

MEMORANDUM

DATE: October 4, 2012
TO: Planning and Transportation Commission
FROM: James Walgren, Assistant City Manager
SUBJECT: Downtown Ordinance Amendments

RECOMMENDATION

Recommend to City Council approval of ordinances that would:

1. Amend the public benefit findings contained in section 14.48.180 – Commercial Retail Sales District;
2. Amend the height measurement definition for commercial and multiple-family structures contained in section 14.66.230 Height Limitations – Measurement; and
3. Adopt a definition of what a building “parapet” is.

BACKGROUND

A City Council subcommittee of Mayor Carpenter and Councilmember Packard prepared a recommendation to amend the downtown zoning public benefit findings and to specifically limit buildings along the downtown core of State and Main Streets to two-stories. The form-based zoning that was adopted for downtown in 2010 regulated buildings by height and architectural design versus by story limits and other development restrictions.

When the matter was discussed at the May 8, 2012 City Council meeting, Council voted unanimously to direct staff to prepare ordinance amendments for Planning Commission consideration. However, the majority of Council members expressed a desire to retain the essence of the recently adopted form-based zoning and to continue to limit buildings based on height but to adopt lower height limits. The then-organized Planning Commission considered the matter at its June 21, 2012 meeting and voted against the changes, believing that there had not been a sufficient public process. It was suggested that the original Downtown Committee members, among others, be asked to participate in the process.

Council heard this recommendation at its July 24, 2012 meeting and voted to reconstitute what would be called the Downtown IV Committee to hold a series of meetings on the subject. The Committee was comprised of the following former Downtown Committee members, and new members:

Val Carpenter (Chair, Mayor, and former Planning Commissioner)
Megan Satterlee (Vice Chair, Councilmember, and former Planning Commissioner)
Abby Ahrens (downtown property owner and LAVA Board of Directors member)
Jon Baer (PTC member and LANN Advisory Board member)
Lou Becker (former Mayor, Downtown III Vice Chair, LANN Advisory Board member)
Phoebe Bressack (PTC Chair, architect)
Dan Brunello (downtown business owner, Chamber of Commerce Board of Directors member)
Ron Labetich (local commercial real estate broker)
Taylor Robinson (downtown property owner)
Andy Wong (resident representative)

City Manager Marcia Somers and Assistant City Manager James Walgren staffed the meetings and provided background materials. Economic Development Manager Kathy Kleinbaum and Planning Services Manager David Kornfield also participated. Following a series of public meetings, the Committee moved as follows:

Downtown Design Plan Public Benefit Findings

There was further discussion regarding the need for the Council Subcommittee recommended findings, and that the proposal to prohibit building height and parking development incentives perhaps harmed the City more than it helped. The Committee voted unanimously to include the more descriptive development benefits language they drafted to make it clear what the City's primary downtown expectations are, and to continue to allow building height and parking exceptions as potential development incentives.

Commercial Zoning District Height Definition

There was general agreement with the staff recommendation to amend how building heights are measured. It was recommended that the City investigate if measuring the building height from the "plate" and then adding eight feet of additional height – the height allowance for a parapet wall – would be beneficial or detrimental to encouraging sloped roofed buildings. Staff responded that this will be looked at prior to the matter being scheduling for Planning and Transportation Commission consideration.

DISCUSSION

Downtown Design Plan Public Benefit Findings

As a result of Committee review and consensus, staff is recommending the following public benefit finding amendments.

