



PLANNING COMMISSION MINUTES

Regular Meeting

June 23, 2003

7:00 p.m.

City Council Chambers

801 Laurel Street, Menlo Park, CA 94025

CALL TO ORDER – 7:03 p.m.

ROLL CALL – Bims (arrived at 9:45 p.m.), Fergusson, Fry (Chair), Halleck (Vice-chair; arrived at 7:06 p.m.), Pagee, Sinnott present; Soffer absent.

INTRODUCTION OF STAFF – Cramer, Heineck

A. PUBLIC COMMENTS

There were none.

B. MINUTES

1. Consideration of the draft minutes of the May 19, 2003 Planning Commission meeting.

COMMISSION ACTION: M/S Fry/Fergusson to approve with the following changes:

- Page 4, Line 48: Change from “she” to “Commissioner Fergusson;”
- Page 5, Line 47: Add “ing” to the word “condition;”
- Page 6, Line 5: Delete “the proposed amendment lightens the load for” and replace with “fewer;”
- Page 6, Line 6: Add “would be reviewed” after “lots;”
- Page 6, Line 12: Change “do” to “go;”
- Page 6, Line 22: Change “is” to “it;”
- Page 8, Line 9: Change “do not” to “would not be allowed to;”
- Page 8, Line 48: Delete “it would be;”
- Page 11, Line 41: Change “lots” to “homes;”
- Page 14, Line 15: Change “non-conforming” to “substandard;”
- Page 14, Line 15: Change “conforming” to “standard;”
- Page 14, Line 17: Change “conforming” to “standard;”
- Page 14, Line 17: Change “non-conforming” to “substandard;”
- Page 14, Line 21: Change “non-conforming” to “substandard;”
- Page 14, Line 21: Change “conforming” to “standard;”
- Page 14, Line 24: Change “substandard” to “non-conforming;”
- Page 14, Line 27: Change “non-conforming” to “substandard” at the beginning and end of line;
- Page 14, Line 28: Change “conforming” to “standard;”
- Page 14, Line 31: Change “conforming” to “standard;”
- Page 14, Line 31: Change “non-conforming” to “substandard;”
- Page 15, Line 34: Change “what the Commission” to “the current system that;”
- Page 15, Line 35: Change “on” to “under;”
- Page 15, Line 35: Add “it” after “that;”

- Page 15, Line 49: Change “build” to “built;”
- Page 16, Line 15: Change “about” to “the approximately;”
- Page 16, Line 15: Add “lots that are” after “of;”
- Page 16, Line 15: Delete “lots” after “substandard;”
- Page 16, Line 42: Change “public’s opinion” to “the Commission’s recommendation;” and
- Page 17, Line 11: Change “request to have” to “need for.”

The motion carried, 5-0. (Commissioner Bims and Soffer were not in attendance.)

2. Consideration of the draft minutes of the June 2, 2003 Planning Commission meeting.

COMMISSION ACTION: M/S Fry/Fergusson to approve with the following changes:

- Page 2, Line 45: Change “in conjunction” to “only;”
- Page 2, Line 45: Change “for new construction” to “required to be reviewed;”
- Page 6, Line 30: Add “and Mayor Jellins had shared information from his study session packet at the meeting.” after “2003;”
- Page 7, Line 41: Add “by a previous speaker” after “addressed;”
- Page 9, Line 1: Change “GIFs” to “GFIs;”
- Page 10, Line 11: Add “Don” before “Brawner;”
- Page 11, Line 5: Change “and” to “in;”
- Page 13, Line 21: Add “appropriate” after “is;”
- Page 13, Line 23: Delete “and a new FAR would be rule based;”
- Page 13, Line 32: Add “be” after “to;”
- Page 14, Line 1: Change “changing” to “ranging;”
- Page 14, Line 1: Add “loss of the” after “the;”
- Page 14, Line 1: Add “process” after “permit;”
- Page 14, Line 2: Replace “and” with “to;”
- Page 14, Line 2: Delete “ range for;” and
- Page 14, Line 4: Add “in setbacks” after “excavations.”

