



MENLO PARK PLANNING COMMISSION MINUTES

Special Meeting

July 28, 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, Fergusson (by teleconference from Surrey, British Columbia, Canada), Fry (Chair), Halleck (Vice-chair) (absent), Pagee, Sinnott, Soffer

INTRODUCTION OF STAFF – Cramer

A. PUBLIC COMMENTS

There were none.

B. CONSENT

- 1. Consideration of the draft excerpt of the June 16, 2003 Planning Commission meeting.** COMMISSION ACTION: M/S Soffer/Fry to approve with the following modifications, 5-0-1 (Commissioner Fergusson abstaining and Commissioner Halleck absent):

- Page 2, Line 30: Delete “the” after “total”.
- Page 4, Line 17: Change “cue” to “queue”.
- Page 4, Line 18: Change “cue” to “queue”.
- Page 4, Line 19: Change “cue” to “queue”.
- Page 5, Line 5: Change “cueing” to “queuing”.
- Page 6: Staff has confirmed that the six conditions of approval for the findings for the Environmental Initial Study on Page 6, item 1.c. correspond to the Commission’s discussion in Paragraph 8 on Page 5.
- Page 7, Lines 37-38: Add “for the Aquatics Center, Gymnastics Center, mechanical and equipment storage room, restroom and concession stand” after “request”.

Motion carried, 5-0-1-1 with Commissioner Fergusson abstained and Commissioner Halleck absent.

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 July 14, 2003.

Planner Cramer indicated that the Commission needed to review Sections 20, 23, and 24 of the draft Zoning Ordinance Amendment as they had previously reviewed the rest of the document. She noted that Section 20 refers to the proposed single-family development permit; Section 23 refers to the modified public hearing requirements; and Section 24 refers to the provision for a zoning overlay district. She said that at the last meeting, staff had prepared a draft summary of the Commission's comments to date and requested that the Commission review the draft summary and provide staff with feedback.

Chair Fry opened the discussion of Section 20, regarding the purpose and applicability of the single-family development permit. Commissioners Fergusson and Pagee expressed concern that the proposed notification of contiguous property owners was insufficient. Commissioner Soffer suggested inserting a requirement for notification of neighbors within a 300-foot radius. Commissioner Sinnott indicated that the notification of the contiguous neighbors was sufficient. She said that the single-family development permit was not the same as a use permit and there is no public hearing process. Commissioner Soffer said that neighbors should have the opportunity to review plans and bring any concerns to the City Council for even Tier 1 projects under the proposed single-family development permit. Chair Fry noted that there is no notification requirement for Tier 1 permits under this proposed Zoning Ordinance Amendment. Planner Cramer said that notification of the contiguous neighbors is a requirement of Tier 2. Commissioner Bims suggested that notification of neighbors should be based on a distance radius and that distance should be less than a 300-foot radius. Chair Fry also questioned the limitation of notification to contiguous neighbors. She indicated that she considered the premise of the single-family development permit, which is to allow integration into a neighborhood, to be an invalid basis for limiting the notice to contiguous neighbors. Noting the issues of privacy and shading, she said that development may have impacts that affect more than the immediate neighbors. Commissioner Sinnott said that the issues of privacy and shading impact the contiguous neighbors only and she considered allowing broader input from the neighborhood to lead to subjectivity, which is unfair to the individuals proposing to develop. Commissioner Soffer said that the neighborhood should have more input and the single-family development permit avoids the process of the use permit. Commissioner Pagee said that the 10-day notification period of contiguous neighbors was insufficient and that the permit serves developers well and not individual property owners. Chair Fry said that appointed and elected officials must recuse themselves from discussion of property issues if they own property within 500-feet of the subject property because of a potential conflict of interest and thought notification within a 300-foot radius was reasonable.

Chair Fry asked for discussion on the application requirements for the single-family development permit. Commissioner Pagee noted that the Commission's review of plans for use permits identifies problems and inaccuracy of details. She questioned how accuracy would be guaranteed with the proposed process. Planner Cramer said that the review of an application for a Tier 1 or Tier 2 project would include a Site Plan Inspection by a Building Inspector. Planner Cramer said that the inspectors cannot walk on to adjacent sites, but use their best knowledge to identify potential issues and seek resolution from the architect and/or developer. Commissioners Pagee and Soffer expressed concern that certain items are overlooked and/or are not included in the proposed site plan. Commissioner Soffer thought that the plans should