- A. To implement the Downtown Design Plan, minor exceptions from the provisions of this chapter may be granted in the context of the project's benefit relative to its location. Since these are not required by law, they are to be allowed at the complete discretion of the city, provided the following findings are made:
1. The benefits to the downtown will be significant;
 2. The benefits to the city derived from granting the exception is an appropriate mitigation when considered against the cost to the developer;
 3. The project and mitigation will result in a public benefit to the downtown; and
 4. The resultant project and mitigation are consistent with the General Plan and promote or accomplish objectives of the Downtown Design Plan.
- B. For the purposes of this chapter, such exceptions may include, but are not limited to, setbacks, height of structure, height of the first floor, on-site parking, and other zoning regulations. "Height of structure" shall only apply to minor building height exceptions that support the project's architectural integrity.
- C. For the purposes of this section, significant public benefits identified in the Downtown Design Plan, include, but are not limited to, projects that accomplish the following:
1. Provide for additional public parking, beyond minimum code requirement project needs.
 2. Provide additional public outdoor plazas and gathering and eating spaces, visible from the public, to enhance the ambiance of the downtown.
 3. Create prominent, recognizable, entry points into the downtown area.
 4. Preserve the historic character of downtown by renovating existing historic buildings.
 5. Create strong pedestrian linkages to the Civic Center and residential areas adjacent to downtown.
 6. Develop pedestrian walkways or "paseo" passage ways where they are needed, to better link rear parking plazas to the businesses along State and Main Streets.

Commercial Zoning District Height Definition

At the third, and final, Downtown Zoning Committee meeting there was general agreement with the staff recommendation to amend how building heights are measured. The current height measurement for commercial buildings with a sloped roof is to the midpoint of the roof. This is appropriate since buildings with sloped roofs tend to appear less massive than a flat roofed building. The height measurement for a flat roof commercial building is to the interior ceiling. This is odd in that an interior false ceiling has little relationship to how a building is viewed from the exterior. And given that it is a more liberal height measurement, it has resulted in predominantly flat roofed new commercial buildings. Staff's recommendation was that flat roof buildings be measured to the top of the roof deck.

It was recommended by the Committee that the City investigate if measuring the building height from the "plate" and then adding eight feet of additional height – the height allowance for a parapet wall – would be beneficial or detrimental to encouraging sloped roofed buildings. The definition was also refined to better define what a sloping roof is. The 60 degree definition works well since it is also consistent with building code applications.

Staff has now reviewed how this new height measurement would affect recently approved buildings, and determined:

- For sloping roof buildings, such as the One Main Street hotel, it does not benefit or harm the structure's height determination. The building would measure 38 feet to its highest point per the new definition, or 30 feet to the midpoint of the roof per the current definition.
- For flat roof buildings, measuring to the plate versus measuring to the top of the roof deck would be a relatively significant height benefit. This measurement would be more in keeping with the City's current definition, which is to measure a flat roof building to its interior ceiling.

Since measuring a building's height to its plate is a more technical determination – it must be done via a series of building cross-sections versus off an elevation – staff does not see a benefit to changing this definition. In fact, for a flat roof building is it contrary to the direction given by Council. It also continues to benefit flat roof buildings over sloped roof structures. Therefore, staff is recommending that sloped roof buildings continue to be measured to the midpoint of the roof surface, per the below updated definition, and flat roof buildings be measure to the top of the roof deck.

14.66.230 - Height limitations—Measurement.

The vertical dimension shall be measured from the average elevation of the finished lot grade at the front, rear, or side of the building, whichever has the greater height, to the highest point of the ~~ceiling~~ roof deck of the top story in the case of a flat roof ~~or, to the deck line~~ of a mansard roof; and to the average height between the plate and ridge of a gable, hip, or gambrel roof; ~~provided, however, in:~~ A mansard roof is defined as any roof element with a slope of 60 degrees or greater.

Roof Parapet Definition

Lastly, below is a draft definition of parapet which staff believes will work well, keeping in mind that the definition of what a parapet is has not been an issue in the past with most design professionals.

