



PLANNING COMMISSION MINUTES

August 30, 2010

7:00 p.m.

City Council Chambers

701 Laurel Street, Menlo Park, CA 94025

Teleconference with participation by Commissioner Kadvany from:

59 Windmill Lane
Amagansett, NY 11930
(Posted August 26, 2010)
(Did not participate)

CALL TO ORDER – 7:03 p.m.

ROLL CALL – Bressler (Vice Chair), Eiref, Ferrick, Kadvany (Absent), Keith (Left the meeting at approximately 8:25 p.m.), O'Malley (Chair), Riggs

INTRODUCTION OF STAFF – Deanna Chow, Senior Planner; David Johnson, Business Development Manager; Justin Murphy, Development Services Manager

A. PUBLIC COMMENTS

There were none.

B. CONSENT

There were no items on the consent calendar.

C. REGULAR BUSINESS

Review of Gross Floor Area Zoning Ordinance Amendment/City of Menlo Park:

Review, comment and possible recommendations regarding the one-year review of Zoning Ordinance amendment relative to the clarification of gross floor area. *Deferred from the meeting of August 23, 2010.*

Staff Comment: Planner Chow said that the City Council as part of its action to adopt the Gross Floor Area (GFA) Zoning Ordinance Amendment last year had directed that staff prepare a report for the Planning Commission and City Council on the implementation of the Ordinance Amendment 12 months after its effective date, with

particular attention to data on the “grandfathering” provision (GFA Exemption Certification) and the percentage allowance for non-usable or non-occupiable space. She said staff had prepared that report and were requesting that the Commission consider the review and provide any comments or recommendations for change before it went to the City Council. She said tentatively the City Council would consider the review at its September 28 meeting.

Planner Chow said that GFA was a measurement of the size of the building in which certain features were either specifically included or excluded from the measurement. She said the definition included four major components, referred to as subsections (A), (B), (C), and (D), in which subsection (A) established the applicability and basic envelope of what was included, subsection (B) explicitly stated which features were included in the calculation; subsection (C) identified the specific features of a building that could be excluded; and subsection (D) was the “grandfathering” clause. She said the report particularly focused on subsections (C) and (D) as directed by the Council.

Planner Chow said that the Gross Floor Area Exclusion section that began on page 4 of the staff report considered all exclusions per the definitions that were applied over the review period. She said a summary table of all of the projects and the exclusions applied were found in Exhibit B attached to the staff report. She said staff had summarized some questions that were raised for the Commission’s consideration and were found on page 10. She said that the Commission should comment on whether any proposed modifications to the Ordinance were necessary at this time. She said the Commission should also consider the input received from the public. She said staff had received two additional pieces of correspondence besides Mr. John Beltramo’s letter cited in the staff report. Those additional correspondences were from Ms. Patti Fry, and Mr. John Baer, Madsen Development Partners. She said the correspondence had been distributed to the Commission. She said Ms. Fry’s basic concern was that every square foot not counted toward GFA was a square foot that could be built elsewhere on the project. Planner Chow said Mr. Baer was an applicant for a project at 389 El Camino Real; he had written that the way GFA was counted for stairwells should generally exclude stairs on the top floor unless there was roof access.

Chair O’Malley asked for public comments.

Public Comment: Mr. John Baer, Director of Development for Madsen Development Partners, said they were in agreement with the definition of GFA except for A.7 for stairwells and elevator shafts. He said a stairwell was a path to travel from one floor to the other but should not be counted going from the top floor to the roof.

Commissioner Bressler asked if he was talking about the third floor and if there was non-usable space there. Mr. Baer said at the top of most stairwells there usually was e air space but that was counted as square footage with this Ordinance Amendment.

Chair O’Malley closed the public comment period.

Commission Questions: Commissioner Riggs asked how stairwells were treated historically. Planner Chow said prior to the Ordinance Amendment, stairwells had only been counted on the first floor and then excluded on other floors. She said with the new definition all levels of the stairwells were included in GFA.

Chair O'Malley said the staff report indicated that at present if exclusions were not claimed with the design submittal they could not later be claimed; he asked for clarification. Planner Chow said if a project was being built for which no exclusions were applied during the planning approval stage that the applicant could not then request GFA exclusion. Chair O'Malley confirmed with staff that at that point the applicant could reapply for a plan revision and request the exclusion. He asked also about exclusions that could fall under two different thresholds. Planner Chow said the under subsection (C) that if the one percent threshold was exceeded there the exclusion might qualify under (C) 1 or (C) 2, but the exclusion could not be counted twice. Chair O'Malley asked about the Commission's exclusion of pedestrian areas related to parking structures. Planner Chow said that the Commission had found for a four-unit residential unit at the corner of Fremont and Santa Cruz Avenue that stair wells from the basement were excluded from GFA as they were similar to pedestrian and vehicular pathways.