Motion carried, 5-0. (Commissioner Bims and Soffer were not in attendance.)

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. **Continued from the meeting of June 9, 2003.**

Chair Fry suggested that the Commission review the draft Zoning Ordinance Amendment for potential issues and questions. She said that they might want to comment on the overall approach and the combination of factors that have been identified before reviewing the Negative Declaration. Finally, she noted that they would need to discuss comments and recommendations to the City Council. She indicated that they might not be able to complete the entire review and comments tonight. Director Heineck said that if the Commission were not able to complete the review tonight, they should discuss a future meeting date.

The Commission clarified that the problematic issues discussed at the June 9, 2003 Commission meeting are the need for certainty in the process, the need for a more user-friendly process, out-of-scale houses in neighborhoods, the need to increase the applicant’s awareness of what is expected

early in the design process, the need for protection of privacy and sunlight access, the need for compatibility with the neighborhood, and the need for appropriate neighborhood notification.

Chair Fry opened discussion on Section 1 of the proposed Zoning Ordinance Amendment regarding the deletion of certain sections under definitions, the first being *Architectural control committee*. Commissioner Pagee said that there is no such committee so that would be consistent. In response to a question from Chair Fry regarding the reason for deleting the section title *Dwelling groups*, Director Heineck said that the term was somewhat archaic in the City's Zoning Ordinance as there are no regulations that specifically apply to that definition. Regarding the next proposed deletion of *Garage or Carport*, Director Heineck said that the intent is to replace those definitions with definitions for *Covered parking and Uncovered parking* as defined in the zoning regulations. Responding to Commissioner Pagee, Director Heineck said that the benefit is that the regulations refer to the number of parking spaces and not to the number of garages or carports. The Commission's consensus was that these three proposed deletions were appropriate.

Regarding the proposed deletion of *Solar Access*, Commissioner Pagee indicated that solar access should be rewritten rather than eliminated. She said that daylight plane provisions do not protect solar access. Chair Fry agreed and questioned eliminating the right to solar access. She also questioned eliminating *Solar envelope*. Commissioner Halleck said that he also did not think daylight plane would solve the problem of solar access impacts, noting neighbors who have come before the Commission regarding projects that by height or sheer wall would impact the solar access of their properties. Commissioner Fergusson said that solar access is an important property right and she would like to see the section on solar access retained and redefined. Commissioner Sinnott said that the daylight plane covers solar access and the proposed ordinance is clearer in this regard than the existing ordinance. Chair Fry said that her husband, through work as a consultant for major residential building firms in mostly southern California (when there was a State solar energy tax credit), reviewed thousands of homes for passive and active solar characteristics. She said he wrote a short letter that explains the solar angle that the industry uses. This angle indicates that solar access through a neighbor's window would be totally eliminated by a wall of 13-feet, seven-inches of height located just five-feet from the property line. She said that the proposed Zoning Ordinance Amendment recommends 17-feet six-inches and would not guaranteed solar access. She said that daylight plane deals with ambient light and the sun does not necessarily shine completely around a house. Commissioner Sinnott said that the current definitions of solar access and envelope include provisions regarding vegetation and questioned that inclusion as Menlo Park is the "Tree City." She indicated that the daylight plane definition does not include provisions regarding vegetation and that the concern is with the building envelope and not vegetation. She said that with the existing definitions, it implies that trees would be removed. Commissioner Halleck said that if solar access and solar envelope were redefined and kept in the ordinance, he would want the provisions for vegetation removed. Commissioner Fergusson said that the exclusion of heritage trees was appropriate, but that the Commission has often considered vegetation when discussing solar access for properties. Commissioner Pagee said that solar access and solar envelope are important and the building code and heritage tree ordinance should be compatible with those provisions. Chair Fry said that when she lived in the Oakland area there was a view ordinance, which did not require that people cut down their trees but regulated a situation where someone's tree grew into it another person's view. She said that there are ways to deal with the difference between heritage and other trees, such as use of deciduous and evergreen trees. She said that if a property depends on active or passive solar features, there is a world of difference between the impacts of deciduous and evergreen trees on those features. Chair Fry noted that a majority of the Commission supports retaining and rewriting the definitions related to solar access and solar envelope to more effectively address solar access on neighboring properties.

