



HOUSING AND PLANNING COMMISSION MINUTES

Special Joint Meeting

June 4, 2003

5:30 pm

Administrative Building Conference Room, First Floor
701 Laurel Street, Menlo Park, CA 94025-3483

CALL TO ORDER

Steve Bliss called the meeting to order at 5:30 p.m. in the Administrative Building Main Conference Room, and welcomed the Planning Commissioners to the Joint Meeting.

ROLL CALL

Housing Commission Members Present: Steven Bliss, Chairperson; John Donald; Elza Keet; Carol Louchheim; Wendy McPherson; Jane West, Vice-Chairperson

Housing Commission Member Absent: Clarice O'Neal

Planning Commission Members Present: Harry Bims (6:30 PM), Kelly Fergusson; Patti Fry (Chair); Melody Pagee; Lorie Sinnott; Stuart Soffer

Planning Commission Member Absent: Bill Halleck (Vice-chair)

Staff Present: Tracy Cramer, Senior Planner; Arlinda Heineck, Community Development Director; Gretchen Hillard, Housing and Redevelopment Manager

A. PUBLIC COMMENT: David Speer introduced himself as a resident of the Willows, and stated his concern about second units constructed in back yards resulting in loss of privacy and other intrusions to neighbors. He also stated a concern about parking, and that secondary units built in basements could affect Menlo Park's character.

B. BUSINESS ITEMS

1. Discussion of Zoning Ordinance Amendment: Consideration of a Zoning Ordinance Amendment modifying regulations for secondary dwelling units to allow some attached units subject to ministerial approval, some detached units subject to discretionary approval, and modifications to the parking requirements for secondary dwelling units pursuant with State law.

Arlinda Heineck introduced the item by stating that the State had adopted a new law regarding secondary units, and that the City had an opportunity to amend its own ordinance to conform with the State ordinance, before July 1. Otherwise the State

law would take effect and override the City ordinance. The State law would allow secondary units to be built on any property with a residential unit.

Arlinda Heineck described required changes. One is that lots subject to the ordinance may no longer be required to meet the width and depth standards for the relevant zoning district. The current City requirement may be too restrictive to comply with State law. Another required change is that attached secondary units will be subject to ministerial review, which is staff review based on an established set of rules. Detached secondary units must be allowed and will be subject to discretionary review. The existing requirement of discretionary review for detached units may be too restrictive. Stuart Soffer asked if the discretionary review could be limited. Arlinda Heineck responded affirmatively. She also commented that the 7000 square foot minimum lot size is being retained in the proposed ordinance, but that it may still be too restrictive. The proposed ordinance retains the requirement that only one secondary unit may be built per lot, with a maximum of 640 square feet, and that counts as part of the lot's Floor Area Limit (FAL). In response to questions, she stated that an attached unit must be connected through a load-bearing member, and it can be up to 28 feet high, which would allow a unit to be built over a garage.

Responding to a question, Arlinda Heineck stated that the secondary ordinance would affect the State's review of the Housing Element for compliance. Tracy Cramer said that the Housing Element includes 180 new secondary units towards meeting the ABAG needs requirement. She said that in Palo Alto a temporary ordinance allows up to a 900 square foot detached unit on any lot with 30% or more square feet over the minimum required in the zoning district, and that up to 250 square feet are allowed for attached units. Tracy Cramer cited information from other cities. San Carlos has a 640 square foot maximum for secondary units. Belmont has different minimums and maximums for units on different lot areas. Santa Cruz set a maximum unit size of 500 square feet for a lot 5000 square feet or larger. Burbank doesn't allow secondary units within 5000 feet of each other. She also said that she'd received a number of calls from property owners needing to legalize secondary units, or interested in housing grandparents.

Arlinda Heineck said that the State law is specific about parking, tandem parking and/or parking in required setbacks must be allowed. Tandem parking is any situation where one car is parked behind another, whether the space is enclosed or not. In response to Melody Pagee's question, Arlinda Heineck stated that Vintage Oaks is a standard subdivision and doesn't have rules prohibiting secondary units. She said that the Building Code regulates occupancy. Lorie Sinnott raised a safety issue about tandem parking for cars from different residences: The blocked car could be needed in an emergency, and the blocking car's owner unavailable to move it. Also, blocked side yards could prevent access in case of a fire. Permit parking was raised as a possible way to address the State law, to allow overnight parking in the street. In response to a question, Arlinda Heineck stated that in the Municipal Code a driveway or paved surface is required for parking.

Addressing occupancy limits, Arlinda Heineck stated that the City cannot limit the number of people who live in a residential unit. Tracy Cramer said that she'd looked

up the Housing Code and quoted the rule from the Housing Code, which is complex. She generally stated that the first sleeping space must be at least 120 square feet for up to two people, that additional bedrooms must be at least 70 square feet for each person, and add 50 square feet before another person may legally use it as a bedroom. The sleeping areas cannot include the kitchen or the bathroom.

