



MEMORANDUM

DATE: August 23, 2010

TO: Planning Commission

FROM: Deanna Chow, Senior Planner
Community Development Department

RE: **Agenda Item E1: Review, Comment and Possible Recommendations Regarding the One-Year Review of Zoning Ordinance Amendment Relative to the Clarification of Gross Floor Area**

BACKGROUND

On April 21, 2009, the City Council adopted Ordinance No. 963, amending the Zoning Ordinance definition of gross floor area (GFA) and related provisions. GFA is a measurement of the size of the building, in which certain features of a building are either specifically included or excluded from the measurement, and is used in calculating the floor area ratio (FAR) and parking requirements for developments in all zoning districts except for single-family residential and R-2 (Low Density Apartment) districts. A summary of the Ordinance Amendment is included as Attachment A. The Amendment became effective on May 21, 2009.

The intent of the Zoning Ordinance Amendment was 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. The definition includes four major components, referred to as subsections (A), (B), (C), and (D).

- Subsection (A) of the definition establishes the applicability and basic envelope of what is included and clarifies that the floor area of each floor is counted, that the surrounding walls need to be solid, and that areas need to be covered by a roof, subject to clarifications in subsections (B), (C), and (D).
- Subsection (B) explicitly states the features of a building, such as elevators and stairwells, that are included in GFA, unless excluded in subsection (C).

- Subsection (C) of the definition identifies the specific features of a building that can be excluded from the calculation, such as non-useable or non-occupiable space, covered parking, and vent shafts.
- Subsection (D) is the “grandfathering” clause and provides provisions for buildings that were built or approved prior to May 21, 2009.

As part of its action to adopt the ordinance amendment, the City Council directed that staff prepare a report for the Planning Commission and City Council on the implementation of the ordinance amendment 12 months after its effective date, with particular attention to data on the “grandfathering” provision (GFA Exemption Certification) and the percentage allowance for non-usable or non-occupiable space. This report provides the review directed by the City Council. The Planning Commission should consider the review prior to forwarding the review to the City Council with any comments and recommendations for changes.

ANALYSIS

Staff has reviewed all approved projects, where GFA is applicable, between the effective date and July 31, 2010, to discuss how the ordinance impacted gross floor area calculations. The Planning Commission generally reviews all projects where GFA is proposed to be added to an existing building or for new construction of a building. For commercial projects, the one exception would be the addition of an interior mezzanine that does not alter the exterior of a building located in the C-3 (Central Commercial) zoning district, where the existing GFA of the building is less than 100 percent. In multi-family zoning districts, most new construction or the addition of gross floor area would also require a discretionary review by the Planning Commission. With the exception of one minor addition of approximately 150 square feet to a single-family residence in the R-3 zoning district, all other building permits associated with the addition of GFA during the review period were reviewed and approved by the Planning Commission.

During the review period, seven commercial/industrial/public facilities (commercial) and five residential projects either received a use permit, planned development permit, conditional development permit and/or architectural control approval. All of these projects were reviewed by the Planning Commission as either the decision-making or recommending body. Of the seven commercial projects, five consisted of the construction of a new building(s), one was for a minor addition, and one was for structural alterations to more than 10,000 square feet of an existing building. Of the five residential projects, all located in the R-3 (Apartment) zoning district, three were for new construction of two or more dwelling units on the same lot and two were for additions, including a single-family residence and a multi-family residential building.

A summary table of all of the projects and their exclusions per the new definition of GFA is provided in Attachment B. For the two largest projects (1300 El Camino Real and Menlo Gateway), the approved GFA calculation included areas where potential

exclusions could have applied. For these cases, staff has noted estimates of the excludable areas for reference in the attached chart and in the discussion below. A more detailed review of subsections (B), (C), and (D) of the Ordinance Amendment is provided in the sections below.