Chair Fry opened discussion on Section 2 regarding amendments to definitions. Commissioner Pagee said that staff had indicated previously that contiguous property also included corner-to-corner contact and that she would like that expansion to be included in the definition of contiguous property.

A brief discussion ensued on what might also be included in the definition of contiguous properties with the conclusion that notification considerations had to be part of the discussion on notification process and not part of the definition of contiguous properties. Also it was indicated that later discussion might impact the proposed definition of contiguous property and it might be deleted or in some other way altered.

Chair Fry asked for comments on the definition of *daylight plane*. Commissioner Pagee confirmed that daylight plane by this definition refers to a vertical straight line that angles 45-degrees to the center of a property. Chair Fry said that daylight plane does not necessarily address daylight issues entirely; it may address ambient light but not solar access. Commissioner Pagee suggested keeping the definition but calling it "building envelope" rather than "daylight plane." The majority of the Commission agreed and it was noted that all references to "daylight plane" throughout the proposed Zoning Ordinance Amendment would need to be changed to "building envelope."

Regarding the definition of "Family," Director Heineck confirmed for Chair Fry that this was a change to bring the term into compliance with State law. The Commission's consensus was that the definition is appropriate.

Chair Fry opened discussion on the definition of *floor area*, and stated that this allowed for greater size homes in opposition to the stated intent of the proposed Zoning Ordinance Amendment. She noted in (b) the exceptions of staircases and one-story single-family dwellings, which may have interior ceiling heights greater than 12 feet for 20 percent of the proposed floor area. Referring to (d) (4) regarding excluding attic space that is currently counted, Chair Fry said that counting attic space was specifically included in the revision of the Zoning Ordinance of two years ago to address bulk. She said she was very opposed to changes in floor area that allow for projects to be bigger than they were allowed to be previously. She said that safety and bulk were the issues with attics; she said that the definition seems to address safety, but not bulk. Commissioner Sinnott said that the previous Zoning Ordinance forced applicants to have shallow roof slopes and that most clients want a steeper roof slope for the aesthetics. However, if the choice were between a bedroom and no bedroom, people would build the shallow roof slopes. She thought that the redefinition of floor area helped applicants get the design features they want. Chair Fry said that applicants have design choices now. Commissioner Pagee said that steep roofs are a design choice and they are part of projects that the Commission sees. She said that she would like to see less bulk and mass, and counting attics as floor area helped with that. Commissioners Halleck, Pagee and Sinnott indicated they like the continuance of porches as being excluded from FAL. Director Heineck said that there was one small amendment to allow for porches attached to the exterior of a detached accessory building as well as to the primary residence. She said that when that feature is desired now for detached accessory buildings, it is unclear whether it should be included as floor area or not as the ordinance is silent on that issue. There was brief discussion about lot coverage. Director Heineck indicated that the Commission might want to discuss whether to retain a provision for lot coverage. She said there has been an exclusion of lot coverage relying instead on floor area limit and a minimum amount of permeable surface. She said that if a lot coverage percentage is retained that the Commission might want to take a closer look at that definition. She said that how it is defined today makes it somewhat difficult for the public to understand. Commissioner Fergusson said that paragraph (a) should be corrected by deleting the "s" from the word "exceeds." She indicated that she does not think staircases should be excluded from the counting of floor area because of potential bulk issues. Commissioners Fergusson and Fry commented that the new allowance for the above 12-feet for 20 percent for single-story homes might be abused. They discussed a project the Commission had reviewed in which above 12-feet was counted and the applicant had to make design choices.

