



CITY COUNCIL AND COMMUNITY DEVELOPMENT AGENCY MINUTES

Regular Meeting
Tuesday, October 29, 2002
7:30 p.m.
Menlo Park Council Chamber
801 Laurel Street, Menlo Park

6:00 p.m. CLOSED SESSIONS - in the Administration Conference Room located on the first floor at City Hall, 701 Laurel Street, Menlo Park

1. Closed Session pursuant to Government Code Section §54954.5 to conference with Labor Negotiators, David Boesch, City Manager, and Glen Kramer, Personnel Director, regarding a contract with the American Federation of State, County, and Municipal Employees (AFSCME) Local 829.
2. Closed Session pursuant to Government Code Section §54956.9(c) regarding initiation of litigation (one case). Parties Present: David Boesch, City Manager; and Bill McClure, City Attorney.

7:30 p.m. CLOSED SESSIONS ENDED

ROLL CALL – Mayor Schmidt called the meeting to order at 7:38 p.m. in the City Council Chambers and stated there was nothing to report from the Closed Sessions. Mayor Pro Tem Kinney, Councilmembers Borak, Collacchi, and Jellins were present. Also present were City Manager Boesch, City Attorney McClure, Interim City Clerk Wahlsten and other department heads.

A. PRESENTATIONS AND PROCLAMATIONS

1. Proclamation regarding the City of Menlo Park's 75th Anniversary on November 23, 2002.

Mayor Schmidt read the proclamation and announced the festivities scheduled for November 9, 2002 starting with a free pancake breakfast at 8 a.m. City Manager Boesch encouraged the community to attend.

B. COMMISSION VACANCIES, APPOINTMENTS AND REPORTS

1. Environmental Quality Commission (one vacancy), Las Pulgas Committee (one vacancy - homeowner in the Redevelopment Area) and Housing Commission (one vacancy). The deadline for applications is October 29, 2002.

Mayor Schmidt announced the vacancies. Appointments will be scheduled for November 12, 2002.

Mayor Pro Tem Kinney suggested staff look at ways to broaden the Las Pulgas Committee based on the recent Council meetings regarding the M-2 zoning issue. Councilmember Jellins suggested it be an item for discussion at next Committee meeting in order to get input from the Committee itself on how it can increase the visibility of work in the community.

City Manager Boesch stated that in response to recent newspaper articles, staff looked into the City's below market rate (BMR) housing program practices and procedures. He asked the Housing and Redevelopment Department to prepare a memo to the City Council that he then read, regarding the sale of a BMR unit to Eric and Cristina Kinney, and stated he hoped it would answer questions anyone in the public might have.

2. Councilmember Reports.

Mayor Schmidt reported that the Congestion Management and Air Quality Committee met and recommended \$75,000 in matching funds to Menlo Park for operation of mid-day shuttle and a taxi program for the coming year. C/CAG Board will act on this item in November.

Mayor Pro Tem Kinney thanked the City Manager for the research done by staff and the report he read to the City Council. He stated that on October 23 he was notified by the Almanac that an anonymous package of information was delivered regarding his son's home purchase. On October 28 he received the same notification from the Palo Alto Daily News. In both cases, a two-page letter alleged misconduct and illegal actions by him when he was Mayor in 1997-98 that led to preferential treatment to his son, Eric Kinney who is currently a candidate for Member of the City Council of Menlo Park. Since the paper had printed the anonymous allegations that question his integrity, he was responding and read a statement.

C. PUBLIC COMMENT #1

Tom Keelin, Menlo Park, stated the Oak Knoll Neighborhood Association has elected 5 members for the Safe Routes to School Committee, as authorized by the City Council last week. He shared some data as a follow up to last week's presentation.

Pat White, Menlo Park, read quote from Almanac by Councilmember Collacchi regarding the revenue shortfall. He stated his preference for certain candidates in the upcoming election.

