



PLANNING COMMISSION EXCERPT MINUTES

Monday, November 3, 2008
7:00 p.m.
701 Laurel Street, Menlo Park, CA 94025
Menlo Park City Council Chambers

CALL TO ORDER – 7:00 p.m.

ROLL CALL – Bressler, Ferrick, Kadvany, Keith, O'Malley (Vice chair), Pagee, Riggs (Chair)

INTRODUCTION OF STAFF – Deanna Chow, Senior Planner; Megan Fisher, Associate Planner; Justin Murphy, Development Services Manager, Lorraine Weiss, Contract Planner

D. STUDY ITEMS

- Zoning Ordinance Amendment /City of Menlo Park:** Consideration of a Zoning Ordinance Amendment to clarify the definition of Gross Floor Area to more specifically identify features of a building that are either included or excluded from the calculation. Gross floor area is used in calculating the floor area ratio (FAR) and parking requirements for developments in all zoning districts except for single-family and R-2 (Low Density Apartment) zoning districts. Floor area ratio equals the gross floor area of a building divided by the lot area and effectively regulates the size of a building. In addition, gross floor area is used in determining the applicability of requirements for below market rate (BMR) housing and the preparation of traffic studies. The clarifications to the definition will focus on new buildings and attempt to minimize impacts to existing buildings. The Zoning Ordinance Amendment will be exempt from the California Environmental Quality Act (CEQA) in that the changes are intended to have no potential to impact the environment.

Commissioner Bressler asked whether this item should be continued as it was the evening before the election, and thus attendance by the public was low. Chair Riggs said this study session item was intended to bring all of the Commissioners up to speed on the proposed ordinance amendment recommendation made by the Commission with the goal of a public hearing on December 8, 2008. He said he had reviewed his notes from the Commission's consideration of this item and the only section not resolved was section 3 relating to grandfathering. He said a year ago that the Commission had voted 7-0 to send sections 1, 2, 4 and 5 forwarded which included debate that the Council might make changes to the Commission's recommendation, with the end result that the Commission requested a joint session meeting with the City Council. He said then vice chair Deziel had noted that if the Commission's recommended exclusions in Section 1 were adopted by the Council that Section 3 regarding grandfathering would not be needed. He said staff agreed they would prepare some wording to be held in reserve to address grandfathering in the instance the

Council did not accept the Commission's recommendation for how to handle grandfathering. He said staff felt there should be a context for section 3 for this session and if Council would not accept ordinance as crafted they had prepared a second ordinance, which he found confusing. He said the staff report was necessary to give the context to bring the Commission back up to speed on its deliberations. He said that he had presented the two page summary of previous Commission actions on this item to the two newest Commissions.

Development Services Manager Murphy indicated that there were four matters for the Commission to discuss related to this proposed ordinance amendment.

Commissioner Bressler said it had been a year since the Commission had discussed the proposed ordinance amendment. He said they could either discuss this limitedly this evening or continue the consideration. He said there had been strong reactions to what the Commission had previously recommended and that it was necessary to hear and address that public reaction. He said it would be proper to have full public comment, but if they wanted to discuss what recommendation the Commission had made previously that they could do so this evening. Commissioner O'Malley said it seemed that Commissioner Bressler was suggesting that the Commission begin the discussion afresh. Commissioner Bressler said for the discussion to be meaningful that was preferable. Commissioner O'Malley said it bothered him that the Commission's lengthy deliberations were to be thrown out and the process started anew. Commissioner Bressler said because of the reactions to the recommendation previously made by the Commission that this would be a contentious matter for the Council.

Development Services Manager Murphy said there were some matters of substance that needed to be clarified before the recommendation went forward to the City Council. He said this was a study session and then there would need to be a public hearing before the recommendation went to the City Council. He said that the five Commissioners who were on the Commission the previous year could best clarify the Commission's recommendation.

Commissioner Bressler said he did not think the Commission had to start over on the ordinance amendment, but there were particular items that needed examination because of the possibility of contention.

Chair Riggs said there was so much paper in the item because there had been three meetings to consider the ordinance amendment but it might be possible this evening to discuss the controversial parts.

Commissioner Keith said she did not want the Commission to throw away all the work the Commission had done on this. She said she supported looking at controversial items. She said Mr. Morris Brown had requested by e-mail that the item be continued until after the election. She suggested discussing the matter now and agendaizing for the November 17 meeting to accommodate public comment as attendance at this meeting was probably impacted due to its being the night before the election.

Mr. Morris Brown, Menlo Park, said he was speaking for Menlo Park Tomorrow. He urged the Commission to not discuss this agenda item as there was no public to hear their

discussion. He said this was a controversial issue and he agreed with Commissioner Bressler that perspectives had changed since the Commission had last considered the ordinance amendment. He said he did not think the Commission's work on it should be thrown out but that the newer Commissioners should get up to speed on the issues.

Commissioner Pagee suggested that staff provide the Commission with bullet points of the items for review and that another study session be scheduled.