Director Heineck said that the existing ordinance specifies counting the extra interior height for two story houses, but treats single-story houses differently. She said under the existing ordinance, a single-story home can have a maximum interior height of 17-feet from the floor level to the maximum

height of the building before it counts at 200 percent FAL. She said that one of the reasons for the exception for single-story houses was that the maximum height had been lowered to a standard 12-foot floor- to-ceiling height for both one and two story homes so that there is a consistent application of regulations. This exception allows for some design flexibility for single-story homes. Commissioner Halleck said that this section was acceptable. An area of greater concern to him was that the building envelope not be penetrated and that if it would, neighbors needed notification and input. He said the allowance for the 12-feet and above would allow for some flexibility in design and provide an architect with some ability to construct differently designed homes that some neighborhoods want.

Commissioner Fergusson asked why eaves and fireplaces are exempt from being counted as square footage. Director Heineck said that one reason is that those features do not provide livable space within the home and chimneys were viewed as a potentially positive architectural feature in the design of a house. In 1988, when this was originally discussed there was some thought about including positive architectural features. Commissioner Pagee asked if Figures 1 and 2 would be included in the ordinance. Director Heineck said that the inclusion of diagrams in the ordinance makes it user-friendly and they are looking to include more diagrams in the future. Chair Fry asked about item (8). She said that the definition for height of detached accessory structures as being measured to the roof frame, seems to open up a loophole as the actual height of the accessory structure might be higher than intended by the definition. Director Heineck said that the definition is intended to apply to the total height, but that staff would review the wording to ensure this. Commissioner Pagee agreed with Chair Fry and thought that the measurement should be to the topmost point of the structure rather than to the roof frame. Commissioner Sinnott said that she thought the language was clear. Chair Fry said that the concern was that the existing regulation limited total height to six feet before the structure would count in the FAL and this wording could possibly be interpreted differently allowing for a greater height. Commissioner Pagee said that she would like to revisit, at a later date, the impacts of basements and underground structures. At this time, she suggested that they follow the lead of other cities and either count basements or count a percentage of basements, or consider the impact on permeability of surfaces. Chair Fry suggested that at a minimum square footage of basement is counted if it extends beyond the building footprint. She said currently that the square footage of a below grade parking structure is counted toward square footage, but would not be for sunken patios as proposed. Director Heineck said that parking below grade is counted in the FAL because single-family residences are required to have covered parking and covered parking is required to be counted in the FAL. She said that they did not want to create a type of loophole that encouraged people to build garages below grade in the single-family zoning district by potentially exempting that from the FAL building calculation. She said that the issues raised so far in the discussion of FAL included whether: the single-story exemption should be retained; staircases should count in FAL; attics five feet and greater in height should count in FAL; and basements or some portion of basements should count in the FAL.

Chair Fry polled the Commission regarding the design exemption for single-story homes; there was a unanimous consensus to retain the provision as proposed.

Upon polling of the Commission on whether attics should be included in the FAL, Commissioners Fergusson, Fry, and Pagee supported including attic square footage in the FAL. Commissioner Sinnott expressed support for the proposal as drafted (excluding attics from FAL). Commissioner Halleck said that the building envelope would protect against bulk and mass and the exemption for attics would provide architects with greater design flexibility. Chair Fry said that some of the Commissioners have indicated that they are voting a certain way because they believe that some other part of the ordinance would address the impacts and she suggested that should be captured in the record. Director Heineck said that experience has shown that it is helpful to review the ordinance entirely and then review it a second time to deal with the issue of the relationships between regulations.

Regarding counting staircases at 200 percent FAL, Commissioner Pagee said that a staircase is part of the volume and part of energy usage considerations and should be included at 200 percent. Commissioners Fergusson, Fry, Halleck and Pagee agreed that the staircases should be included in the FAL calculations at 200% because of issues of bulk, mass, volume, and energy usage. Commissioner Sinnott confirmed that this would change the current requirements and she agreed with the ordinance as written.