Harry Harrison, Menlo Park, stated the Lions Club is going to pay the costs of the pancake breakfast for the 75th Anniversary celebration. He also stated there are 200 copies of the Menlo Park History book left. They have sold 2,400 copies

D. CONSENT CALENDAR

1. Approval of audited bills for period 15 ending October 11, 2002 and period 16 ending October 18, 2002.
2. Approval of a contract between the City of Menlo Park and the Ravenswood City School District not to exceed \$67,000 for the delivery of food services at the Belle Haven Child Development Center, and authorizing the City Manager to execute the contract. (#02-235)
3. Approval of Minutes for the City Council Meeting of October 8, 2002.

M/S Kinney, Jellins to approve Items 1, 2 and 3. Motion passed 5-0.

Council discussed re-ordering the items on the agenda and concurred to consider Items F-2 and F-3 before the Public Hearing. Mayor Schmidt asked staff about the time sensitivity of F-1.

F. REGULAR BUSINESS

1. Council direction on a joint-use agreement between the City and the Sequoia Union High School District for the future use of the Menlo-Atherton High School Performing Arts Facility. (#02-234)

City Manager Boesch stated that this item was placed on the agenda by staff as a follow-up to a discussion several months ago, the purpose is to brief the City Council on the status of the negotiations and to seek direction from the City Council. There is no critical time sensitivity.

Mayor Schmidt apologized to the three persons present who had turned in speaker cards, indicating that this agenda item will be deferred to a future council meeting.

There was no further discussion.

- 2 Agency Board approval of Resolution to issue a request for proposals for the Belle Haven Community Park and Housing Project; and formation of a Selection Committee. (#02-236)

Staff report by Housing and Redevelopment Manager Gretchen Hillard.

In response to query by Councilmember Borak, Manager Hillard stated that the Agency is seeking a developer to bring a concept to the city and one that is detailed enough that we can get a sense of the units' cost and mix of units.

Council asked several questions of staff.

M/S Kinney/Schmidt to adopt Resolution CDA 259 to issue a Request for Proposals for the Belle Haven Community Park and Housing Project; and approve formation of a Selection Committee to include one City Council member designated by the City Council; 1 Planning Commissioner designated by Planning Commission; 1 Housing Commissioner; 1 Parks Commissioner, and at least five Belle Haven Residents.

Councilmember Jellins suggested amendments to extend the time line for receipt of proposals to January 15, 2003 and to increase the membership of Belle Haven Residents to at least five, but not more than nine. M/S concurred with the amendments and motion passed unanimously.

E. PUBLIC HEARING

1. Introduction of an ordinance amending the Zoning Ordinance regulations pertaining to single-family residential development; approval of single-family residential design guidelines; and approval of a negative declaration. (#02-238)

Mayor Schmidt opened the public hearing. Acting Director of Community Development Heineck gave the staff report and stated that Council concluded direction to staff on October 8, 2002 for the preparation of an ordinance amendment and design guidelines. Director Heineck highlighted five of the key changes being proposed:

1. Establishment of a new review process for single-family development that would replace the existing process. Currently, new development on substandard properties is required to obtain use permit approval from the Planning Commission. The new process would establish a new single-family development permit applicable to homes and additions that exceed 35% building coverage and result in a new or expanded second floor. It is an administrative process except that decisions can be appealed to the Planning Commission or applications can be directly forwarded to the Commission if specific criteria are not met.
2. Changes to the definitions in the zoning ordinance, including deletions, modifications and additions. Floor area is the most complex of the changes. The ratio of allowed Floor Area Limit (FAL) is not proposed to change, but the way it is measured would be affected.

3. Four changes to each of the single-family zoning districts: a) to replace the existing building coverage provisions with a new requirement for a minimum amount of permeable surface; b) add a new height limit for one story houses of 20 feet; c) add references to the applicability of the design guidelines; and d) add references to the applicability of daylight plane regulations.
4. The daylight plane for single-family residences would be modified to a vertical plane of 17 feet with an angle of 34 degrees to give greater solar access protections. Intrusions would be required to submit a shadow casting study.
5. Design guidelines were streamlined by action of the City Council. There are six design technique categories: compatibility; mass and bulk; privacy; sunlight; architectural details; and site features, lighting and ancillary structures. Each category has preferred techniques and techniques that would trigger review by the Planning Commission. A new chapter is added to the zoning ordinance regarding the design guidelines. One-story homes subject to review would be subject to two of the categories: privacy; and site features, lighting and ancillary structures. Two-story homes would be subject to all six categories of design techniques. Neighborhoods can request exemption from three of the six categories: compatibility, mass and bulk, and architectural details.

