



PLANNING COMMISSION AGENDA

Regular Meeting
March 10, 2014 at 7:00 p.m.
City Council Chambers
701 Laurel Street, Menlo Park, CA 94025

CALL TO ORDER – 7:00 p.m.

ROLL CALL – Bressler, Eiref (Vice Chair), Ferrick, Kadvany (Chair), Onken, Riggs, Strehl

INTRODUCTION OF STAFF – Deanna Chow, Senior Planner; Justin Murphy, Development Services Manager; Liz Schuller, Assistant Planner

A. REPORTS AND ANNOUNCEMENTS

Under “Reports and Announcements,” staff and Commission members may communicate general information of interest regarding matters within the jurisdiction of the Commission. No Commission discussion or action can occur on any of the presented items.

A1. Update on Pending Planning Items

- a. General Plan – City Council – February 25, 2014
- b. Economic Development Study Session – City Council – February 25, 2014
- c. 350 Sharon Park Drive Conditional Development Permit – City Council – March 4, 2014
(*continued at the request of the applicant*)
- d. 389 El Camino Real – BMR Amendment – City Council – March 18, 2014

B. PUBLIC COMMENTS

Under “Public Comments,” the public may address the Commission on any subject not listed on the agenda within the jurisdiction of the Commission and items listed under Consent. When you do so, please state your name and city or political jurisdiction in which you live for the record. The Commission cannot respond to non-agendized items other than to receive testimony and/or provide general information.

C. CONSENT

Items on the consent calendar are considered routine in nature, require no further discussion by the Planning Commission, and may be acted on in one motion unless a member of the Planning Commission or staff requests a separate discussion on an item.

- C1.** [Approval of minutes from the February 10, 2014 Planning Commission meeting](#)

D. PUBLIC HEARING

- D1.** [Use Permit Revision/Jill Buathier/1900 Santa Cruz Avenue](#): Request for a use permit revision to add an approximately 1,930 square foot basement to a previously approved two-story residence on a substandard lot with regard to lot width in the R-1-U (Single Family Urban Residential) zoning district. The previous use permit was approved by the Planning Commission on October 7, 2013. No changes are proposed above grade.

- D2. City of Menlo Park Housing Element Update, Zoning Ordinance Amendments, Environmental Review:** The proposed Housing Element provides an update to the goals, policies and implementation programs of City's adopted Housing Element. The proposed Zoning Ordinance amendments would implement specific programs in the current Housing Element (2007-2014), some of which are required for compliance with State law.

The Planning Commission will consider and make recommendations on the following components of the project:

Housing Element Update (2015–2023)

The proposed Housing Element includes updated policies and programs that are intended to guide the City's housing efforts through the 2015–2023 Regional Housing Needs Allocation (RHNA) planning period for compliance with State law.

Zoning Ordinance Amendments (Housing Element Implementation)

Under the proposed Project, the City would implement several programs identified in the current Housing Element. Programs include ordinance amendments related to the following:

- 1) Emergency Shelter for the Homeless Overlay: For compliance with Senate Bill 2, the City must rezone to allow an emergency shelter for the homeless in at least one zone without a conditional use permit or any other discretionary process. The definition of Emergency Shelter is "housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay." The proposed Zoning Ordinance amendment would 1) create an overlay zone where emergency shelters, up to a maximum of 16 beds in totality throughout the City, would be a permitted use and 2) establish written and objective performance standards as part of the overlay in the Zoning Ordinance.
- 2) Zone for Transitional and Supportive Housing and Residential Care Facilities: To comply with SB 2, the Housing Element must demonstrate that transitional and supportive housing are permitted as a residential use and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. Similarly, residential care facilities must also be treated as a residential use. The proposed Zoning Ordinance amendment would include modifications to the definition of "dwelling" to include transitional and supportive housing and residential care facilities.
- 3) Procedures for Reasonable Accommodation: A series of federal and state laws (Federal Fair Housing Amendments Act of 1988, California's Fair Employment and Housing Act, and the State's Housing Element law) have been enacted to prohibit policies that act as a barrier to individuals with disabilities who are seeking housing. The proposed Zoning Ordinance amendment includes the establishment of procedures for seeking reasonable accommodation for individuals with disabilities to ensure equal access to housing.
- 4) Secondary Dwelling Units and Accessory Buildings/Structures: Modifications to ordinances regulating secondary dwelling units on single-family properties and accessory buildings/structures on all properties throughout the City. The proposed approach would include modifications to Chapter 16.79 (Secondary Dwelling Units) and Chapter 16.68 (Accessory Buildings and/or Structures) and would be two-pronged, including modifications to the existing secondary dwelling unit ordinance to allow for the conversion of legally permitted and constructed accessory buildings (meeting certain criteria) into secondary dwelling units while simultaneously amending the accessory building/structure language to more clearly distinguish how and where an accessory building or structure

could be used. The proposed Zoning Ordinance amendment could result in modifications to the development regulations, including setbacks, wall and overall height, floor area, daylight plane, and parking. Additionally, a reduction in the minimum lot area threshold (from 6,000 sf to 5,750 sf) for when a use permit is required for a secondary dwelling unit would be included in the proposed Zoning Ordinance amendment.

- 5) Environmental Review: A Negative Declaration has been prepared to review the potential environmental impacts of the proposed project.

E. REGULAR BUSINESS - None

F. COMMISSION BUSINESS

- F1. Residential Design Review**: The subcommittee will provide a small sample of draft Residential Guidelines text for Commission feedback. The goal is to have consensus on the general approach for the Guidelines before investing extensive effort needed for a complete draft. A nominal process component for how the Guidelines are expected to be used by the Planning Commission will also be briefly discussed.

ADJOURNMENT

Future Planning Commission Meeting Schedule

Regular Meeting	March 24, 2014
Regular Meeting	April 7, 2014
Regular Meeting	April 21, 2014
Regular Meeting	May 5, 2014
Regular Meeting	May 19, 2014
Regular Meeting	June 9, 2014
Regular Meeting	June 23, 2014

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At every Regular Meeting of the Commission, in addition to the Public Comment period where the public shall have the right to address the Commission on any matters of public interest not listed on the agenda, members of the public have the right to directly address the Commission on any item listed on the agenda at a time designated by the Chair, either before or during the Commission's consideration of the item.

At every Special Meeting of the Commission, members of the public have the right to directly address the Commission on any item listed on the agenda at a time designated by the Chair, either before or during consideration of the item.

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PLANNING COMMISSION

Agenda and Meeting Information

The Planning Commission welcomes your attendance at and participation in this meeting. The City supports the rights of the public to be informed about meetings and to participate in the business of the City.

ASSISTANCE FOR PERSONS WITH DISABILITIES: Person with disabilities who require auxiliary aids or services in attending or participating in Planning Commission meetings, may call the Planning Division office at (650) 330-6702 prior to the meeting.

COMMISSION MEETING AGENDA AND REPORTS: Copies of the agenda and the staff reports with their respective plans are available prior to the meeting at the Planning Division counter in the Administration Building, and on the table at the rear of the meeting room during the Commission meeting. Members of the public can view or subscribe to receive future weekly agendas and staff reports in advance by e-mail by accessing the City website at <http://www.menlopark.org>.

MEETING TIME & LOCATION: Unless otherwise posted, the starting time of regular and study meetings is 7:00 p.m. in the City Council Chambers. Meetings will end no later than 11:30 p.m. unless extended at 10:30 p.m. by a three-fourths vote of the Commission.

PUBLIC TESTIMONY: Members of the public may directly address the Planning Commission on items of interest to the public that are within the subject matter jurisdiction of the Planning Commission. The City prefers that such matters be presented in writing at the earliest possible opportunity or by fax at (650) 327-1653, e-mail at planning.commission@menlopark.org, or hand delivery by 4:00 p.m. on the day of the meeting.

Speaker Request Cards: All members of the public, including project applicants, who wish to speak before the Planning Commission must complete a Speaker Request Card. The cards shall be completed and submitted to the Staff Liaison prior to the completion of the applicant's presentation on the particular agenda item. The cards can be found on the table at the rear of the meeting room.

Time Limit: Members of the public will have **three** minutes and applicants will have **five** minutes to address an item. Please present your comments clearly and concisely. Exceptions to the time limits shall be at the discretion of the Chair.

Use of Microphone: When you are recognized by the Chair, please move to the closest microphone, state your name and address, whom you represent, if not yourself, and the subject of your remarks.

DISORDERLY CONDUCT: Any person using profane, vulgar, loud or boisterous language at any meeting, or otherwise interrupting the proceedings, and who refuses to be seated or keep quiet when ordered to do so by the Chair or the Vice Chair is guilty of a misdemeanor. It shall be the duty of the Chief of Police or his/her designee, upon order of the presiding officer, to eject any person from the meeting room.

RESTROOMS: The entrance to the men's restroom is located outside the northeast corner of the Chamber. The women's restroom is located at the southeast corner of the Chamber.

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PLANNING COMMISSION DRAFT MINUTES

Regular Meeting
February 10, 2014 at 7:00 p.m.
City Council Chambers
701 Laurel Street, Menlo Park, CA 94025

CALL TO ORDER – 7:01 p.m.

ROLL CALL – Bressler, Eiref (Vice Chair), Ferrick, Kadvany (Chair), Onken, Riggs (Absent), Strehl

INTRODUCTION OF STAFF – Deanna Chow, Senior Planner; Jean Lin, Associate Planner; Justin Murphy, Development Services Manager; Kyle Perata, Associate Planner; Corinna Sandmeier, Contract Planner; Thomas Rogers, Senior Planner

A. REPORTS AND ANNOUNCEMENTS

A1. Update on Pending Planning Items

- a. Housing Element – City Council – January 28 and February 11, 2014

Senior Planner Rogers said the City Council authorized the City Manager to submit revisions to the draft Housing Element at the January 28 meeting. He said at the City Council's February 11 meeting they would consider approval of supplemental revisions to the draft Housing Element.

- b. General Plan – City Council – February 11 and 25, 2014

Senior Planner Rogers said the City Council at their February 11 and 25 meetings would consider the scope of work for the General Plan update and the consultant selection process.

Senior Planner Rogers noted that he had an email discussion with Commissioners Eiref and Kadvany about a planning case for 712 Partridge Avenue in 2013 for which a neighbor had concerns about trees, and the Commission had required a tree protection plan. He said since then, the neighbor reported to the City that during recent construction the tree plan was not being adhered to. He said the City Arborist and Building and Planning Divisions coordinated on making sure the plans reflected the existing conditions and considered revisions to the tree protection plan to insure protection of the redwood tree.

Chair Kadvany asked how criteria for secondary dwelling units would fit within the draft Housing Element. Senior Planner Rogers said he thought that would be folded into the draft Housing Element and that some of those items would at some point require action to amend ordinances.

Commissioner Bressler said there was concern in the community that the proposed secondary dwelling unit criteria and regulations would be too restrictive and expensive. He asked as this was needed to satisfy the Housing Element whether it would be possible later to soften some of the impediments to getting secondary dwelling units built once the Housing Element was in place. Senior Planner Rogers said regarding secondary dwelling units and the Housing Element updates that the intent was to encourage the secondary dwelling units. He said one example was decreasing the minimum lot square footage requirement from 7,000 to 6,000. He said the current proposed revisions would lower that to 5,750 square feet. Commissioner

Bressler said the revisions for the criteria for secondary dwelling units seemed rushed and he was concerned the City would lessen the opportunity for secondary dwelling units. He asked if that happened whether the City would be able to correct that. Senior Planner Rogers said tomorrow night the Council would look at minor text amendments to the draft Housing Element and anything that arose under the Housing Element item on this agenda would go to the Council at a later date.

Commissioner Strehl said she also agreed the Housing Element and the criteria for secondary dwelling units were being rushed. She said she had expressed her concern about that to staff and the Commission Chair. She said this item would be considered late in the evening, and she thought the Commission would not be able to give the subject its due attention, and that the public might not be able to stay to hear the discussion.

B. PUBLIC COMMENTS

There were none.

C. CONSENT

C1. Approval of minutes from the January 13, 2014 Planning Commission meeting

Chair Kadvany said he had comments on item C2 and wanted to pull that from the consent calendar.

Chair Kadvany noted that some emails with several corrections to the January 13, 2014 from Commissioners had been received.

Commission Action: M/S Consensus to approve the January 13, 2014 Planning Commission meeting minutes with corrections as submitted by email.

- Page 15, between 2nd and 3rd full paragraph: Insert “for” between the words “called” and “the”
- Page 19, 5th paragraph, last sentence: Replace “o” with “of” between the words “behalf” and “Kepler’s Books”

Action carried 6-0 with Commissioner Riggs absent.

C2. Confirmation of the Summary of the Planning Commission Comments and Recommendations for the General Plan Update Scope of Work

Chair Kadvany said the summary was detailed but he did not think things were prioritized in any fashion. Senior Planner Rogers said the Commission could make clarifications and adjustments to the summary. He said if they needed Development Services Manager Murphy’s input he would be at this meeting later this evening so they could move the item until later on the agenda.

Commissioner Bressler said a topic, people mover systems, that the Commission had discussed at length, and which was important to him, was only one line in the summary: He

said he recalled the Commission crafted a motion and voted. He said they needed to look at the transcript and bring this item back for consideration.

Chair Kadvany said the City Council would be considering the General Plan update scope of work at their meeting the next evening. He said the Commissioners individually might need to craft something so the summary indicated what the Commission meant. He suggested the item be tabled until later when Development Services Manager Murphy was present. Item was heard between items E1 and F1.

D. PUBLIC HEARING

D1. Use Permit/Casey Cramer/228 Princeton Road: Request for a use permit to demolish an existing single-story, single-family residence and construct a new two-story, single-family residence on a substandard lot with regard to lot width in the R-1-U (Single-Family Urban) zoning district.

Staff Comment: Contract Planner Sandmeier said an additional email of support for the project had been received from Ms. Ann Sason, 204 Princeton Road.

Public Comment: No one was present to speak. Senior Planner Rogers noted the applicant had been asked to attend.

Chair Kadvany closed the public hearing.

Commission Comment: Commissioner Eiref said he thought this proposed design would fit well within the neighborhood. He moved to approve as recommended in the staff report. Commissioner Bressler seconded the motion.

Chair Kadvany said he too thought the proposed design would fit well with the neighborhood. He said he liked the single car garage in front and suggested screening might be needed for any cars that parked perpendicularly.

Commissioner Onken confirmed with staff that there were no issues raised by neighbors or staff regarding the proposed project. He said he could support the project.