Chair O'Malley said there did not seem to be anything that had caused great problems for the public over the 12 months since the Ordinance Amendment's adoption and questioned the need to amend the ordinance.

Commissioner Ferrick asked about the stairway issue as the staff report indicated it had caused the greatest impact. She said she recalled a table of comparison with other cities as to how stairways were treated. Planner Chow said that staff calculates the stairwells on all floors. Commissioner Ferrick asked if it would be more comparable and the standard with other jurisdictions to not count the top floor stairwells. Development Services Manager Murphy said the Commission had recommended counting the stair wells only on the first floor and the City Council had changed the ordinance to count the stairwells on all floors. He said the option presented tonight was to count the stairwells on every floor except for the top floor; thus, if a building were two stories, the stairwells would only be counted on the first floor; and if the building were three stories, the stairwells would only be counted on the first two floors. Commissioner Ferrick asked if a formal amendment would need to be made if the Commission were to recommend the change. Development Services Manager Murphy said that was staff's belief. Commissioner Ferrick asked about the discussion on atriums and stairwells. Planner Chow said that staff was clear on the position that atriums would not be considered a multi-floor calculation like stairwells and elevator shafts for GFA but the Commission could make a recommendation to explicitly state that atrium was excluded from GFA.

Commission Comments: Commissioner Riggs said the elevator exclusion recommended by the Commission had also been negated by the Council so that

elevators were counted on every floor. He said the applicant for 1010 Doyle had not been required to do elevators but decided they would as it would provide a service that might be needed; however they then found out they would have to reduce their building square footage by the amount of the elevator shaft. He said that was not reasonable. He said having the stairs count if they were enclosed but not counting if they were not enclosed, increased the pressure on architects to do exterior unenclosed stairs, which made the stairs difficult in the summer and the winter for tenants, even increasing more use of elevators and thus less green. He said there was a suggestion that the provisions of subsection (C)1 and (C)2 could be simplified based on a lack of need indicated by applications. He suggested that it was too soon to decide that, noting that there had not been that much development over the past year. He said there were examples of void space that were not architectural features. He said he supported residential trash compacting and recycling indoors as suggested by staff. He clarified with staff that numbered 1 on page 11 meant without any limitation on the percentage. He said if there were other updates those could be worked on at a later time.

Commissioner Bressler said he would be reluctant to change things that the Council had placed into this Ordinance Amendment. He said many persons in the community wanted bulk contained and he thought architectural details without any limitation was worrisome. He said free standing parking garages should not be excluded as they took up potential open space and that was a loophole that should be plugged.

Commissioner Ferrick said she concurred that the top stairway should not be counted. She said although counting the elevator on every floor served a purpose it was not a straight forward measurement.

Commissioner Riggs said regarding parking structures that more often the parking structures take the place of surface parking. He said stacking parking was greener. Commissioner Bressler said one of the intents of the metric was to limit the bulk built in a certain space. Commissioner Riggs said bulk was addressed in each of the zoning types and were issues related to floor area ration (FAR) and not GFA. Commissioner Bressler said GFA was a controlling mechanism.

Chair O'Malley said the Commission was being asked to comment on whether any proposed modifications to the Ordinance Amendment were necessary at this time. He said his recommendation was for staff to continue the review another 12 months with particular focus on the certain issues noted. He said that would provide more data to inform any additional changes to the Ordinance Amendment.

Commissioner Bressler said he did not think there would be more data in another 18 months. He asked if others were interested in making a recommendation to not exclude free standing parking garages from GFA. Chair O'Malley asked Commissioner Bressler to craft a motion. Commissioner Bressler said he was considering how that motion might be written. Chair O'Malley said that the Commission had struggled a couple of years with the proposed GFA Ordinance Amendment and then the Council had

struggled with it. He suggested that the Commission make recommendations on certain areas to be monitored for more data after another year of use. Commissioner Bressler said he thought he would have to write down what he wanted related to parking structures to get it started. Commissioner Ferrick said she agreed partly with the Chair but staff had indicated possible modifications to the definitions of GFA were desirable. She said with the upcoming Specific Plan that it might be preferable to do the clarification items now and then allow for a later revisit of larger items until after adoption of the Specific Plan. Chair O'Malley said he did not have any sense that staff had had problems implementing the Ordinance Amendment as written. Development Services Manager Murphy said there had not been large issues but there were recurring small issues and those over time would become a big issue. He said they could note those small reoccurring issues and come back in a year with a review and recommendations. Chair O'Malley suggested looking closely at those issues for another year and then come back to request changes. Development Services Manager Murphy said staff's desired changes were cleanup items rather than changes that would require the use of more staff resources.