be required to be more detailed. Commissioner Fergusson asked whether plans included adjacent properties and surrounding buildings. Planner Cramer said that current application requirements include all building elevations, site plan, and floor plans of the subject property and an area plan that identifies the relationship between adjacent properties. Commissioner Fergusson expressed concern that staff might not always have all of the data and contiguous neighbors might not receive notification. Chair Fry asked for the Commission to receive a copy of the Planning Department's project application guidelines as they may have additional input on those. She suggested that the neighbors receive the "fact sheet" that the Commissioners receive and that the site plan needs to be copied on paper larger than 8 ½ X 11-inches for the notified neighbors for readability. Commissioners Bims and Sinnott indicated their concurrence with the application requirements as presented. In response to a question from Commissioner Fergusson, Planner Cramer indicated that the City Attorney would need to review what the consequences would be if notification of a contiguous property owner did not occur; she noted that staff reviews notification and mailing addresses. Commissioner Fergusson asked if the application guidelines require that all dwellings on contiguous properties be shown. Planner Cramer indicated that the area plan emphasizes the distance between subject building walls and adjacent building walls. She said that the guidelines are on the Planning Department's web page.

Chair Fry introduced the next item on the review and approval authority for discussion. Commissioner Soffer asked whether landscaping was included in the site plan. Planner Cramer indicated that the site plan typically illustrates the location of the structures on a parcel; she indicated that the Commission might recommend including landscaping as part of the review and approval authority. In response to a question from Commissioner Sinnott, Planner Cramer confirmed that the review is for those single-family development permits that would be considered as Tier 2 projects. She also confirmed that the review was similar to what the Commission now conducts for a use permit, but that the review would be evaluated using different criteria than a use permit. The use permit makes findings about health, safety and welfare; the single-family development permit makes findings about site planning, architectural design, construction and time limits, etc. Responding to Commissioner Soffer, Planner Cramer confirmed that a review of health, safety, and welfare was not included in this type of permit review. Commissioner Fergusson suggested that the word "limit" in the line "Time limits as it deems necessary to limit adverse impacts" be changed to mitigate. She indicated that the use of the word "limit" seemed to give developers the upper hand. Commissioner Sinnott questioned the categorization of applicants into "property owners" and "developers." She suggested that the "applicant" be the "applicant" and that all applicants be treated objectively. Commissioner Fergusson clarified that she defines "developer" as the entity taking the action, be that an individual homeowner or speculative party.

Chair Fry said that the use permit review allows the Commission to review improvements to the neighborhood and the general welfare of the City, but the single-family development permit does not allow for this review. She noted instances where the neighborhood is adversely impacted by a proposed project and there may be impacts on the City at large. She said that for the use permit and the single family development permit these impacts should be identified. She suggested that the City identify guidelines that define negative impacts and steer applicants away from such impacts. She was supportive of the greater definitiveness of the single-family types of conditions that could be imposed during the development permit review but urged that guidelines be developed to assist applicants, staff and the Commission in creating a cohesive cityscape. Commissioner Bims suggested that the Zoning Ordinance Amendment include the

regulations and requirements for health, safety and welfare rather than having the Commission review such things on a case by case basis. Chair Fry said that general health, safety and welfare considerations may be quantifiable generally, but that there are other impacts on privacy and neighborhood character. She restated that other communities use guidelines to address those less quantifiable impacts. Commissioner Sinnott concurred with Commissioner Bims' comments that the Zoning Ordinance Amendment should include the regulations and requirements for health, safety and welfare. Commissioner Soffer noted that parking and landscaping should be called out and that after the words "impose conditions" insert "such as" to prevent limiting. He said health, safety and welfare also looks at the livability of a community and removing those considerations from the review disables a community from adapting cooperatively.

Chair Fry asked whether the three-week notification period was being changed and thought a longer notice period should be identified in the Zoning Ordinance Amendment or by policy. Commissioner Soffer said that the notification for a Heritage Tree Removal is greater than that for a two-story home being constructed. Planner Cramer said that she would review the requirements for the removal of a heritage tree. Commissioner Pagee said that the proposed removal of a heritage tree is noticed with the posting of a sign prior to the removal occurring. Commissioner Fergusson questioned a sentence in paragraph (b) that states "If the project does not create significant adverse impacts on contiguous properties, the application shall be approved with or without conditions to eliminate significant adverse impacts." She indicated that it seemed to contradict itself. Planner Cramer said that the intent was to allow for the ability to add conditions to eliminate significant adverse impacts for the purpose of project approval and suggested that the wording might be revised for clarification. Commissioner Fergusson suggested substituting the word "mitigate" for "eliminate." Chair Fry indicated that she was uncomfortable with changing "eliminate" to "mitigate" in every instance and thought perhaps it should be either/or. She said that the concept of the Tiers was the heart of this proposal and that most cities which use the tiered approach have guidelines and objective rules; the projects that do not have an administrative review are those deemed to not have an impact. She said that she likes the concept of the tiered approach and would like to see potential impacts better identified; she suggested that guidelines would assist in that process of identifying potential adverse impacts. Commissioner Pagee suggested the use of story poles on properties to show the relationship of windows to contiguous adjacent structure walls which would mitigate problems caused by inaccurate plans or inability to read plans. Commissioner Sinnott stated for the record that neighbors make good judgments about their neighborhood and are able to review plans and schematics; she trusts neighbors to know what they want in their neighborhood. Also, she wants the input limited to the contiguous neighbors. Commissioner Fergusson said that there is a dependency between the lack of design guidelines and the acceptability of a tiered approach.

