



REGULAR MEETING MINUTES

Date: 8/12/2019
Time: 7:00 p.m.
City Council Chambers
701 Laurel St., Menlo Park, CA 94025

A. Call To Order

Chair Andrew Barnes called the meeting to order at 7:00 p.m.

B. Roll Call

Present: Andrew Barnes (Chair), Chris DeCardy, Michael Doran, Henry Riggs (Vice Chair)

Absent: Camille Kennedy, Michele Tate

Replying to Chair Barnes' inquiry, Interim Community Development Director Deanna Chow said that regrettably Katherine Strehl had resigned her position on the Planning Commission.

Staff: Deanna Chow, Interim Community Development Director; Fahteen Khan, Contract Assistant Planner; Ori Paz, Associate Planner

C. Reports and Announcements

Interim Director Chow said the City Council at its August 20, 2019 meeting would have the first reading of a Cannabis Ordinance that basically formalized the moratorium on retail cannabis, would consider approval of the mixed use project at 115 El Camino Real that the Commission had recently reviewed and recommended approval, and would review for approval the proposed contract for preparation of an Environmental Impact Report for Willows Village.

Ms. Chow said Ms. Strehl had served on the Planning Commission for six years and prior to that on the Housing and Transportation Commissions as well as on numerous subcommittees of those bodies. She thanked Ms. Strehl for the valuable insight she brought to those roles.

Chair Barnes expressed appreciation to former Commissioner Strehl for her vision and service for the City.

D. Public Comment

None

E. Consent Calendar

Commissioner Michael Doran requested to pull the minutes from the July 22, 2019 meeting as he would like to review the video for Item I1 and the CitizenM Hotel's representative Ben McGee's

responses to questions posed by Commissioner Doran. He said specifically that was regarding where the modules would be constructed and who would inspect them.

Commissioner Henry Riggs noted some desired changes on pages 7 and 9 of the minutes.

E1. Approval of minutes from the July 22, 2019, Planning Commission meeting. ([Attachment](#))

ACTION: By consensus, the Commission approved the minutes from the July 22, 2019 Planning Commission meeting with the following modifications:

- Item I1, page 7, last paragraph, next to last line, insert “surface” before “parking” to read: “He said the design would have one vehicular access point and no onsite **surface** parking.”
- Item I1, page 10, under *Summary of Commission Feedback*, next to last bullet, replace “articulation” with “differentiation” to read: “Recommendation to enhance the ~~articulation~~ **differentiation** between the second and third floors of the mixed use building, particularly vis-à-vis the rooflines, to offer a more significant transition between the two floors.”
- Item I2, page 11, under *Application Presentation*, 2nd paragraph, Commissioner Doran will work with staff to expand minutes to reflect in more detail his questions and Mr. McGee’s responses specifically regarding where the modules would be constructed and who would inspect them.

E2. Approval of minutes from the July 29, 2019, Planning Commission meeting. ([Attachment](#))

Commissioner Riggs noted a misspelled word on page 9.

ACTION: By consensus, the Commission approved the minutes from the July 29, 2019 Planning Commission meeting with the following modification:

- Item F4, page 9, 5th paragraph, 2nd to last line, replace “east” with “ease” to read: “She said from the convenience standpoint and ~~east~~ **ease** of installation everything was right there.”

F. Public Hearing

- F1. Use Permit/Mauro & Adela Gildo-Mazzon/313 O'Connor Street:
Request for a use permit for a project including first-, second-, and basement-level additions and interior modifications to an existing non-conforming single-family residence in the R-1-U (Single Family Urban Residential) district. The work would exceed 50 percent of the replacement value of the existing structure in a 12-month period. The proposal includes a request for excavation within the required right side yard for basement light wells. The new second story would include a secondary dwelling unit, accessed from the right side, which would be slightly larger than 640 square feet, as may be permitted with a use permit. ([Staff Report #19-057-PC](#))

Staff Comment: Contract Assistant Planner Fahteen Khan said staff had no additions to the written report.

Applicant Presentation: Ryan Morris, Morris Architecture, introduced the property owners Mauro and Adela Gildo-Mazzoni. He said the intent of the project was to expand the living space of the main residence without impacting the backyard too much and to add a secondary dwelling unit (SDU). He said the additional square footage being requested for the SDU was for the needed

staircase to access the unit.

Chair Barnes opened the public hearing and closed it as there were no speakers.

Commission Comment: Commissioner Chris DeCardy said the project looked good and would fit within the neighborhood. He said he could support it.

Chair Barnes said he thought the architecture would be well suited for the neighborhood, that the excavation into the side yard was permissible due to the distance between the subject and neighboring properties, and the additional square footage requested for the SDU was fine as it was within the overall square footage allowed by the development standards for the entire site. He moved to approve as recommended in the staff report. Commissioner Doran seconded the motion.

Commissioner Riggs said the project was easy to support as it was well formed, and he had no issue with the extra area requested for the SDU.

ACTION: Motion and second (Barnes/Doran) to approve the item as recommended in the staff report; passes 4-0-2 with Commissioners Kennedy and Tate absent.

- F2. Use Permit/Ed and Shionda Nickerson/704 Laurel Avenue:
Request for a use permit to demolish an existing single-family residence and construct a new two-story residence with an attached two-car garage on a substandard lot with respect to lot width. The property is located in the R-1-U (Single Family Urban Residential) zoning district. A secondary dwelling unit that is under construction at the rear of the lot would remain. ([Staff Report #19-058-PC](#))

Staff Comment: Contract Planner Khan reported that the project description letter had been updated since publication of the staff report to provide information on the neighborhood outreach conducted by the property owners. She said copies of the updated project description letter were at the dais for the Commissioners' review and at the rear table for the public.

Questions of Staff: Replying to Chair Barnes, Interim Director Chow said the City sent notification twice to nearby residents and affected property owners about projects. She said the first was sent at the time of the project application and the second was when a project was ready to come before the Planning Commission for a public hearing. She said staff encouraged applicants to conduct neighborhood outreach and oftentimes even when they come in for an initial review. She said there was no standard requiring outreach by applicants, but applicants were asked to provide documentation of outreach that they conducted.

Chair Barnes said that having the outreach information presented in a standardized way was very helpful for the Commission to review.

Applicant Presentation: Andrew Young, project architect, introduced the property owners Ed and Shionda Nickerson. He said the project site was a substandard, corner lot that was long and skinny and located in the flood plain. He said originally the property owners wanted to just do an addition and remodel of the existing home. He said they found however that was not a feasible approach as the existing home was slab on grade and well below the existing flood plain. He said a good portion of the home was masonry without any insulation. He said an attached unit on the rear of

the home encroached greatly into the backyard and the side yard was the only outdoor usable space they currently had. He said the project began with the creation of the new SDU in the rear of the lot, which was nearly complete. He said the new home would be located closer to Laurel Street and create a nice yard between the two units. He said the floor of the house had to be raised about three-feet higher from where it was now. He said the side setback on the O’Keefe Street was much greater because it was a corner lot than it would have been as an internal lot. He said the eaves and the mass of the roof were tucked in and met the requirement for daylight plane on both sides.