Commissioner Keith said related to the potential for exclusion of interior trash compactors for multi-residential that Ms. Fry had a concern that if that space was not counted it could become buildable in the future. Planner Chow said it would be a monitoring problem but she did not think trash enclosures would create any big problems in that regard.

Commissioner Riggs moved to 1) recommend cleanup items that would not take more discussion or action; 2) to request to review in 12 months; and 3) take the opportunity to address parking structures. He said items for clean up were to not count the top level for stairs, accept some limited trash space in multi-unit residential for trash and recycling and investigate parallel restrictions to not allow outdoor bins without coming back to the Commission, and to accept clarifying recommendation regarding pedestrian circulation in parking structures. Commissioner Ferrick seconded the motion.

Commissioner Eiref asked if there was a limitation on the size of the trash enclosure. Planner Chow asked if those were inside and outside. Commissioner Riggs said just inside with qualifier that there could not also be outside trash. Planner Chow asked if that included trash chutes between floors; this was acceptable to the makers of the motion and second. Planner Chow clarified that a stairwell would be counted if it provided access to the roof. Commissioner Riggs said also stairways from the basement to the first floor should be counted. Planner Chow confirmed that was when the basement was occupiable. Commissioner Keith asked if there needed to be a clarification made about the atrium exclusion. Planner Chow said if the Commission agreed with staff's interpretation that this would be a good time to memorialize it. Commissioner Ferrick suggested that it be included in the motion to exclude atriums. Commissioner Riggs accepted the amendment.

Commissioner Bressler said that an atrium was a potentially huge area and he could not exclude it without limit. Commissioner Riggs confirmed with staff that an atrium was counted on the first floor. He said that this might countermand the limit of 12 feet of empty space. Planner Chow said the 12 feet was only applicable for Floor Area Limit (FAL) and there would be no double counting of five feet for attic and 12 feet of void space on other floors for GFA. Commissioner Bressler said he was more comfortable with the elevator shaft exclusion than the atrium exclusion. Commissioner Ferrick said she was willing to retract the item about atrium.

Commission Action: M/S Riggs/Ferrick to recommend to the City Council the following modifications to the definition of gross floor area (GFA):

- Modify subsection 16.04.325 B (7): To exclude the last floor of stairwells, except for floors with roof access.
- Modify subsection 16.04.325 C(3): To exclude pedestrian circulation areas, such as stairwells, elevators, and walkways within parking garages.
- Modify subsection 16.04.325 C(6): To exclude trash compactors, chutes and recycling rooms in multi-family developments, limited to a maximum percentage as determined by staff. Where outdoor trash and recycling receptacles are also provided on multi-family residential projects no exclusion shall apply.

Motion carried 6-0 with Commissioner Kadvany absent.

Commission Action: There was majority consensus to review the definition of GFA in one year to allow time for more case studies and to consider whether additional modifications to the definition are warranted. (The Commission subsequently noted that the impacts of atriums would be part of the review.)

Commissioner Riggs moved to have the definitions reviewed after 12 months and take the opportunity to consider parking structures and suggest that the Council authorize an ancillary planning project on parking structures. Commissioner Bressler said that part of this was to explore mechanisms that would encourage more open space. He said that the open space in the Gateway project was nicer than the existing open space but there was not much more open space than existing. He said he did not want the downtown completely covered in cement. He said the motion should consider the concept to review the parking structure floor area. Commissioner Riggs said the motion was for a recommendation to the City Council for an ancillary planning project to discuss the pros and cons of parking structures such as the provision of open space for parking structures of a certain size. Commissioner Ferrick said that might induce more surface parking. She said she would like to revisit the elevator shaft. Commissioner Riggs said the elevator platform should only be counted once but Council had determined otherwise. He said the Council had advised that there could be further discussion in a year. Commissioner Ferrick asked if counting an elevator on every floor had resulted in someone planning the smallest elevator. Planner Chow said she did not have any information about that. Commissioner Riggs said that the building code would require a

minimum size of elevator. Commissioner Riggs said his motion was to recommend to the Council that there be a study on the pros and cons of a parking structure. Commissioner Bressler seconded the motion. Commissioner Keith asked if the Commission could have a study session on the parking structures themselves. Planner Chow said they could if the City Council authorized staff to work on such a study.