Regarding basements, Chair Fry said that there has been a tremendous increase in basements. Commissioner Fergusson said that it is the exterior light wells and large subterranean patios that are being designed as living space and should be considered part of the structure. Chair Fry said that it is not just the basement, but the other underground structures that potentially impact parking requirements and energy usage. Commissioner Pagee said Pat Stone indicated that the runoff for the underground structures has to be pumped to the City's already taxed storm water system. Commissioner Halleck said that he would exclude basements from FAL except for that portion that extends beyond the building envelope, which would include the light wells. Commissioner Sinnott said that basements should be excluded from the FAL as they are not adding to the bulk of the house. She said that she does not like basements either, in particular the portion that extends beyond the footprint. There was a consensus that basements extending beyond the building footprint and sunken patios and similar outside areas should be considered for inclusion in the FAL calculation.

Chair Fry opened discussion on the definition of *Grade*. Commissioner Fergusson suggested the inclusion of diagrams for a flat lot, steep lot, and height of structure. There was unanimous consensus that the definition is appropriate.

Chair Fry opened discussion for the definition of *Height of structure*. Commissioner Fergusson raised a concern that the definition does not include elevator equipment rooms, ventilating and air conditioning equipment and chimneys. She confirmed with staff that the reference was to commercial properties. Commissioner Pagee noted that three-story homes sometimes need elevators. She suggested that could create a problem on residential properties. Director Heineck said that elevator equipment has not been a problem on residential properties. Commissioner Pagee said that might change with the new regulations and suggested 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. Commissioners Fry, Fergusson and Halleck agreed with the suggestion.

Chair Fry opened discussion for the definition of *Parking, Covered*. Commissioner Sinnott indicated that she disagreed with the inclusion of tandem parking as it was not functional. Commissioner Pagee said that she agreed. Chair Fry said that the suggestion some years ago was to allow some design flexibility for smaller lots but tandem parking was never intended to be for all properties. Chair Fry confirmed that a variance might be requested if the tandem parking provision were removed in this definition. Commissioners Fry, Fergusson, Pagee and Sinnott recommended that the reference to allowing tandem parking in single-family zoning districts be eliminated.

After a brief discussion regarding the use of the word "paved" and "permeable surface" in *Parking, Uncovered*, it was the Commission's unanimous consensus that the definition was appropriate as written. It was also the Commission's unanimous consensus that the next three definitions *Permeable surface, Story and Yard* were appropriate as written.

Chair Fry suggested that other definitions might be added or modified such as that for *building, and/or structure, accessory*, to add limitations on the types of uses that may be conducted in the buildings noting that cabanas are habitable and may be constructed within a three-foot setback. She suggested adding a definition for *dormer* and *landscaping* (to include a definition of *hardscape* and *softscape*). Commissioner Halleck agreed.

After a brief break, Chair Fry asked for comments on Section 3 *Purpose of development regulations*. There was unanimous consensus that the provision is appropriate.

Chair Fry opened discussion for the next item on excavating noting that the provision was being removed for single-family development, but retained for multiple-family residential districts. Responding to Commissioner Pagee, Director Heineck said that construction of a structure under the existing regulations requires a variance if located in the setback. Excavation, under the existing ordinance, requires a use permit within a setback. Director Heineck said that this change to the provision came about because of one instance in which a developer went beyond the bounds of excavation and caused damage to the neighbor's fence and landscaping. The Uniform Building Code requirements have procedures for notifying neighbors of excavation and providing for restitution if damage occurs. Since that one instance there have been no more similar occurrences. In response to Commission interest, she said that she could ask the Building Division to analyze the Uniform Building Code requirements in more depth related to excavation and questions regarding liability related to excavation work.

Commissioner Fergusson said that she has seen heritage trees lost along the property line when excavation occurred, and asked whether excavation beyond the setback would require a variance rather than a use permit. Director Heineck said that the construction of a structure in a setback would require a variance. She said that with the exception of the use permit for excavation, there is no setback for below ground structures. She said that the proposed change in the ordinance would eliminate the use permit requirement for excavation but add a required setback for below ground structures. Based on the new setback, below ground structures that encroach into the setback would require a variance, just as above ground structures do under current regulations. Chair Fry said that she has a problem with the reduced setbacks for below ground structures since they allow for excavation closer to the property line. It opens up the potential of adverse affects to trees and infrastructure. Chair Fry noted that today's regulations require a use permit for 100 percent of excavation in setbacks and this is suggesting reducing it to zero percent. Director Heineck said that in each residential zoning district there is a section on setback where they might discuss these concerns. Commissioner Fergusson noted that there was strong dependency in this discussion on later sections of the ordinance.