Chair Kadvany noting the arrival of people determined there were speakers for the project. Chair Kadvany reopened the public hearing.

Public Comment: Mr. Tim Chappelle, project architect, apologized for being late and that he thought the meeting started at 7:30 p.m. He said the proposed design was for a house and a two-story mass with an L-shape one-story mass for the garage to allow natural light for the courtyard. He said the materials were natural with the intent of bringing the home into the fabric of the community. He said they had communicated with all of the neighbors on all sides throughout the design process, coordinating window placement for privacy and allowing natural light.

Chair Kadvany noted the massing of the second story was to one side and asked if they had considered centering the second story. Mr. Chappelle said the neighbor's property on the side where the second story was placed had a long driveway that would serve as a buffer for the two

story. He said the two-story mass was narrow and if it was centered it would impact the shared outdoor space.

Commissioner Ferrick noted the driveway and the unusual way the uncovered parking space would be accessed. Mr. Chappelle said the walled area had a dual purpose where a car could be parked or the area could be used as a patio when entertaining company. Commissioner Ferrick asked if the perforated areas on the driveway were meant to indicate permeable drainage. Mr. Chappelle said the idea was to break up the hard scape in the front through a change in materials.

Chair Kadvany closed the public hearing.

Commission Action: M/S Eiref/Bressler to make the findings and approve the use permit as recommended in the staff report.

1. Make a finding that the project is categorically exempt under Class 3 (Section 15303, "New Construction or Conversion of Small Structures") of the current CEQA Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the use permit subject to the following **standard** conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Arcanum Architecture, Inc., consisting of 11 plan sheets, dated received January 28, 2014, and approved by the Planning Commission on February 10, 2014, except as modified by the conditions contained herein, subject to review and approval by the Planning Division.
 - b. Prior to building permit issuance, the applicants shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicants shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
 - d. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval by the Planning, Engineering and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
 - e. Simultaneous with the submittal of a complete building permit application, the applicant shall submit plans indicating that the applicant shall remove and replace any damaged and significantly worn sections of frontage improvements. The plans shall be submitted for review and approval of the Engineering Division.

- f. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a Grading and Drainage Plan for review and approval of the Engineering Division. The Grading and Drainage Plan shall be approved prior to the issuance of grading, demolition or building permits.
- g. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance.

Motion carried 6-0 with Commissioner Riggs absent.

D2. Conditional Development Permit Amendment/Bob Linder/350 Sharon Park Drive:

Request for a Conditional Development Permit (CDP) amendment for a project at an existing multi-building apartment complex located in the R-3-A-X (Garden Apartment, Conditional Development) zoning district. The project would include the demolition of the existing recreation building, the construction of a new recreation building and a new leasing office and associated parking area, façade improvements to all of the existing apartment buildings, and landscaping modifications. The proposed modifications would result in an increase in the maximum building coverage of up to 40 percent at the subject site, which would exceed the current maximum of 30 percent, set by the existing CDP. The proposed amendment to the existing CDP (which covers multiple sites in the vicinity) would apply only to the subject site, and would not alter the development standards for any of the other properties within the CDP. As part of the proposal, up to 42 heritage size trees throughout the approximately 15.6-acre site are proposed for removal, which represents a reduction from the 62 heritage tree removals previously proposed. The Environmental Quality Commission reviewed the proposed heritage tree removals at its meeting on December 18, 2013. ***Continued from the meeting of November 4, 2013 and originally rescheduled and noticed for the meeting of January 27, 2014.***

Staff Comment: Planner Perata said a materials and color board was being distributed to the Commission, and had been presented to them previously at the November 4, 2013 meeting. He said three pieces of correspondence opposing the project, received after the printing of the staff report, had been forwarded to the Planning Commissioners. He said copies were available on the table at the back of the room for the public.

Questions of Staff: Chair Kadvany said the only signage he saw for the leasing office was a small sign on the west side of the building, and asked if that was all the signage that was being proposed. Planner Perata said sheet SG-1.0 in the plan set identified the signs and their locations and details.

Chair Kadvany said most of the windows in the residential units seemed to be slider windows. Planner Perata said that none of the windows as proposed would have grids. Chair Kadvany confirmed with staff that the recreation building and leasing office would have divided light windows. He asked if those would be true divided lights. Planner Perata said that detail could be confirmed with the applicant.

Chair Kadvany said the Environmental Quality Commission (EQC) had recommended a certain base line number for heritage trees. He said the Planning report seemed to follow the recommendations made by the EQC but did not specifically state it was their recommendations.

Public Comment: Mr. Bob Linder, BRE Properties, said he wanted to make an update statement. He said previously they met in November 2013 on the proposed project and since then BRE has entered into an agreement with Essex Realty Trust of Palo Alto. He said there was a merger agreement on the table, and the deal was expected to close in either the first or second quarter of this year. He said there had been comments to wait on improvements until this merger was done but his understanding was that any approvals by the Planning Commission and City Council would run with the land.

In response to a question from Chair Kadvany, Mr. Linder said they and their competitors try to create a lot of volume in the interior of their leasing buildings, and usually there is an 18 to 20 foot ceiling height creating a grand entry space. Chair Kadvany said that the new proposed building would replace a large area of open landscape and although one story, the greater height impacted the aesthetics of the corner like a two-story building would. Mr. Linder said the overall massing matched the current height of the buildings adjacent to it. He said the footprint was 2,000 square feet. Chair Kadvany asked about the windows in the recreation center and the leasing office. Mr. Linder said they would not be true divided light windows. He said the dividers would be in the interior of the dual paned windows.

Commissioner Onken said it appeared the leasing office intruded into the front setback. Planner Perata said the project was developed through a Conditional Development Permit (CDP) with overarching regulations in addition to the Zoning Ordinance. He said the setbacks were defined as part of the development plan approvals and that the setback as shown was the setback of that plan. Commissioner Onken asked what the parallel line to the road and crossing the corner of the leasing office was as it seemed to indicate the leasing office was nonconforming, and noted page A0.1B. Mr. Linder said it was the roof eave line showing over the setback line but the footprint of the building was behind the setback line.

Dr. Uzi Bar Gadda, Menlo Park, said the CDP amendment was requesting a 40 percent cap on building coverage but this site should have stayed at 30 percent cap on building coverage but it was at 38.75 percent. He said the project should not be allowed as there were 15.6 acres of buildings including some model apartments, a leasing office that could be expanded, and an improved clubhouse. He said there were other options besides this proposal and the goal should be to protect healthy heritage trees as well as all the almost heritage healthy trees and not to create a commercial frontage that would sacrifice the trees. He said there were many existing internal building alternatives possible, noting another complex in the area that had improved its site using existing buildings and in which the model apartment were located in the apartment building and not in a separate building. He said signage to the existing leasing office could be improved rather removing 10 healthy long-term heritage trees for the proposed new leasing office. He said he attended the EQC meeting and thought the applicant could work harder to meet the recommendations of that Commission. He said there were trees identified by the City Arborist as impinging on buildings and/or hazardous. He said those needed improvement, and the owner had recently been limbing and trimming those trees. He said he recommended the Planning Commission accept the EQC recommendations and deny the CDP amendment. He said the deal with Essex Realty was more of an acquisition rather than a merger as the dominating partner was Essex Realty. He said there was no need to rush on this project as BRE would be absorbed by the larger entity.

Ms. Amy Poon said she had attended the EQC meeting and they had been unanimous on their recommendations, which she thought were very well thought out. She said the report to the

Planning Commission seemed to indicate that BRE was not able to meet those recommendations but wanted the amended CDP anyway. She said BRE had indicated they would plant replacement trees but because those would only be two to five year old trees they would not be protected by the Heritage Tree Ordinance. She said if the Planning Commission approved the CDP amendment that they include the EQC recommendations as conditions of approval. She said she also agreed with the last speaker to wait to see what the new property owner would do with the property.

Mr. Siegfried Schoenf said rather than expanding building coverage to 40 percent he thought the focus should be returning the site to the 30 percent building coverage it should have been as part of the CDP. He asked if the increase happened what that meant to the overall neighborhood as those residents have valuable properties and pay current tax rates to the City and the school district, and whether they too should be allowed to increase to a building coverage as proposed to be amended for this site in the CDP. He said the applicant had indicated they could not comply with the EQC recommendations as that might cause them to be non-compliant with ADA requirements as they needed to have a section of the walkway accessible. He said that made sense for the leasing office but the reality of the apartment complex was that hardly any of those were ADA compliant. He said they should wait and see what the plans of the new owner for the property would be.

Ms. Aruni Nanayakkara said she had spoken to the Commission before about this project. She said she agreed with all of the comments made already by speakers. She said the question was asked if the exception regarding building coverage was for the entire area under the existing CDP but her understanding was that it would only apply to Sharon Green, the project proposal. She indicated that might lead to others asking for similar dispensation. She thought it would be fair to ask this project to decrease its building coverage to that allowed by the original CDP. She said her other concern was that the EQC voted unanimously on two recommendations for this project, neither of which were included in the new proposal. She said if the applicant could not comply with the EQC's recommendations, she thought the applicant should return to the EQC regarding the portion of the project related to heritage trees. She asked the Commission to do its due diligence.

Mr. Dennis Hanley said he agreed with the prior speakers and the EQC. He said his question with Essex Realty coming in was whether ADA compliance could be part of the permit process. He said there was no accessibility meeting ADA standards at the project facility including walkways to the parking lot and buildings.

Ms. Carole Clarke said the applicant's planned trash pickup did not address the unsightliness of the bins, which had been located on the street and would continue on the street, or the noise, noting that the noise associated with the trash pickup was an ongoing, big problem. She said it was noisy when the big bins were brought out to the pickup area, it was very noisy when the trash was picked up, and it was very noisy when the bins were taken back into the facility. She said she would like to know if there was something the applicant could do to address the other issues and the noise concerns. She said the proposal submitted to the Planning Commission was an improvement over the original one but it still did not address the noise and the unsightliness of the bins associated with trash pickup.

Chair Kadvany closed the public hearing.

Commission Comment: Commissioner Onken said he thought with the amount of the expected construction cost that ADA upgrades would be required as part of the building permit application. He said it was not clear at this stage what accessibility measures were being taken.

Planner Perata said he had spoken with a City Building official previously about his question. He said his understanding was that given the age of the development it was exempt from the ADA requirements of the California building code. He said he could not address the new construction but there were no accessibility requirements for the existing developed buildings because of the upgrade.

Commissioner Ferrick asked staff to address the applicant's response to the EQC recommendations. Planner Perata said the report indicated the applicant looked at some alternative designs for the leasing office and determined those were infeasible due to some issues with the layout. He said the applicant might clarify how many trees could be preserved if there was a different design for the leasing office. He said regarding the second EQC recommendation, the Planning staff report stated the applicant looked at replacing the tree removals with heritage sized trees and determined there would be long term health and growth issues as larger trees tended to not adapt as well as smaller trees to a new planting area. He said also there was the feasibility of the cost difference between the different sized trees and disruption to the site because of excavation and cranes needed to plant such large trees. Commissioner Ferrick asked about protection of the smaller sized trees before they reached heritage tree size. Planner Perata said the project did not specifically address that but the applicant said they were willing to have a five-year monitoring plan which the EQC recommended in terms of maintaining a baseline number of heritage trees. He said that did not specifically address the non-heritage replacement trees but over time those would grow to heritage size. Commissioner Ferrick asked why there had not been a discussion with the EQC about the infeasibility of heritage size tree replacements. Planner Perata said he had been at the meeting and he thought the applicant had indicated they would consider the feasibility of the recommendation at a later time but he wanted to defer to the applicant as to what transpired.

Commissioner Ferrick asked if staff has worked on the trash pickup issues with the applicant. Planner Perata said they have and as part of the re-submittal there was a modified trash pickup plan described in the staff report. He said they were looking at relocating trash pickup from the street to onsite locations. He said there were currently three locations for trash pickup and two of those would be moved onsite and one pickup would remain on Eastridge Street, which was a smaller neighborhood street.

Commissioner Ferrick asked why the applicant did not have to return to the EQC to explain why they could not accomplish that body's recommendations. Planner Perata said the EQC in this instance like the Planning Commission was a recommending body and ultimately it was the City Council that would review and take action on the project proposal. He said the EQC made recommendations to the applicant, staff and applicant have reviewed those recommendations, and the applicant was making a counter recommendation to those recommendations for the Planning Commission's consideration.

Commissioner Eiref asked what the rationale was for increasing the building coverage to 40%. Planner Perata said currently the site was at 38.75% coverage and the improvements proposed would amount to 39.52% building coverage. He said the applicant was requesting a small increase over that for future flexibility as building coverage in the City included such things as

trellises and arbors. Commissioner Eiref asked if this would set a precedent for other properties in the area. Planner Perata said the CDP could be used to modify all development standards except density and floor area ratio (FAR). He said each project was evaluated on the merits of the project itself and would need City Council review and action. Commissioner Eiref asked about other developments in the area done under a CDP. Planner Perata said that most of the developments in the Sharon Heights area were done under a CDP. Commissioner Eiref asked what the most optimal size was for a tree to root and grow in good health. Planner Perata said he would defer to the applicant's arborist.

Commissioner Strehl asked if the applicant would be given an opportunity to speak again and answer Commission questions. Chair Kadvany recognized Mr. Linder to speak.

Mr. Linder said they took the EQC recommendations seriously. He said the essence of those recommendations was establishing a baseline number of heritage trees on site. He said they had not agreed to the recommendations at the EQC meeting but had responded they would consider the recommendations made. He said both the overall cost of getting large heritage trees and excavating big holes and the overall health of those trees when planted made that recommendation infeasible. He said Essex Realty had looked at their plans and were on board with them currently. He said he understood neighbors' concerns about the number of trees proposed for removal, but the total number of trees onsite currently was 459 and at the plan completion there would be 665 trees, which was a 44% increase over what was there now. He said 31 of the 42 heritage trees requested for removal were because of bad health or structural reasons. He said when they were informed of these hazardous trees by the arborist it was imperative that they take action because of the liability concerns. He said the majority of the heritage trees to be removed were non-native. He said he thought the number of replacement trees exceeding those removed should be taken under consideration.

Commissioner Ferrick asked about the size and type of replacement and new trees proposed for planting. Mr. Linder said the City's Heritage Tree Ordinance required replacement trees to be 15-gallons. He said all of the trees proposed for planting would be a minimum 24-inch box up to a 84-inch box Oak that would be planted on the corner in front of the new leasing office. He said rather than the required 1-to-1 replacement required by the Ordinance, their proposal was a 3.7-to-1 replacement.