Commission Action: M/S Riggs/Bressler to recommend to the City Council that consideration should be given to the creation of a planning project to discuss the pros and cons of freestanding parking structures, such as the open space factor.

Motion carried 6-0 with Commissioner Kadvany absent.

Commission Action: M/S Bressler/Ferrick to recommend to the City Council the following modification to the definition of GFA.

- Modify subsection 16.04.325 B(7): To include only the first floor of an elevator in gross floor area.

Motion carried 6-0 with Commissioner Kadvany absent.

Development Services Manager Murphy said the Commission had not wanted to discuss atriums further or clarify it in the Ordinance Amendment. He said staff's position was that atriums were not included in GFA as they did not have a floor above the first level because of the base definition that there needed to be a floor to count floor area. Commissioner Ferrick said consistent with elevator shaft and stairwells that if there was not a floor then it was not counted; she suggested that might be the definition. Commissioner Bressler said there would no limit on that and there should be some limit. Commissioner Riggs said maybe there was an economic limit.

Commissioner Bressler moved that the Commission review the definition of atrium with the intent of setting a limit. Commissioner Riggs said pursuant to the question in the email that an atrium next to a stair should not be confused as part of the stairwell but considered just first floor space once and which was historically understood by Planning if that would contraindicate the issue of FAL where over 12 feet was counted a second time in residential. Development Services Manager Murphy said considerations of GFA and FAL should be separate. Commissioner Riggs said that an atrium in a commercial space was not counted. Development Services Manager Murphy said this also covered large industrial buildings having 25-foot high storage racks that did not count as floor space. Commissioner Ferrick said that this could be called out for review in a year as previously moved. Commissioner Bressler retracted his motion. Development Services Manager Murphy said that staff would include a review of atrium uses in the one year review of the GFA Ordinance Amendment. Chair O'Malley said staff was agreeing to another one year review of the GFA Ordinance Amendment.

Commissioner Keith left the meeting at approximately 8:25 p.m.

D. STUDY SESSION

Study Session/Willow Business Area and M-2 Zoning District Area/City of Menlo

Park – The City is considering a multi-phase approach to planning for the M-2 (General Industrial) Zoning District with an initial focus on the Willow Business Area (WBA) located in the vicinity of the intersection of Willow Road and Bayfront Expressway. The goal of the effort would be to streamline planning and building permit processes to reduce turnaround time and increase certainty of standards for zoning review of permit applications to remodel and expand buildings. The purpose of this initiative is to provide greater opportunity for business development that benefits the City's fiscal sustainability in the Willow Business Area. The purpose of the Planning Commission study session is to provide input regarding the proposed work program, which includes community outreach and environmental review, for the potential Zoning Ordinance Amendments regarding the following:

- Create new thresholds for review procedures for the use and storage of Hazardous Materials based on materials and quantities with updated requirements and specific criteria.
- Update requirements for roof-mounted equipment on existing buildings to create more practical solutions for addressing potential visual and noise impacts.
- Update requirements to allow an increase in the maximum sign area for larger parcels in M-2.
- Create a new zoning district for the Willow Business Area consistent with the General Plan in order to streamline approval process for tenant improvements involving a change of use for preferred uses or construction of new square footage for preferred uses.

The Planning Commission will not be taking any action at this meeting, but the Planning Commission will have the opportunity to provide comments for consideration by the City Council.

Staff Comment: Development Services Manager Murphy said that hard copies of his presentation had been distributed to the Commissioner, were available on the table in the back of the Chambers for the public, and would be posted on the City's website under "Projects." He said the presentation was very similar to the presentation given to the Willow Business Area Roundtable recently.

Development Services Manager Murphy said the goal of planning for this area had been set in January 2007 and had been reconsidered every year since as part of the Council's priority setting. He said in February 2008, the City Council had approved a scope of work for the Dumbarton Transit Plan which would run through area of the City. He said in November 2008, the City Council reviewed the Business Development Business Plan, which had defined a focus for the M-2 zoning district. He said in March

2009, the City Council provided direction on a coordinated environmental review for opportunity areas within the Willow Business Area, which included the Tyco/GM, AMB and Menlo Business Park sites. He said in March 2009, the Council updated the Business Development Business Plan. He said in May 2010, the effort for this geographic area received new focus with a roundtable meeting on issues of the Willow Business Area, which was attended by City staff, business and property owners, and people living and working in the area. He said in July 2010 there was a follow up meeting to consider a phased approach for the M-2 and more specifically for the Willow Business Area. He said the map showed the overall M-2 area with subareas identified. He said within M-2 there were eight subareas. He said there were five subareas near the intersection of Willow Road and the Bayfront Expressway and the Menlo Business Park and the Willow Business Park, which is being rebranded as the Willow Science and Technology Park. He said within the O'Brien Drive area there were multiple property owners, Oracle's Sun site, and the Tyco/Gm site. He said north of Chilco Street were three subareas at the Marsh Road and Highway 101 interchange, which included Haven Avenue, and Bohannon East and Bohannon West. He said this project would not include the M-1 zoning district along Hamilton Avenue or the commercially zoned properties along Willow Road.