Replying to Chair Barnes, Mr. Young said they could not put the new SDU where it was without demolishing a portion of the existing house to meet the required distances between the structures. He said the applicants would be able to live in the SDU while the new home was constructed. He said they met with the neighbors at 708 Laurel Street who would be most impacted by construction and addressed their concerns.

Commissioner DeCardy referenced the 708 Laurel Street neighbors and asked what view the second story of the proposed home would have of that property, how windows aligned, and what the planting plan for screening was. Mr. Young said that side of the neighbor’s house was their bedroom wing, which was one-story. He said moving the new home closer to Laurel Street helped so the home did not view the neighbor’s rear yard. He said the view from the second story windows would be the roof of the neighbor’s one-story residence. He said the neighbor had quite a few existing fruit trees on her side that she wanted to keep. He said they discussed with her the option of having additional plantings planted on the subject property, but the neighbor was hesitant about that as she did not want her fruit trees shaded. He said the landscape plan proposed a hedge around the patio to be kept to eight to ten feet in height so as not to overshadow the neighbor’s property.

Chair Barnes opened the public hearing and closed it as there were no speakers.

Commission Comment: Chair Barnes said he was appreciative of the proposed materials and thought overall it was a very nice design. He noted the standing seam metal roof, exterior stucco finish, aluminum clad windows, and bay windows as aesthetic choices worked well for this project. He said he supported the project.

Commissioner Riggs said the proposal was a handsome project and he expressed appreciation for the standing seam metal roof. He noted projects that come back for use permit revisions that were disappointing when an attractive feature that was significant to the Commission’s approval were removed. He said the SDU was not entirely matching the new proposed home. He said that was understandable as to get approval for it the SDU would need to match the existing house. He said it was done in such a way however so as to be effective with the new home. He said he was okay with the low sills of the bay windows as their locations had been selected carefully. He moved to approve as recommended in the staff report. Commissioner DeCardy seconded the motion.

ACTION: Motion and second (Riggs/DeCardy) to approve the item as recommended in the staff report; passes 4-0-2 with Commissioners Kennedy and Tate absent.

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 California Environmental Quality Act (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 Young and Borlik Architects, Incorporated, consisting of 19 plan sheets, dated received August 5, 2019 and approved by the Planning Commission on August 12, 2019, 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 and street trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance.
4. Approve the use permit subject to the following **project specific** condition:
 - a. Prior to building permit issuance, the City Arborist shall approve the species of the proposed three street trees on O'Keefe Street. The trees shall be planted prior to building permit final.

F3. Use Permit/Michelle Miner/611 Woodland Avenue:

Request for a use permit to construct a new two-story residence on a substandard lot with regard to minimum lot width and area in the R-1-U (Single Family Urban Residential) zoning district. The lot is currently vacant with the exception of a tennis court. Two multi-trunk heritage size trees in fair condition, one English walnut and one orange, are proposed for removal. ([Staff Report #19-059-PC](#))

Staff Comment: Associate Planner Ori Paz said an updated neighbor outreach report for 611 and 615 Woodland Avenue were at the dais for the Commissioners' review and at the rear table for the public.

Applicant Presentation: Michelle Miner, project designer, introduced the property owner Paul Goswamy. She said the home for this project would be tucked within canopy space provided by three very large heritage trees. She said her design intent was to give the proposed home a storybook feel nestled among the trees. She said the windows on the right side second story with lower sills were replaced with two-foot tall windows. She said since they were designing this house and the one on 615 Woodland Avenue that they were able to strategize window placement for privacy.

Commissioner Riggs asked about the siding. Ms. Miner showed a visual presentation of the siding noting the horizontal Hardy plank siding looked like standard wood lap siding. She said it was less expensive and more durable than wood and was flame resistant. She said it would have a five-inch reveal with board and bat up in the gables. She confirmed it was Hardy lap siding and provided a visual of it.

Commissioner Riggs referred to the front elevation and noted applied stone on the second floor and asked how attached she was to it. Ms. Miner said the tree in the front would screen it and she would be okay removing it from the second floor but not the first floor.

Commissioner Riggs confirmed with Ms. Miner that the first floor with a vestibule and covered patio on the west side was the main entry and the covered porch on the side next to the uncovered parking space was for the resident to use for convenience.

Chair Barnes opened the public hearing and closed it as there were no speakers.

Commission Comment: Replying to Chair Barnes, Ms. Miner said the exterior color for the siding would be a warm gray, which had a tan undertone. She said the board and bat in the gable ends was a design detail.

Commissioner Riggs noted the tall stair window that faced the adjacent home and asked what the view would be. Ms. Miner said the stair window would look into an obscure bathroom window and two, two-foot windows in the house at 615 Woodland Avenue and would not cause privacy impacts. She said the privacy screening proposed was not at that exact location, but she could shift it down further. Commissioner Riggs suggested screening to the right and left of the obscure windows on the adjacent residence and to work with staff on that.

Commissioner Riggs said the roof forms and siding material were compatible with the Willows neighborhood. He recommended not putting the stone on the second story. Ms. Miner said that

was fine.

Commissioner Riggs moved to approve as recommended with a condition to remove the stone from the dormer on the second floor and to work with staff to ensure privacy from the stairwell window for the neighbor at 615 Woodland Avenue. Chair Barnes seconded the motion and requested amending the motion. He noted simulated true divided lights and typical Commission discussions about that. He said the vinyl windows proposed seemed to have the muttons within the glass. Ms. Miner said the grids were outside and inside the windows and gave the look of true divided lights. Chair Barnes said typically the Commission asked for clad or fiberglass windows instead of vinyl windows. He asked if she had a sample to show. Ms. Miner said, after conferring with Mr. Goswamy, that he would like to do wood clad windows. Chair Barnes confirmed that was aluminum on the exterior and wood on the interior. He said his second would include a change for the windows from vinyl to aluminum clad. Commissioner Riggs accepted Chair Barnes' amendment.

ACTION: Motion and second (Riggs/Barnes) to approve the item with the following modifications; passes 4-0-2 with Commissioners Kennedy and Tate absent.

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 California Environmental Quality Act (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 Michelle Miner Design, consisting of 13 plan sheets, dated received July 31, 2019 and approved by the Planning Commission on August 12, 2019, 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 and street trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance and the arborist report by Mayne Tree Expert Company, Inc. dated November 9, 2018.

4. Approve the use permit subject to the following **project-specific** conditions:

- a. Prior to occupancy being granted, the applicant shall submit documentation that the proposed heritage replacement trees have been planted on the neighboring site, 615 Woodland Avenue, subject to review and approval by the City Arborist and the Planning Division.
- b. Simultaneous with the submittal of a complete building permit application the applicant shall submit revised elevation drawings that remove the stone veneer from the façade at the second floor, subject to review and approval of the Planning Division.
- c. Simultaneous with the submittal of a complete building permit application the applicant shall provide an updated site plan and/or elevation drawings that would modify the placement of the landscape screening to increase privacy for the neighboring lot at 615 Woodland Avenue from the stairwell window on the right side, subject to review and approval by Planning Division staff.
- d. Simultaneous with the submittal of a complete building permit application the applicant shall provide plans that note the windows to be aluminum wood clad windows with simulated true divided light grids, subject to review and approval by the Planning Division.