Chair Kadvany asked how the new parking area was counted. Planner Perata said the new parking area next to the new leasing office would not be considered building coverage. He said the existing parking structures if considered today would be building coverage. Chair Kadvany said it was indicated the new leasing office would be 2,500 square feet but the total increment of building coverage was 5,100 square feet. Mr. Linder said that would be to allow flexibility for arbors and such things so they would not need to come back to the Council to amend the CDP. Chair Kadvany said rounding up to 40% was an additional 3,300 square feet, and the first increment was from approximately 263,000 square feet to 268,000 square feet. Planner Perata said in addition to the leasing office building there were other site improvements that would increase building coverage. He said as part of the recreation center construction he believed the footprint was a bit larger and there would be a trellised area adjacent to it. He said trellis areas counted toward building coverage. He said also as part of the improvements there would be covered areas next to the bocce courts and gazebo areas added.

Commissioner Strehl confirmed with staff that the CDP if approved would run with the land in perpetuity and not be owned but the current property owner.

Chair Kadvany said he understood what the EQC proposed and he would not like the Planning Commission to do something different from what they proposed but he saw the difficulty in preserving a large heritage tree by relocating it. He said he thought the replacement ratio was good and the original number of trees proposed for removal had been reduced. He said it appeared there was a second arborist's opinion. Planner Perata said there were two arborists involved. He said the City's consulting arborist who re-reviewed the reassessment and the project arborist who did the reevaluation. Chair Kadvany said he walked the site and looked at the trees marked for removal and he could see for at least 90% of them that to his untrained eye looked like trees that were in trouble. He said he did not think there should be a concern that new trees planted would be removed as he did not think residents would let that happen. He said the most noticeable change would be the new leasing building and the driveway.

Commissioner Onken said he reviewed the trees onsite. He said the rest of the plan for upgrading and face-lifting buildings was very welcome. He said the trees onsite seemed like they had been well-intentioned originally but now were overgrown and somewhat past their prime. He said essentially the question was whether a leasing office was wanted or the large trees. He said he was not completely convinced of the public benefit of the leasing office when weighed against the loss of those large trees.

Commissioner Eiref said he walked around the site and thought it was a tired-looking apartment complex. He said some residents would lose three to four redwood trees on the edge of their patios and he hoped the revitalization plan would provide some coverage for residents who had trees before. He said it seemed like the proposal was moving in the right direction and he was pleased that so many more trees would be added to the site. He said there had been health concerns raised previously by tenants and they had requested new windows before construction began. He said it did not appear that would happen, and asked why.

Mr. Linder said they looked at replacing all of the windows at one time. He said that the type of windows they would use had to be done before the siding and stucco were put on the exterior of the buildings. He said they proposed to do one building at a time with the building being tenant-less, and doing the interior work including installation of fire sprinklers. He said before doing the exterior work of each building they would replace all the windows in that building. He said three months before work would begin they would meet with all the tenants.

Commissioner Eiref said he had no stance on the leasing office.

Chair Kadvany asked if a tenant was near the end of the lease and wanted to renew whether they could stay during construction. Mr. Linder said it would be case by case and that the tenant might want to move into another building that had already been renovated or they might want to stay in their own unit.

Commissioner Strehl asked how many heritage trees would be removed because of the leasing office. Mr. Linder said eight. Commissioner Strehl confirmed that they would plant one very large tree in that area as a replacement. She asked why they were putting the leasing office in that location. Mr. Linder said it was for visibility. He said signage might solve some of that but also the office needed to be more efficient than how it was laid out previously in the '60s.

Commissioner Strehl said she also walked the site and was happy to see the number of trees that would now be retained. She said a general refresh of the whole site would be a benefit to all of that area. She asked if the removal of the eight heritage trees for the leasing office was all construction related or if there were other reasons. Mr. Linder said they looked at saving and relocating the heritage plum trees but excavating was one negative factor and boxing them for a period of time before replanting had a high rate of failure and the cost to do that was in the tens of thousands.

Commissioner Ferrick asked about the proposed plan for phasing. Mr. Linder said each phase would be four to six months except the leasing office would take somewhat longer than that. He said that the proposed heritage tree removals would occur during the different phases and not all at once. He said the first phase would be the fire loop and 11 heritage trees would be removed. He said there were six phases overall and for the remaining phases six to eight trees would be removed during each phase. He said replanting would occur as the phase turned to the next phase. Commissioner Ferrick asked if they could incorporate some ADA upgrades although not legally required because of the age of the buildings. Mr. Linder said they looked at that; he said a comment was made that trees were being removed for ADA but that was inaccurate. He said it would be terribly difficult to make the older buildings ADA compliant.

Chair Kadvany asked if the units would remain as rentals. Planner Perata said all of the units at this time were rentals and there was no condominium map. He said someone could apply to convert to condominium in the future which would have Planning Commission and City Council review and approval.

Commissioner Strehl asked about the window replacements. Mr. Linder said when a tenant moved out they would make the interior improvements and the windows would be replaced before the exterior work was done. Commissioner Strehl said she had not walked the entire site but wondered if they would make all the pathways ADA accessible or as much as possible. Mr. Linder said he could not commit to ADA improvements right now but they would look at certain circumstances where there might be one or two buildings they could perhaps enhance and make compliant but he could not guarantee that.

Chair Kadvany said he wanted to clarify the area of the leasing office and parking area noting after that work some units would look toward the parking area rather than a landscaped area as currently. Mr. Linder said there would many more trees planted than what was there currently for Building P. Chair Kadvany said however instead of rolling landscape those tenants in that building would see parking.

Chair Kadvany noted he had received two additional speaker slips, and he would open the public hearing for those two speakers. He called on Mr. Arthur Sipor. Mr. Sipor did not speak.

Ms. Lauri Battista said she was present on behalf of Ms. Aruni Chun who has made great efforts to save the heritage trees in Menlo Park. She said the City needed to consider doing business differently. She named a book by John Mackey, CEO of Whole Foods, called "Conscious Capitalism," that specifically addressed the need for business to take into consideration all of its stakeholders not just the shareholders. She said the cry from the community about this project was related to trees and trees were what made Menlo Park desirable and provided good air quality. She suggested the applicant adjust their plans and work with the landscape. She

asked that the applicant consider how long it would take for the heritage trees being replaced to grow to where they were, noting some have grown for 150 years.

Chair Kadvany closed the public hearing.

Commission Comment: Commissioner Ferrick said she appreciated their tree replacement ratio and the proposed size of those trees. She said she questioned however the need for the expanded leasing office as there was an already maxed out FAR on the site. She asked how the goal of the leasing office might be achieved in some other way in a different location that would not impact the healthy heritage trees.

Chair Kadvany said he thought the parking area proposed for construction would impact the landscape area and was suboptimal in his opinion.

Commissioner Bressler said the residents wanted trees and the amenities with an expanded leasing office. He said whatever was proposed for the site should be supported by the residents.

Recognized by the Chair, Mr. Linder said that most of the speakers at tonight's meeting did not live at the apartment complex. He said the recreation facility and expanded gym were amenities that were required in today's apartment communities. He said since the EQC meeting they looked at three different alternatives for the leasing office. He said two trees would be saved through those alternatives but a great deal more grading would be needed, including retaining walls and switchbacks, which were not optimal. He said another issue was the drive through the parking area mentioned by Chair Kadvany. He said as proposed it was two way but with the alternatives it became one way with a pinch point.

Responding to a question from Commissioner Bressler, Mr. Linder said the occupancy rate was at 96%. Commissioner Bressler asked why improvements were needed as that was a high occupancy rate. Mr. Linder said the complex was very dated. Commissioner Bressler said the addition of amenities was to support lease amount increases. Mr. Linder said the turn rate also had to be considered and they have had people rent for a few months and then leave for another apartment complex with better amenities.

Commissioner Onken said that with high occupancy rates it was unclear what the need for a new, more visible, leasing office was. Mr. Linder said currently the leasing office shared space with maintenance and the fitness club, and there was no room to take deliveries for tenants. Commissioner Onken said it sounded like the leasing office was intended to support concierge services for the tenants.

Chair Kadvany asked what was between the leasing office and Building N. Mr. Linder said that was a garden area they would be planting.

Commissioner Ferrick said pages H1, H2, and H3 described the phases of construction but it did not specify that this was the order in which the construction phases would occur. Mr. Linder showed page A1.1 that described the order of the phases.

Commissioner Onken said he appreciated the residents' concerns about trees. He said the project would cause the loss of heritage trees around the perimeter which would then be

replaced at a higher ratio than what was required. He said he did not think the species of trees proposed for removal were overly significant to their Tree City quality and some of the trees such as the Stone Pines were dangerous growing against some of the existing buildings. He said he was happy with the general tone of the site. He said questions about ownership were not relevant to what the Commission's task was in reviewing this project proposal. He said this was a single-use permit, with a single plan and a single package of proposals that had nothing to do with who might own the property. He said the number of trees to be planted had swayed him to accept the leasing office and that the improvements to the rest of the site were substantial.

Commissioner Bressler said an analogy would be a home that was being rented out and the owner requested a variance so the home could be built to the same FAR as others. He said the Commission would not approve a variance and this project was making the same request.

Chair Kadvany did not understand the need for a monumental one-story building for the leasing office but it was an attractive building. He said the improvements to the other buildings were absolutely necessary. He said his complaint was the new parking area. He said the applicant had responded to the concerns about the trees.

Commissioner Ferrick said that she would not want to lose housing units.

Commissioner Eiref said the area has a shopping center, businesses and housing. He said there are beautiful trees along Sand Hill Road. He said the quid quo pro might be the high ratio of tree replacement.

Chair Kadvany asked about the building coverage increase to 40% as that equaled more square feet than the leasing office square footage. Planner Perata said the elements that could be built with the additional square footage would require architectural control but would not need the Council to amend the CDP.

Commissioner Ferrick asked about Below Market Rate housing, and if that could be tied as a requirement for increasing building coverage to 40%. Senior Planner Rogers said the CDP process allows for a holistic review of an overall project and deliberately gives flexibility from different development standards to achieve some creativity for an overall structure that makes more sense than a strict adherence to every rule. He said in this case that the Commission was reviewing and would go to the Council for approval or not, the considerations should not be whether the applicant was asking for something they shouldn't, or that they were trying to get away with something, or that they need to provide something back to the City. He said the overall question was did the project fit right as a whole. He said there were other Districts such as the new R-4-S that have a 40% building coverage. He said this was not a variance where a hardship had to be determined.

Commissioner Bressler said he was not necessarily a fan of restricted rent amounts, but he thought with this proposed work the rents at the complex would increase greatly, and that would affect people. He said there was a constituency that wanted to stay in this complex as it was. He said there seemed to be a great disconnect between the company running this property and the tenants, and now the property was being acquired by another company. He said as a Commissioner he would be the one to force a reconnection and that was what this was about and not whether the project fit. He said he would vote no on the project.

Commissioner Eiref said it seemed that the discrepancy in building coverage had something to do with submerged parking lots or even a change in how the City calculates that over the last 30 to 40 years, and he thought that should be clarified. Planner Perata said staff was unsure how the project got to 38.75% building coverage but it might have been how covered parking structures were counted in 1965 or 1970. He said based on how building coverage was counted now resulted in the 38.75%.

Chair Ferrick said it sounded like the Commission could not ask for anything as a condition, but on page 2 of the staff report, it stated: "for the Planning Commission's reference, the X (Conditional Development) district is a combining district that combines special regulations or conditions with one of the Zoning Ordinance's established zoning districts." She said that sounded different from what Senior Planner Rogers had explained to her. Senior Planner Rogers said every project carried conditions but regarding the applicability of a condition, the City Attorney has generally said there needed to be a nexus between what was being requested, what impacts there might be, and the intent of the condition. He said in this instance there didn't appear to be an immediate connection between increasing building coverage and requiring affordable housing. Commissioner Ferrick said the connection was that with the improvement of the property and additional amenities that more than likely that would increase the rent significantly, and if not the BMR program perhaps there should be some type of rent control for the existing tenants.

Chair Kadvany said he had previously asked about comparable sized apartment complexes in the City and this project was one of the largest. He said if people wanted to initiate something related to rent control they had time to do so but he did not think this was the right venue for that. Commissioner Ferrick said as a recommending body they could add communication about something that concerned them. She said her concern was that rent increases because of the proposed improvements would impact current tenants. Commissioner Strehl said she thought they could make a recommendation to the City Council that this was an issue of concern but she did not know if they could be prescriptive about how that was dealt with as it was unclear whether that was within their jurisdiction.

Chair Kadvany said he would move to recommend to the City Council to make the finding and adopt resolutions approving the CDP amendment and the heritage tree removal permit, and express concern about the potential of significantly increased rents for tenants.

In response to Chair Kadvany, Planner Perata said he thought the rent increase concern could be passed along to the City Council as a statement of concerns along with the recommendation to approve.

Commissioner Eiref said he thought the rents were already very high at the complex. Mr. Linder said he did not have all the market surveys for the surrounding communities but said their company was not as competitive as they would like to be. He said their rents range from \$2,700 up to \$5,200 a month, with the latter being for a three bedroom unit.

Commissioner Strehl noted that the complex had 96% occupancy.

Commissioner Bressler said he was not a proponent of rent control. He said the issue he saw was they were giving the applicant extra square footage, allowing trees to be removed, and it

was not to the benefit of the current tenants but only for the benefit of the property owners. He said there had not been a process of give and take.

Commissioner Strehl said there was benefit from the proposed project to the current residents in that they would have improvements including window replacement. Commissioner Bressler said there was no dispute about that but he was referring to the leasing office and recreation center.

Commissioner Strehl seconded the motion made by Chair Kadvany.

Commissioner Ferrick said she was still concerned with the significantly higher building coverage as more building could occur resulting in the loss of more open space. She said this was a good overall update to the site, but she lamented the 11 healthy heritage trees that would be removed. She said she appreciated the greater ratio of replacement trees than what was required and the effort to replace with good sized trees. She said she was not convinced that the leasing office needed to be the size or at the location proposed. She suggested there might be some other accessory building that could be the leasing office. She said while the increase in building coverage was not meant to be precedent setting she thought it necessarily would be.

Chair Kadvany said there seemed to be some feeling on the Commission that perhaps the leasing office was not needed or should be accommodate elsewhere.

Commissioner Strehl said the comment by the applicant that the leasing office would serve as a concierge office for the tenants resonated with her. She said she was not sure having the leasing office in one of the model apartments could accommodate that service. She said essentially there were tradeoffs with the project.

Commissioner Ferrick said in general there was a lot she liked about the project but there were a few sticking points. She said she agreed there was a tradeoff in balance.