Development Services Manager said one thing that was very important looking at the subareas were the properties within the redevelopment area which provide the potential for funding some of the work efforts associated with this planning.

Development Services Manager Murphy said the real focus of the Willow Business Area has been the Tyco/GM site, AMB site, the Menlo Business Park site, and because of its proximity the O'Brien Avenue area. He said the Oracle Sun site was shown within the Willow Business Area but some of the proposed changes were not considered for this site because of the "X" overlay zoning and that some of the proposed changes might not apply to that site. He said that he had a conflict of interest as his wife works at the Oracle Sun site and suggested the Commission could group comments if there were any on that site so he could recuse himself during that discussion. .

Development Services Manager Murphy said the planning for the M-2 was proposed as two phases. He said Phase I would address the Willow Business Area for which there had been work of staff and the Council's Business Development subcommittee to provide a goal for the planning effort, which was to streamline processes to reduce turnaround time; increase the certainty of standards for zoning review of permit applications, and to remodel and expand buildings to provide greater opportunity for business development that benefitted the City's fiscal sustainability in the Willow Business Area. He said the Commissioner was being asked to comment on that proposed plan. He said that Phase II would consider the rest of the M-2, which might be branded as the Marsh Business Park. He said the goal was to establish a comprehensive planning framework for the M2 district.

Development Services Manager Murphy said there were three sub-phases under Phase I differentiated by whether an ordinance amendment or CEQA were needed. Phase 1.1 would not need either. Phase 1.2 would need ordinance amendment which could be accomplished with a negative declaration. Phase 1.3 would need ordinance amendment which would trigger the need for an environmental impact review. He said Phase 1.1 would not need work from the Planning Commission but Phases 1.2 and 1.3 would. He said Phase 1.1 included improved business license and zoning compliance review, updated procedures and forms, and investment in technological improvements, which would be presented to the Council and request an investment of more resources for over the counter plan checks for tenant improvements. He said the plan check options were the regular review which allowed four weeks for first comments; the use of a third party to do plan check with whom the timeframe could be negotiated by the applicant; or an enhanced over the counter plan review to include the timing and extended timing of appointments, including a planner in the plan check with building staff, the use of a dedicated conference room and the potential for a fee for that service.

Development Services Manager Murphy said that Phase 1.2 would involve the Commission in considering the use and storage of hazardous materials and revisit some of those requirements to quantify certain chemicals and certain criteria. He said another possibility would be for the City to retain a hazmat specialist in lieu of using planning staff. He said they would also look at updating requirements for roof mounted equipment for existing buildings to create more practical solutions for addressing potential visual and noise impacts, and to update requirements to allow an increase in the maximum sign area for larger parcels in M-2. He next showed a table of the existing and proposed concepts of threshold of hazardous materials use and storage requiring a use permit.

Development Services Manager Murphy said Phase 1.3 would probably require an environmental impact report (EIR) as the intent was to create a new zoning district for the Willow Business Area consistent with the General Plan that would streamline the approval process for tenant improvements involving a change of use for preferred uses or construction of new square footage for preferred uses. He said the EIR and Fiscal Impact Analysis would examine the maximum buildout allowed under the General Plan and the comprehensive analysis would substitute for the current use permit trigger for use changes based on structural alterations and parking. He said it would consider staff review of architectural control for minor additions with specific standards for review and increases in maximum building height in exchange for minimum open space requirements. He said potentially that a transit center and ancillary retail services could be studied as well and that the Redevelopment Agency could contribute to funding

Development Services Manager Murphy said Phase 2 of the project would look at the Marsh Business Area, including the Haven Avenue area, Bohannon East, and Bohannon West, that might include such planning projects as vision plan(s), specific plan(s), zoning ordinance amendment(s), and a feasibility study for undergrounding d transmission lines.