F4. Use Permit/Michelle Miner/615 Woodland Avenue: Request for a use permit to demolish an existing one-story residence and construct a new two-story residence on a substandard lot with regard to minimum lot width in the R-1-U (Single Family Urban Residential) zoning district. ([Staff Report #19-060-PC](#))

Staff Comment: Planner Paz said an updated report on neighborhood outreach by the property owners was on the dais for the Commissioners' review and at the rear table for the public.

Applicant Presentation: Michelle Miner, project designer, said this proposed house was similar to the style of the one at 611 Woodland Avenue but simpler in terms of the finishes. She said it was the same siding and board and bat as the house next door. She said the finish color would be a bit different to set the two homes apart. She said they worked hard to protect privacy. She said on the side they had an obscure window and two-foot bedroom windows.

Chair Barnes referenced page 3 of 19 from the plan set that the streetscape showed an elevation for 611 Woodland Avenue that was not correct. Ms. Miner said the windows changed and she had not caught that. Chair Barnes said that was a clarifying note for the plan sets for 611 Woodland Avenue and 615 Woodland Avenue. Ms. Miner said she would update that. Chair Barnes asked about the color scheme. Ms. Miner said this one would have a warmer shade that would go more into the tan color than the other home at 611 Woodland Avenue.

Commissioner Riggs said the one-car garage for 611 Woodland Avenue had a two-car garage door. Ms. Miner said that they would have a custom door for that garage that was squeezed. Commissioner Riggs asked if there was an oak tree at the right corner of the garage for 615 Woodland Avenue. Ms. Miner said it was on the neighbor's lot. Commissioner Riggs confirmed the large redwood tree was in the backyard of 611 Woodland Avenue.

Commissioner DeCardy asked about the replacement trees for 611 Woodland Avenue and where they would be planted. Ms. Miner said the replacement trees for 611 Woodland Avenue would be planted on the 615 Woodland Avenue lot. She said three 15-gallon ginkgo trees would be planted in the backyard and a 15-gallon Maple October glory in the middle of the front. Planner Paz said the replacement trees exceeded the one-to-one heritage tree replacement requirement. He said the City Arborist had reviewed and approved the ginkgo biloba trees as the two heritage replacement trees and the other two trees were landscaping the applicant was proposing. Commissioner DeCardy said he would like the two-to-one replacement to be required.

Chair Barnes opened the public hearing and closed it as there were no speakers.

Commission Comment: Chair Barnes said he would like to see the same clad windows for this project as for the other project and to require the two-to-one heritage tree replacement as suggested by Commissioner DeCardy. Planner Paz said that approval of the project would include the site plan.

Commissioner Riggs referred to the front bedroom on the second story and noted that it had only two windows in the front. He asked if they had considered windows on the side. Ms. Miner said they had looked at two windows on that side but that made the interior awkward. He suggested one window. Ms. Miner said that would be great. Commissioner Riggs referred to the center window in the den and noted it had moved fairly close to the bedroom door. Ms. Miner said that had been missed. Commissioner Riggs said staff had commented that simpler roof forms would be desirable. He wanted to acknowledge that but did not want to have the project continued for redesign. He suggested the Maple tree might be moved closer to the front of the parcel. Ms. Miner said that an abandonment was occurring, so the right-of-way was not definite yet. She requested flexibility regarding the placement of the tree.

Commissioner Riggs moved to approve with added conditions to allow the applicant to add a window for ventilation in the second floor bedroom on the north wall for review and approval by staff and for the applicant to have flexibility to move the Maple tree forward on the yard once abandonment was resolved. Chair Barnes said he would second the motion if it included changing the windows from vinyl to aluminum clad windows. Commissioner Riggs as the motion maker accepted that modification.

Commissioner DeCardy asked for confirmation that the four 15-gallon trees would be planted as part of the project if the project was approved with the three additional conditions. Planner Paz said that was correct.

ACTION: Motion and second (Riggs/Barnes) to approve the item with the following modifications; passes 4-0-2 with Commissioners Kennedy and Tate absent.

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 California Environmental Quality Act (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 Michelle Miner Design, consisting of 13 plan sheets, dated received July 31, 2019 and approved by the Planning Commission on August 12, 2019, 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 and street trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance and the arborist report by Mayne Tree Expert Company, Inc. dated November 8, 2018.
4. Approve the use permit subject to the following **project-specific** condition:
 - a. Prior to occupancy being granted, the applicant shall submit documentation that the proposed heritage tree replacement trees have been planted on the subject site, subject to review and approval by the City Arborist and the Planning Division.
 - b. Simultaneous with the submittal of a complete building permit application the applicant shall provide plans that note the windows to be aluminum wood clad windows with simulated true divided light grids, subject to review and approval by the Planning Division.
 - c. Prior to issuance of the building permit, the applicant shall have the flexibility to add a window to the right side of the front bedroom on the second story. Updated plans reflecting the additional window shall be provided to Planning Division staff for review and approval.
 - d. Prior to the final inspection of the proposed work the applicant shall have the flexibility to relocate the proposed 15-gallon Maple at the front of the lot to be nearer to the front property line, subject to review and approval by the Planning Division.

G. Regular Business

- G1. Heritage Tree Ordinance Update/City of Menlo Park:
Review the background of the Heritage Tree Ordinance Update, consider proposed modifications to the Ordinance, and provide recommendations to the City Council. ([Staff Report #19-061-PC](#))

Staff Comment: Sustainability Manager Rebecca Lucky presented the staff report and provided background on the existing Heritage Tree Ordinance (Ordinance). She said an update was desired due to concerns raised for years regarding development related appeals, unpermitted removals and inadequate code enforcement of unpermitted removals. She said the Environmental Quality Commission (EQC) provided recommendations to the City Council in 2012 regarding issues with the Ordinance including that it was time to revisit the Ordinance to improve it. She said the Task Force was appointed by the City Council in August 2018 and held multiple community meetings between then and June 2019. She said the Task Force presented 16 recommendations for the Ordinance to the City Council in July. She said at the start of the project the City Council had identified objectives for updating the Ordinance with a desired outcome to ensure a significant and thriving population of large, healthy trees in Menlo Park for public enjoyment and environmental sustainability while respecting property values and rights and implementation of efficiencies related to staff's time to enforce the ordinance. She said Council also directed that any options that would be explored were evidence based best practices in other communities. She said this required a full policy analysis of almost all areas of the Ordinance. She described what the Task Force did in Phase 1 and Phase 2 of the project.

Ms. Lucky said in interviewing past applicants and appellants they found that those people did not necessarily disagree with the process rather that they found the decision-making criteria was unclear. She said the Task Force selected three weighted criteria for the update. She said one was clarity of the ordinance so that people understood what the process for the decision making was and was weighted at 20%. She said the next criteria was to increase or maintain tree canopy of the

forest in Menlo Park and that was weighted at 60%. She said the last criteria was to improve the effectiveness of the Ordinance and that was weighted at 20%. She said 26 options were explored and sixteen of those emerged as a preferred option.