When asked who is likely to challenge to City's secondary ordinance, Arlinda Heineck responded, housing advocacy groups and housing construction groups. These groups will also be watching the State review of the Housing Element. Patti Fry suggested low water pressure in various areas of Menlo Park as a possible basis for a health and safety exception. Kelly Fergusson mentioned the O'Connor Tract as one such area. Wendy McPherson pointed out that new houses built in the past five years have all been built to maximize living space for the families, leaving no FAL for a secondary unit. She observed that there won't be a lot of secondary units built in a basement either, because it is very expensive to build a basement. New houses with secondary units might work in an area with more land or lower housing prices. Melody Pagee said that new houses built with the possibility of a secondary unit should be required to provide space for a possible third parking space. Kelly Fergusson noted as a benefit that the new ordinance might allow some existing secondary units to be legalized, and count in the City's housing stock. Arlinda Heineck said if they are not legal then they must make changes, such as to remove the kitchen. Carol Louchheim said there are many secondary units in Atherton, which has larger lots than Menlo Park. Melody Pagee raised the idea of putting a maximum height on secondary units and on accessory units that could be converted to secondary units. Through the use permit review you can require it to be 10 feet, rather than three feet from the property line, because of the building's size.

Asked what the fees would be, Arlinda Heineck said, \$850 for a use permit for the discretionary review. The ministerial review would require a building permit fee. After a certain amount of staff time, there could be an additional fee for extra staff hours. There is probably a school impact fee for units over 500 square feet.

The question was raised, what happens if the City's ordinance is challenged? Can it be thrown out in pieces or will the entire ordinance be invalidated? Arlinda Heineck read a section of the proposed ordinance, which allows it to be challenged in sections. There could also be monetary loss due to a requirement declared illegal preventing construction. In general, the more actions the City takes to move away from allowing secondary units, the more likely it is to be subject to challenge.

Steven Bliss and other Housing Commissioners discussed their role as looking at how to get more secondary units without negatively impacting Menlo Park's character. Some items may be open for the City Attorney to review. Linda Heineck suggested that the Housing Commission not let the need for a City Attorney opinion stop them from making a recommendation. For example, if parking is a concern, say it. Wendy McPherson said she doesn't know many buyers who want to give up personal square footage for a secondary unit. And impacts from parking next door are not included in the standard of care disclosure to buyers. Melody Pagee suggested a standard of lots 35% over the size required for the neighborhood.

Adjourn to Regular Housing Commission Meeting

Steven Bliss opened the discussion for the Housing Commission recommendation concerning the revised secondary unit ordinance. The Commissioners agreed to list their reservations, and to recommend the ordinance, qualified by their reservations. Steven Bliss volunteered to take the recommendation to the Planning Commission meeting on Monday, June 9.

John Donald suggested a reservation of an occupancy limit. Elza Keet listed reservations about parking in the front setback, not more than two bedrooms, rear setbacks of ten feet, and height should be regulated in the rear yard. She also stated that she thought the lot minimum should be 10,000 square feet. Carol Louchheim added parking in tandem and that the lot size should be at least 7,000 square feet. Wendy McPherson added restricting park only with regard to health and safety and aesthetics. The Commissioners discussed the reservations list, and modified it to the following recommendation:

The Housing Commission recommends that the City council support the revised ordinance with the following reservations:

1. An occupancy limit or a maximum number of bedrooms is needed.
2. Parking should be restricted only in regard to health and safety and aesthetics
3. The minimum lot size of 7,000 square feet should not be decreased.
4. The Housing Commission is concerned about the minimum rear yard setback of ten feet because it could affect the privacy, access to daylight and quality of life of neighbors.
5. The height of the secondary unit in the rear yard should be restricted to prevent negative impacts on the neighbors.

2. Approval May 7, 2003 Minutes

Wendy McPherson made the motion and Carol Louchheim seconded to approve the minutes with the following changes: Correct the spelling of Elza Keet's last name in the first motion summary statement under C. 2., and add to the summary statement, the sentence, "Keet felt that she had insufficient information to decide on the issue."

2. Late fee for Emergency Repair Loans. Carried over to next meeting.
3. Minutes of Loan Advisory Meeting of May 7, 2003. Carried over to next meeting.
4. Report on the Housing Rehabilitation Loan Program for April 2003. Carried over to next meeting.

C. INFORMATION ITEMS

5. Update on Peninsula Habitat for Humanity housing proposal for property behind Terminal Avenue Carried over to next meeting.
6. Update on Belle Haven Park and Housing development proposal. Carried over to next meeting.
7. Belle Haven Community Needs process Carried over to next meeting.

E. ADJOURNMENT The meeting was adjourned at 8:30 p.m.

Respectfully submitted,

Gretchen Hillard
Housing and Redevelopment Manager