Development Services Manager Murphy said other planning projects to which staff resources were being or would be dedicated included the ongoing El Camino Real/Downtown Specific Plan, the Housing Element Update of the General Plan, and the study of housing options at Hamilton East and Terminal sites with future projects including the General Plan Update of all elements, a zoning ordinance update, single family residential zoning review, and the Willow Road Commercial Corridor.

Development Services Manager Murphy said this evening that the Planning Commission was holding a study session to provide input on the work program; he said if the project went forward it would come back to the Planning Commission multiple times and there would need to be consideration of how those might be coordinated. He said that the City Council would hold a study session on September 21, 2010 on the work program and would be requested to give the direction to begin the work.

Chair O'Malley asked for public comment.

Menlo Park Fire Protection District's Fire Chief Mr. Harold Schapelhouman introduced District Board President Peter Ohtaki and Chief Ron Kiefer, the District's hazmat inspector. Chief Schapelhouman noted that years ago the City and District had worked on a 60-year lease for property on Chilco Street to be leased by the District and on which the District had built a fire station which provided service for the M-2. He said that the City and District sometimes worked at cross purposes citing the allowance by the City of a day care facility in the M-2. He said he had attended one of the meetings with the business and land owners regarding hazardous materials and was supportive of an easier and streamlined process for the land and business owners in the M-2. He said the table showing the threshold for a use permit was supported by Chief Kiefer and himself. He said they needed further discussion on what the quantities and types of materials that would be considered routine and what would create a trigger for more review. He said the presentation mentioned the possibility of consultants and or a hazmat specialist retained by the City who would conduct plan checks; he said the District would like to have more conversation about that as the District reviews plans for access and water supply, conducts the inspections for the storage and use of hazardous materials, enforces compliance under fire code and responds to emergencies. He said that warranted more discussion on responsibilities and collaboration on which roles each agency performs. He said staff had done a good job thus far with the plan to streamline processes. He said the District was lucky to have Chief Kiefer on their staff to provide those special services related to hazardous materials.

Mr. John Tarlton, Menlo Business Park, introduced Ms. Ellen Ackerman, their consultant for conditional use permits and environmental safety and compliance, and Mr. Dave Tarlton, the Construction and Project Manager. He said they were pleased that staff was taking this proactive approach. He said that they have had some successes with

tenants who were attracted to Menlo Park and they would like to improve in that area to have highly desirable tenants for Menlo Park.

Commissioner Bressler asked if the ability to build out on the spaces affected their clientele. Mr. Tarlton said their goal was to attract science companies who would then grow in Menlo Park and generate the kind of jobs and economic benefits everyone wanted. He said the ability to allow a tenant to expand in place was very powerful for them. He said Acclarent went through an excruciating timeframe to build 1,000 square feet of mezzanine and that had to do with communication between their staff and City staff.

Commissioner Bressler asked if the outlined suggested process would provide a mechanism to address the problem. Mr. Tarlton said it would. Chair O'Malley asked if the difficulty was the process or matters for which the Commission has control. Mr. Tarlton said that Development Services Manager Murphy had outlined many issues some of which were under the Commission's purview such as hazardous materials thresholds, addition of floor area for mezzanines and gross floor area for M-2.

Chair O'Malley closed the public comment period.

Commission Questions: Commissioner Riggs asked if the Commission was being asked to comment more on the work schedule. Development Services Manager Murphy said that was one component but also the action items related to the changes of phases 1.1, 1.2, 1.3, and those goals. Commissioner Riggs said the goals seemed positive in simplifying the process but typically the reason people wanted planning reviews was so their particular issues or fears might be addressed. He said they would need to place restrictions that would cover basic concerns. He asked if that was generally what would be done. Development Services Manager Murphy said that was the goal. He said if certain things raised certain concerns every time and they could identify a restriction that would address those concerns and be acceptable to the business community that would be optimal. He said to construct that list would require input from the Planning Commission and public outreach in the communities of Belle Haven, Lorelei Manor, Suburban Park and the City of East Palo Alto. Commissioner Riggs asked if a new zoning district was required because of changes to the review process. Development Services Manager Murphy said Phase 1.3 included the creation of a new zoning district. He said Phase 1.2 addressed hazardous materials, use permits, roof mounted equipment and sign size and it seemed the simplest way to address some of the issues of the Willow Business Area without changing things in the general M-2 as that would create confusion for those land and business owners. He said at the Willow Business Area Roundtable there were questions about that but there seemed to be support. He said there were other ways to do that and input was welcomed.

Commissioner Ferrick asked when there was not a use permit process for hazardous materials what the resource was for members of the public who had concerns.