Ms. Lucky said the Task Force provided language around the intent and purpose of updating the Ordinance. She said they next looked at the definition of a heritage tree. She said that remained mainly unchanged except as to how multi-trunk trees were evaluated and the new language proposed a clear way of measuring those trees that was easy to understand. She said the decision-making process of the Ordinance was overhauled the most. She said they looked at the existing eight decision making criteria, took the good parts of what was there and enhanced to include industry standards and what to expect when submitting a permit request for removal. She said for example if an application to remove a heritage tree was development related that the City could now require submitting alternative designs that would preserve the tree. She said other bigger changes were in the appeal area to clean up process to make it easier to understand. She said there were specific standards for filing an appeal with a given timeline and communications between City staff and an appellant. She said often applicants and appellants now did not speak to one another about the issue until the appeal hearing before the EQC. She said the City wanted to offer conflict resolution as a way to resolve issues among neighbors and the community regarding a tree that was being removed. She said another area addressed was when an appeal was filed after a Planning Commission decision as that was the most contentious as it usually involved removing a healthy tree for development. She said the change was now if a tree was tentatively approved by the City Arborist for removal for a project that required Planning Commission approval that the appeal process would occur before the Planning Commission made a decision. She said if the appeal body the EQC decided the tree should remain and not be removed that decision would then be immediately appealable to the City Council. She said if the EQC found the tree should be removed then the project would go to the Planning Commission for decision and both decisions would be appealable to the City Council.

Ms. Lucky said other changes were made related to requirements for mitigation and replacement. She said if a tree that was healthy and not high risk was approved for removal and it was development related the value of the tree being removed would be replaced onsite using an industry standard plant appraisal guide. She said if there was not enough space to plant the full value of the tree being replaced that the balance of the unreplaced value would be paid into a tree fund the City could use to plant more trees or implement the Ordinance. She said for nondevelopment removals there would be replacement requirement onsite and if not enough room the value would go to the City's tree fund. She said there was a recommendation to expand the use of that fund. She said currently violations paid go into the General Fund. She said the Task Force would like that money to go back into implementing the Ordinance.

Ms. Lucky said there was much concern raised about enforcement of unpermitted heritage tree removals. She said one of the recommendations was to increase the fine from \$5,000 to \$10,000. She said the Task Force was still concerned that was not enough to deter people from removing trees, so they wanted to assess punitive or administrative penalties in addition to the \$10,000 fine. She said depending on how egregious the violation was and that it was clearly a violation the City Council could set additional penalties to address. She said there was also a recommendation to remove the building moratorium penalty. She said that said if a tree was removed without permit that building could not occur on the property for six months to a year. She said the City had never used that provision and the City Attorney was recommending removing that and not co-mingle

those two different activities.

Ms. Lucky said that the notification process for heritage tree removal was changed so when a permit was applied for there would be notification similar to how Planning permit notifications were done except to a greater area than 300-foot radius. She said also the recommendation was to have open access to all heritage tree removal permits and appeals.

Ms. Lucky said the consultant in doing the policy analysis found the City did not have enough budgeted to even enforce the current status quo Ordinance. She said the updated policy would require inspection of replacement trees at the initial planting and to inspect again in two years to verify the tree was still there and thriving. She said this was in response to concern that replacement trees were removed or not taken care of well and never grew to heritage tree size. She said the cost of \$185,000 to \$200,000 annually was to pay for inspection work that had never been done previously. She said that could be recovered by increasing the permit fees and also looking at how the mitigation fund was used as well as reviewing if there was general fund money that could supplement. She said when staff presented this information to the City Council last month it requested staff to look at ways to reduce the cost by at least half when the updated Ordinance was brought back to Council. She said staff was researching things that could be done to reduce the cost.

Ms. Lucky said next steps were to have a draft ordinance for public review by September 12. She said Council directed staff to bring that to the Planning Commission and EQC. She said the Task Force would meet two more times in September and October providing the opportunity for more public input. She said it was anticipated they would return to City Council in October for an updated Ordinance adoption. She said the effective date of the updated Ordinance likely would not occur until July 1, 2020 to allow time to put processes and logistics in place.

Ms. Lucky said this evening the Commission had the option to approve of the proposed recommendations and advise City Council on them. She said the Commission could also provide additional feedback for consideration as the final changes were made moving forward to October.

Chair Barnes opened public comment.

Public Comment:

- Peter Edmonds, Menlo Park, District 3, said he had submitted a written critique of the staff report. He said he wanted to emphasize certain points and made a slide presentation. He said the proposal recommended that the building moratorium for an unpermitted heritage tree removal be removed. He disagreed and said he thought it was a strong deterrent to keep the penalty in the Ordinance. He said regarding the valuation of trees that the proposed and recommended section of the Ordinance was desirable but insufficient, because it neglected valuation of intangible benefits.

Chair Barnes closed public comment.

Commission Comment: Commissioner DeCardy noted for the record that Chair Barnes had also served on the EQC and had direct experience with these hearings as well. He said he applauded the effort to get clarity between when a heritage tree issue would come before the Planning

Commission and the EQC. He said the recommendation seemed a plan that would address that well to get the sequencing right. He said he wholeheartedly supported the EQC as the main body for the appeal process. He referred to the section on appeal filing standards and the section on mitigation and tree replacement requirement. He said a familiar moment at the EQC was the desire to remove a mature and healthy tree relatively soon after a property sold and there was a new owner who wanted to use the property for other purposes. He asked if the Task Force looked explicitly at disclosure requirements around heritage trees at the time of deed transfer to make it much more explicit than it was now. Ms. Lucky said that was discussed a few times throughout the meetings. She said there were a lot of areas where implementation could be improved but that was not necessarily policy language that went into the Ordinance itself. She said the Task Force discussed education and people at the point of sale might be better engaged to understand what the requirements were. Commissioner DeCardy said he supported that going forward and supported a disclosure document that new owners actually had to sign acknowledging the heritage trees and their conditions at that point of sale.

Commissioner DeCardy said the frequent reason for the removal of a tree was the differing opinions about the risk of failure of the tree. He said in the section of mitigation and tree replacement requirements it was noted the City would identify an approved list of tree appraisers to reduce appraisal conflicts between the City Arborist and the applicant's arborist. He said that was a good idea. He asked if the Task Force for the appeal filing standards had considered similarly the same for a qualified tree risk assessor. He said without similar language there his concern was to continue to have much different assessments by different certified arborists. Ms. Lucky said their intent was to expand it to a list of approved arborists that could perform work in the City. She said there was a lot of interaction now where assessments were not matching up or skill levels were different among arborists. She said having the approved list was to reduce conflicts or misunderstanding among staff, permit applicant and arborist. She said that would go into the implementation items and not necessarily in the Ordinance. She said the City would make a staff ruling that only a certain list of arborists could be used that could perform arborists' report and she confirmed for Commissioner DeCardy that would include the upfront tree assessments he referenced.