Chair Fry opened discussion on the next section regarding expiration and extension of single-family development permits. Commissioner Fergusson asked for clarification as to who would approve an extension. Planner Cramer said that the extension would need the approval of the originating review authority. If the Planning Commission approved the permit, the Planning Commission would need to approve any desired extension.

Planner Cramer suggested that the Commission review Section 24 next on Zoning Overlay before Section 23 as the clarification to Section 23 was related to a provision of the zoning

overlay process and would be best reviewed after the Commission's consideration of Section 24.

Referring back to Section 21, Commissioner Soffer requested that the language of findings in the use permit regarding health, safety and welfare be included in the single-family development permit under Section 21. Planner Cramer said that it was noted in the draft summary of the Commission's discussion of the draft Zoning Ordinance Amendment that the Commission supported the deletion of the language that use permits were issued to the resident and not to the property owner. The change in Section 21 was to clarify that the use permit goes to the property, and not to the resident. She said that the additional modification suggested by Commissioner Soffer to include the language of the use permit's findings of health, safety and welfare to the single-family development permit might be shown in Section 16.82.440 *Review and Approval Authority* or the Planning Commission decision section. Chair Fergusson suggested in Section 16.82.440. Chair Fry said the Commission had not explicitly discussed Section 21 other than the deletion of language mentioned by Planner Cramer. Chair Fry confirmed with Planner Cramer that the language for the use permit is the minimum required by the state. Chair Fry said that most communities add language that reflects their values. She suggested that concepts to be considered for addition to the language would be privacy, access to sunlight and compatibility with the neighborhood that would allow notice to the applicant that those things would be part of the review. Chair Fry said that should apply to both the use permit and single-family development permit. Planner Cramer asked whether that reference for use permits would just apply to residential development as current wording indicates it applies to the review of commercial projects as well. Chair Fry indicated that commercial projects have some additional language and architectural control that addresses compatibility with the neighborhood. Planner Cramer said that they also address those findings with commercial projects as well. Commissioner Soffer asked if the intent was no longer to fold in the language of 16.82.030 in this section. Chair Fry said that she was suggesting changing 16.82.030 to include some of the values that most communities put into their decision criteria and that it also is included in the development permit, which would help neighbors understand that those things are fair to be raised and provides notice to the applicant that those things would be evaluated. Commissioner Soffer indicated that such an addition was fine but did not solve basic problems such as excessive parking beyond what the Commission might accomplish under the current use permit. Commissioner Fergusson said that the wording for the findings should not be included in Section 16.82.440 as she suggested. Planner Cramer said that she was making a note to review the language and where it should be located to bring back to the Commission for their consideration. Planner Cramer suggested perhaps a revision of Section B. *Review Process Planning Commission Decision* to include more specific language.

Chair Fry opened discussion on Section 24 regarding Zoning Overlay Districts. Commissioner Pagee asked how neighborhoods determine the boundary of their subdivision. Planner Cramer indicated that the Engineering Division maintains records of the subdivisions filed. Commissioner Pagee asked how many subdivisions there are in the City. Planner Cramer could not recall the number, but indicated that information had been determined through background work staff had done for the GIS system. Commissioner Pagee asked which subdivisions had the least homes and which the most homes. Planner Cramer said that she would have to report on this information at a later meeting. She indicated that sometimes one may assume that a particular home is part of a particular subdivision, but in fact, it is not, and gave an example of homes facing Bay Road that are not part of the larger Lorelei Manor subdivision. Chair Fry referred to 710 Lemon Street and asked if this proposed wording would

allow that subdivision to have an overlay. Planner Cramer said that was the intent to allow an area like that around 710 Lemon Street to use the provision that says "unique and readily identifiable characteristics or similar interests."