Chair Fry opened discussion on Section 4, *R-E District*. Director Heineck pointed out that the proposed changes were consistent throughout the zoning districts in the proposal and one discussion of those general changes might suffice with added attention to specific considerations within each district such as setbacks. Chair Fry questioned why the proposed setbacks for below ground were less than that for above ground. Director Heineck stated that it was part of the Council's recommendation. Chair Fry said that she did not recall that direction.

Commissioner Pagee raised concerns about extending square footage underground noting impacts to neighbors from loss of vegetation, impacts to the water table and storm water runoff systems. Commissioners Fry, Halleck and Sinnott agreed that the square footage should not extend beyond the footprint of the house. Regarding (4) (b) relating to a requirement for Tier Two process, Director Heineck indicated that item would be unnecessary if the Commission were recommending to make (4) (b) the same as (4) (a) which would be in Tier One. Commissioner Pagee suggested that Tier One include a requirement that the building envelope applies to the below ground structure as well as above ground and if an applicant wanted to go beyond that then a variance would be required. Chair Fry said that a variance was proposed to be a Tier Three permit. Commissioner Halleck thought building to the setback should be allowed underground.

Director Heineck asked if the Commission wanted Tier One to allow below ground buildings only to the footprint of the existing building and Tier Two to allow buildings to the setback. Commissioner Pagee said that she was thinking of the building envelope as the building footprint so the setbacks would

define the envelope below and above ground. She said that the intent was that the livable area of the basement would be limited to the building footprint, but accessory items like light wells and access would be allowed to the setback and a variance would be required to go into the setbacks below ground. Director Heineck asked if an applicant wanted to extend the below ground livable area of the basement beyond the first floor footprint and to the setback, if that would be considered a Tier Two requirement. Chair Fry said that it was preferable that it not be allowed or would require a use permit or variance. She said that she is very concerned with the impacts on the community from a taxed storm drain system, trees being lost due to increased excavation, and problems with density. Commissioner Pagee said that underground basements and structures affect the water table and she is concerned with the impact if more and more construction occurs. She said at a minimum she wanted the basement limited to the building footprint. Commissioner Halleck agreed and stated that anything beyond that would require a use permit or variance. Director Heineck asked if that includes access and light wells. He said that access and light wells would be allowed to the setback. Commissioner Fergusson asked that the access and light wells be included in the calculation for FAL to encourage conservation. Commissioners Fry, Halleck, and Pagee agreed with that inclusion.

Chair Fry questioned the minimum amount of permeable surface at 25 percent. She said that in most zoning districts the existing permeable surfaces are at least 60 percent and that the proposal appears to encourage people to have less permeable surface. Director Heineck said that the basis for 25 percent was derived by a calculation that included building all 2,800 square feet of FAL on a single-floor. The Commission discussed definitions of landscaping and requirements for permeable surfaces. The majority of the Commission were concerned that the minimum requirement for permeable surface was inadequate. Discussion ensued about using the tier system to prevent potential impacts and increasing the permeable surface requirement for a property within a range of 25 to 80 percent, establishing different percentages of permeability based on lot size or establishing different requirements in different areas of the lot, such as in the front yard or in required setbacks. Commissioner Fergusson commented that the issue of permeability is directly related to water runoff and management and that the regulations should be linked to storm water management or that separate regulations should be developed for storm water management. Commissioner Halleck recommended that the requirement would need to be consistent with future NPDES requirements for storm water runoff. The Commission also indicated an interest in discussing this issue further, including information on impact to the management of storm water runoff.

Regarding Section 6 *Maximum building coverage*, the Commission agreed with the proposed change in lot coverage from 30 to 40 percent for lots with 7,000 square feet or less of area.