Commissioner DeCardy noted the community benefit from heritage trees but the disparity related to the costs of maintaining heritage trees on a property versus not having any to maintain. He said a mature oak tree in the City was actually irreplaceable in their lifetimes and had an infinite value on one level to the overall benefit of the City. He said he appreciated having the punitive costs in addition to the \$10,000 fine for illegally removing a heritage tree, but he thought it would still be difficult to work through. He said he would like to see more money going into the tree fund and an increase in the replacement ratio requirement. He said there were opportunities for tree plantings just along the streets if the City had the capacity to plant those. He said a way to reduce the costs of implementation was to have a heritage tree cost assessed to every parcel in the City and make it a property owner's responsibility to certify that their property had a heritage tree they maintained to have that cost removed. He said it would be more equitable than how it was structured now. He asked if they had seen this used as a best practice in cities they had interviewed. Ms. Lucky said they did not find it as a practice in other communities. She said they found other communities struggled and were challenged with verifying replacement trees. She said they could explore and bring forward Commissioner DeCardy's idea.

Commissioner DeCardy said he had concerns not only with the costs of enforcement but also with

the value of enforcement given the ease with which that could be worked around. He said overall, he was supportive of the proposed update and an improvement especially about the process between the Planning Commission and EQC.

Commissioner Doran said the staff report listed two reasons to support removing the building moratorium as a punitive measure. He said the first was that it was not used in practice and the second that the City Attorney advised against the practice due to the legal challenges. He asked under the current Ordinance what was the method to implement that building moratorium in instances where a person had blatantly violated the Ordinance. Ms. Lucky said she had no direct experience with moratoriums. She said when the City Attorney reviewed this section that there were two different activities involved. She said one was removal of a tree that might or might not be connected to the development so there was not a clear nexus that would be difficult to defend in court. Commissioner Doran said he thought a building moratorium was a valuable tool even if it had never been used. He said the value of property in development was enormous. He said they were making progress on what the economic sanctions, the fines, would be. He said the ultimate sanction was not allowing people to develop the property and he would like that retained.

Commissioner Riggs said he agreed with Commissioner Doran. He said if there was enough certainty to impose a \$10,000 or \$20,000 fine that a level of certainty could be reached to delay a project. He said ultimately it would be how well enforcement was implemented. He said regarding enforcement he would like to see a method where the City would not have to wait for a neighbor to report a tree removal violation as that was uncomfortable for people. He said there was technology to report a gunshot within 50 feet and suggested something that would identify chain saws operating on Saturday (he had noted previously that Code Enforcement hours were Monday through Friday, 8 a.m. to 5 p.m.). He said as mentioned a mature oak was irreplaceable. He described a project wherein unintentionally a backhoe operator dug a trench across the front of two sixty-year-old oak trees on a hillside impacting roots that then had to be removed. He said mature oak trees about 40 years of age were purchased near Watsonville, transported and lowered into the ground by cranes to replace those trees. He said the total cost for that was around \$100,000. He said the City should consider that.

Commissioner Riggs said he was very pleased that the Ordinance update was happening. He said on page 5 were enumerated decision making criteria for tree removal. He suggested either to include an item 7 or allow an administrative process that acknowledged a similar condition. He said depending on the heritage tree species some were approved for removal more readily than others. He said it might be useful to have a combination factor where if the tree was considered low value that that by itself would not justify tree removal. Ms. Lucky confirmed that if it was a low value tree that other criteria was required for removal and not just based on the low value. Commissioner Riggs said justification for removal because of utilities was not enough justification alone to warrant removal either. He referred to page 7 under violations that read: "The Task Force strongly advises (advises) that the City Council set these penalties high enough to deter violations that they have witnessed regularly or to avoid the permitting process that would create developing their property challenging." He said that sentence's meaning was unclear and suggested it be reworded for clarity. He referred to page 8 and the need for additional funding to support the processes of the Ordinance but he was concerned with doing that through increasing permit application costs.

Chair Barnes asked where street trees were within the context of the Ordinance. Ms. Lucky said if the street tree was heritage it fell under the Ordinance. Chair Barnes said he lived in the Willows

and the problem he saw there were street trees aging out and not being replaced. He said improvement to the urban tree canopy would be a program to ensure replacement when street trees aged out. He thought that loss of street trees was a much greater issue than trees impacted by development. He asked if that was discussed and if so, what was discussed. Ms. Lucky said the EQC for a long time worried that trees were the same age in the community and that trees needed to be planted at different ages to maintain the canopy. She said in an ideal world they would have done the Urban Forest Master Plan first and then completed the Heritage Tree Ordinance Update. She said so many problems had emerged with the Ordinance that it became the priority to update before the Urban Forest Master Plan. She said the latter would look at street trees and trees on private property and develop strategies and ways to increase canopy to address issues of aging and how to strategically replant those. Chair Barnes said attention had to be put to replacing street trees as that was not happening now. He said other neighborhoods the same vintage as his must be experiencing the loss of street trees too. He reasserted that trees lost to development paled in comparison to what was being lost with street trees aging out and not being replaced. He asked if there was data related to that. Ms. Lucky said there was, and she could have the City Arborist provide that information. Chair Barnes noted the update was wonderful. He asked if there was a path to address his concern in the update and what that might look like. Ms. Lucky said street trees were required to comply with the Ordinance so they would be required to have the same replacement ratio if removed. She said she would need to talk with the City Arborist as to why replacement street trees had not been planted. She said there were a lot of vacant spots as mentioned by Commissioner DeCardy. She said they would need to investigate.

Chair Barnes said he liked Commissioner DeCardy's idea about assessing each parcel for heritage tree maintenance and a mechanism for property owners to be exempt by certifying heritage trees on their properties. He said if \$185,000 to \$200,000 annually was needed to implement the Ordinance that should be supported. He noted decision making criteria for tree removal and the third paragraph that said a tree removal permit could be granted if the decision maker was able to make one of the following findings. He asked who approved tree removal permits. Ms. Lucky said the City Arborist. Chair Barnes said 2a called out providing schematic diagrams that demonstrated the feasibility / livability of all alternative designs including utilizing zoning ordinance variances. He questioned the City Arborist making decisions about feasibility and livability of project plans. Ms. Lucky said that was in consultation with planners. She said the current practice was a consulting arborist firm reviewed many of the development-related heritage tree removal permits and they communicated with planners to assess whether the development alternative was livable and feasible. She said that there would be administrative rules and requirements that would be a companion to the ordinance around feasibility, documentation, and making those decision. Chair Barnes said he had some concern with what that meant in terms of workload, skill sets and judgment calls associated with that. He said it referred to utilizing zoning ordinance variances to preserve a tree. Interim Director Chow said if a heritage tree removal permit was denied and the tree had to remain then an option could be to seek a variance from the Planning Commission with the hardship being the physical hardship with the location of the tree.