Commissioner Sinnott asked how this process is different than that by which Felton Gables obtained a different set of zoning regulations. Planner Cramer explained that in the past the City has approached changes to neighborhood level zoning as an application to change the zoning but had not formally established a process to guide the neighborhood and assess whether the neighborhood was open to change. She said that the proposed zoning overlay as written attempts to codify a process that was loosely followed in the past with some changes and clarifications that allow the process to be easier to manage administratively. She noted one of staff's concerns was being able to manage so many different applications for zoning overlays and tracking regulations in each zoning district. Staff desires to establish some basic boundaries or basic regulations for the geographic area that would be proposed for a zoning overlay. There are additional requirements under review procedures that allow for an assessment to determine whether property owners are interested in having a zoning overlay. In response to Commissioner Soffer, Planner Cramer indicated that when a neighborhood proposes a change to its development regulations, there is initial work before the neighborhood can even make an application. Upon submittal of an application, and staff's determination that those requirements have been met, staff would conduct a written survey of the geographically defined area to determine if a zoning ordinance amendment might be reviewed by the City Council. The City Council would follow the procedures for a zoning ordinance amendment. Commissioner Soffer asked whether there was an opportunity for the neighborhood to vote on the proposal. Planner Cramer indicated that number five of the application requirements states that when a petition of 10% of the properties submits the request for change, a preliminary survey indicating the level of interest in the proposed change was to be included. Following that, the City would do a formal survey to confirm the interest.

Commissioner Soffer confirmed with staff that Felton Gables would meet the criteria of the proposed zoning district overlay and asked if all of the properties in Menlo Park are part of some subdivision. Planner Cramer said that there are properties not in a subdivision. She said that as an example in the Lorelei Manor neighborhood there are some homes that technically are not part of the subdivision, but if looked at as a neighborhood might be included. Commissioner Fergusson said that she had specific changes to the sentence "The property owners shall have 15 days..." to change "15" to "45." She said to strike the next sentence that says "No response shall be considered opposition to the proposed zoning overlay request." In the next sentence she said to change two-thirds to 60% and in the following sentence as well. She referred to the description of the survey and requested that there be included a letter from the petitioners or a copy of the petition. Planner Cramer indicated that including the petition might be cumbersome as the petition might be longer than the 10 applicants. Chair Fry asked whether Commissioner Fergusson was referring to the text or signatures of the petition; Commissioner Fergusson clarified that the text of the change could be included.

Commissioner Bims said that he saw a discrepancy between the requirements for the petition and the requirements for the survey. He said that 10% of the neighborhood can move staff to expend resources on a survey, yet two-thirds support of the neighborhood is needed to actualize the zoning ordinance amendment. He suggested that those petitioning do more of the legwork. Planner Cramer said that the intent of B.5 is that the group of petitioners demonstrates that they have made efforts to contact the neighbors and assess opinion. After that, the City

has a process that ensures that all of the impacted property owners are notified. Commissioner Bims questioned whether the City's written survey would address the intent of the petitioners. Planner Cramer said it would but perhaps the text of the petition might be included as suggested by Commissioner Fergusson. Commissioner Bims indicated that his concern was that dialogue, adaptation, and consensus would not occur prior to the submission of the petition to the City. He suggested that the community have more input at the beginning. Chair Fry asked if this could be incorporated into the Zoning Ordinance Amendment. Planner Cramer indicated that some administrative steps or resources might be identified to assist the petition development process. Responding to Commissioner Sinnott, Planner Cramer said that a zoning ordinance amendment might provide for either more restrictive or less restrictive regulations.

Commissioner Sinnott said that she agreed with no response being a "no" vote. Commissioner Soffer said that he did not consider the lack of a response to be a "no" vote and indicated his support of the process as defined by Section 24. He added that the process should not be onerous and once the petition was filed, staff would be helpful in guiding the petitioners to a workable end product. He added that City Council fee is indicated and that the process and the fee would discourage frivolous applications. Chair Fry said a number of members of the public had stated at earlier meetings that they wanted the two-thirds requirement to be counted towards those who voted and not those polled, as it was not clear why a person would choose not to vote. She mentioned that the rescinded ordinance had reduced the requirement to sixty percent and that was of those who vote. She said that the 15-day notification was insufficient. Chair Fry asked if the proposed ordinance was passed whether neighborhoods might petition, for example to require that all second stories be reviewed. Planner Cramer indicated that the ordinance itself concerns only development regulations and not a change in process. Commissioner Soffer asked about 1.a and what a city block is, and suggested the wording needed commas. Consensus was to write the particular sentence with commas to read: "Fifty properties in a defined area, including but not limited to one or more entire city blocks, or one or more subdivision tracts, or properties fronting on both sides of a street." Commissioner Bims supported more participation in the process and suggested a majority of the community be needed to approve the overlay with no consideration to no response or abstentions. Commissioner Pagee confirmed that within a zoning district overlay a property owner might request a variance. Commissioner Sinnott said that she liked what Commissioner Bims said about requiring a majority of voters to approve a proposed zoning overlay. Commissioner Bims said that he thought there should be a two-thirds majority vote. Chair Fry thought that was too restrictive. Chair Fry noted that there were marked differences among the Commissioners regarding how the vote should be counted.