Development Services Manager Murphy said over the past 5 years the Commission reviewed and approved 27 use permits for hazardous materials; 23 of those were in the Willow Business Area. He said they would compare the last five years of data and discuss with the Fire District the levels of hazardous materials that would not need the use permit process. He said the use and storage of hazardous materials would continue to be reviewed by the County Environmental Health Department, the Fire District, West Bay Sanitary District and the City but when a use permit was not needed there would be no public hearing noticing and staff report to the Planning Commission. He said the idea was to conduct community outreach and education about hazardous materials before these changes would be implemented so people were confident that these were not significant issues and there would be a user permit process for significant uses.

Chair O'Malley noted that a determination of the levels of hazardous materials particular to not requiring a use permit and those levels requiring use permit reviews was needed. He said there had been a mention of a hazardous materials specialist. He said that although there were four agencies doing plan reviews for businesses using or storing hazardous materials that ultimately it was the City's responsibility to sign off on such uses. He asked if a hazardous materials staff person would be hired.

Development Services Manager Murphy said the City and Fire District would collaborate in establishing the R & D level of hazardous materials and that would be considered by the Commission for recommendation to Council. He said the review of those plans for hazardous materials use and storage that did not go to the Commission would be made by the Community Development Director or designee, which could be a planner. He said the City might decide to hire a hazardous materials specialist rather than using planners to work in conjunction with the Fire District.

Chair O'Malley said that about 80 percent of chemicals the Planning Commission has reviewed were part of almost every application. He said the other 20 percent were varied; he said that whenever a new company came to town there would be a new chemical that had not yet been on any lists which was why the City needed someone with expertise to review those applications. He said he would support the City having a specialist in that area.

Commissioner Ferrick said that having a specialist might incur more expense for the applicants and noted that there were three other experts who look at the hazardous materials use permit. Chair O'Malley said that would be giving three agencies the control of approval and then the City would have to take the responsibility for their decisions. Development Services Manager Murphy said one of the four agencies who reviewed was City Building Division staff but neither that person nor the City's planners were specialists on hazardous materials. Chair O'Malley said the Fire District has a specialist and he was very comfortable with that. He said if there was a mechanism by which the District and City could agree on the person who would review and decide on

the levels of chemicals that would be exempt from Planning Commission review, he would be satisfied.

Commissioner Bressler said they had heard about the problem of adding 1,000 square feet for a mezzanine and asked if that had exceeded the gross floor area allowed or whether it had been the process that created the difficulties. Development Services Manager Murphy said from staff's perspective there were two aspects that caused the delay for the mezzanine application that was made. He said first staff had to determine which type of mezzanines counted toward gross floor area and which did not. He said once there was clarity about that then the project needed a use permit, which required staff review and Planning Commission review. He said that adding mezzanines within an existing building had fewer issues than mezzanines in additions to a building or a new building. Commissioner Bressler said these would not need any kind of variances. Development Services Manager Murphy said that was a good question. He said in this instance what was contemplated was within the general plan buildout so it would not require an increase in floor area ratio above what was currently allowed in the zoning district.

Commissioner Riggs said that ultimately streamlining involved other City departments such as Engineering and Building, and if the work was authorized by the Council, whether it would be coordinated with these other departments for comprehensive streamlining of project applications. Development Services Manager Murphy said that the Planning Commission should address matters that are under the Commission's purview. He said the focus was on the M-2 and Willow Business Area to implement changes which could potentially ripple through other parts of the City which would be great but was not the goal. He said under Phase 1.1 the goal was to improve the business license process and the over the counter plan check, which would have a citywide impact. He said extra funding of a plan check person would advance the counter plan check process and those were aspects with authority and control clearly associated with planning and building. He said that some of the issues related to plan review by engineering were separate from these and those were not being looked at as part of the mix yet. Commissioner Riggs said that an applicant for a business on battery research might try to navigate the application process and think everything was done and then discover a step was missed with Engineering or perhaps with PG&E. He said it does not appear that the City has an overall process, that it is close and perhaps consider doing the process overhaul 100 percent. He suggested that Community Development Services consider hiring an ombudsman. Development Services Manager Murphy said that Commissioner Riggs could make that comment and it would be stated for the record or he could relay that suggestion to the City Council. He said they understood there were a number of things to be improved and it would be a multi-year effort but right now they were focusing on things that would free up existing staff and have them repurposed.