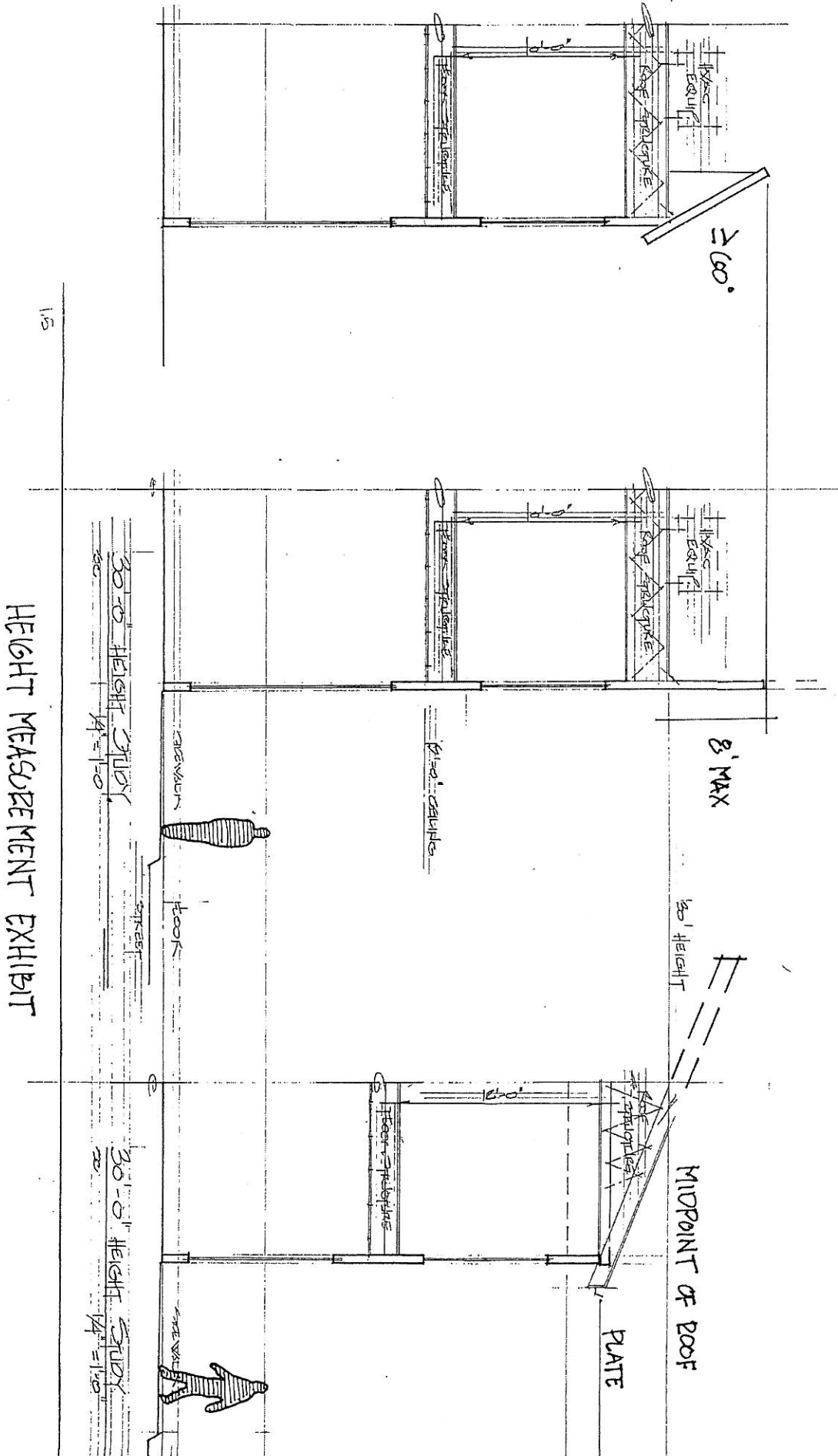
“Parapet” means a wall or roof structure projecting up from the roof to define a roof line and/or to screen mechanical equipment. Roof elements with a 60 degree slope or greater may be considered parapets. Parapets may not be used to provide additional usable floor space for dwelling, commercial use, or storage of any type. Parapets shall be integral to the architectural design of the building.

Staff recommends the revised commercial building height definition, including the identification of a maximum slope, the amended downtown public benefit findings, and the definition of “parapet”. These changes would both improve the commercial zoning regulations and accomplish the City Council's stated goals.