Planner Cramer said that in Section 23, the first sentence under 16.88.020 *Public Hearing Requirement* contains a typographical error and should read: "Upon receipt of a petition, a resolution of intention of amendment, upon receipt of the survey results demonstrating **two-thirds** percent or more support from the survey respondents." She indicated that this provision needed to be consistent with whatever was determined in the section on the zoning district overlay. Planner Cramer indicated that this was the only change to this provision.

The Commission took a short break.

Upon the meeting resumption, Planner Cramer indicated that she had pulled the heritage tree ordinance and that notification of a permit application for removal or tree trimming

is required to property owners and residents within 300 feet of the tree. She said that notice is also sent after a decision has been made regarding the removal or trimming of the tree.

Chair Fry opened discussion on the Negative Declaration. She commented on the first section describing the project. She said that the explanation that FAL will not change as a result of the amendments is misleading. She noted that although the proposed Zoning Ordinance Amendment would not increase the maximum amount of FAL, it effectively increases the amount allowed by redefining what is counted. In response to Commissioner Fergusson's question, Planner Cramer said that the Planning Commission may review the environmental document and determine whether or not the document is appropriate and may make a decision to that effect. She noted the Commission's role in the review is to determine whether there is sufficient evidence for the determinations being made, whether areas need greater support, or whether mitigations need to be added to the document. She added that the Commission's discussion is a recommendation to the City Council, which is the final reviewing body on the Negative Declaration. She said that some of the recommendations being proposed by the Commission if incorporated might warrant a revision of the Negative Declaration if the recommendations are supported by the City Council. Thus, the Negative Declaration being considered tonight might not be the final document. A revised Negative Declaration may need to be prepared. Responding to Commissioner Fergusson, Planner Cramer indicated that a revised document might not come back for the Commission's review if the changes were minor or had already been discussed by the Commission. She said that if the change was new to the Commission, the document would need to come back for their review. Chair Fry said that the project, description, and Negative Declaration for the Allied Arts project had been changed significantly and the revisions had not been returned to the Commission. Planner Cramer indicated that she would note on the summary of comments that the Commission requested to review the project and Negative Declaration if changes were made.

Chair Fry asked if there were any comments on the project descriptions found on pages 1, 3, and 7. She indicated that she found some of the statements in the descriptions to be misleading, such as the statement that Zoning Ordinance Amendment does not increase the maximum FAL allowed. She said that if attic space is not counted then that space may be added elsewhere and the actual square footage might be greater using the current definition of what is counted as FAL. Commissioner Sinnott thought the statement was fine. Commissioner Pagee noted that a project the Commission looked at recently had 560 square feet of attic and 245 square feet of that was above 12-feet. Chair Fry said that on page 4 there was a statement about a reduction in building height on a one-story and a reduction in floor area on a second floor which is misleading because for most projects that the Commission reviews, the second floor area is about 35 percent of the one-story floor area and the height of one-story houses generally is lower than proposed because of the way excess attic space is currently counted.

Chair Fry asked for comments on page 11; item one, *Land Use and Planning*. Commissioner Pagee said it does not address the City's General Plan regarding maintaining and enhancing residential quality of life and development that has human scale and is pedestrian friendly, and protecting the City's open space and natural resources. Commissioner Soffer asked how it is known referring to 1.c that the project is compatible with existing land use and if it is a blanket statement for every project that can possibly be done. Planner Cramer noted that this is in reference to a single-family residential zoning district and that the proposed changes are compatible with existing land uses and the consideration is whether the proposed changes would impact single-family development patterns. Commissioner Soffer asked whether projects

built under this permit might be incompatible with the existing land use and disrupt or divide the physical arrangement of an established community. Chair Fry said she was concerned about zoning and the General Plan and said the use permit allows a review of potential adverse impacts with a broader scope than just examining a project for its immediate impacts on an adjacent neighbor.

On Page 12, item one, Chair Fry noted the last sentence that addresses FAL. She said that she does not think that the proposal further restricts or maintains the majority of current development regulations; instead, it appears to be less restrictive for the majority of projects.

For Item two, *Population and Housing*, the last paragraph, Chair Fry noted that it refers to improved affordability, and referenced section 2.a. She thinks without review, the houses would tend to be built even larger, which would make things even less affordable. She said she could not make a finding that there is no impact, and recommended changing the impacts to potentially significant. Commissioner Fergusson said that under the proposed amendment, bigger basements may be built, which may well affect population projections. Chair Fry referred to 2.c. She said currently the Planning Commission reviews most projects for the most affordable sections of town and to some extent that discretionary review dampens the speculative development appetite. She sees that this redefinition of square footage, and reduced reviews of projects and of excavation for below grade structures in setbacks would have a potentially significant impact on affordability and population increases.