Chair Barnes noted the update indicated the appeal body was the EQC, but the City Council could appoint another body. He said that filling vacancies on existing commissions was tough and he did not think the City Council needed that additional power to create another body. He requested that be removed. He referred to violations and instances in which property owners deliberately harmed heritage trees for one motivation or another so there was no choice except to remove the tree. He asked if that was discussed. Ms. Lucky said after last month's meeting with the City Council they

discussed the responsibility of property owners to maintain trees and what were the penalties if they did not do so or they did something intentionally that led to needing to remove a tree. She said the current ordinance had a section on maintenance and preservation of heritage trees on a property. She said the connection needed to be clearer between how the property owner was responsible for maintaining the tree and not killing it and how that was linked to violations if the property owner did do that. She said the City Attorney was working on language for that. Chair Barnes referred to mitigations and tree replacement requirements. He said under the second paragraph it said that appraised tree value would be required for all tree removals and protected trees for a development project. Ms. Lucky said this was for heritage trees and it was to have the value information upfront. Chair Barnes noted the establishment of a tree fund and the need for street tree plantings. He said to overlook that was a disservice to the community as people did not know about street trees and how to replace those.

Commissioner DeCardy said if they were moving to recommendations that he would concur with leaving in the building moratorium penalty. He noted Commissioner Riggs' comments on replacing mature oak trees. He said that on the EQC the Arborist recommended the 15-gallon box replacement trees as those had better likelihood of thriving than 24-inch box trees. He said regarding the street tree replacement that was a combination of not having the budget to do that and agreement with the property owner to water and take care of the tree. He said he wanted to pursue the idea when development removed a heritage tree of requiring a mature tree replacement elsewhere on the property. He said it was frustrating that heritage trees were replaced with 15-gallon trees and he wished there was some way to get more money into a fund to get a greater ratio of replacement trees in the City or to get larger trees planted in replacement. He said he agreed with Chair Barnes' observations about the loss of street trees. He said with development there were significant financial advantages to ensure tree canopies were taken care of.

Commissioner Riggs said a 15-gallon tree would catch up to a 24-inch box tree in three to four years but would take decades to catch up with the mature tree that had been removed. He suggested they request mature trees for replacement.

Chair Barnes asked who was responsible for maintenance of street trees when they were replanted. Ms. Lucky said she would need to confirm with the City Arborist. Interim Director Chow said it would be best to clarify with the City Arborist, but she understood that property owners were responsible for maintaining street trees. Chair Barnes asked if the City could compel a homeowner to take responsibility for a replacement tree. Ms. Lucky said that was accurate. Chair Barnes asked how street trees were funded. Ms. Lucky said those were funded from the fees collected under the Landscape Assessment District. She said the last time she looked the fund had \$300,000 and \$700,000 was needed to cover street trees. Interim Director Chow said during development projects they worked with the City Arborist and the consulting arborist to look at trees that might be removed as part of the project either as a result of development or because of bad health and looked at opportunities to replace street trees. Chair Barnes confirmed that staff could request what a fully funded street replacement program would look like and what net new trees would look like over the course of a year. He said he would like that information and to even take it up separately, but he did not know how to get that into the ordinance update. Ms. Lucky said they could bring that comment back to the Task Force to discuss noting they would meet September 12 and in October.

Replying to Commission DeCardy, Ms. Lucky said she would need to ask the City Attorney how the

fee for the Landscape Assessment District might be increased. Commissioner DeCardy said that would work with his idea of an assessment. He suggested increasing the fee for the District per parcel and then property owners maintaining heritage trees on their properties could get certification to have their parcel fee reduced. He said that fee now disadvantaged property owners who had the costs of maintaining their heritage trees.

Chair Barnes said that funding education to make information on planting street streets accessible was important.

Commissioner Doran restated that he wanted the building moratorium kept in the Ordinance.

Chair Barnes confirmed with staff and Commissioners that they were comfortable with the recommendations the Commission was making. Ms. Lucky said she had outlined all the Commissioner comments. She said it would be helpful for her if the Commission could take action to approve the updated Ordinance with the recommendations it had made tonight to include keeping the building moratorium, street trees, planting larger replacement trees, education, and fee assessment.

Commissioner DeCardy moved to recommend through to the City Council and the Task Force to continue to finalize the Ordinance Update based on the overall recommendations except under violations to maintain the building moratorium and request exploration of the general discussion items brought forward by the Planning Commission. Chair Barnes suggested the building moratorium might not be legally possible. Commissioner Doran said he wanted the building moratorium kept now and later unless there was more justification for its removal. Chair Barnes said he could not support that. Commissioner Riggs said they were being asked for their opinions and not their legal advice as they were not attorneys. He said it was not unreasonable to offer an opinion knowing that it would be overruled by the City Attorney if legality was the basis for its removal. He said the building moratorium however served a purpose by just being in the Ordinance and he supported that. Chair Barnes said the motion was that the Commission approved the Ordinance Update and for the Task Force to further the recommendations except the Commission had a preference to keep the building moratorium and in addition look at street tree replacement, planting larger replacement trees, education and budget strategies discussed. He said the Council had directed to reduce the anticipated implementation budget by about half and suggested the Commission recommend not reducing the cost. Commissioner DeCardy said he could support that. He said the sentiment was to actually have a program that would allow them to have the canopy they wanted to have in Menlo Park. He said the cost of implementation would be enough to deliver that program and be ideally and equitably distributed across residents of Menlo Park. Chair Barnes said the recommendation was to fully fund the development of an urban canopy throughout Menlo Park as a spending and revenue collection priority for the City. Commissioner Riggs said that replacement of larger sizes meant replacement of a mature tree by a mature tree. Chair Barnes seconded Commissioner DeCardy's motion.

ACTION: Motion and second (DeCardy/Barnes) that the Planning Commission supported the Heritage Tree Ordinance Update recommendations except preferred retaining building moratorium under the section on violations and with additional recommendations of items to consider as listed; passes 4-0-2 with Commissioners Kennedy and Tate absent.

- Retain building moratorium

- Street tree replacement
- Replacing mature trees with mature trees
- Education
- Funding implementation and budget strategies such as the Landscape Assessment District fee utilization and potential modification as discussed.

H. Informational Items

H1. Future Planning Commission Meeting Schedule

- Regular Meeting: August 26, 2019
- Regular Meeting: September 9, 2019
- Regular Meeting: September 23, 2019

I. Adjournment

Chair Barnes adjourned the meeting at 10:28 p.m.

Staff Liaison: Kyle Perata, Principal Planner

Recording Secretary: Brenda Bennett

Approved by the Planning Commission on August 26, 2019

From: Peter Edmonds <pde222ca@netscape.net>

Sent: Friday, August 9, 2019 10:30:52 PM

To: PlanningDept

Cc: Lucky, Rebecca L; Perata, Kyle T

Subject: [Sent to Planning]Fwd: Public comment on proposed revision of the Heritage Tree Ordinance, 19-061-PC

Dear Chairman Barnes and Planning Commissioners,

I attach for your consideration my critique of current staff report 19-061-PC, which is item G.1 on your agenda for August 12, 2019.