Commissioner Onken said he would like to call the question.

Commission Action: M/S Kadvany/Strehl to recommend to the City Council:

1. Adopt a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current CEQA Guidelines.
2. Adopt a Resolution approving the Conditional Development Permit amendment for the increase in building coverage at the subject site, in conjunction with the construction of a new leasing office and recreation center building and related site improvements, subject to the requirements of the Conditional Development Permit. (Attachment D)
3. Adopt a Resolution approving the heritage tree removal permits. (Attachment M)
 - The Planning Commission is concerned that the proposed improvements could increase the rental rates for the existing tenants at the site.

Motion carried 5-1 with Commissioner Bressler opposed and Commissioner Riggs absent.

Chair Kadvany encouraged the members of the public to continue presenting their concerns and possible resolutions to the City Council as well as to the property owners and future property owners.

Commissioner Ferrick said she reluctantly supported the proposal but she was not comfortable with taking down healthy heritage trees for a leasing office that seemed additive on an already maxed out site. She said it was clear there had been relationship breakdowns between the residents and the property managers, and hoped that relationships would be worked on in the future.

E. REGULAR BUSINESS

E1. Architectural Control/Rob Fischer/1090 El Camino Real: Request for architectural control to allow exterior modifications to an existing two-story commercial building in conjunction with a restaurant use in the SP-ECR/D (El Camino Real/Downtown Specific Plan) zoning district. The proposed exterior modifications would include removing an existing arbor in the plaza shared with Menlo Center (1010 El Camino Real), relocating the main entry from the El Camino Real frontage to the Santa Cruz Avenue frontage, installing a new canopy at the main entry, adding a new exterior staircase on the Santa Cruz Avenue frontage within the shell of the existing building, and constructing a new rooftop deck at the rear of the existing building. The rooftop deck would include an elevator penthouse, stair enclosure, and a canopy shade structure. The proposed restaurant would include outdoor seating on the ground floor in the plaza, as well as on the rooftop deck. The gross floor area for the building would not increase as part of the project.

Staff Comment: Planner Lin said staff had received two additional pieces of correspondence. She said the first was an email from Ms. Eileen Leeman, a resident on Oak Grove, expressing concern with expanding the dining area to three stories with the addition of a roof top deck, and a preference for two stories of dining area for the restaurant. She said the second was an email from Ms. Lenore Hennen, Merrill Street, expressing concern with noise associated with rooftop deck dining area until 2 a.m. and requesting that the rooftop deck use be limited to no later than 10 p.m.

Questions of Staff: Chair Kadvany asked about the wide window of operation for the facility noting it was from 7 a.m. to 2 a.m. Planner Lin said the applicant could further elaborate but her understanding was that the time period requested was to allow some flexibility in their operations.

Commissioner Eiref asked if there was a precedent for other restaurants in Menlo Park to operate until 2 a.m. Planner Lin said there were none to her knowledge but there were no bans on restaurants operating until 2 a.m. and there were precedents of late night dining in other nearby cities.

Commissioner Eiref said there had been challenges about the prior establishment, BBC, and asked if there was context on that. Planner Lin said the previous operator for the restaurant from what she gleaned from the files had not operated the restaurant in the most compatible way possible with the neighborhood. She said also there had been an assault in the restaurant and some issues with compliance with their liquor license. She said the property owner was the

same but the restaurant would be under a new operator. Senior Planner Rogers said some of the events related to the prior operator were clustered around evenings when live entertainment was offered. He said there was approval for some band nights which flowed over into DJ and Karaoke nights. He said to the extent there were fights those were clustered around live entertainment nights which created more of a bar atmosphere. He said an area of distinction between the prior operations and this proposal was that there was no live entertainment being proposed. He said an application for live entertainment could be made in the future and would require an administrative permit with required noticing the same as a use permit. He said an administrative permit could be appealed to the Planning Commission.

Public Comment: Mr. Cass Calder Smith, CCS Architecture, said he had designed a number of restaurants for Mr. Rob Fischer, the applicant. He said they were changing the exterior of the building very little and treating the building as a City treasure. He said the entry from El Camino Real never worked well so they would move the entrance to the Santa Cruz Avenue side, which would be safer and more practical, and allow for valet service. He said inside there would be a main dining area in the front, an open kitchen, a dining area in the rear, outdoor dining, dining on the mezzanine, and to increase the outdoor dining a rooftop deck away from El Camino Real.

Commissioner Eiref asked if there was a way to screen noise from the roof deck and if it would be a bar or dining. Mr. Smith said it was dining with a bar and food service capability. He said there was a wall where the elevator and stair were on the Santa Cruz Avenue side and the two open sides were toward El Camino Real. He said the area would have a canvas roof which would help to contain noise.

Chair Kadvany asked about the external staircase and security gate. Mr. Smith showed the main entry to the restaurant and a vestibule for receiving and an exit. He said there would be an elevator and stairwell. He said if the vestibule became an attractive nuisance they would request later to have a roll down security door.

Commissioner Strehl said the exterior stairway went to the roof, and asked if that was the only way to get to the roof. Mr. Smith said there were two other ways. He said from indoors on an elevator or a stairway. Commissioner Strehl asked why the exterior stairway was needed. Mr. Smith said that was to provide a clear way to get from the top to the bottom of the building.

Mr. Rob Fischer, applicant, said regarding the window for operations of 7 a.m. to 2 a.m. that the first year they would offer brunch, lunch and dinner with a possibility of maybe breakfast but that was not definite at this moment. He said at 7 a.m. employees would be in the restaurant cleaning and cooking. He said at his restaurant Gravity in Palo Alto they served dinner until midnight and until 1 a.m. on Friday and Saturday. He said the company was solid and they would not put up with what went on at the BBC previously. He said they were offering Menlo Park a quality restaurant that would provide fun for the residents and a place residents would be proud to bring their family and guests.

Chair Kadvany asked about the parking, noting underground parking at Menlo Center, and also his expectation that this restaurant would be busier than the BBC had been. Mr. Fischer said they have 175 shared spaces with Borrone's and Kepler's but those businesses would tend to be tapering off when their restaurant use would increase for dinner. He noted Caltrain proximity

and that there was some on street parking. He said he felt comfortable with the amount of parking.

Commissioner Strehl asked if the bar would operate until 2 a.m. Mr. Fischer said the ABC code allows alcoholic beverages until 2 a.m. but after 2 a.m. there could be no drinks on tables. Commissioner Strehl asked what they did at their other similar businesses. Mr. Fischer said if business on a Monday night was slow they might close at 10:30 p.m. He said their business was centered on dining. He said at Reposado in Palo Alto if they have no dinner patrons after 10 p.m. they might close at 11 p.m. He said they had no interest in live music or dancing, and that theirs was a food operation.

Chair Kadvany asked the applicant to talk about the operation of the rooftop. Mr. Fischer said he expected this space would be used for events and rented but otherwise it would be open. He said they would serve light dishes as the main menu would not be doable because of the distance from the main kitchen.

Ms. Fran Dehn, Chamber of Commerce, said many were familiar with the restaurants that Mr. Fischer has turned around, and she wanted to thank Mr. Fischer for selecting Menlo Park and a landmark for revitalization. She said the Specific Plan clearly delineated the community's desire for downtown vibrancy and night life. She said Mr. Fischer and the BBC's property owner would become partners in realizing the community's goal. She said the building at 1090 El Camino Real was a gem and the applicant's plan would bring it back to an active and positive environment versus its current passive nature. She said on behalf of the Menlo Park Historical Association she wanted to thank staff and the applicant for the information on the history of 1090 El Camino Real.

Mr. Ron Adachi, Greenheart Land Company, noted a nearby development his company was involved in, and expressed his group's support for this project. He said that Mr. Fischer was a solid, reputable restaurant operator and as Ms. Dehn said, this project would support the Specific Plan goals.

Mr. Robertson "Clay" Jones said he was a 16-year resident of Menlo Park and had long memories of the BBC. He said it was a special building and a hallmark. He gave kudos to the project team for keeping the look and feel of the building and putting in a high class restaurant there. He said he has visited the other restaurants operated by Mr. Fischer and they were spectacularly run. He said he strongly supported approval of the project.

Mr. Ray Mueller, Menlo Park City Council Mayor, noted he was speaking as an individual. He said the last time he was at the Planning Commission was when the Commission was considering food trucks, and part of the rationale for the Commission's approval had been a desire to have vitality in that space. He said now the Commission was considering a fabulous brick and mortar restaurant on property that was the flagship of Menlo Park. He said he supported the project and it was a great opportunity for the City.

Mr. Peter Ohtaki, Menlo Park City Council member and former Mayor, noted he was speaking as an individual. He said he very much supported this project. He said the strategic location of 1090 El Camino Real could not continue to stay vacant. He said it was difficult to develop as they wanted to preserve the historical building and exterior but the interior needed a huge update. He said he went to the BBC a few years ago and it looked the same as it had in the

1980s when he used to go there. He said they needed more restaurants downtown and that by creating a critical mass especially with a restaurant that in itself becomes a destination restaurant that would help create something like Laurel Street in San Carlos with destination restaurants and walkability to restaurants and alternatives. He said if parking did become an issue in the underground garage that there were potential solutions.

Chair Kadvany closed the public hearing.

Commission Comment: Commissioner Onken said he thought the new entrance on Santa Cruz Avenue would be beneficial as that was currently dominated by McDonald's. He said regarding the outdoor and activities noise concerns that he did not think noise from the rooftop terrace would be any greater than that generated from outdoor tables. He said he was very supportive of the project.

Commissioner Ferrick moved to make the findings and approve as recommended in the staff report. She said she was pleased with the proposal's use of the landmark building. She said the Station Area was going to be vitalized and she was happy to make the motion to approve. Commissioner Onken seconded the motion.

Commissioner Bressler said this was the first retail application for this area that he could recall that did not have other retailers opposing.

Commissioner Eiref said part of the visioning for the Specific Plan was the vitalization of what was designated as the Station Area. He said this proposal supported that vision.

Chair Kadvany said he agreed with other Commissioner comments and he agreed with Mr. Ohtaki's observation that this could become a destination restaurant noting the design and the scale of the project. He said this was a great project and would set the bar for future projects in the El Camino Real area.

Commission Action: M/S Ferrick/Onken to approve as recommended in the staff report as follows.

1. Make findings with regard to the California Environmental Quality Act (CEQA) that the proposal is within the scope of the project covered by the El Camino Real/Downtown Specific Plan Program EIR, which was certified on June 5, 2012. Specifically, make findings that:
 - a. The project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current CEQA Guidelines.
 - b. Relevant mitigation measures have been incorporated into the project through the Mitigation Monitoring and Reporting Program (Attachment E), which is approved as part of this finding.
2. Adopt the following findings, as per Section 16.68.020 of the Zoning Ordinance, pertaining to architectural control approval:

- a. The general appearance of the structure is in keeping with the character of the neighborhood.
 - b. The development will not be detrimental to the harmonious and orderly growth of the City.
 - c. The development will not impair the desirability of investment or occupation in the neighborhood.
 - d. The development provides adequate parking as required in all applicable City Ordinances and has made adequate provisions for access to such parking.
 - e. The development is consistent with the El Camino Real/Downtown Specific Plan. The exterior changes would comply with relevant design standards and guidelines. In particular, standards and guidelines relating to the building entry and architectural projections would be addressed.
3. Approve the use permit and architectural control subject to the following **standard** conditions:
- a. Development of the project shall be substantially in conformance with the plans prepared by CCS Architecture, consisting of 30 plan sheets, dated received February 4, 2014, and approved by the Planning Commission on February 10, 2014, except as modified by the conditions contained herein, subject to review and approval of the Planning Division.
 - b. Prior to building permit issuance, the applicants shall comply with all Sanitary District, Menlo Park Fire Protection District, Recology, and utility companies' regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicants shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
 - d. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
 - e. Simultaneous with the submittal of a complete building permit application, the applicant shall submit plans indicating that the applicant shall remove and replace any damaged and significantly worn sections of frontage improvements. The plans shall be submitted for review and approval of the Engineering Division.

- f. Prior to commencing any construction activities in the public right-of-way or public easements, including, but not limited to, installation of the proposed canopy over the public sidewalk, the applicant shall obtain an encroachment permit for review and approval of the Engineering Division.
- 4. Approve the use permit subject to the following **project-specific** conditions:
 - a. Future proposals for roll-down doors or other security features for the vestibule areas for stairs #2 and #3 shall be considered based on a demonstrated need for additional security, and may be submitted for review and approval of the Planning Division. Roll-down doors shall be considered in conjunction with the proposed business hours.
 - b. All outdoor noise amplification must meet required noise levels at any residential property line in accordance with the Noise Ordinance.
 - c. Any citation or notification of violation by the California Department of Alcoholic Beverage Control or other agency having responsibility to assure public health and safety for the sale of alcoholic beverages will be grounds for considering revocation of the use permit.
 - d. Concurrent with the complete submittal of a building permit, the applicant shall submit a deed restriction for review and approval by the Planning Division and City Attorney that indicates the entirety of the existing basement shall be non-usable, non-occupiable space, and that conversion of this space into usable or occupiable space would be subject to review and discretionary approval, and may require the elimination of gross floor area elsewhere on the property. The applicant shall submit documentation of recordation with the San Mateo County Recorder's Office to the Building Division prior to issuance of a building permit.

Motion carried 6-0 with Commissioner Riggs absent.

Chair Kadvany noted the arrival of Development Services Manager Murphy and that the Commission had tabled Item C.2 Confirmation of the Summary of the Planning Commission Comments and Recommendations for the General Plan Update Scope of Work to discuss with Mr. Murphy.

C2. Confirmation of the Summary of the Planning Commission Comments and Recommendations for the General Plan Update Scope of Work

Commissioner Bressler said he recalled much more specific language on the recommendation to look at a people mover system and even that there might have been a motion about it. Development Services Manager Murphy said he did not recall a motion but if the Commission wanted to consider the topic again they could.

Commissioner Bressler said the idea was that the General Plan would mandate that we look into improving east-west connectivity without using cars. He said a people mover system should be mentioned. He said east-west connectivity in the Specific Plan has not been

addressed well at all. He said he did not think the summary of comments captured the importance of that.

Commissioner Onken said the focus of the list was the east-west connectivity and the Commission had talked about that as a general theme throughout the General Plan and especially in the Circulation Element.