Commissioner Eiref said there was great input from the community open house related to a desire for more retail, cafes and transit hubs. He asked if there was a feeling that

zoning changes would accomplish that. Development Services Manager Murphy said there had been no lack of ideas from the business community at the open house but at the end of the day the group had voted on what they most wanted and they overwhelmingly voted for process improvements and policy. He said the City's Business Development Services Manager would continue to work on the other elements identified but those were deemed a lower priority by the group. He said the retail and the transit hubs could be looked at as part of Phase 1.3 through the environmental impact report by looking at how to move people to reduce traffic impact and developing retail services to keep people out of their cars and have them walk to lunch.

Chair O'Malley said he thought the Commission had given their comments on the hazardous materials. He asked what was meant by updating the requirements for roof mounted equipment and signs. Development Services Manager Murphy said the requirement for roof mounted equipment was to screen up to the top of the equipment. He said that can easily be accomplished in new buildings but it was more challenging for older buildings to update with new roof mounted equipment such that the screening could be more obtrusive than the equipment showing. He said also many of these buildings were in areas not visible in residential areas. He said the change to the requirements would only be for existing buildings that are not visible from residential areas. He said the City's noise ordinance prohibits noise above noise 50 db at 50 feet from the equipment but if these buildings' equipment is thousands of feet from residential property than what would be the correct standard. He said sign area regardless of property size was a maximum of 100 square feet of sign area and if it was on a corner lot an additional 50 square feet was allowed. He said some of the larger properties now have more prominent tenants to who want to have a larger sign area.

Commissioner Ferrick asked if all of the 27 use permits for the use and storage of hazardous materials were approved. Development Services Manager Murphy said some came back for revisions but all were ultimately approved.

Commission Comment: Commissioner Riggs said he could support proposed limits or aspects limited in exchange for not coming to Planning Commission including noise. He said citywide however they needed to address the noise ordinance as 50 db was quite loud and there was no differentiation between a steady or fluctuating noise. He said that perhaps the ordinance could be relaxed in business parks and made stricter in residential areas. He said residential properties next to M-2 might have concerns about lighting. He said chemicals that people would want to know about were those with odor or those with the potential to poison. He said if the change in a project's site would affect mature trees that should be addressed similar to the noise issue so that trees within the heart of the business would not be deemed a problem whereas trees on the perimeter would be considered more stringently.

Commissioner Ferrick said she thought the work plan should be implemented. Chair O'Malley said he agreed. He said the hazardous materials application process needed to be updated and he liked the suggestion to include the Fire District. He said he

understood the roof mounted equipment and the sign area needs. He said it made sense to look at that area and create a new zoning district specific to it.

Commissioner Eiref said it would be great to document what businesses were lost because of a slow moving process and to see if other places have zoning districts that could be used as a model. Commissioner Ferrick said in the notes from the Roundtable someone had mentioned Sunnyvale and Portland, OR as possible sources.

Summary of Commission Comments:

- Retaining a separate City Hazardous Materials specialist might be redundant given the Fire District's Hazardous Materials specialist. If the role and responsibilities of the Fire District's Hazardous Materials specialists were clarified and memorialized, then there may only be a need to retain another specialist for unusual chemicals.
- As an additional work program item, it may be worthwhile to explore an "ombudsmen" position within the City to coordinate plan check and permitting processes across City Departments and Divisions and across non-City agencies (e.g., Fire District, utility companies, etc.) that touch the construction process.
- If the City is going to exchange discretion for specific standards, then issues to be addressed should include: noise (e.g., differentiating between steady and repetitive noise), lighting (e.g., minimizing spill over on adjacent properties), chemicals (e.g., odors or release of poisons), landscaping (e.g., changes to the perimeter of a site that could affect mature trees).
- Research other cities that may have good zoning requirements to model.

E. COMMISSION BUSINESS

Update on pending planning items.

El Camino Real/Downtown Specific Plan (Phase II) Process

Planner Chow said there was really nothing new to update; staff was still in process of getting the Environmental Impact Report released.

Commissioner Riggs asked if the consultant was looking at presentation options for the downtown parking proposals. Planner Chow said she would check in with Planner Rogers. Commissioner Bressler said that was the most potentially contentious aspect of the Plan.

F. REPORTS AND ANNOUNCEMENTS

Planner Chow said she had provided the Commission with a staff report on the review and approval of process for the Burgess Gymnastics Center for the August 31, 2010 City Council meeting, which included a draft set of plans. She said if the process was approved as provided, the Planning Commission would review the project and make recommendations to the Council at its September 25, 2010 meeting. She said this was a new project.

ADJOURNMENT

The meeting adjourned at 9:44 p.m.

Staff Liaison: Deanna Chow, Senior Planner

Recording Secretary: Brenda Bennett

Approved by the Planning Commission on September 13, 2010