Public comment was received from:

Natalie Cardenas, Silicon Valley Association of Realtors, Los Altos, government affairs director. The Association has concerns that the ordinance is vague, changes could increase the cost to homeowners, increase the time for approval, increase staff time which is a cost to the citizens, and have a negative impact on growing families who wish to expand their homes.

Lee Duboc, Menlo Park, stated that people want a clear, predictable process for remodeling their homes. This ordinance adds another layer of bureaucracy.

Mickie Winkler, Menlo Park, states that the ordinance states that its goal is to encourage one story development but also states the majority of new homes are two-story. This ordinance is out of sync with what the majority of the community wants. We don't need a "monster ordinance to control "monster" houses.

Sue Kayton, Menlo Park, requested that the City Council leave it up to the voters.

Catherine McMillan, Menlo Park, requested the City Council approve the ordinance. The 2 remodels her family has done would still be possible under this proposal and surrounding communities have design guidelines in place.

Sam Sinnot, Menlo Park, stated he was on the Residential Review Task Force. He feels the proposed ordinance is acceptable, but has problems with the Guidelines and requested certain changes, including that approval be given by neighbors rather than the Director of Community Development. The details being protected by the Guidelines are not desired by homeowners anymore.

Dick Poe, Menlo Park, stated he was on the Residential Review Task Force. He cited a conflict between protecting heritage trees that cast shadows and preventing homes from casting shadows. He also took issue with the section that states the ordinance does not grant homeowners the right to building to the maximum allowed.

In response to query from Councilmember Kinney, the City Attorney stated that it is a discretionary review process. Development regulations are the maximum. It is similar to a use permit process. Director Heineck stated that currently approximately 50 percent of the homes in Menlo Park are subject to discretionary review process currently. The new ordinance would apply to none if it is a one story house and does not exceed 35% lot coverage, but 100% if they all were two story.

Elias Blawie, Menlo Park, supports the proposal that gives single story incentives, but suggested some changes including counting staircases at 200%. Effective enforcement tools are needed.

Kim Lemieux, Menlo Park, stated the ordinance is not clear or reasonable. She and her husband own Laurel Homes Development that have designed several homes in Menlo Park. She stated a concern that if the Ordinance was adopted as presented, it would affect their business.

Frank Tucker, Menlo Park, stated the City is regulating minutia.

Kitty Craven, Menlo Park, stated she is opposed to the ordinance. She suggested that the City Council start over and make it simpler.

Maria Hilton, Menlo Park, stated she was a member of the Residential Review Task Force, and wants to maintain the current development guidelines. She lives in Suburban Park and they wanted to create their own zoning district and it appears they can't under this proposed ordinance. The City Council has promised the neighborhood that in the past.

City Attorney McClure clarified that a neighborhood would not be able create their own zoning district but can opt out of some of the design guidelines.

Michael Stoner, Menlo Park, stated he is opposed to the ordinance, specifically the ability of anyone to appeal the decision by the Director of Community Development. Discretionary review process takes away the rights of property owner.

Mark Louie, Menlo Park, stated he is opposed to the proposed ordinance. Neighborhoods should be able to opt in, not opt out.

Scott Eikenberry, Menlo Park, stated he supports the proposal and cited his neighborhood's experience in appealing a use permit for a large home.

Russ Dember, Menlo Park, supports the ordinance and the ability to appeal. Residents should have the right when they move into a neighborhood to have the character of the neighborhood remain the same.