Sincerely,
Peter Edmonds
Resident (District 3)
(650 328-0859

Dear Chairman Barnes and Planning Commissioners,

August 8, 2019

Since February 2019 I have attended (incompletely) recent meetings of the Heritage Tree Task Force (HTTF) and had access to its staff reports. I am alarmed by the extent of the trend in recent staff reports toward justifying and easing removal of Heritage Trees, in contradiction to proclaimed intentions to protect them, namely (excerpted):

19-148-CC (July 16, 2019), p.1 - *Background: "The main goal of the Heritage Tree Ordinance (Attachment A) is to sustain a significant and thriving tree population in Menlo Park."*

13.24.010 Intent and purpose (of the existing Heritage Tree Ordinance):

"It is the intent of this chapter to establish regulations for the removal of heritage trees within the city in order to retain as many trees as possible consistent with the purpose of this chapter and the reasonable economic enjoyment of private property." (Ord. 928 § 1 (part), 2004).

Please note that "reasonable" appears in this clause of the existing Ordinance; this is important to avoid abuse.

19-148-CC (July 16, 2019), p.2 - *Background: Scope of the Heritage Tree Ordinance Update:*

para 5: "The City Council also established that the desired outcome of the ordinance update is to ensure a significant and thriving population of large healthy trees in Menlo Park for public enjoyment and environmental sustainability while balancing property rights and implementation efficiency. All recommended options needed to reflect this desired outcome."

Please note that "reasonable" is omitted from this and other instances of revised text; I strongly recommend its restoration to protect against trivial and frivolous claims.

19-061-PC (Aug.12, 2019), p.4 – *Intent and Purpose of the Heritage Tree Ordinance Update:*

"This chapter is adopted with the intent and purpose of promoting the preservation and development of a healthy, diverse tree canopy in Menlo Park, which is highly valued by our community and is vital to the character and health of our city."

My most compelling concerns are shown in **bold** font in the table and Annex below, which are offered for your attention.

Sincerely,

Peter Edmonds,
 Resident,
 379 Santa Margarita Ave.,
 Menlo Park (District 3),
 (650) 328-0859

Source	Page/Attachment [page]	Clause title/ Subclause/ Figure/Table	Paragraph/ Line number	Comment or Question	Proposed change (more important changes in bold font)	Observations
19-061-PC	2	Analysis	2/2-3	<p><i>"This also helps center discussion on which option is of highest community importance over personal desire."</i></p> <p>Note an Uncontrolled Influence: The personal desires of the HortScience staffer entrusted with rating impacts on the scales described in Attachment B (19-005-HT, pp. 20-21, Tables 2 and 3).</p>	No change proposed; but note the lack of recognition of the possible bias that could have been introduced by the HortScience staffer entrusted with ratings described in Attachment B.	
	4	Decision-making criteria criteria for tree removal	Preamble 1/3	<p><i>"significantly restricts economic enjoyment of the property,"</i></p> <p>"reasonable" is lacking before "economic enjoyment".</p>	<p>"... significantly restricts reasonable economic enjoyment of the property, ..."</p>	

Source	Page/Attachment [page]	Clause/Subclause/Figure/Table	Paragraph/Line number	Comment or Question	Proposed change (more important changes in bold font)	Observations
19-061-PC	5	Decision-making criteria criteria for tree removal	2./4-5 2.a./1	<p><i>"The tree interferes with proposed development, repair, alteration or improvement of a site or habitable building (excluding amenities, such as pools and fire pit). or is causing structural damage to a habitable building(s) and there is no financially feasible and reasonable design alternative that would permit preservation of the tree while achieving the applicant's development objectives or economic enjoyment of the property."</i></p> <p>A removal permit should not be issued on the basis of a mere "proposal", which may not survive subsequent review.</p> <p><i>"a. Providing schematic diagrams that demonstrate the feasibility/livability of alternative design(s) including utilizing zoning ordinance variances to preserve the tree,"</i></p> <p>Text is negative of probable intent; it is offered as a sequel to: "To support this finding,", i.e. ... that the tree interferes Thus, the applicant's interest is in demonstrating "infeasibility/non-livability" of alternative design(s) ...</p>	<p>Insertion of "reasonable" before "development objectives" and before "economic enjoyment" , i.e. not trivial or frivolous.</p> <p>Changing "proposed" to "approved".</p> <p>Changing to "infeasibility/non-livability"</p>	
	6	Development related appeal process	--	No protection against premature removals	Adding the stipulation: "No removal permits may be issued before all other related project plans and permits have been approved."	
				(more)		

Source	Page/Attachment [page]	Clause/Subclause/Figure/Table	Paragraph/Line number	Comment or Question	Proposed change (more important changes in bold font)	Observations
19-061-PC	6	Mitigation and tree replacement requirements	-- --	<p>Development-related projects: No value is assigned to intangible amenity and benefits.</p> <p>No recognition of long-term losses of amenity and benefits</p> <p>Non-development-related projects: Enquiry on 08/08/19 revealed that the specific matrix to be used is not yet available for review. Only the example of Table 9, p.48 in 19-005-HT was available. Not good enough.</p>	<p>Adding valuation of intangible assets based on cost of alternative man-made devices or structures that yield equivalent benefits (see Annex 1 below, proposal 1)</p> <p>Providing for annually recurring reimbursement on a depreciating basis (see Annex 1 below, proposal 2)</p> <p>Recommending rejecting document as incomplete until the specific "replacement matrix based on trunk diameter developed by the City Arborist" is provided; don't take the example on trust.</p>	
	7	Enforcement of Replacement Trees	1	<p><i>"For enforcement of replacement trees, require two inspections. One to verify tree has been planted, and a second at two years to ensure tree is thriving. This would require extra staffing resources to implement".</i></p> <p>We can do better.</p>	<p>Emulating Canopy by organizing more frequent inspections by volunteers, who would alert city arborists to inspect replacement trees in obvious need of attention, e.g., wilting, impacted by vehicles, excavated by animals.</p>	
	7	Violations		<p><i>"Remove building moratorium penalty. It is currently not used in practice and the City Attorney advises against using this practice for violations due to legal challenges."</i></p> <p>Even if there is a history of legal challenges, they will be avoided if the provision is not used in practice. But it can be kept for its value as a threat.</p>	<p>Deleting this huge, unjustified gift of the city's strongest leverage to compel developers to comply with regulations.</p> <p>Even if the penalty is not used, keeping the threat is important!</p>	

(more)

Annex 1: Proposals for Valuation of Intangible Benefits of Heritage Trees

1. Equating values for the Intangible Benefits of Heritage Trees to the estimated costs of providing equivalent benefits by man-made devices or structures.