Gross Floor Area Inclusions

Subsection (B) of the definition explicitly lists seven features of a building that are included in GFA to provide greater clarity for its applicability, but to also distinguish between GFA and the definition of “floor area”, which is used to calculate square footages of single-family and R-2 properties. The following features are included in the gross floor area unless otherwise excluded in subsection (C):

1. Areas of a basement with a floor to ceiling height of six feet, six inches or greater;
2. Mezzanines, including equipment platforms and storage platforms, but excluding vertical shelving units and catwalks;
3. Areas of an attic with a floor to ceiling height of six feet, six inches or greater;
4. Equipment and utility areas containing mechanical equipment, electrical storage panels, meters, controllers, switch boxes;
5. Storage areas;
6. Bay windows and similar projections or cantilevered areas; and
7. Elevator shafts and stairwells.

One of the main differences between the previous implementation of the definition and current definition of GFA is the inclusion of stairwells and elevators on all floor levels rather than just the ground level. This inclusion probably had the greatest impact, in terms of applicability to projects, due to the commonality of the feature. The inclusion affected the amount of occupiable space for two- or more story buildings. Where buildings have both stairwells and elevators, the reduction in occupiable space would be greater. The square footage reduction would vary depending upon the size of the stairwell, the number of floors, and the type of project.

Of the 12 projects analyzed for this report, nine were multi-story buildings that included stairwells. Four projects, all new construction, included elevators in addition to stairwells. Of the nine multi-story buildings, two commercial buildings and one residential building had stairwells that were not fully enclosed within the walls of the building and therefore, did not meet the basic definition of GFA as outlined in subsection (A). While the stairwells contributed to the building coverage calculation, they did not count towards GFA. In general, the clarification of the stairwell and elevator shaft inclusions in the definition makes the implementation relatively clear, but it is not certain what direct impact it has had on the design of a building. The inclusion of stairwells and elevators in the GFA calculation could have potentially influenced the design and placement of the stairwells on the exterior of the building. However, if designed appropriately, exterior or not fully enclosed stairwells would not have a negative impact on the aesthetics of the building, as demonstrated in the approved projects.

Gross Floor Area Exclusions

Subsection (C) of the GFA definition lists certain features of a building that are excluded from the calculation, including:

- 1) Up to three percent of the maximum allowed gross floor area of the lot for areas of a building that are designed as non-useable or non-occupiable space with unfinished walls, floors and ceiling;
- 2) Up to one percent of the maximum allowed gross floor area of the lot for areas of a building dedicated to the enclosure of noise generating equipment used in connection with the building systems;
- 3) All areas devoted to parking and related circulation for automobiles and bicycles;
- 4) Covered porches and balconies;
- 5) Vent shafts, such as building mechanical air ducts and chimneys; and
- 6) Enclosures solely for trash and recycling.

Of these items, the ones related to covered parking and vents were clearly defined as exclusions in the previous definition.

Each of the 12 projects applied at least one exclusion in its GFA calculation, but none had all six features. Although residential projects are subject to the same exclusions as commercial projects, many of the exclusions were not applicable to the residential projects that were reviewed for the purpose of this report.

(C)(1) Non-Useable and Non-Occupiable Space

Per the GFA definition, up to three percent of the maximum allowed gross floor area of the lot can be excluded if such space has unfinished walls, floors and ceilings, and meets at least two additional criteria such as a floor to ceiling height of less than six feet, six inches and limited access. Three out of the 12 projects applied this exemption and all were commercial developments. One of the exemptions was for a new, pre-fabricated chemical storage container located outside of an existing building and two were for architectural features associated with new buildings. The container was approximately 100 square feet and accounted for approximately six-tenths of one-percent of the total GFA allowed for the lot. In terms of the architectural feature exclusions, these included the accent columns around the façade of the building at 100 Middlefield Road and the pop-out archways at 1706 El Camino Real. These features are hollow with no access to the interior of the building, are non-occupiable space, would not have a traditional floor or ceiling or conditioned air, and no windows, skylights or electricity. Each of the architectural feature exemptions accounted for approximately one percent of the maximum GFA for its respective site. The Planning Commission believed that the use of the exclusion was appropriate for these architectural features.