Commissioner Kadvany indicated his impression of FAR is history of broad interpretations, and that Option A is the best attempt to codify historical practices and Option B is a reflection of a straw man for alternatives to be judged. He questioned the issues with FAR and asked about the goals, and stated that models from other cities would be useful.

Commissioner Bressler said that item C.1 in Attachment A was the source of concern that there was too much discretion related to the determination of gross floor area and which would allow applicants to finagle the ordinance to their advantage. He said he did not recall unfinished walls and limited access being used as a criterion. He said that item C.4 was also somewhat controversial. He said some people wanted gross floor area measured wall to wall with no exceptions and others who would disclaim about administrative discretion. walls limited access would. He did not recall that being used as a criterios. Item C.4 somewhat controversial as well. He said folks wanted wall to wall and no exceptions for gross floor area and others who would claim about administrative discretion and c.1 and C.4 would fall into that category.

Commissioner Kadvany said item D which had a basis in historical practices would leave a lot of leeway. Chair Riggs said there was a definition of historical practices. Commissioner Kadvany said there was an incredible amount of uses and scenarios that the proposed ordinance amendment was trying to solve generically. He said it might be better if there was a generic definition of gross floor area and then to apply specific requirements to each zoning district. Chair Riggs said the Commission had previously discussed tying zones to specific uses but realized that would make the zoning book a huge document and it was decided that a generic definition would be more functional for staff's use and more transparent for the public's use. He said there would always be some situation which would require administrative discretion. He said the task was to sharpen the ordinance.

Chair Riggs said comments received from some indicated that the Commission needed to begin from scratch on the proposed ordinance amendment but not rework everything. He said Commissioner Pagee said the work needed to be enhanced but not changed. He said Mr. Brown had indicated that all of the issues associated with the proposed ordinance amendment needed to be reexamined but would not want all the work already done thrown out. He said that Commissioner Kadvany had indicated the goals for the Commission should be clear. He said that the goals had been clear for the Commission which was to look at holes in the way square footage was calculated and come up with solutions.

Commissioner Ferrick asked if that was by direction of the council. Chair Riggs said that was correct. Commissioner Ferrick asked about the year since the Commission's action had occurred. Chair Riggs said the work was done and voted upon by the Commission, which

the Commission thought would go forward to Council. He said the one issue of grandfathering had not been resolved. He said the Commission suggested a joint session with the Council on the proposed ordinance amendment, which was rejected by the Mayor. He said the Mayor requested that Council Member Fergusson as a Council liaison work the Commission to create a two-page summary of the Commission's intent, which took about four months. He said he had requested in July or August to have the Commission finish its recommendation before the potential loss of three Commissioners. Development Services Manager Murphy said that the review of the two-page summary occurred in August. Commissioner Ferrick said as a new Commissioner she would not want to hold up the Commission's recommendation and that she would like it continued to the next meeting for a fuller discussion.

Chair Riggs asked whether the Commission would want an interim meeting before December 18. Commissioner Keith wanted the item continued to the regular meeting of November 17 as a study session and then on the agenda for the Commission's vote on December 8. Commissioner Ferrick suggested it could all be done at the meeting of December 8. Development Services Manager Murphy said that a study session was an easier way for staff to connect with the Commission to clarify what the Commission wanted before it was brought to a public hearing.

Commissioner Ferrick said from the viewpoint of the public there was an opportunity for the public to comment both at the study session and the public hearing. She thought the Commission could discuss the matter this evening and then take it to a public hearing on December 8. Development Services Manager Murphy said that when something went to the Council staff did not want the Council to ask is this was what the commission wanted or members of the Commission to go to the council and say this was not what the Commission wanted. He said staff was trying to make the process move more smoothly.

Chair Riggs asked staff how many public hearings there had been that the Commission had accepted comments on this item. Development Services Manager Murphy said that there had been public hearings in October and November 2007 and a public meeting in August 2008.

Commissioner Keith moved to continue the study session to the meeting of November 17, 2008 and to hold the public hearing on December 8, 2008. Commissioner O'Malley asked if Commissioner Keith was referring just to Attachment A of the staff report. Chair Riggs said that it might be a consideration of both Attachment A and B as staff had found a solution to grandfathering issues in Attachment B. Commissioner Ferrick asked about the two-page summary and if Attachment A was the reference for that summary. Chair Riggs said that was correct. Commissioner Ferrick seconded Commissioner Keith's motion.

Chair Riggs noted that the alternative would be to start a meeting to address staff's questions about "gray area" text and then hold a public hearing on December 8.

Commission Action: M/S Keith/Ferrick to continue the study session to the meeting of November 17, 2008 with the goal of holding a public hearing on December 8, 2008.

Motion carried 5-2 with Commissioners O'Malley and Riggs opposed.

ADJOURNMENT

The meeting adjourned at 10:50 p.m.

Staff Liaison: Deanna Chow, Senior Planner

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission on December 8, 2008.