Commissioner Strehl said they had discussed residential design guidelines and in the summary it indicated the Commission would look at those in the context of substandard lots. She said her point was if they were going to have residential design guidelines then they should have them apply to all residential lots. She said it seemed the City set a different bar for substandard lots than for larger lots. She asked where it was that the City could start looking at how substandard lots were treated and what the definition of a substandard lot was. She said that City Councils in the past had defined substandard lots and she thought that this might need to be reviewed again.

Commissioner Eiref said he agreed with supporting ways to address east-west connectivity but was not sure about a people-mover system. He said a Commission had expressed concern with building homes near the Bay because of flood threat but he thought it was a great place to build homes as long as they were built to protect against flooding impacts. He said he had brought up residential design guidelines. He said he thought that was something that needed to be represented in the comments on the General Plan and in the balance of what they wanted to get done with the General Plan overall. He said it was mentioned somewhat in the relationship of impacts and benefits. He said with the Specific Plan they had gotten caught up with challenging perspectives as to what the benefits were from development proposals. He said they should learn from that process and make the tradeoffs explicit as to either economic or some clear, tangible and measurable benefit more so than they had in the Specific Plan. He asked of the bullet points summarizing their comments whether it would make sense to prioritize three or four of those topics.

Commissioner Onken said he thought prioritizing would take a lengthy discussion but that it was appropriate to add to the list and if there was something that needed striking out to do so.

Chair Kadvany said he thought it might be possible to prioritize. He said extending the scope of residential design guidelines citywide was something to be emphasized noting they had talked extensively about that and yet it was limited separately as an element which seemed to diminish its force. He said to clarify that the second to last bullet to seek out opportunities for pilot projects for testing during the General Plan update was rather than waiting for the General Plan completion.

Development Services Manager Murphy said he needed Commission collective comments rather than individual Commissioner comments on the proposed scope of work for the General Plan update. He said if they wanted individual Commission comments listed that could be transcribed by February 25 but not for the meeting tomorrow night.

Commissioner Eiref said that he thought prioritizing three or four collective comments would serve informing the scope of work for the General Plan update.

Chair Kadvany asked about east-west connectivity and new technology.

Commissioner Ferrick said she agreed with that topic and highlighting three top items, but she did not agree with residential design guidelines as she thought that would be impossible. Chair Kadvany said it depended on how they were formulated and that they did not have to be prescriptive but recommended and educational. Commissioner Strehl said why she supported residential design guidelines was that the Commission often cited residential design guidelines to applicants but the City did not have guidelines. She said they were needed to create an even playing field for the applicants as to what the Commission's and City Council's expectations were, otherwise it seemed like an uneven decision making process. Commissioner Ferrick said she agreed that it was incumbent upon the Commission to not act as though they have residential design guidelines when in fact they don't and that it was untrue there were certain design styles to be adhered to.

Commissioner Eiref proposed going down the list and taking a quick vote, and if things did not have majority vote to cite those separately lower down the list

Chair Kadvany cited the first item on the list.

- Include the Lorelei Manor and Suburban Park neighborhoods in the targeted outreach similar to the Belle Haven neighborhood.

Commissioner Strehl asked if that item was referring to the M-2. Development Services Manager Murphy said that was in the context of the M2. He said the two basic things were circulation update which was citywide and land use change which was the M2. He said those were the two basic things the Council was contemplating. Commissioner Strehl said some of the listed items would be specific to the M2. Commissioner Ferrick said they had only discussed this topic very briefly and it confused her when she saw it as the first bullet. She suggested listing bullet points in the context of M2 or circulation.

Chair Kadvany said he rejected narrowing the list to three priorities as there were a number of things framed as the M2 development and he was somewhat frustrated as to what would be the scope of work for the General Plan Update. Commissioner Ferrick said she agreed but the first bullet point did not seem to have a reference and needed more context. Commissioner Eiref said similarly the last bullet point: "Pursue new ways to reach out and communicate with people, especially those that do not attend traditional meetings." could be listed with the first bullet point in context.

- Articulate the City's vision for the use of the Dumbarton Rail Corridor.

Commissioner Eiref suggested this might be related to east-west connectivity. Commissioners Strehl and Ferrick thought it was more applicable to the M2. Commissioner Eiref suggested voting on items.

- Clarify the term "Complete Streets", clarify whether it is already embodied in the existing General Plan, and clarify whether it is a given for inclusion as part of the Update.

Chair Kadvany said what was absent in the bullet point for "Complete Streets" was there was a complete disconnect between when residents thought complete streets meant and what staff

meant. He said that might be a scoping issue as there might need to be extra meetings as it was a means to get money from the state and it would also affect people's neighborhoods.

Development Services Manager Murphy said the list presented was the general order of things discussed at the Planning Commission meeting and if someone repeated something he tried to include that. He said if they wanted to wordsmith he needed them to give him the exact words they wanted to change. He said one thing he was hearing from the Commission that might be a complete disconnect from where the Council was at and the list was the residential design guidelines. He said the other things listed had to be worked out through the process. He said they needed as a matter of course to make sure that everyone understood what "Complete Streets" means. He said the rest of the items listed were great ideas and it was a matter of residential design guidelines that was a potential disconnect with the scoping of work. He said regarding Commissioner Bressler's comment that there had been a motion made about the people mover system and east-west connectivity that specific motion was made when the Commission was discussing the CIP and that was transmitted to the City Council. He said the Commission could spend more time on this item for the Council meeting of February 25 but for tomorrow night if there was one thing they wanted to message perhaps that was residential design guidelines.

Chair Kadvany said regarding residential design guidelines they might communicate that the Commission held a study session on that and from that wanted to pursue guidelines as not a necessarily rigid, highly prescriptive framework but from the perspective of education, communication, understanding neighborhood context, and using elements of guidelines used by other cities.

Commissioner Ferrick said that was dealing with the process and she thought how it was listed in this summary was done well. She said it reads: "but at a minimum the Commission agreed to continue work by the Commission subcommittee as identified at the August 19, 2013 meeting." She said that was essentially what the Chair was now articulating as to what the subcommittee would or could do. She said otherwise the topic was presented well and there were differing opinions as to whether they should be included in the General Plan update. Chair Kadvany said that it sounded lukewarm, and they should decide whether this could be continued within the General Plan update. Commissioner Bressler said he thought unless there was something like the Lorelei Manor guidelines which was a consensus of the property owners in that neighborhood that residential design guidelines would not work as the Commission would still make vague decisions. He thought it might work for neighborhoods to get together and determine their destiny but as one shrink-wrapped thing for the whole city that would add to confusion. Chair Kadvany said that was a reason for having staff time and Commission time to figure out what Commissioner Bressler was saying. Commissioner Bressler said then he would support it. Commissioner Eiref said having the message was important for the City Council to hear whether it was included in the General Plan update or not.

Development Services Manager Murphy said if staff time and resources were to be spent on residential design guidelines then other work needed to be removed. Chair Kadvany asked if that was within the scope of work for the General Plan. Development Services Manager Murphy said there or elsewhere. Chair Kadvany said the Council would look at everything and scope the work and cost, and he did not think it was fair for the Commission to have to make that decision. Commissioner Ferrick said she thought that what was listed already included what the Chair and staff were saying and that was a desire from some Commissioners but not a

majority of Commissioners to have residential design guidelines worked into the scope of work. Chair Kadvary suggested they vote on whether they wanted it included in the scope of work or not.

Commissioner Onken moved that they accept the draft summary of Commission comments from the January 27 meeting on the scope of work for the General Plan update with added stress on the need in the circulation element of the General Plan for every opportunity to enhance east-west connectivity and that the vision be made for research and time allotted to look at residential design guidelines. Chair Kadvary seconded the motion.

Commissioner Ferrick said she would vote no as she did not agree with half of the motion.

Commission Action: M/S Onken/Kadvary to accept the draft summary of Commission comment from the January 27 meeting on the scope of work for the General Plan update with added stress on the need in the circulation element of the General Plan for every opportunity to enhance east-west connectivity and that the vision be made for research and time allotted to look at residential design guidelines.

Motion carried 5-1 with Commissioner Ferrick opposing and Commissioner Riggs absent.

Chair Kadvary said he did not understand staff's comment about tradeoffs as the decision of scope of work would be made by the City Council with the consultant. Development Services Manager Murphy said there was a paragraph in the staff report to the City Council stating: "Staff would recommend that the RFP include consideration of an optional element. Although not part of the short term focus, consideration should be given to the potential creation of a Community Character Element as a policy document to incorporate community issues such as aesthetics, residential design guidelines, potential historic resources, various type of frontage improvements (i.e., sidewalks vs. parking strips), street tree canopies, overhead utility lines, neighborhood serving retail, etc. The character would be examined on a neighborhood-by-neighborhood basis to understand existing conditions and trends." He said the important issue was the broadest community input process which might have associated time and financial resources needed that might impact inclusion in the scope of work.

F. STUDY SESSION

- F1. Housing Element/City of Menlo Park:** Study Session to review, discuss and comment on the proposed draft Zoning Ordinance amendments to Chapter 16.79 (Secondary Dwelling Unit) pertaining to secondary dwelling unit development standards, including reducing the minimum lot size eligible for a secondary dwelling unit (without a use permit) to 5,750 square feet to encourage the creation of more units and reducing the setback requirement for an existing and permitted accessory structure to allow for conversions of accessory structures to secondary dwelling units when specific criteria are met. In addition, amendments to Section 16.68.030 (Accessory Buildings and/or Structures) are also proposed. The modifications include establishing new setbacks for an accessory structure, dependent upon the use of the structure and to add a limit on the number of plumbing fixtures in a structure to distinguish use of an accessory structure from a secondary dwelling unit. Both amendments could also include language and formatting modifications for clarification and consistency purposes. ***Continued from the meeting of January 27. Staff report and presentation from the meeting of January 27.***

Chair Kadvany said the Commission at the January 27 meeting had started its discussion of this item and he recalled that Commissioner Bressler raised a point about the complexity of the criteria and whether or not that would dissuade people from converting or building secondary dwelling units. He said Commissioners Ferrick and Riggs had raised points of what would be allowed and what would not. He said Commissioner Riggs talked particularly about working on a larger cottage size for a large acreage site. He said Commissioner Ferrick raised a question about the requirement for owner occupancy of one of the units.

Staff Comment: Senior Planner Chow said the study session was an opportunity for the Commission to provide feedback on potential modifications to both the existing secondary dwelling unit ordinance as well as on the existing accessory building and accessory structure ordinance. She said the intent of the potential modifications was to more clearly define how an accessory building might be used and that was potentially making a differentiation between habitable and non-habitable structures to establish regulations consistent with the use of a building. She said they talked about discouraging the use of accessory buildings as secondary dwelling units in terms of limiting the size or types of plumbing fixtures allowed in an accessory building, and lastly to encourage the development of secondary dwelling units from the starting point so those units would truly be secondary dwelling units and not potentially converted ones in the future.

Commissioner Strehl asked if staff was reporting on this to the Council at their meeting the following night. Senior Planner Chow said regarding the Housing Element Update and the Housing Element Implementation that there were two components to what staff would bring to the Commission for review and recommendations, and then ultimately for Council's action, which would be in the March/April timeframe. She said the first part was the Housing Element Update for the next planning period of 2015 to 2023 and that was to meet the technical requirements of State law. She said the second part was the Housing Element Implementation and that was to implement programs identified in the Housing Element. She said specifically they were looking at implementing the program for secondary dwelling units by potentially modifying the regulations for secondary dwelling units in such a way to provide the flexibility to increase the number of secondary dwelling units. She said secondly what had been called the amnesty program through the Steering Committee process had evolved into an initial step to look at ways to allow for a conversion of a legally permitted accessory building into a secondary dwelling unit. She said along with these two ordinance amendments there were the ordinance amendments discussed in November and that was the overlay zoning district for emergency shelter, transitional and supportive housing and residential care facilities, and an ordinance for reasonable accommodations. She said the three latter items were required for state law compliance and the certification process. She said for accessory buildings and secondary dwelling units that these would be positive to implement but did not have to be on the same track as the others programs just mentioned.

Senior Planner Chow said the item on tomorrow night's City Council agenda was supplemental revisions to the Housing Element Update. She said that was the document item the Commission reviewed in November 2013 and then went to the Council in December 2013, and then to the state Housing Commission Department (HCD) for a 60-day review period. She said they received comments back from HCD on things the City might want to strengthen for consistency with state law. She said staff drafted revisions to respond to the HCD preliminary comments and that was reviewed by the Council on January 28. She said they presented those

to HCD and they responded back with additional comments. She said staff thought if they could address those in a timely manner which was tomorrow's City Council meeting consideration of supplemental revisions to the Housing Element so those could get sent to HCD before they issued their final letter.

Commissioner Ferrick said the restriction that a property owner had to live in one of the units when there was a secondary dwelling unit bothered her. She said a property owner could take a job elsewhere and want to keep the local home and secondary dwelling unit, and prefer to have those occupied. Senior Planner Chow said the owner occupancy was one requirement that was not modified through revisions and they discussed at the last meeting that not having the owner onsite to monitor use would create the character of a multi-family housing unit. Commissioner Ferrick said that seemed restrictive to her. Commissioner Strehl said she agreed that it seemed unnecessarily restrictive, and it should be changed. Chair Kadvany said one of his neighbors was concerned that such property would not be managed well if the property owner did not live onsite.

Senior Planner Chow said for the record that staff had received three pieces of correspondence since the last report. She said the first one was from Ms. Patti Fry who commented on plumbing fixtures being allowed in accessory buildings and that those could easily become dwelling units and a comment regarding daylight plane to set it at seven feet at the property line. She said in the presentation there was consideration to do away wall height and establish a daylight plane at the property line with a nine-foot height at a 45 degree angle. She said the second correspondence was from Ms. Elizabeth Houck and she was questioning the setbacks and suggested that for secondary dwelling units those should be established at the Zoning Code regulations. She said the last correspondence was from Mr. Phillip Barr, who commented that additional time was needed to review the proposed modifications, and the potential modifications could include items for size, building size, height limits, setbacks and that there should be an exploration of potential pilot projects working with partners to develop secondary dwelling units.

Senior Planner Chow said staff wanted to confirm whether they were on the right track with the intent of the ordinances and were looking for specific feedback in regard to the plumbing fixture limitations in terms of size and type in accessory building and conversion process for legally built accessory buildings to secondary dwelling units.

Commissioner Bressler said he felt like they were being led down a very narrow path. He said he would like to take a little bit of control in this process and to vote on the restriction of owner occupancy for one of the units. He said he did not think there should be a requirement for a property owner to live in the main or secondary dwelling unit, and that was a message he would like to send. Commissioner Strehl said if that was a motion she would second it. Commissioner Ferrick said her point of view was that of equity and that there were arbitrary rules that created situations where tenants or renters were second class citizens, and she thought this was elitist, and automatically considering a person who owns rental property as a slumlord. She said if there was a problem with a building whether it was an owner or a tenant that should be dealt with in a different way and not to create rules that required the owner is the tenant of one of the units on a property.