GFA subject to possible exclusions under subsections (C)(1) was not fully excluded for the two largest approved commercial projects, which were 1300 El Camino Real and Menlo Gateway. For 1300 El Camino Real, exclusions were applied to mechanical and utility areas below grade, with the understanding that these areas would need to

demonstrate compliance with the criteria at the building permit stage. The total GFA that was excluded under this subsection is approximately 1,850 square feet or 1.7 percent of the maximum GFA. Areas above grade that could potentially have qualified for exclusions, however, were included in the overall GFA for the site. This figure is approximately 1,650 square feet, or 1.5 percent, based upon conceptual floor plans. Although the total combined area would be greater than the three percent maximum permitted, some of the features could have potentially qualified for an exclusion using subsection (C)(2) had the square footage not been included in the overall GFA.

The Menlo Gateway project also did not explicitly exclude elements identified in (C)(1) from the GFA calculation. There is the potential that some mechanical equipment and utility areas could have been exempt under subsection (C)(1), however, these areas have yet to be fully designed, and therefore, were included within the GFA calculation. However, if these exclusions were calculated for Menlo Gateway, using the conceptual floor plan and the assumption that the various mechanical and utility areas met the criteria of subsection (C)(1), the amount of non-usable and non-occupiable gross floor area would be less than one percent of the maximum gross floor area of the lot.

For both the 1300 El Camino Real and Menlo Gateway projects, the size of the buildings is limited to what is represented in the plans per the respective planned development permit and conditional development permit. Therefore, where the square footages of the buildings are inclusive of potential exclusion areas, these areas cannot be claimed as exclusions in the future to gain equivalent GFA.

(C)(2) Noise Enclosures

The second GFA exclusion is for noise generating equipment enclosures, such as building mechanical equipment and generators, not to exceed one percent of the maximum allowed gross floor area of the lot. The requirement is that the equipment must be utilized for the operation of the building systems and does not apply to equipment intended to be used in connection with a particular business within the building. However, noise generating equipment that exceeds the one percent threshold may also qualify for the three percent non-useable, non-occupiable exclusion if the enclosure meets the applicable criteria.

Similar to the first exclusion, none of the residential projects utilized the exemption for noise enclosures. Of the commercial projects, only one project applied this exemption, which was 1706 El Camino Real for the elevator equipment room. The exclusion for 1706 El Camino Real accounted for approximately 0.8 percent of the maximum gross floor area where 1 percent is permitted. Staff would note that some areas, like mechanical rooms, could potentially qualify as an exclusion under this subsection and also meet the criteria of subsection (C)(1). Although a feature may qualify as an exclusion in either subsections (C)(1) and (C)(2), the exclusion is only counted once.

There are also situations where noise generating equipment exist, but would not meet the basic definition of GFA. For example, in the Menlo Gateway project, the generators are housed within several walled service yards, totaling approximately 5,350 square feet

in size. Although the mechanical units would be surrounded by walls, the enclosures would not have roofs, and therefore, would not meet the basic definition of GFA. Likewise, many commercial buildings, such as Menlo Gateway, 4025 Bohannon Drive and 100 Middlefield Road, have rooftop mechanical equipment. The equipment is often times not enclosed and therefore would also not qualify as GFA. For Menlo Gateway, the details of any interior noise enclosures, such as elevator equipment rooms, have not yet been specifically identified, and therefore have not been shown as exclusions. Since the approved GFA for this project is inclusive of such features, any exclusion of such area in future calculations would not allow a comparable increase in the GFA.

Review of (C)(1) and (C)(2)

For large development projects where mechanical plans have not been fully developed and tenant improvements are mostly conceptual, defining exclusions for noise generating enclosures and areas that are non-occupiable or non-usable (subsections (C)(1) and (C)(2)) can be difficult to determine at the time of the planning approval stage and poses potential monitoring challenges throughout the life of a building as modifications occur with various tenant improvements. No residential projects utilized these two subsections, while four commercial projects benefitted from the use of (C)(1) and only one commercial project applied (C)(2). In cases where either (C)(1) or (C)(2) were applied, the amount of GFA that was excluded accounted for 1.7 percent or less of the maximum GFA for each site. Without having the level of details needed to make the determination for the exclusions, the applicability becomes limited and the subsection difficult to implement.