Regarding Item three, *Geological Problems*, Chair Fry said that one of the source references was the Environmental Review for the General Plan and asked for the date of that document. Planner Cramer said 1994. Commissioner Ferguson said that they had discussed and listened to concerns about excavation and excavation into setbacks and the creation of unstable soil conditions. She thought that has potentially significant impact and recommend changes to section 3.f. Commissioner Soffer asked if she wanted the check mark moved to a different column. Commissioner Fergusson indicated that a review of excavations case by case might be considered for mitigation and thought that the second column regarding potentially significant impact unless mitigation is incorporated was most appropriate.

Commissioner Pagee addressed Item 4.d regarding changes in the amount of water surface. She said that the proposed Zoning Ordinance Amendment was likely to encourage an increase in below ground patios, decks and that extending basements out to the setback would decrease absorption on the property, which would increase the need to pump out water. She said that it should be marked potentially significant impact. Chair Fry agreed noting that through the use permit review process, conditions may be applied that mitigate potentially significant impacts. She said that 4.a, 4.b and 4.c. should be marked as having potentially significant impact. Commissioner Pagee said that the City does not have any standards to address the potential of increased water in the San Francisquito Creek through ministerial review. Commissioner Fergusson noted that 4.a, b., c and d. should be considered as potentially significant impacts. Commissioner Sinnott asked how the proposed ordinance would create more runoff. Commissioner Pagee said that the proposed ordinance by allowing build out into the setbacks underground would add to the City's existing problem with water runoff and yet does not address the issue at all by identifying mitigation measures or guidelines. Commissioner Sinnott asked if Commissioner Pagee would like something added to the proposed Zoning Ordinance Amendment. Commissioner Pagee indicated that the existing use permit review addresses the issue. Commissioner Sinnott said that she wanted to weigh in on "no impact." She did not see

that there would be a great difference whether every project were looked at, or not. Chair Fry said that the proposed Zoning Ordinance Amendment seemed to almost promote building underground beyond the footprint. She said that the City's current drainage system is at capacity and changes in absorption and drainage pattern would impact the system and the Creek. Commissioner Soffer mentioned increased hardscape and where drainage percolates. He noted that Oak Court, and around Creek and the flood plain, properties have drainage problems. He said that the adverse impact of this was coupled with the lack of notification as property owners would not know about projects that might impact the drainage on their property. Chair Fry said that through her conversation with City staff member Pat Stone she learned that it is not just percolation, but the impact of water that has to be pumped into the storm drain system. Commissioner Soffer reiterated that there is a current process of reviewing drainage and potential impacts through the use permit process. Chair Fry said that currently the Planning Commission reviews approximately half of the projects and 100 percent of excavation into setbacks and it was not uncommon for them to discuss permeable and paved surfaces. She thought it was misleading to indicate that there was no impact as theoretically a project might be entirely paved over because the Planning Commission imposes conditions that mitigate this sort of possibility.

There were no comments on Item Five, *Air Quality*.

Regarding Item Six, *Transportation and Circulation*, Chair Fry said that the current review process has had an impact on what people propose, and with the proposed Zoning Ordinance Amendment, houses would be larger and there would be an increase in development of below grade structures beyond the footprint. An increase in development would increase the need for parking, which today is managed partially by the discretionary review process. She said it was not appropriate to indicate no impacts. She also noted that with no excavation review, excavation would probably increase which would mean more traffic and more large trucks hauling soil away. She said that 6.a should have a potentially significant impact unless mitigated and she indicated that 6.d should be marked as potentially significant unless mitigation. Commissioner Fergusson said that 6.c should be considered a potentially significant impact noting the allowing of protrusions into the setback might potentially interfere with access, particularly where there are narrow setbacks such as in the R-1-U district. She said that 6.d should also be a potentially significant impact unless mitigations are added since fully developed below grade structures would lead to insufficient parking capacity onsite and offsite.

Regarding Item 7, *Biological Resources*, Chair Fry asked about the proposed Zoning Ordinance Amendment making no change to the existing heritage tree ordinance and asked whether a review of that ordinance was underway. Planner Cramer said the City Council has reviewed the heritage tree ordinance and is considering proposing changes. She said that the proposed Zoning Ordinance Amendment does not change the heritage tree ordinance, but there will be a future review of changes to the heritage tree ordinance.