Chair Kadvany said in principal he agreed but it should be taken in concert with everything that was in the proposed modifications such as the size and setbacks.

Commissioner Bressler said he thought they were being led down a narrow path and they could make a big deal and open everything up for discussion which he thought some wanted or they could identify a few things to address now or they could do both. He said this was something they thought they could agree on.

Commissioner Eiref said the spirit was to encourage many more secondary dwelling units, and he would like them to specifically identify what in these modifications would actually encourage more secondary dwelling units. He said they should also identify things that discourage the building of secondary dwelling units.

Chair Kadvany said a neighbor had expressed she supported secondary dwelling units but if a property owner just built a slapdash unit and then did not live there that caused her concern. He said to represent her concern he would vote against the motion.

Commission Action: M/S Bressler/Strehl to delete the 'tenancy' regulation, which currently requires that the property owner occupy either the main dwelling unit or secondary dwelling unit.

Motion carried 5-1 with Chair Kadvany opposed and Commissioner Riggs absent.

Commissioner Bressler said a perceived barrier was that it was expensive to go through the City process. Commissioner Strehl said there was some legitimacy to that comment. She said a neighbor, Mr. Tom Jackson, built a secondary dwelling unit but it took him a long time to go through the City process, and that was an added cost that should not be overlooked. Commissioner Bressler asked if there was a way to quantify cost. Planner Chow said the City's fees would range to a few thousand dollars for a building permit, the sanitary district would have connection fees, and there were potential school impact and fire district fees. Commissioner Bressler said he did not know if the City wanted to subsidize this but the cost was a deterrent.

Chair Kadvany said an office or recreation space was being classified as habitable and would fall under a different set of guidelines. He said he thought those type of uses should be included as accessory buildings. He said he thought the fear that a home office would be rented as living space was a bias. He said this would make it harder to build accessory buildings. He said now those could be built three feet into the setback. Senior Planner Chow said current ordinance for accessory buildings and accessory structures were not treated differently and the setback requirement could be up to three feet for a side setback interior and three feet from the rear. She said potential modifications would be to create new definitions for accessory buildings and accessory structures and potentially creating separate development regulations for accessory structures. She said if you had a trellis that you wanted as an entry feature to your yard there was currently a requirement that it had to be in the rear yard. She said for accessory buildings there was the potential to differentiate between those that were habitable and have living spaces but not permanent for sleeping as for a secondary dwelling unit. She said that might include a garage or greenhouse that does not have heating or cooling. She said part of the discussion was differentiating between the two types of accessory buildings.

Chair Kadvany said the regulations for accessory buildings should remain as existing as he thought the modifications proposed to the ordinance were too restrictive. He asked about the size of accessory buildings with the proposed modifications. Senior Planner Chow said the

existing maximum size for a secondary dwelling unit was 640 square feet and accessory building/structure was 700 square feet or 25% of the square footage of the main dwelling so with a 5,000 square foot house the accessory building could be 1,250 square feet. She said the modifications proposed would not lower the square footage except potentially in the conversion process from an accessory building to a secondary dwelling unit. Chair Kadvany said he would prefer office and recreation use to be kept on the accessory building side and not habitable. Senior Planner Chow said those uses currently were under accessory building regulations.

Development Services Manager Murphy asked if the Commission saw plumbing fixtures as integral or independent of accessory buildings. He said that when they see an office with a sink, toilet, shower, an extra sink and a bonus room being permitted as an accessory building that what they wanted to do was to encourage people investing money in their property to apply for a secondary dwelling unit permit from the get go or do something smaller that was truly to the function of an office and not end up functioning as a secondary dwelling unit.

Commissioner Onken said a good starting point was that three plumbing fixtures would be considered habitable. Senior Planner Chow said staff was still trying to define what was habitable but they could make the amount of plumbing fixtures as a limitation overall for all accessory buildings whether it was habitable or not. She asked if they saw linking plumbing fixtures to habitability or having separate terms for habitable living space and if for all accessory buildings there should be a limit on the number of plumbing fixtures.

Commissioner Onken said Woodside has a limitation on the number of kitchens on a lot. He said plumbing fixture count was a perfect limitation. Commissioner Ferrick asked if kitchens should be the link to living or habitable space with how the housing element counted kitchens. She said for counting housing units for the state that was calculated based on the number of kitchens. Development Services Manager Murphy said for something to count for a secondary dwelling unit it needed a kitchen and they needed to define what constituted a kitchen. He said that might be one step beyond where they were now right now. He said to have proper sanitation and a kitchen facility more than three plumbing fixtures would be needed.

Chair Kadvany asked if the definitions would only be used for building permits or afterwards for code violations. Development Services Manager Murphy said there were existing definitions for accessory buildings that they were not to be used for living or sleeping quarters. He said they were trying to clarify that definition as it related to accessory buildings compared to secondary dwelling units. He said they were trying to be clear about situations where someone was sleeping in a building and what that really means. He said once definitions were on the books it was definitely for purposes of reviewing permits and code enforcement.

Discussion on the number of plumbing fixtures ensued. (Microphone was not on for some of the discussion and the transcriber could not hear what was said.) At the conclusion of the discussion, Senior Planner Chow clarified with the Commission that their unanimous consent was to define "living" space as a building with three or more plumbing fixtures.

Chair Kadvany asked if accessory buildings had different profiles than secondary dwelling units. Senior Planner Chow said in terms of wall height both have the nine foot wall maximum but a secondary dwelling unit has a provision to increase wall height if it was located in a flood zone and proportionately to the amount to meet the flood plane requirements. She said the maximum overall height in a secondary dwelling unit was 17 feet and for accessory buildings it was 14

feet. She said a potential modification described for accessory buildings and structures was to eliminate the concept of wall height and use a daylight plane concept similar to what was implemented for primary structures. She said the daylight plane would be brought down to a nine foot height at a 45 degree angle at the setback. She said by moving to a four foot setback there could be a wall height of 10 feet. She said accessory buildings could have three by three setbacks but setbacks for secondary dwelling units followed the same side setbacks as the primary house with a 10 foot rear setback. She asked if the Commission supported the change to wall height through implementation of a daylight plane at the setback or if as proposed by Ms. Fry at the property line at a lower wall height. She said the seven foot at the property line proposed by Ms. Fry would equal a 10 foot wall at the three foot setback. Chair Kadwany said that did not sound like what was intended.

Commissioner Onken said he was against any opportunity to lose a setback and he did not support taking a measurement at the property line. He said he liked the daylight plane concept rather than the fixed wall height. Senior Planner Chow said it would provide flexibility that would account for structures built in flood zones.

There was unanimous consent to use a daylight plane concept in lieu of wall height for accessory buildings/structures and secondary dwelling units. The maximum heights for accessory buildings/structures and secondary dwelling units would not change.

Chair Kadwany asked about the concept of limitation on dormers and whether that was when those would face neighbors. Senior Planner Chow said the question was whether there should be a maximum of the dormer size to the length of the wall. She said it was building on the concept in the single-family residential district where there could be dormer encroachments into the daylight plane. She said the question was whether a dormer if it would break up the massing of the wall could be some percentage of the wall. Commissioner Onken said as these would be single-story buildings the only reason for a dormer would be architectural fancy and nothing for a need of windows to room. He said he would err on the conservative side and allow no encroachment into the daylight plane. Senior Planner Chow said there appeared to be consensus. Chair Kadwany said there was acclamation.

Commissioner Bressler said he understood that you could not exceed FAR square footage or lot coverage with an accessory building or secondary dwelling unit and asked if that was something they wanted to revisit. He said there was a limit on lot size and this was an impediment to the building of secondary dwelling units. He asked if they wanted to intensify Menlo Park with big buildings or allow property owners to build in their backyard. He said it could double the number of secondary dwelling units. Chair Kadwany said he did not think that would fly to open up FAR. Commissioner Bressler said he thought his approach was more egalitarian.

Commissioner Onken said a member of the public had phoned him that day about secondary dwelling unit rules applying to attached structures. He said the caller asked why he could not build a second story over his garage and have that as a secondary dwelling unit. He asked where in the ordinance a secondary dwelling unit on top of a garage rather than in the backyard would be covered. Senior Planner Chow said if the structure was attached the primary structure regulations were what dictated the regulations for a secondary dwelling unit. She said it had to be independently accessible with its own sanitation facilities and cooking facility, and living area. She said attached or detached a secondary dwelling unit was possible to be permitted. Commissioner Onken suggested that might be better communicated to the community.

Commissioner Strehl noted the size limit for a secondary dwelling unit of 640 square feet and that for an accessory building of 700 square feet or 25% of the square footage of the main residence, and asked about people building an accessory dwelling unit to 700 square feet and then converting it to a secondary dwelling unit. She asked why they could not allow a secondary dwelling unit to be 700 square feet. Senior Planner Chow said another response would be to put more size restriction on an accessory building to make a secondary dwelling unit more attractive to build.

Commissioner Bressler said this discussion was something that should have been conducted at an earlier hour and he thought the public needed to be part of the discussion. He said their study session started at 10:30 p.m. and it was about something that affected everyone in the City, and there was no one from the public here.

Commissioner Ferrick said the Housing Element Steering Committee meeting was scheduled in a couple of weeks. She asked if that was another opportunity for the public to talk about secondary dwelling units or were there other topics proposed for the agenda. Senior Planner Chow said the meeting date was tentative and she was waiting for this feedback and feedback tomorrow night from the Council on the proposed revisions to the Housing Element documents, comments they might receive back from HCD, and the availability of the Steering Committee.

Senior Planner Chow said the conversion of legally permitted accessory buildings to secondary dwelling unit was part of the implementation program of the Housing Element, and that there had to be an effective date before which that might be possible. She asked if there should be a limitation of size as part of the conversion and was three foot setback acceptable. She said they also had to consider the process whether it would be discretionary or administrative.

Commissioner Onken said he would move to approve number 2 to allow the conversion of legally constructed accessory buildings into secondary dwelling units, subject to administrative approval by the Community Development Director for a period of one year from the effective date of the ordinance. Commissioner Bressler seconded the motion.

(There was discussion that was not audible as microphone was not on.)

Commission Action: M/S Onken/Bressler to allow the conversion of legally constructed accessory buildings into secondary dwelling units, subject to administrative approval by the Community Development Director, for a period of one year from the effective date of the ordinance. .

Motion carried 6-0 with Commissioner Riggs absent.

G. INFORMATION ITEMS

G1. Update on the R-4-S Zoning District Compliance Review and Application of State Density Bonus Law for the Anton Menlo Development at 3639 Haven Avenue.

Senior Planner Chow said the Commission conducted a study session on October 7, 2013 as part of the R-4-S (High Density Residential, Special) compliance review process for a 393-unit, multi-family residential development with 38 low income units as part of the density bonus law

application. She said since then after working the numbers the applicant would reduce the below market rate units to the very low income and the amount of units to 22.

Development Services Manager Murphy said the component about density bonus law was that it's state law and was based on a pretty straight formula with a relationship for very low income units and a different relationship for low income units. He said those calculations were based on state law and the City had no control over those.

Commissioner Onken said on other sites in Haven there was a hazardous environmental soils report circulating that prohibited residential dwelling in the area. He asked how this project was able to overcome this. Senior Planner Chow said the report did not apply to this property and the property Commissioner Onken was referring to was also rezoned as part of the R-4-S housing overlay. She said that owner was seeking removal of the deed restriction and to do the cleanup of the site necessary to allow for future development.

H. COMMISSION BUSINESS

There was none.

ADJOURNMENT

The meeting adjourned at 11:52 p.m.

Staff Liaison: Thomas Rogers, Senior Planner

Recording Secretary: Brenda Bennett



PLANNING COMMISSION STAFF REPORT

FOR THE PLANNING COMMISSION
MEETING OF MARCH 10, 2014
AGENDA ITEM D1

LOCATION: 1900 Santa Cruz Avenue **APPLICANT:** Victor Buathier

EXISTING USE: Single-Family Residence **OWNER:** Jill and Victor Buathier

PROPOSED USE: Single-Family Residence **APPLICATION:** Use Permit Revision

ZONING: R-1-U (Single Family Urban Residential District)

	PROPOSED PROJECT	EXISTING DEVELOPMENT	ZONING ORDINANCE
Lot area	7,329 sf	7,329 sf	7,000 sf min.
Lot width	45.7 ft.	45.7 ft.	65 ft. min.
Lot depth	119 ft.	119 ft.	100 ft. min.
Setbacks			
Front	20.2 ft.	25 ft.	20 ft. min.
Rear	48 ft.	46 ft.	20 ft. min.
Side (left)	5 ft.	5 ft.	5 ft. min.
Side (right)	12.1 ft.	22 ft.	12 ft. min.
Building coverage	1,909 sf	1,627 sf	2,572 sf max.
	26 %	22.2 %	35 % max.
FAL (Floor Area Limit)	2,880 sf	1,483 sf	2,882 sf max.
Square footage by floor	1,930 sf/basement 1,415 sf/1st 1,005 sf/2nd 460 sf/garage 34 sf/porches	1,120 sf/1st 363 sf/garage 144 sf/porches	
Square footage of building	4,844 sf	1,627 sf	
Building height	26.6 ft.	15.5 ft.	28 ft. max.
Parking	2 covered	2 covered	1 covered/1 uncovered
Note: Areas shown highlighted indicate a nonconforming or substandard situation.			
Trees	Heritage trees 4*	Non-Heritage trees 4	New Trees 1
	Heritage trees approved for removal 1**	Non-Heritage trees proposed for removal 2	Total Number of Trees 6

*One tree is in the public right-of-way and one tree is on an adjacent property

**Removal of heritage size 23-inch glossy privet tree was granted approval on October 7, 2013.

PROPOSAL

The applicant is requesting a use permit revision to add an approximately 1,930 square foot basement to a previously approved two-story residence on a substandard lot with regard to lot width in the R-1-U (Single Family Urban Residential) zoning district. The previous use permit was approved by the Planning Commission on October 7, 2013. No changes are proposed above grade.