Due to the limited usage of provisions (C)(1) and (C)(2), the Planning Commission may wish to consider whether these exclusions should continue to be applicable to the definition or if the definition should be simplified for ease of implementation. In that discussion, consideration should be given to situations where the exemptions have been applied, such as below grade mechanical rooms, architectural features, a storage container, and elevator equipment room. The Commission can consider a complete elimination of subsections (C)(1) and (C)(2) or revisions that include a smaller set of features that are generally more tangible at the planning stage, such as the features noted above.

(C)(3) Covered Parking

Per subsection (C)(3), all areas devoted to covered parking and related circulation for automobiles and bicycles are excluded from GFA. In non-residential zoning districts, GFA is used in calculating parking requirements. Each commercial and industrial zoning district has a parking ratio based on the number of required parking spaces per square foot of gross floor area. In residential developments, the parking requirement is two parking spaces per unit, of which one must be covered, regardless of the size of the unit, except in the R-4 zoning district where the parking requirement is based on the bedroom count, and in other special living units such as retirement living units, boarding homes and convalescent care. Covered parking can take several forms, including an independent garage, above or below grade parking structures, and carports. While

covered parking is excluded from GFA, the footprint of the structure is included in building coverage for the site, unless fully below grade.

Of the projects reviewed, all of the residential projects contained some level of covered parking, consistent with the Zoning Ordinance requirement to provide covered parking. Of the commercial projects, four sites had surface parking lots while three developments included various covered parking arrangements, including below grade parking at 1300 El Camino Real, multi-level parking structures at Menlo Gateway, and at grade covered parking that was integrated into the overall design concept of the building at 1706 El Camino Real. With new construction, it appears that alternate parking lot designs beyond surface parking are often necessary in order to accommodate the required parking on-site while meeting other development standards, particularly for developments of over 10,000 square feet in size. The exclusion of covered parking from GFA provides the flexibility needed to balance these factors.

Similar to the exclusion for circulation areas related to automobiles and bicycles, the Planning Commission also recognized that the exclusion should apply to pedestrian circulation areas such as pathways and stairwells between levels within the covered parking areas for three projects. Although this is not explicit in the definition, staff has applied the exclusion to 1081 Santa Cruz Avenue, 1300 El Camino Real and Menlo Gateway, based on the Commission's guidance during the review of 1081 Santa Cruz Avenue. Staff believes that the implementation of this subsection has been straightforward, but the Planning Commission may wish to consider whether the ordinance should be amended to include their previous determination regarding the exemption of pedestrian circulation areas in covered parking areas.

(C)(4) Covered Porches and Balconies

Section 16.04.325(C)(4) states that covered porches and covered balconies shall be excluded from GFA, provided that at least one end is open and unobstructed to the exterior except for columns or posts not more than 12 inches in width and walls or railings not more than 44 inches in height. All the approved residential projects had a covered porch, generally designed at the front entrance to the residence. Five of the commercial projects included a covered porch/balcony feature that qualified as an exemption. The covered porch features in the commercial projects included a variety of architectural forms, including covered trellis patios (1300 El Camino Real), a breezeway (1706 El Camino Real), and covered stairwells (1706 El Camino Real and 100 Middlefield). Unlike provisions (C)(1) and (C)(2), there is no limitation on the amount of areas dedicated to covered porches or balconies. For comparison, these areas of exclusion for three commercial projects ranged between less than one percent and 2.5 percent of the maximum allowed GFA, and approximately seven and nine percent for 1300 El Camino Real and 1706 El Camino Real, respectively. This subsection has also been straightforward to implement and staff believes that the features not only provide architectural interest to the building, but also serve as an amenity for patrons of the building. Staff does not believe any modifications to this section are warranted.