Regarding Item 8, *Energy and Mineral Resources*, Commissioner Fergusson said that public comment in particular from USGS geologists made the point that large basements extending into the setback means there are fewer trees, increased energy costs, and increased use of nonrenewable energy sources. She indicated that both 8.a and 8.b should be checked as potentially significant impacts. Commissioner Pagee asked about the City's adopted energy conservation plans and asked about Title 24. Planner Cramer indicated that the source references were the General Plan and the draft Zoning Ordinance Amendment elements.

Commissioner Pagee asked what the General Plan had to do with energy conservation. Planner Cramer indicated that she would need to review the General Plan to provide an accurate response. Commissioner Pagee indicated that Title 24 is about active and passive solar. She said with the proposed building envelope and daylight plane, there is no provision to protect solar access on the roof of the adjacent single story residence for the installation of solar panels or the continued allowance to access sunlight in a passive solar design on an existing residence. She said that 8.a should be marked potentially significant impact unless mitigation is incorporated. Chair Fry recalled that the USGS geologists that had addressed the Commission had noted that below grade structures needed to be lighted, heated and cooled. She said that 8.b regarding using nonrenewable resources in a wasteful and inefficient manner should be marked potentially significant as the proposed daylight plane does not protect solar access, and all solar rights are being deleted.

Regarding Item 9, *Hazards*, Chair Fry said that she had met with the Fire Chief and discussed that in a number of parts of town there is inadequate water pressure. She said that should be considered a potentially significant impact. She said that there are blanks in the project description on encroachments that might restrict ingress/egress, items that the Commission now reviews and is able to add conditions to mitigate. She said that 9.b should be potentially significant unless mitigation is incorporated. Also, the Fire Chief had indicated the need for greater requirements for fire sprinklers, and 9.c should also be potentially significant unless mitigation is incorporated.

There were no comments on Item 10, *Noise*. Regarding Item 11, *Public Services*, Commissioner Pagee asked what maintenance of public facilities included. Planner Cramer said that is for the general building operations that the City provides to maintain facilities and refers to any public facility. Commissioner Pagee noted the lack of any provisions to allow for solar access. She said without solar you encourage the use of electrical for lighting and for the heating cycle. Thus she sees that it is a potentially significant impact without mitigation incorporated, which would include guidelines to protect solar access. She noted that larger structures need more water and an increased need for water due to fast tracking development and unchecked development made 11.d a potentially significant impact unless mitigation is incorporated. Chair Fry indicated that today 100 percent of excavation projects are reviewed which dampens the request for excavation; without that impediment there would be more excavation and more trucks and bulldozers gouging the street surfaces and causing stress and strain on roads. This should make 11.d a potentially significant impact. Commissioner Pagee indicated leaving 11.d as is and making 12.a and 12.g potentially significant unless mitigations are incorporated. Commissioner Fergusson agreed with Commissioner Pagee on 12.a and 12.g because of increase living space in the basement and through the construction of larger basements there would be removal of subsurface which would increase runoff.

Regarding Item 13, *Aesthetics*, Chair Fry said that with the proposed process there would be no forum for lodging concerns regarding light and glare or discussion of impacts on the aesthetics of a neighborhood, in section 13.c. Thus, this should be marked as potentially significant unless mitigations are incorporated. Commissioner Pagee concurred noting that there was not anything in the proposed Zoning Ordinance Amendment to give that discretionary review to staff.

Regarding Item 14, *Cultural Resources*, Commissioner Soffer questioned the last sentence that the proposed changes would not allow for increased density over the currently allowed densities

thus there were no impacts. Planner Cramer said that single-family residential zoning does not limit population, but it does limit density as one house or unit per parcel. Regarding the Commissioners' comments that larger homes mean more occupants, Planner Cramer said that this section refers to density as to the number of units allowed on each parcel, which is one home per parcel. Commissioner Soffer said there was another section in overall demand on the City for services and resources. Planner Cramer indicated that the Commission discussed the impacts of the proposed ordinance on Population and Housing, Section 2 of the Negative Declaration. Chair Fry suggested indicating under 2.a that the proposal cumulatively might exceed official regional population projections. Commissioner Soffer said the last sentence of Item 2 indicates that no utility or service impacts are anticipated, but that is if one looks at it one house as one house. However, larger living spaces would seem to mean that the population would increase which would make Section 12.,a, d, e, and g Utilities and Service Systems potentially significant.

Regarding Item 15, *Recreation*, Chair Fry said that larger structures indicated more people which would mean more demand and suggested that 15.a should be changed to potentially significant. Commissioner Sinnott questioned why bigger houses was being equated with increased population. Both Commissioners Fergusson and Fry indicated that the maximum development of a property could include a basement constructed to setbacks without review and provided for below grade setbacks and attics greater than currently allowed. Commissioner Soffer said that the Commission more often hears the rationale for the need for two stories because of growing families which indicates more people which creates demand on City services.