Brad Smith, West Menlo Park, a partner in a design and residential construction firm, Pacific Peninsula, located in Menlo Park. He cited his experience working in surrounding communities and understands the implications of this ordinance. He prefers clear-cut design regulations rather than "fuzzy" guidelines. Let the voters decide whether they want it or not.

Jim Hinson, Menlo Park, stated he attended many of the Task Force meetings and has followed this for 3 years. The primary issue is to give hard and fast rules that people can follow. It should either be put on the ballot or make it an opt-in process.

David Crouch, Menlo Park, talked about the effort he is going to in order get his new home plans approved. He is not in favor of the proposed ordinance.

Scott Brady, Menlo Park, stated he bought his home in Menlo Park two weeks ago and plans to enlarge it for his growing family. The proposed ordinance is very subjective and he is opposed to it.

Terry Kent, Lorelei Manor, does not support the ordinance. About 45% of lots in the city are under 7,000 square feet. They are penalized under this ordinance.

M/S Borak, Collacchi to close the public hearing. Motion carried 4-1 with Jellins dissenting.

RECESS AND CALL TO ORDER

Mayor Schmidt recessed the meeting at 10:05 p.m. and called it back to order at 10:20 p.m. with all Councilmembers present.

Councilmember Kinney gave a quick history of this issue. It was raised by citizens several years ago because of concern over larger homes replacing small homes. It was not proposed by the City Council. A 21-member task force was formed from 80 applicants and met over an extended period of time. The existing ordinance does not function well and Menlo Park is one of the last cities on the Peninsula that do not have design guidelines.

In response to query, Director Heineck stated the guidelines are not mandatory and they don't dictate denial of a project. They are used in review of a project. There are a few that would require Planning Commission review. When asked about time lines of the present ordinance to the new proposal, Director Heineck stated the average time line presently for a use permit going to the Planning Commission is 3 months. Under the new ordinance, the administrative process could be about 5 weeks, including the appeal period. Currently, every residential zone has standards for lot area, width and depth. If any lot does meet each of those criteria it is considered substandard and requires a use permit. Under the proposed ordinance, only lots less than 5,000 square feet will be considered substandard.

Councilmember Kinney suggested and received concurrence that bullets 2 and 3 under Accessory Structures be merged into a single guideline.

Councilmember Kinney suggested and received concurrence that the words "or gardens" be removed from the first bullet under preferred in "D. Sunlight".

M/S Collacchi/Schmidt to make the findings relative to the revised negative declaration; make the finding that the proposed ordinance amendment to establish new regulations for single-family residential development would be consistent with the General Plan; approve the Revised Negative Declaration; introduce Ordinance No 915, entitled, "An Ordinance of the City of Menlo Park, Amending Title 16 of the Menlo Park Municipal Code, Deleting Chapters 16.65 Solar Access and 16.81 Family-Nonconforming, Adding Chapter 16.65 Design Guidelines for Single-Family Residential Development, and Amending Chapters 16.04 Definitions, 16.08 Districts Established – General Regulations, 16.10 R-E Residential Estate, 16.12 R-E-S Residential Estate Suburban, 16.14 R-1-S Single-Family Suburban Residential, 16.15 R-1-S (FG) Single Family Suburban Residential (Felton Gables), 16.16 R-1-U Single Family Urban Residential, 16.18 R-2 Low Density Apartment, 16.58 Lots, 16.60 Encroachments and Balconies, 16.62 Yards, 16.64 Fences, Walls, Trees and Hedges, 16.67 Daylight Planes, 16.72 Off-Street Parking, 16.80 Nonconforming Uses and Structures, 16.82 Permits, 16.84 Public Hearings, and 16.88 Amendments"; and approve design guidelines subject to changes.

Changes will include:

Merging bullets 2 and 3 under accessory structures, to read "Accessory structures and level of architectural detail should be complementary with the architecture and level of architectural detail of the main structure."

Deleting the second bullet under garages, "Doors for two-car garages that face the street should be designed to look like two separate garage doors, or two separate doors with the true divide instead of one, double-wide door."

Rewording the last bullet under Site Features, Lighting, and Ancillary Structures, to read, "Creating excessive glare onto adjacent property, particularly livable space, from new outdoor lighting."