(C)(5) Vent Shafts

Vent shafts, such as mechanical air ducts and chimneys, can be excluded from GFA. Based upon the approved plans, chimneys were excluded for two of the five residential projects, each accounting for less than one-half of one percent of the total maximum GFA allowed for each site. For the commercial projects, vent shafts were excluded from 100 Middlefield Road and Menlo Gateway. The excluded area for each project was less than one percent of the maximum GFA for the site. Similar to exclusions (C)(1) and (C)(2), the specific details about these features are usually not determined until the building permit stage, resulting in few applications of this exemption for commercial projects. Although the size of mechanical air ducts is more difficult to determine without building construction drawings, chimneys are shown on plans, generally for residential projects. When these features are shown, the subsection is simple to implement and therefore, staff would not recommend changes to this subsection.

(C)(6) Trash Enclosures

The final exclusion is for enclosures solely used for trash and recycling. While most trash enclosures are not fully enclosed and are a separate structure located outside the building, some trash and recycling areas are enclosed within a building such as a trash room noted in the Menlo Gateway project for the hotel component. Although the trash room in the hotel was included as part of the overall GFA, it may be appropriate to exclude trash rooms located inside of buildings since they serve the same function as trash enclosures.

In residential projects, a trash enclosure may be a less common feature unless the project is a multi-family development. As such, none of the residential projects approved during the review period included a trash enclosure exemption whereas all of the commercial projects included the exemption. The size and quantity of the trash enclosures vary per development, generally dependent upon the size and use of the building. The commercial trash enclosures generally ranged in size between 100 and 200 square feet. The Planning Commission may wish to discuss whether modifications to the definition are needed to clarify if trash rooms should also be excluded. Additionally, even though not seen in the projects reviewed, there may be cases where trash chutes, trash compactors or similar equipment may be included in buildings and should also be excluded.

Certification Process

In cases where GFA of an existing building would be greater when measured pursuant to the new definition, special provisions in the Ordinance allow for buildings that were either built and/or approved prior to May 21, 2009, to add square footage in the future. Some have referred to this item as the “grandfathering clause.” The Gross Floor Area Exemption Certificate process as outlined in Section 16.80.110 of the Zoning Ordinance is the mechanism used to determine the remaining gross floor area of a lot that can be

used to enlarge an existing building or to construct an additional building on the same lot as an existing building.

Following the adoption of the Ordinance, the City notified all property owners that could be potentially affected by the change of the new definition and Certification process. Since June 19, 2009, staff has received approximately 30 inquiries, of which approximately 70 percent were from commercial property owners. In most instances, the Certification process would not provide benefit to the properties as the GFA of the existing buildings are already at their maximum. To be eligible for an exemption, an application with the supporting materials, must be submitted no later than May 23, 2011, per the Ordinance. On August 12, 2010, staff sent out a second and final notice alerting potentially affected property owners of the Certification Process.

Staff has received two formal applications for the Gross Floor Area Exemption Certification. In March 2010, the City issued the first Certification for the properties located at 2400-2498 Sand Hill Road (Quadrus). An application for the buildings at 2700-2798 Sand Hill Road is currently under review by staff. For the buildings located at 2400-2498 Sand Hill Road (Quadrus), staff determined that the remaining gross floor area for the site is 8,970 square feet. As part of the process, the Certification occurs on a per building basis and remains valid until demolition occurs. For this purpose, demolition means the removal of more than 50 percent of the existing gross floor area of the applicable building.

Correspondence

Staff has received one piece of correspondence from the public suggesting a change in the Ordinance. The letter, from John Beltramo, is included as Attachment C. In his letter, Mr. Beltramo states that the inclusion of elevator shafts and stairwell is problematic because of the potential effect it could have on how an atrium space would be calculated. He notes that such a feature, usually located in the main lobby, could be construed as part of the stairwell and therefore, counted in the square footage of the second floor and any additional levels above. Mr. Beltramo suggests that the wording be amended to clarify that the elevator shafts and stairwells should be included on the first floor only or at a minimum, clarify that atriums are to be considered as part of the first floor only. Staff believes that an atrium is not akin to stairwells or elevator shafts as it does not provide access between floors, and therefore, would not be considered GFA on levels above the first floor. The Planning Commission may wish to consider whether such clarification is necessary.