Attachments

- A. Height Measurement Exhibit
- B. May 8, 2012 Council Subcommittee Report
- C. August 24, 2012 Downtown IV Committee Meeting Minutes

ATTACHMENT A



HEIGHT MEASUREMENT EXHIBIT

1/5



DATE: May 8, 2012

AGENDA ITEM # 12

AGENDA REPORT

TO: City Council
FROM: Mayor Carpenter and Councilmember Packard
SUBJECT: Exceptions for Downtown zoning and two stories limitation

RECOMMENDATION:

Direct City Attorney to prepare ordinances (a) amending existing zoning code so as to redefine exceptions to zoning requirements for downtown projects, and (b) restore and restate that the CRS zoning is limited to two stories. In order to avoid any conflict of interest for Councilmember Packard, these amendments are to apply only to new projects where the initial filing is after the final adoption of these proposed zoning changes, and these changes will not apply to the CRS/OAD zone

SUMMARY:

Estimated Fiscal Impact:

Amount: None

Budgeted: Not applicable

Public Hearing Notice: Not applicable

Previous Council Consideration: Not applicable

CEQA Status: None

Attachments:

1. Downtown Urban Design Plan

REQUESTED ACTION

Direct City Attorney to prepare ordinances (a) amending existing zoning ordinances so as to redefine exceptions to zoning requirements for downtown projects, and (b) restore and restate that the CRS zoning is limited to two stories. In order to avoid any conflict of interest for Councilmember Packard, these amendments are to apply only to new projects where the initial filing is after the final adoption of these proposed zoning changes, and these changes will not apply to the CRS/OAD zone.

BACKGROUND AND PROPOSALS

A. Public Benefit and Zoning Exceptions.

The City currently provides exceptions to downtown zoning if there is any element of the proposed project that furthers the Downtown Urban Design Plan. Having these or any other exceptions are not mandated by State law. Instead, they were created by a prior Council. This is very different from residential development benefits, which are State-mandated.

The current exceptions which are the subject of this report are provided in the following provisions of the zoning ordinances:

- 14.48.180 - Exceptions for public benefit (CRS)
- 14.44.180 - Exceptions for public benefit (CD)
- 14.48.180 - Exceptions for public benefit (CRS)
- 14.52.160 - Exceptions for public benefit (CD/R3)

The actual wording of the exceptions are all the same, which is as follows (in italics):

- A. *To implement the downtown urban design plan, exceptions from the provisions of this chapter may be granted provided the following findings are made:*
 - 1. *The granting of the exception will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the area;*
 - 2. *The benefit to the city derived from granting the exception is an appropriate mitigation when considered against the cost to the developer;*
 - 3. *The project and mitigation will result in a public benefit to the downtown; and*
 - 4. *The resultant project and mitigation are consistent with the general plan and promote or accomplish objectives of the downtown urban design plan.*
- B. *For the purposes of this chapter, exceptions may include, but are not limited to, setbacks, on-site parking, and development or building standards.*

The Downtown Urban Design Plan, a copy of which is attached, is a 52-page document completed in 1992, and contains numerous elements and comments, some of which have great importance for the downtown, and others have much lesser importance.

It is our opinion that these exceptions to the zoning ordinances, in light of the broad wording of the Downtown Urban Design Plan, are too subjective, and can unnecessarily lead to false expectations and cause community unrest. A creative developer could find some "public benefit," however marginal, and then request a significant exception to the zoning ordinances. That can result in unreasonable expectations. There is also the risk that if an applicant insists on pursuing the matter, there may be unnecessary frictions in the community, many of whom may be unfamiliar with the Downtown Urban Design Plan, and the fact that downtown benefits are not mandated, as are residential benefits. There is also the danger that the combination of the expansive wording of the Downtown Urban Design Plan, and the unlimited scope of exceptions to the zoning ordinances, can lead to accusations that the City staff, commissions, and/or Council engage in favoritism. Finally, the zoning ordinances have been well thought-out, and generally should be honored, and not carelessly discarded with unlimited exceptions.