Delete "gardens" from first bullet under Sunlight.

Reword first bullet under Not Permitted in the Privacy section to read, “Windows, balconies or decks that face directly into a neighbor’s side yard windows or significant livable outdoor rear yard space.”

Councilmember Jellins asked about the graphics that are to be included in the Guidelines. Director Heineck stated that they will be professionally drawn. City Attorney McClure clarified that the action tonight just relates to the text. When the graphics are completed they will be brought back to the City Council for approval and inclusion.

Councilmember Jellins asked about increased cost to a developer for building a home under this Ordinance. He asked Mr. Sinnot to address the City Council regarding this issue. Mr. Sinnot stated in a worst case scenario the review by staff would require a shadow study, and then possibly going to the Planning Commission if required. He cited concern about delays and increased numbers of applicants that have to go to the Planning Commission because of the triggers in the Guidelines.

Councilmember Jellins stated concern about additional staff time involved in administering this ordinance compared to the existing Ordinance. Director Heineck stated she could not give an estimate, but there will be less staff time involved in the administrative review process than the use permit process, but there will probably be more applications subject to administrative review.

Council discussed the use of the words “consistent”, “compatible” or “complementary” and whether there were differences in meaning between the words.

As suggested by Councilmember Jellins, Council concurred to add to the changes, rewording the first bullet under Architectural Details “Not Permitted” section to “Street-facing three-car garages unless located behind the main residence.”

Councilmember Jellins stated that two notes have been passed to him on the dias through the City Clerk. He passed them to his colleagues as requested by the Mayor. One asked “what does directly mean” in the Privacy section, “Windows, balconies or decks that fact directly...” Director Heineck suggested, and **Council concurred to reword to “Windows, balconies or decks directly aligned with....”**

The second note was concerning chimneys possibly requiring a shadow study when heritage trees do not. There was no concurrence for change.

RECESS AND CALL TO ORDER

Councilmember Jellins requested a recess to allow time to talk to Jim Hinson regarding his concerns. Mayor Schmidt recessed the meeting at 12:50 a.m. and called it back to order at 12:55 a.m. with all Councilmembers present.

Councilmember Jellins asked about the issues raised by Mr. Zunas in e-mails. Director Heineck and City Attorney McClure responded. Director Heineck agreed with definition of “story” proposed by Sue Kayton in a letter dated October 29, 2002, that was also one of the issues raised by Mr.. Zunas.

Council concurred to add the language to the definition of story “Any space defined as an attic in accordance with Section 16.04.075 and that is excludable from FAL according to Section 16.04.3139(d)(4) or 16.04.313(d)(5) shall not constitute a story.” (Section number references to be verified by staff.)

Councilmember Jellins stated he feels this process makes it more cumbersome for growing families to make improvements to their homes and is not a benefit to Menlo Park’s citizens and urged the Council to reconsider adopting the Ordinance.

Councilmember Kinney disagreed with Councilmember Jellins and stated he feels the Design Guidelines are a major contribution to helping the community develop in a way that will encourage good housing to replace the aging housing stock and that the process will be less cumbersome.

Motion passed 4-1 with Jellins dissenting.

F. REGULAR BUSINESS

3. Council direction regarding the University Place Project in East Palo Alto. (#02-237)

M/S Kinney/Collacchi to direct staff to return with a work plan to effectively outreach in the Willows community to begin the process of identifying and taking action to mitigate traffic problems. Motion passed 5-0.

4. Consideration of state and federal legislative items or items referred to in Written Communications or Information Items, including decisions to support or oppose any such legislative, written communication or information item.

G. WRITTEN COMMUNICATIONS - None

H. INFORMATION ITEMS

1. Review of the City's Investment Portfolio for the period ending September 30, 2002. (#02-234)

I. PUBLIC COMMENT #2 - None

J. ADJOURNMENT – 1:35 a.m.

**Marjorie K. Wahlsten, CMC
Interim City Clerk**

Approved by the City Council on December 3, 2002