Proposed Amendment Changes

The revised definition of GFA has helped create clarity for staff. During the review period, staff had the opportunity to utilize the definition amongst a wide range of projects, including residential, commercial/industrial and civic facilities that greatly varied in size and design. Staff believes that the clarified definition has generally been straightforward to implement and comprehensive changes are not needed. However,

staff would offer a few items for the Planning Commission's discussion and consideration where there have been potential issues with implementation or need for additional clarification, as noted in the earlier sections.

The Planning Commission should comment on whether any proposed modifications to the Ordinance are necessary at this time, either as a change in implementation or clarification on implementation. If changes are deemed appropriate, staff would suggest considering the discussion points in the above sections and summarized below.

- Should the provisions of (C)(1) and (C)(2) be simplified for applicability, and limit the exclusion features to items such as architectural features and elevator equipment that are more commonly designed in buildings during the planning review stage?
- Should gross floor area include an exclusion, without a limit, for features that are non-occupiable or non-habitable and located below grade? Should areas such as storage rooms and/or janitorial rooms be included in the exclusion if the area is below grade?
- Should the definition be amended to include the Commission's interpretation regarding the exclusion of pedestrian circulation areas in covered parking situations?
- Should trash compactors, trash rooms and trash chutes be included in the exclusion under trash enclosures?
- Should the definition be amended to clarify that atriums are included on the first floor only?

To formally clarify the language in the definition or any make modifications to the Zoning Ordinance, an amendment would be needed, requiring the dedication of staff resources to process the change through the Planning Commission and City Council. If the Commission believes changes are warranted, an alternate approach would be to recommend that the clarifications be noted for future clean-up items to the Ordinance.

Staff believes that a proposed amendment to the definition of GFA for clean-up items for the purpose of clarification and ease of implementation would be appropriate at this time. If a Zoning Ordinance amendment is pursued, staff would recommend that the clarification regarding the GFA exemption for pedestrian circulation areas in covered parking areas and the clarification that atriums are excluded from GFA on all floor level except the first floor, should be included with the revisions.

In addition, given that the use of exclusions under subsections (C)(1) and (C)(2) have been minimal due to lack of applicability or potentially more likely, the lack of specificity in the plans to determine the exclusions, staff believes that simplification of these exclusions would be appropriate. Staff believes the modification of the exclusions would not result in substantial impacts to square footage since most projects have not excluded these items or the percentage of square footage was small.

If some degree of exclusion is desired, potential modifications the Commission may wish to consider include:

- 1) exclusion of architectural features, without any limitation in the maximum amount under subsection (C)(1);
- 2) exclusion of elevator equipment under subsection (C)(2) with the existing one percent maximum; and
- 3) exclusion of features of subsections (C)(1) and (C)(2) where located below grade.

Finally, if changes to the Zoning Ordinance are pursued at this time, staff would further recommend that the grandfathering provisions as outlined in Section 16.80.110 be deleted after the applicability of the clause expires on May 23, 2011.

Following the Planning Commission's discussion on the GFA review, the comments will be compiled for the City Council's review and discussion. The anticipated City Council meeting date is September 14, 2010.

PUBLIC NOTIFICATION

Public notification consisted of publication of a legal notice in the local newspaper and posting the agenda, with this agenda item being listed at least 72 hours prior to the meeting. In addition, an email update was sent to subscribers to the project page for the proposal, which is available at the following address:
http://www.menlopark.org/projects/comdev_gfa.htm.

ATTACHMENTS

- A. [Summary of Ordinance No. 963, Gross Floor Area Zoning Ordinance Amendment](#)
- B. [Gross Floor Area Project Summary Table, May 21, 2009 – July 31, 2010](#)
- C. [Correspondence from John Beltramo, dated received June 11, 2010](#)