Chair Fry opened discussion of Section 7 *Floor Area Limit*. Commissioner Pagee recommended going to 35 percent of the maximum allowable FAL for the second story and that Tier One be limited to single-story development. Commissioner Fergusson agreed. Commissioner Sinnott indicated that she agreed with the section as written. She disagreed that a second story should automatically trigger Tier Two. Commissioners Bims and Fry agreed that the second floor should be limited to 35 percent rather than 40 percent. Chair Fry said that the existing rules cause problems for neighbors and that nothing in the proposed regulations addresses impacts caused by second floors. She suggested that a use permit might be required for second floor FAL of 50 percent. Commissioner Pagee agreed that Tier Two should address privacy with neighborhood input.

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.

The Commission also discussed the proposed notification of contiguous neighbors in Tier Two. A majority of the Commission indicated that more than the contiguous neighbors should be notified due to the potential impacts. Suggestions for noticing included noticing all properties within a specified distance of the property; noticing flag lots in proximity to the project site; noticing all lots potentially impacted and properties across the street or alleyway.

Chair Fry asked whether the Commission wanted to continue the discussion past 11:30 p.m. and the Commission did not.

Chair Fry noted that Section 8 regarding the horizontal length of the second floor side was a new proposal. Commissioner Bims said that he suggested limiting the sidewall to 30 feet and the rear wall to 40 feet based on his analysis of projects that had come before the Commissioner during the past 30 days. His rationale for 40 feet was that usually the rear has a greater setback than the side. Commissioner Sinnott said that she agreed. Commissioner Fergusson said that sometimes people's rear yard faces someone else's front yard and disagreed with his recommendation. Commissioner Pagee suggested that it might not be possible to establish a set rule for articulation. She said that allowing 30-feet before articulation allowed for a large mass. She favored greater restrictions and suggested reducing the length to 25-feet. Chair Fry indicated concern with two-story side walls being as long as proposed and she wondered if there were any examples of existing structures. She said that a three-foot articulation was not sufficient. In response to a comment by Chair Fry, Director Heineck said that the maximum overhang for eaves is 18-inches for a setback that is less than 10-feet and three feet for setbacks of 10-feet or greater. Chair Fry said that she thought that any second story should be the trigger for review because of impacts of light, noise and privacy. She indicated that any second story wall should be reviewed. She emphasized that it is important to prepare an analysis that applies the proposal against specific projects that have come before the Commission to see what the result is as well as comparing the regulations to other cities' regulations.

Regarding Section 9, *Maximum Height*, Director Heineck indicated that the change is the separate height for a one-story structure at 20-feet. This was based on not counting the floor area for attics over five feet. The majority of the Commission agreed that the height provisions are appropriate, subject to attics over five feet in height being included in FAL calculations.

Commissioner Pagee addressed Section 10, *Daylight Plane*, saying that the proposed daylight plane or building envelope as applied to the single-story structure means that the house might have a 17-foot, 6-inch side wall that angles in 45-degrees until it maximizes at 20-feet for the length of the story. She suggested that if Tier One was a single-story home that the daylight plane be lowered. Chair Fry, Commissioners Halleck and Fergusson agreed.

Director Heineck said Section 11 notifies residents that for a project subject to discretionary review, the Planning Commission and Council may add requirements to the project through the single-family development permit review process. The Commission expressed general support for the provision. Director Heineck then commented that it seems the Commission has concerns with how the tier approach would work, and suggested they discuss if the tier system is appropriate at the Commission's next meeting.

Chair Fry noted that they needed to finish the review of the proposal and the Negative Declaration and then revisit the entire proposal. Discussion ensued on potential meeting dates. Director Heineck said that the Council expects the recommendation to come before them the first part of September.

The Planning Commission continued its discussion to a future meeting date to be determined.

D. COMMISSION BUSINESS

There was none.

ADJOURNMENT

The meeting adjourned at 11:35 p.m.

Staff Liaison: Justin Murphy, Principal Planner

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission on August 25, 2003.