ANALYSIS

Site Location

The project site is located at 1900 Santa Cruz Avenue, which is located at the intersection of Avy Avenue and Santa Cruz Avenue. The side property lines of the subject parcel are not parallel, creating a somewhat triangular shape. It is surrounded by other one and two-story single family residential units that are located on parcels zoned R-1-U or R-1-S (Single Family Suburban), with the exception of the properties located on the other side of Avy Avenue, which are located in unincorporated San Mateo County, outside of the boundaries of the City of Menlo Park. The larger R-1-S property on the opposite side of Santa Cruz Avenue is occupied by Holy Cross Cemetery.

Project Description

On October 7, 2013, the Planning Commission approved a use permit to demolish the existing single-story residence and detached garage at the project site and permit construction of a two-story single-family residence with an attached garage. The Planning Commission voted 6-0, with Commissioner Eiref absent, to approve the use permit with findings and conditions as recommended in the staff report.

Subsequent to the Planning Commission's approval of the use permit request, the property owners decided to add a basement to the approved two-story residence. The basement floor plan includes two bedrooms, two bathrooms, an office, a storage room with mechanical room, and a recreation room with wet bar. The three proposed light wells for the basement would be protected by Building Code-compliant railings. With existing and proposed fences at the corner side yard setback and front yard setback and existing vegetation, staff believes that the proposed light wells would not be highly visible from the public right-of-way. As the light wells are not located within any required setbacks, they do not require separate use permit review and approval. However, the basement addition does represent a substantive change to the overall proposal, and requires consideration of a use permit revision.

The addition of a basement would not add any additional floor area as basements are excluded from the Floor Area Limit (FAL) calculation per Chapter 16.4.313 of the City's Zoning Ordinance. The applicant has provided a project description letter, which discusses the proposal in more detail (Attachment C).

Trees and Landscaping

The applicant has submitted a revised arborist report (Attachment D) detailing the species, size, and condition of the four heritage trees on or adjacent to the project site (one tree is located in the public right-of-way and one tree is located on the adjacent property at 1930 Santa Cruz Avenue). The report determines the present condition of the trees, discusses the impacts of the proposed improvements, and provides recommendations regarding tree protection. All recommendations identified in the arborist report shall be implemented and have been included as condition 3.g. Heritage tree number one, 23-inch glossy privet, located in the interior side setback of the subject project site was approved for removal during the previous use permit process. The approved replacement tree, an Idaho locust tree, will be located in the rear yard.

The project arborist states in his report dated January 24, 2014 that excavation for the proposed basement may require shoring along the northern side, facing Avy Avenue. Tree number three would be the heritage tree nearest the excavation activity for the basement. The project arborist has stated that the tree protection zone for this tree should be fifteen feet from the center of the tree's trunk. As excavation would occur approximately 20 feet from tree number three, the City Arborist believes that shoring would not be necessary as excavation would not encroach into the identified tree protection zone.

Correspondence

The applicant states that they have conducted outreach to neighboring property owners and residents for the previous use permit. At the time of writing this report, staff has not received any correspondence.

Conclusion

The project complies with all Zoning Ordinance requirements, and does not involve any changes above ground to the previously approved use permit. Excavation for the proposed basement would not be located within the tree protection zones of existing heritage trees on-site and on adjacent properties. Staff recommends that the Planning Commission approve the proposed project.

ENVIRONMENTAL REVIEW

The project is categorically exempt under Class 3 (Section 15303, "New Construction or Conversion of Small Structures") of the current California Environmental Quality Act (CEQA) Guidelines.

RECOMMENDATION

1. Make a finding that the project is categorically exempt under Class 3 (Section 15303, "New Construction or Conversion of Small Structures") of the current CEQA guidelines.

2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the use permit subject to the following **standard** conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Tektive Design, consisting of 11 plan sheets, dated received February 24, 2014, and approved by the Planning Commission on March 10, 2014 except as modified by the conditions contained herein, subject to review and approval by the Planning Division.
 - b. Prior to building permit issuance, the applicants shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicants shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
 - d. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval by the Planning, Engineering and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
 - e. Simultaneous with the submittal of a complete building permit application, the applicant shall submit plans indicating that the applicant shall remove and replace any damaged and significantly worn sections of frontage improvements. The plans shall be submitted for review and approval of the Engineering Division.
 - f. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a Grading and Drainage Plan for review and approval of the Engineering Division. The Grading and Drainage Plan shall be approved prior to the issuance of grading, demolition or building permits.
 - g. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance.

Report prepared by:
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Assistant Planner

Report reviewed by:
Thomas Rogers
Senior Planner

PUBLIC NOTICE & APPEAL PERIOD

Public notification consisted of publishing a legal notice in the local newspaper and notification by mail of owners and occupants within a 300-foot radius of the subject property. Planning Commission action will be effective after 15 days calendar days unless the action is appealed to the City Council, in which case the outcome of the application shall be determined by the City Council.

ATTACHMENTS

- A. Location Map
- B. Project Plans
- C. Project Description Letter
- D. Arborist Report prepared by Arbor Resources, revised January 24, 2014

Note: Attached are reduced versions of maps and diagrams submitted by the applicants. The accuracy of the information in these drawings is the responsibility of the applicants, and verification of the accuracy by City Staff is not always possible. The original full-scale maps, drawings and exhibits are available for public viewing at the Community Development Department.

EXHIBITS TO BE PROVIDED AT MEETING

None

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PLANNING COMMISSION STAFF REPORT

FOR THE PLANNING COMMISSION
MEETING OF MARCH 10, 2014
AGENDA ITEM D2

PROJECT: Housing Element Update and Implementation

ACTION: Consider and Recommend on the Final Draft Housing Element (2015-2023), Zoning Ordinance Amendments, and Environmental Review Associated with the Housing Element Update and Implementation of Housing Element Programs

BACKGROUND

The Housing Element is one of seven State-mandated elements of the City's General Plan. Housing Element law requires local governments to adequately plan to meet their existing and projected housing needs including their share of the regional housing need. Housing Elements are required to be updated on a schedule set by the State to account for changes in the local housing market and to meet regional housing needs. In June 2013, the City Council authorized a work plan to update the Housing Element for the 2015-2023 planning period and to implement several programs from the City's adopted Housing Element, including 1) the creation of an emergency shelter for the homeless overlay to address the City's unmet shelter needs for compliance with Senate Bill 2 (SB 2), 2) zoning for transitional and supportive housing for compliance with SB 2, 3) establishing procedures for reasonable accommodation for persons with disabilities, and 4) modifying the secondary dwelling unit ordinance to encourage the development of such units, which can increase the number of affordable and mix of housing stock in the City.

The City of Menlo Park's regional housing need allocation (RHNA) for the 2015-2023 planning period is 655 units, with the breakdown by income level as follows:

Income Level	Housing Unit Allocation
Very Low	233
Low	129
Moderate	143
Above Moderate	150
Total	655

For jurisdictions in the Association of Bay Area Governments (ABAG) region, the 2015-2023 Housing Element is required to be adopted by January 31, 2015. A jurisdiction that adopts its Housing Element on time will not have to adopt another housing element for eight years, instead of every four years.

The City has conducted an extensive process assisted by the Housing Element Steering Committee, which is comprised of two members each from the City Council, Planning Commission and Housing Commission. Between August 2013 and February 2014, the Steering Committee met four times to provide feedback on the components of the Housing Element update and implementation programs, and the overall process. During the same time period, City staff conducted a broad public outreach effort, including organizing a workshop in September 2013, producing a newsletter, sending multiple letters/notices to property owners potentially affected by the proposed Emergency Shelter for the Homeless, publishing newspaper ads and notices, emailing bulletins to subscribers of the project webpage, and most recently, mailing a citywide postcard to all property owners and occupants of the City about the proposed Housing Element update and Zoning Ordinance amendments related to the implementation programs. All of the materials presented at the various meetings and the documents under consideration, including the Initial Study and Negative Declaration prepared as part of the environmental review process, are available for review on the project webpage at <http://menlopark.org/athome>.

In addition, in November and December 2013, the Housing Commission, Planning Commission and City Council each conducted a meeting on the Housing Element. The purpose of those meetings was to present the Preliminary Draft Housing Element and the working drafts of the proposed Zoning Ordinance amendments and to provide members of the public, Commissioners, and Council Members with an opportunity to provide feedback prior to conducting formal hearings on the items. The comments on the Preliminary Draft Housing Element were incorporated into the preparation of the Draft Housing Element, which was submitted to HCD in December 2012 for a 60-day review period. Supplemental revisions on the Draft Housing Element were also approved by the City Council in January and February 2014 to address comments received by HCD. In mid-February 2014, HCD issued a letter to the City indicating that the City's Housing Element will comply with State Housing Element law if the document is adopted soon and submitted to HCD for formal review. However, compliance and certification are contingent upon completing several key items by specified dates, including establishment of an emergency shelter for the homeless overlay by May 21, 2014.

On March 5, 2014, the Housing Commission reviewed the Housing Element and associated implementing ordinances. The Commission voted 3-1 to recommend adoption of the Housing Element and ordinances, with the understanding that enhancements may be made to strengthen language pertaining to housing and persons with developmental disabilities, and additional refinements to the documents may be made through the remaining steps of the process. One of the speakers followed up with a letter, which is included as part of Attachment H. Staff is in the process of reviewing the letter and the Draft Housing Element for opportunities to address comments made

at the Housing Commission, and will present changes, if needed, at the Planning Commission meeting.

The City Council is anticipated to review and take action on April 1, 2014. Upon adoption of the Final Draft Housing Element, the City will submit it to HCD for certification. The Zoning Ordinances would become effective 30 days after the second reading of the ordinances, which is tentatively scheduled for April 29, 2014.

ANALYSIS

The intent of the March 10, 2014 Planning Commission meeting is to provide the Planning Commission the opportunity to review and provide a recommendation on the Housing Element update and the Zoning Ordinance amendments for implementation of several Housing Element programs.

Housing Element

The City's current Housing Element (2007-2014) was adopted by the City Council in May 2013 and certified by HCD in June 2013. The proposed Final Draft Housing Element (2015-2023) includes revisions to address comments provided by HCD. The revisions generally provide additional technical detail, clarify the intent of the document, or improve the readability, but do not affect the general policy direction. The revisions were approved by the City Council prior to submittal for HCD for review. The Final Draft Housing Element has also been updated to reflect new demographic data that became available at the beginning of the year, but again, does not change the analysis provided in the document.

The Final Draft Housing Element carries forward a majority of the goals and policies of the adopted Housing Element. More substantive changes have been made to the implementation programs, and include updates on the timing status, deletion of programs that have been implemented, edits for consistency and clarity, and modifications to programs to better align with goals and policies. Sections that may be of particular interest to the Planning Commission are the draft Housing Element Goals, Policies and Implementing Programs (pages 25-53) and summary of adequate sites to address the RHNA for the 2015-2023 planning period (page 111).

The City's RHNA for the planning period is 655 dwelling units. Unlike the recent Housing Element cycle, the 2015-2023 update does not propose any rezonings for higher density housing. The RHNA table on page 111 has been updated since the Draft Housing Element to reflect recent information regarding the total number of affordable and overall dwelling units and the mix of affordable units at the St. Anton project on Haven Avenue. The table continues to demonstrate that the City can meet this need through units that are in the pipeline and through existing available land zoned for higher density residential uses.

Since the release of the Final Draft Housing Element, staff has identified that minor refinements may be needed for internal consistency within the document. For example, the summary table in Appendix B contains reference to the planning period 2014-2022,

where it should read 2015-2023. This is a cleanup item that staff intends to conduct prior to submittal of the document to HCD.

Implementation of Housing Element Programs – Zoning Ordinance Amendments

Emergency Shelter for the Homeless Overlay Zone

Effective January 1, 2008, SB 2 requires every California city and county to engage in a detailed analysis of emergency shelters and transitional and supportive housing in their Housing Element and to adopt zoning for these facilities. Within one year of adoption of the Housing Element, a City must amend zoning to allow an emergency shelter for the homeless in at least one zone without a conditional use permit or any other discretionary process. The adoption of the Emergency Shelter for the Homeless Overlay by May 21, 2014 is critical to the certification of the 2015-2023 Housing Element. The definition of an emergency shelter is as follows:

Emergency Shelter: Housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay. (Health and Safety Code Section 50801(e))

Every other year, San Mateo County along with many other stakeholders, conducts a homeless count. The most recent counts were conducted in January 2013, and the City's requirement is to provide zoning to accommodate 16 beds to address homeless needs in the community. Implementation of Housing Element Program H3.A Zone for Emergency Shelter for the Homeless would: 1) create an overlay zone where emergency shelters, up to a maximum of 16 beds in totality throughout the City, would be a permitted use and 2) establish written and objective performance standards as part of the overlay zone in the Zoning Ordinance.

The Housing Element Steering Committee identified five potential areas for the emergency shelter for the homeless overlay zone for community consideration. The sites were primarily selected for their proximity to transit, capacity to accommodate a facility, and the types of nearby uses and suitability for this use. Following the Housing Element Steering Committee's recommended prioritization of the sites, the Planning Commission and City Council also provided comments at their respective November 2013 and December 2014 meetings on the topic. The direction from the City Council was to pursue the Veterans Affairs Campus area for the zoning overlay.

Attachment C is a draft of the proposed emergency shelter for the homeless overlay, which includes performance standards that all facilities would need to comply with, unless a use permit is requested and approved by the Planning Commission. The emergency shelter for the homeless overlay does not replace or modify any standards of the underlying zoning district of a property. The City is not required to build a shelter, but is required to provide the zoning to allow a shelter to locate in the overlay area without discretionary review. At this time, there are no proposals to develop a homeless shelter within the proposed overlay area.

Transitional and Supportive Housing

Housing Element Program H3.B (Zone for Transitional and Supportive Housing) is also required for compliance with SB 2 and for certification of the Housing Element update. To comply with SB 2, the Housing Element must demonstrate that transitional and supportive housing are permitted as a residential use and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. The definitions of transitional and supportive housing are as follows:

Transitional housing. “Transitional housing” means buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six (6) months from the beginning of the assistance.

Supportive housing. “Supportive housing” means housing with no limit on length of stay, that is occupied by the target population, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

Since the Planning Commission meeting in November 2013, HCD indicated that the City needed to address residential care facilities. Similar to transitional and supportive housing, residential care facilities of six or fewer persons must also be permitted as a residential use and subject to those restrictions that apply to other residential uses in the same zone. Staff is proposing two definitions pertaining to residential care facilities (small and large), which are the same, except for the number of persons served in a facility. The small residential care facilities would be defined as a dwelling while a large residential facility would be regulated more akin to a convalescent home. The definition of residential care facility (small) is as follows.