In order to better set developer expectations, minimize community disagreements, avoid possible accusations of favoritism, and limit exceptions to important zoning ordinances, the following is proposed as the revised zoning exception (again in italics):

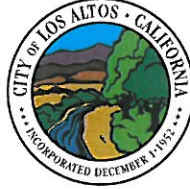
- A. To implement the downtown urban design plan, minor exceptions from the provisions of this chapter may be granted. Since these are not required by law, they are to be allowed sparingly, if at all, and at the complete discretion of the city, provided the following findings are made:*
 - 1. The benefit to the downtown will be significant and not speculative;*
 - 2. The benefit to the city derived from granting the exception is an appropriate mitigation when considered against the cost to the developer;*
 - 3. The project and mitigation will result in a public benefit to the downtown; and*
 - 4. The resultant project and mitigation are consistent with the General Plan and promote or accomplish objectives of the downtown urban design plan.*
- B. For the purposes of this chapter, such minor exceptions may include, but are not limited to, setbacks, development or building standards; but such exceptions shall not include modifications of the overall height of the structure, height of the first floor, or on-site parking requirements, which instead may be granted if qualified under standard variance procedures.*

B. Two Story Limitations.

For decades, the CRS zone, which is primarily the core of downtown along Main Street and State Street, had both a two-story limitation and a height limitation. A couple years ago, the CRS zone was modified by eliminating the wording regarding the two-story limitation, with the understanding that the first floor height requirements, coupled with the overall height limitations, still limited any development to two stories. In order to avoid ambiguities and any potential confusion by developers who may think that they can obtain a three-story development, it is recommended that we make it clear that the two-story limitation applies by restating that as part of the zoning ordinances.

C. Avoidance of Conflict of Interest.

In order to avoid any concerns about a possible conflict of interests, and consistent with the Council Norms to attempt to limit the scope of items so as to avoid any conflicts of interest, these proposals do not apply to projects that have not yet been submitted to the City prior to the final adoption of the proposed zoning changes, and is not to include any change to the CRS/OAD zone. Councilmember Packard has consulted with outside counsel and is satisfied that these zoning amendments, as presented above, do not create a conflict of interest since on two separate fronts they would not apply to the proposed development of 40 Main Street. As such, a special request is made not to discuss the pros and cons of projects included in the CRS/OAD zone, to have the change apply to outstanding applications that have not yet received final approval, or what impact they would have on any proposed project within the CRS/OAD zone.



MEETING MINUTES DOWNTOWN IV COMMITTEE

1:30 p.m., August 24, 2012
Neutra House, 181 Hillview Avenue
Los Altos, California 94022

CALL TO ORDER

Chair Val Carpenter, Vice Chair Megan Satterlee, and Committee Members, Lou Becker, Phoebe Bressack, Jon Baer, Dan Brunello, Ron Labetich, Abigail Ahrens, Taylor Robinson, and Andy Wong were present.

City Manager Marcia Somers, and Assistant City Manager James Walgren were also in attendance.

PUBLIC COMMENTS

There were no public comments.

DISCUSSION

1. Minutes

The minutes of the August 17, 2012 meeting were approved unanimously.

2. Commercial Zoning District Height Definition

There was general agreement with the staff recommendation to amend how building heights are measured. It was recommended that the City investigate if measuring the building height from the "plate" and then adding eight feet of additional height – the height allowance for a parapet wall – would be beneficial or detrimental to encouraging sloped roofed buildings. Staff responded that this will be looked at prior to the matter being scheduled for Planning and Transportation Commission consideration.

3. Downtown Design Plan Public Benefit Findings

There was further discussion regarding the need for the Council Subcommittee recommended findings, and that the proposal to prohibit building height and parking development incentives perhaps harmed the City more than it helped. Copies of the current findings, the Council Subcommittee findings, and the staff modified Council Subcommittee findings and a public benefit hierarchy list were reviewed, both as identified in the Downtown Urban Plan.

Ultimately, the Committee voted unanimously to include the more descriptive development benefits language to make it clear what the City's primary downtown expectations are, and to continue to allow building height and parking exceptions as potential development incentives.

4. Discussion of Rooftop Equipment Screening and Parapet Walls

It was agreed that these appurtenance should be continued to be screened from public view and included in the design review process.

5. Need for Further Meetings

It was agreed that the Committee had accomplished the goals set out by the City Council, and that the subject matter should now be referred to the PTC for formal consideration

ADJOURNMENT

The meeting was adjourned at 2:45 p.m.