire District may not review a project (Fry). She believes that these issues should be addressed in the environmental review and recommends that *9.b. Possible interference with an emergency response plan or emergency evacuation plan* and *9.c. The creation of any health hazard or potential health hazard* be changed from “No Impact” to “Potentially Significant Impact Unless Mitigation Incorporated”.

### **Noise (Section 10 of the Negative Declaration)**

No changes are recommended for this section.

### **Public Service (Section 11 of the Negative Declaration)**

A member of the Commission stated that the draft ordinance amendment would encourage excavation, which will result in the potential for damage and additional wear and tear on street surfaces (Fry). She recommends changing *11.d Maintenance of public facilities, including roads* from “No Impact” to “Potentially Significant”.

### **Utilities and Services Systems (Section 12 of the Negative Declaration)**

Members of the Commission stated that there would be potential impacts to utilities and services systems as a result of the larger homes that can be built under the proposed ordinance amendment. Members noted that larger structures use more water. In addition, members noted that the potential increase in living space in the basement and the construction of larger basements would remove sub-surfaces increasing runoff (Pagee and Fergusson). Members recommend changing *12.a. Power or natural gas*, *12.d. Sewer or septic tanks*, *12.e. Storm water drainage*, and *12.g. Local or regional water supplies* from “No Impact” to “Potentially Significant Unless Mitigation Incorporated.”

### **Aesthetics (Section 13 of the Negative Declaration)**

Members of the Commission stated that the elimination of the discretionary review process will potentially negatively impact lighting and glare on adjacent properties (Fry and Pagee). Members recommend that *13.c. Create light or glare* be changed from “No Impact” to “Potentially Significant Unless Mitigation Incorporated”.

### **Cultural Resources (Section 14 of the Negative Declaration)**

No changes are recommended for this section.

### **Recreation (Section 15 of the Negative Declaration)**

A majority of the Commission stated that due to the ability to build larger structures having the potential for more people, there is a potential for more demand on recreational services (Soffer, Fry, Fergusson and Pagee). The Commission recommends that *15.a Increase the demand for neighborhood or regional parks or other recreational facilities* should change from “No Impact” to “Potentially Significant Unless Mitigation Incorporated”.

### **Mandatory Findings of Significance (Section 16 of the Negative Declaration)**

A member of the Commission recommends that *16.a.* which addresses the quality of the environment be changed from “No Impact” to “Less Than Significant Impact” to acknowledge the issues that the ordinance may have on habitat of a fish or wildlife species, fish or wildlife population, plant or animal community, rare or endangered plants or animals or important examples of the major periods of California history or prehistory (Fry).

Members of the Commission recommended that *16.c.* which addresses whether the project will have cumulative impacts and *16. d.* which addresses whether the project has environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly be changed from “No Impact” to “Potentially Significant”. Members noted that the proposed changes to the ordinance will result in additional demands on utilities and services, impacts to the water runoff and storm drain systems, potential increases in population, and the loss of the discretionary review process (Fry, Pagee and Fergusson). Members noted that these changes would have potentially significant impacts that should be evaluated.

### **ADDITIONAL INFORMATION AND RESEARCH**

Following is a list of additional information and research the Commission believes should be conducted prior to decisions being made on the ordinance amendment.

- Staff analysis of solar access regulations in other cities and development of draft solar access provisions for Menlo Park.
- Development of new definitions for “dormer”, “bay window” and “landscaping” and a modified definition of accessory buildings in order to further limit the use of accessory structures.
- Staff analysis of the Uniform Building Code requirements for excavation.
- Staff analysis of liability issues with excavation.
- Staff analysis of the impacts of below ground structures and requirements for permeable surfaces on the water table and on the storm water management systems.
- Staff preparation of a graphic showing impacts to the water table if all or substantial portions of basements allowed under the proposed ordinance amendment were built.

- Presentation by an independent geologist (maybe Ken Lajoie) on the potential impacts to the water table.
- Research on permeability requirements from other cities.
- Staff application of the various development regulations to projects previously reviewed by the Commission.
- Staff application of defined building envelope parameters (to be defined by the Commission) compared to controversial projects reviewed by the Commission.
- Staff comparison of draft regulations for second floor wall length with other cities.

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