Residential care facility, small. “Small residential care facility” means any facility, place, or building that is maintained and operated to provide twenty-four (24)-hour care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual and licensed by the state of California for occupation by six (6) or fewer persons.

The proposed Zoning Ordinance amendment (Attachment D) would modify the definition of “dwelling” and “convalescent home” and add the definitions of the various uses for clarity in implementation.

Reasonable Accommodation

A series of federal and state laws (Federal Fair Housing Amendments Act of 1988, California’s Fair Employment and Housing Act, and the State’s Housing Element law) have been enacted to prohibit policies that act as a barrier to individuals with disabilities who are seeking housing. Program H3.C Adopt Procedures for Reasonable

Accommodation is the establishment of procedures for reasonable accommodation for individuals with disabilities to ensure equal access to housing. Implementation of this program would also meet the final criteria needed to qualify for the streamlined review process.

Attachment E includes reasonable accommodation ordinance for review and recommendation. The draft ordinance identifies the process and the necessary findings to grant the request. Unless the request requires another approval, the Community Development Director is the granting authority, with the Planning Commission acting upon appeals. A fundamental characteristic of a reasonable accommodation procedure is the establishment of appropriate findings that reflect the intent of fair housing statutes. The findings for reasonable accommodation, therefore, are different than findings related to a typical zoning variance because the focus of the review is the need of the individual with disabilities to overcome barriers to housing, not on the physical constraints or unique characteristics of the lot.

Secondary Dwelling Units and Accessory Buildings & Accessory Structures

The proposed modifications to the secondary dwelling unit ordinance and accessory buildings and structures ordinance derived from the adopted Program H4.F (Undertake a Secondary Dwelling Unit Amnesty Program). After consideration, the Housing Element Steering Committee recognized that the establishment of an amnesty program presented more challenges than potential positive results, and repurposed the direction. In the proposed Housing Element update, Program H4.F has been repurposed to establish a process and standard to allow the potential conversion of accessory buildings and structures to a secondary dwelling unit.

The approach would be two-pronged; including modifications to the existing secondary dwelling unit ordinance to allow for the conversion of legally permitted and constructed accessory buildings (meeting certain criteria) into secondary dwelling units while simultaneously amending the accessory building/structure language to more clearly distinguish how the building could be used. Implementation of Program H4.F is coupled with implementation of Program H4.E, which supports modifications to the secondary dwelling unit development standards and process.

The Planning Commission conducted a study session on January 27, 2014 and February 10, 2014 to provide feedback on the potential changes to the secondary dwelling unit and accessory buildings and structure ordinances, and the Steering Committee provided additional guidance at their meeting on February 27, 2014. Attachment F includes the draft ordinance in underline (new) and ~~strikeout~~ (deleted) format. The proposed modifications to Chapter 16.79 of the Zoning Ordinance pertaining to secondary dwelling units generally reflect the comments provided and are summarized below:

- Lot size – Reduction of the minimum lot size from 6,000 square feet to 5,750 square feet to capture additional single-family zoned lots in the Belle Haven neighborhood.

- Minimum yards – Clarify that for properties abutting an alley on the interior side or rear yards, the minimum setback is five feet.
- Unit size – Increase the allowable square footage to 700 square feet for secondary dwelling units that comply with most aspects of disabled access requirements, recognizing that the secondary dwelling units are viable housing opportunities for persons to age in place and meeting disabled access requirements would require additional space.
- Height – The general wall height requirement of 9 feet would be replaced by a new daylight plane concept. The flexibility for wall height for properties located in the flood zone would also be deleted, but would be resolved, and perhaps improved, through the proposed daylight plane concept. The daylight plane would be established at the three foot side setback line at a height of nine feet, six inches with a slope inwards at a 45 degree angle. The proposed daylight plane would provide greater flexibility and clarity in application, allowing the wall height to vary as a building increases its setbacks. Unless approved through a use permit or neighbor approval, the required setbacks would remain that same as the main dwelling unit per the zoning district requirements of the lot.
- Parking – The proposed revisions are to provide clarity on how tandem parking may be arranged and how covered and uncovered parking spaces are regulated.
- Tenancy – Members of both the Planning Commission and the Steering Committee expressed desire to provide flexibility in the tenancy requirement, which currently requires the property owner to occupy either the main dwelling unit or secondary dwelling unit. The proposed revisions include 1) clarification that a property owner does not have to live at either the main dwelling unit or secondary dwelling unit so long as both units are not occupied as dwellings, 2) a registration process to allow a homeowner to temporarily allow both the main dwelling and secondary dwelling unit on a property to be occupied by persons other than the property owner, and 3) the ability for a person to request a use permit for modification to the tenancy requirement on a permanent basis or a time period otherwise not eligible under the registration process.

The Commission may wish to comment on the maximum time that the adjusted tenancy requirement may be permitted under the registration process and/or other evaluating criteria.

- Conversion process for accessory buildings – To implement program H4.F, the proposed amendment to the secondary dwelling unit ordinance includes a new conversion process for accessory buildings into secondary dwelling units in an effort to increase the housing stock by counting buildings that may be effectively function like secondary dwelling units, but do not meet the technical requirements. The key components of the conversion process include:
 - Documentation to demonstrate the building was legally built and constructed or under construction by the effective date of the ordinance;
 - One year period to submit an application for administrative review by the

Community Development Director. Following this period, a use permit may be requested to modify the required development regulations;

- The accessory building would need to be upgraded to meet the Building Code requirements based on the change of occupancy at the time of the conversion; and
 - Allowance for the nonconforming building due to setbacks to be able to be rebuilt at the nonconforming setback, so long as the nonconformity is not expanded and the footprint remains the same or less. This provision was recommended by the Steering Committee in recognition of comments from the public that it would be very difficult or practically impossible to structurally upgrade a building while without affecting the walls.
 - Although not part of the formal ordinance, staff will be presenting a fee reduction for the conversion process as part of the City Council's consideration of the Master Fee Schedule.
- Definitions – For consistency in application of secondary dwelling units, the “permanent provisions for cooking” term is proposed for clarification in the definition of secondary dwelling unit.
 - Clean up items – Removal of language that is no longer relevant in the subdivision section.

Attachment G includes the proposed modifications to the accessory building and structure section of the Zoning Ordinance (Section 16.68.030). The proposed amendment is intended to 1) more clearly define accessory buildings and accessory structures, 2) establish development regulations more aligned with the use of the building or structure, 3) resolve internal inconsistencies in how accessory buildings and structures is used in the Zoning Ordinance, and 4) reformat the section for ease of use.

The proposed amendment includes the following modifications:

- Definition – Establishing separate definitions for accessory building and accessory structure. The proposed definition for accessory building would include a differentiation between “living space” and non-living space, whereby a building with three or more plumbing fixtures would be regulated as “living space.”
- Minimum yards – The proposed amendment would distinguish setbacks differently between accessory structures and accessory buildings, allowing accessory structures to no longer be required to be located on the rear half of the lot so long as the front and side setback requirements are met. Furthermore, the proposed ordinance would establish different setback requirements for accessory buildings with “living space”. Where “living space” is provided, an accessory building must meet the side setback requirements of the zoning district in which it is located and must maintain a minimum 10 foot rear setback, where three feet is the current requirement. The current requirements would be maintained for buildings with non-living space.

- Wall height – Similar to secondary dwelling units, the maximum wall height would be replaced with the daylight plane concept. The daylight plane would also be established at the three foot side setback and begin at a horizontal line of nine feet, six inches above grade and slope inwards at a 45 degree angle. The overall height of 14 feet would remain unchanged.
- Separation between buildings – The current requirement for a 10-foot separation between accessory buildings and structures and a dwelling unit would only be applicable to accessory buildings in the proposed ordinance amendment.
- Parking – For consistency, the proposed amendment is requiring all entrances to covered parking, regardless of whether it is attached or detached, to maintain a 20 foot setback from the property line it faces. This is to help ensure that vehicles parking in a driveway would not obstruct a sidewalk and/or street.

The proposed amendments to the accessory buildings and structures section would also require minor edits in other sections of the Zoning Ordinance for consistency. The changes are noted in the draft Ordinance.

CORRESPONDENCE

Since the December 12, 2013 City Council meeting, several pieces of correspondence have been received regarding the Housing Element update and implementation programs. The correspondence generally pertains to one of three categories, including 1) the proposed Emergency Shelter for the Homeless Overlay zone, 2) the proposed modifications to the secondary dwelling unit and accessory building/structure ordinances, and 3) best practices for affordable housing policies and programs as identified by a coalition of concerned community groups (Housing Leadership Council of San Mateo County, San Francisco Organizing Project/Peninsula Interfaith Action and Greenbelt Alliance). As part of the adopted Housing Element and the Housing Element Update, the City has either completed some of the best practice programs or has included such implementing programs for the next planning period. Staff believes the Housing Element (2015-2023) is inclusive of policies and programs that address the challenges of providing housing opportunities for diverse and changing demographics throughout the planning period. The programs and policies address each of the topic areas identified in the best practices document, but consideration can be given whether additional explicit programs should be considered for topics, such as home sharing, community land trusts, universal design standards, and additional priority development areas. The correspondence is included as Attachment H.

ENVIRONMENTAL REVIEW

The 2014-2022 Housing Element update and the Zoning Ordinance amendments associated with the implementation programs are subject to the California Environmental Quality Act (CEQA). A Negative Declaration, which was prepared on the basis of an initial study for the proposal, is being circulated for a 30-day review period. The comment review period ends on March 14, 2014.

The initial study analyzed a number of topics, including aesthetics, agriculture and forestry resources, air quality, biological resources, cultural resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use, mineral resources, noise, population and housing, public service, recreation, transportation/traffic, and utilities and service systems. The initial study consists of a depiction of the existing environmental setting, the proposed project description, followed by a description of potential various environmental effects that may result from the proposed project. The initial study determined that the proposed project would not have a significant effect on the environment and therefore, a Negative Declaration was prepared.

RECOMMENDATION

The Housing Element process has been inclusive and informed by the guidance of the Steering Committee, public input, and feedback from various Commissions and the City Council. The Housing Element will continue to provide the foundation for policies and programs to support a variety of housing opportunities to support varying needs throughout the City. As noted previously in the report, the adoption of the ordinances related to the emergency shelter for the homeless overlay, transitional and supportive and residential care facilities, and reasonable accommodation are critical and necessary prior to the certification of the Housing Element. Staff recommends that the Planning Commission recommend the approval to the City Council of the following actions:

Environmental Review

1. Adopt a Resolution Adopting the Negative Declaration for the Housing Element Update and Associated Zoning Ordinance Amendments (Attachment A)

General Plan Amendment

2. Adopt a Resolution Updating the Housing Element for the 2015-2023 Planning Period (Attachment B)

Zoning Ordinance Amendments

3. Introduce an Ordinance Amending the Zoning Ordinance to Add the Emergency Shelter for the Homeless Overlay and a Definition of Emergency Shelter (Attachment C)
4. Introduce an Ordinance Amending the Zoning Ordinance to Modify and Add Definitions Related to Transitional and Supportive Housing and Residential Care Facilities (Attachment D)
5. Introduce an Ordinance Amending the Zoning Ordinance to Add Provisions for Reasonable Accommodations (Attachment E)
6. Introduce an Ordinance Amending the Zoning Ordinance to Modify Requirements Related to Secondary Dwelling Units (Attachment F)

7. Introduce an Ordinance Amending the Zoning Ordinance to Modify Requirements Related to Accessory Buildings and Accessory Structures (Attachment G)

Report prepared by:
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Senior Planner

Report reviewed by:
Justin Murphy
Development Services Manager

PUBLIC NOTICE

Public notification consisted of publishing a notice and ad in the local newspaper, a postcard mailed to all property owners and occupant in the City, and an additional notice to all property owners and occupants located within a 300 foot radius of the proposed Emergency Shelter for the Homeless Overlay. In addition, the City has prepared a project page for the proposal, which is available at the following address: <http://www.menlopark.org/athome>. This page provides up-to-date information about the project, allowing interested parties to stay informed of its progress. The page allows users to sign up for automatic email bulletins, notifying them when content is updated and meetings are scheduled. A postcard was previously sent Citywide informing people of the Housing Element Implementation and Update and encouraging them to subscribe to the project page.

ATTACHMENTS

- A. [Draft Resolution pertaining to the Environmental Review](#) ([Initial Study](#) and [Negative Declaration](#) provided under separate cover)
- B. [Draft Resolution pertaining to the Housing Element Update](#) ([Final Draft Housing Element](#) available under separate cover)
- C. [Draft Ordinance pertaining to the Emergency Shelter for the Homeless Overlay](#)
- D. [Draft Ordinance pertaining to Transitional and Supportive Housing and Residential Care Facilities](#)
- E. [Draft Ordinance pertaining to Reasonable Accommodation](#)
- F. [Draft Ordinance pertaining to Secondary Dwelling Units](#)
- G. [Draft Ordinance pertaining to Accessory Buildings and Structures](#)
- H. Correspondence since December 12, 2014
 - [Letter from Golden Gate Regional Center, dated March 6, 2014](#)
 - [Letter from Karen and Richard Recht, received March 5, 2014](#)
 - [Email from Jeff Masnaghetti, dated March 4, 2014](#)
 - [Letter from Dr. David Nellesen, dated March 4, 2014](#)
 - [Letters included in the HESC #4 Packet](#)
 - Housing Leadership Council et. al., dated February 24, 2014
 - Email from Philip Bahr, dated February 10, 2014

- Email from Elizabeth Houck, dated February 10, 2014
- Email from Patti Fry, dated February 10, 2014
- Email from Jim Lukas, dated January 24, 2014
- Email from Linda Wee, dated January 23, 2014
- Email from Brandee Winikoff, dated January 23, 2014

EXHIBITS TO BE PROVIDED AT MEETING

Presentation

AVAILABLE FOR REVIEW AT CITY OFFICES AND ON THE PROJECT WEB PAGE

- [Adopted Housing Element for the 2007-2014 Planning Period](#)
- [Housing Element Steering Committee Meeting #1 Summary](#)
- [Housing Element Steering Committee Meeting #2 Summary](#)
- [Housing Element Steering Committee Meeting #3 Summary](#)
- [Workshop](#)
- [Draft Housing Element, dated December 12, 2013](#)
- [Revisions to the Draft Housing Element, City Council staff report dated January 28, 2104](#)
- [Supplemental Revisions the Draft Housing Element, City Council staff report dated February 11, 2014](#)
- [Frequently Asked Questions – Housing Element Requirements for Addressing Homelessness](#)
- [State Department of Housing and Community Development \(HCD\) document on Senate Bill 2 \(SB 2\)](#)

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