Excerpt from HortScience's Interim Report, July 2019, p.7: "The [Heritage Tree] Task Force nominated a sub-committee to draft language that would be included as the preferred option for the intent and purpose of the Heritage Tree Ordinance. The language is as follows [*italic font*];
[regular font below is for present proposal]:

"This chapter is adopted with the intent and purpose of promoting the preservation and development of a healthy, diverse tree canopy in Menlo Park, which is highly valued by our community and is vital to the character and health of our city. Trees are valued for their many contributions to the environment, public health and quality of life of the Menlo Park community. Examples of those benefits include:

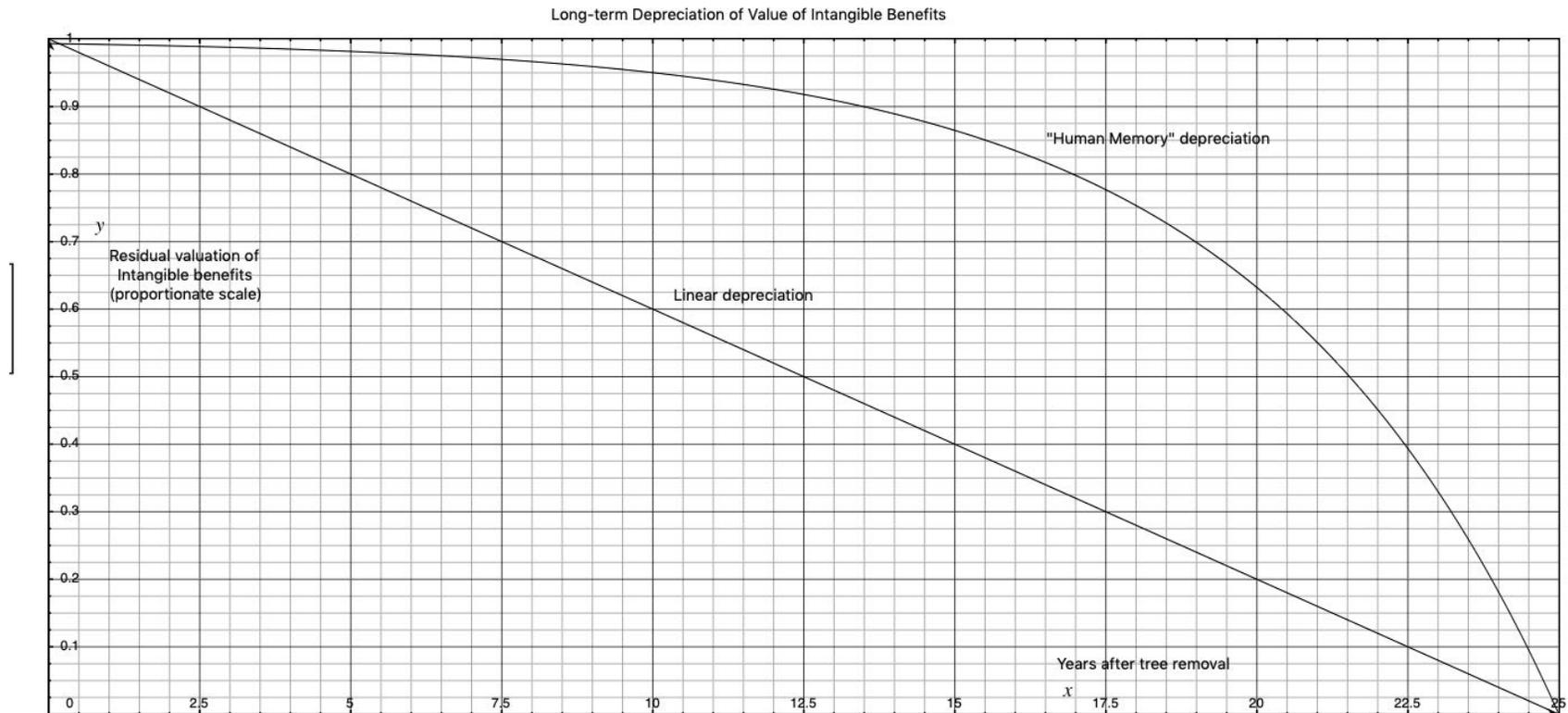
- Examples of man-made devices providing approximately equivalent benefits
- *provide shade*
 - *enhance resilience to climate change*
 - *improve air quality*
 - *provide shelter from wind*
 - *prevent erosion and landslides*
 - *protect against flood hazards*
 - *add to the city's scenic beauty and character*
 - *recognize historical significance to our city*
 - *create natural gathering places*
 - *reduce noise pollution*
 - *enhance privacy*
 - *enhance neighborhood property values*
 - *provide habitat for wildlife*
- awnings, sunshades, sails
 - solar panels, wind turbines, heat pumps (high capital cost)
 - CO₂-extraction tunnels, chemical filters & fans (high capital cost)
 - windbreaks, walls, sails
 - irrigated/drained terracing, e.g., Asian rice terraces (high capital cost)
 - levees, seawalls (high capital cost)
 - sculptures, wall-paintings, mosaics [according to preferences]
 - monuments, libraries (high capital cost)
 - plazas, parks (high capital cost)
 - acoustic barriers
 - walls, fences, blinds
 - underground power & cable-TV lines and fiber-optic cables, sidewalks
 - nesting boxes, bird feeders

This chapter establishes regulations for the removal and replacement of trees, promotion of additional tree planting, and public education about the planting, maintenance and preservation of healthy trees following industry best management practices, consistent with the intent and purpose of this chapter, the reasonable economic enjoyment of public and private property, and in alignment with the General Plan."

Excerpt from Attachment D to Staff Report 19-148-CC: The Guide for Plant Appraisal: Overview of the 10th Edition by Jim Clark, PhD (consultant to city on Heritage Tree removal permit 00223-HTR: Seven Coast Redwoods at 1000 El Camino Real): "*The 10th edition will also incorporate recent research relevant to tree appraisal, particularly related to contribution of trees to real-estate market value and the value of environmental and ecological benefits provided by trees.*"
– at last!
(more)

2. Long-term mitigation for loss of intangible benefits

Whatever the above equivalent values may be, they are not mitigated by a 1:1 ratio of removed-to-"replacement"-trees in planter-boxes. Saplings in planter-boxes have merely *the potential* to become true replacement trees after they have grown to the stature of those removed. This growth takes many years. While new trees are growing, the loss to the community of the intangible benefits of the removed Heritage Trees does not vanish with them, as is currently tacitly assumed, but *only diminishes gradually; thus*, the community should be compensated year-over-year to a diminishing extent. The diminution could be approximated by tracking an estimate of the diminution of human memory of the removed trees over one generation (~25 years) or depreciated linearly over 25 years for simplicity (see appended figure). Replacements at greater than a 1:1 ratio would qualify property owners for proportionate reductions in long-term compensation.





RECEIVED

MAY 16 2019

CITY OF MENLO PARK
PLANNING DIVISION

May 15, 2019

To: Ori Paz – plan checker

Re:615 and 611 Woodland Ave

Ori,

I went around to the neighbors and took the plans and talked with them, below is who I went to:

1. 118 and 126 Baywood I talked to them and show the plans a while ago they were fine and happy with the design.
2. 609 Woodland Ave.-- Show them the plans on 4/30/2019 at 6.30 PM they are okay no comments.
3. 605 Woodland Ave -- Show the plans to Fred and Mary home owners very happy with the plans like to see built asap. 5/2/19 4.30 PM
4. 221 Blackburn --- Show the plans to Kari and answer her questions She ask if we taking any trees out on 615 Woodland told her no. 5/2/19 5.30 PM
5. 217 Blackburn, Rental people lives their they will let the owner know. 5/2/19 5.15 PM
6. 130 Baywood, 5/2/19 5.45 PM Nobody at the house , try again next day no answer.

Thank You

Paul Goswamy