Regarding Item 16, *Mandatory Findings of Significance* and potential to degrade the quality of the environment, Chair Fry noted that there is significant pressure to change existing neighborhoods and without neighborhood notification and design guidelines, she was concerned that the impact was considered to be less than significant. Regarding 16.b, Chair Fry thought the response should be potentially significant as the solar provision was eliminated and the proposed daylight plane does not address the issue. Regarding 16.c, Commissioner Fergusson noted that the proposed Zoning Ordinance Amendment would affect peak runoff to the San Francisquito Creek and was part of a regional watershed and should be considered as potentially significant. Chair Fry said that also the removal of the solar provisions and loss of solar access collectively impacts nonrenewable energy and public services. Commissioner Pagee indicated that under the explanation for 416 it states that since the proposed changes will not result in an increase to the maximum FAL limit for a single family residence and will not result in the increase of the number of dwellings per lot, that no adverse impacts are anticipated. She said that City Attorney McClure had indicated at one time that through the use permit process you are not guaranteed an FAL until it has been approved. She said the new process would not review the 5,000 to 7,000 square foot lots which would be allowed 2,800 square feet, and she believes there are adverse impacts to human beings directly and indirectly because of the increased density, the loss of light, free air, the loss of ability on the smaller lots to grow trees between homes for privacy or a sense of privacy. She said that 16.d should be potentially significant. Commissioner Sinnott indicated she feels that the Negative Declaration could be certified as is and agrees with the conclusion in the beginning of the document that through the proposed draft Zoning Ordinance Amendment, things are actually made more restrictive. She said people will try to avoid the use permit process and will move the second floors in and restrict the heights to 17.5 feet instead of 19.5 feet. She said, like Commissioner Pagee, she is concerned about light and air and hates long, tall second story walls. She thinks that this ordinance will catch the 50 percent of homes that the process is not catching now. She said

that she recommends approval of the draft Zoning Ordinance Amendment and Negative Declaration to the City Council. Chair Fry said that she did not agree based on the reasons as mentioned throughout this review process. She said that the Council Subcommittee, although concerned with improving the process, did not evaluate the potential negative impact of what is being proposed. The City Council will not evaluate that either. The proposed Zoning Ordinance Amendment does not fit with the projects the Commission has seen that were traumatic to neighbors. Commissioner Soffer addressed Section 13 of the Negative Declaration and asked for a definition of the second to last statement that if approval is not obtained the project will require review through a single family development permit. He said that is the only time the proposed permit is mentioned in the Negative Declaration and seems to assume that you buy into the concept of it. He suggested changing it to use permit. He noted the failure of administrative review to stop the adding of an Eichler type addition in a side setback to a basic ranch home in his neighborhood and indicated that he would photograph it to demonstrate how it negatively impacts the aesthetics of the neighborhood. He said with the ad hoc process he fears the City will grow to look like mid-town Palo Alto which is not very attractive.

Commissioner Pagee asked whether the Commission's comments would be forwarded to the City Council or whether there would be a joint meeting. Chair Fry indicated that the Commission had one more meeting to summarize recommendations on August 25. Commissioner Fergusson asked if the summary materials could be updated to include tonight's summary a couple weeks in advance of the next meeting. Planner Cramer indicated that staff would try to get out as quickly as possible but noted that staffing had been very limited. She noted that certain issues had been identified through the Commission's review of the proposed Zoning Ordinance Amendment and Negative Declaration that the Commission might want to return to at the next meeting.

Chair Fry said that they needed to cycle through and focus on dependencies. Commissioner Soffer indicated that the City was well served by the Commission's review of the proposed Zoning Ordinance Amendment for five meetings. He hoped that they would be able to go into some of the basic philosophy of where it goes right and wrong and then vote on it as it was proposed. Chair Fry indicated that she was interested in having a joint meeting with the Council and discuss rationales for recommendations to avoid what happened with the last version of the ordinance. Planner Cramer said that staff would also write a staff report and could work on presenting more information on each item for the Council. She said that the City Manager's office is aware of the Commission's request to have a joint meeting and is speaking to the Mayor and Mayor pro tem. She suggested that the Commission might direct the Chair to contact the Council directly. It was the consensus of the Commission to direct Chair Fry to contact the Council and she indicated that she was happy to do so.

The Planning Commission continued its discussion of the proposed Zoning Ordinance Amendment and Negative Declaration to August 25, 2003.

D. COMMISSION BUSINESS

There was none.

ADJOURNMENT

The meeting adjourned at 10:55 p.m.

Staff Liaison: Justin Murphy, Principal Planner

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission on August 25, 2003.