TO:       HONORABLE CITY COUNCIL

FROM:     CITY MANAGER       DEPARTMENT: PLANNING AND
           COMMUNITY ENVIRONMENT

DATE:     MAY 10, 2004           CMR: 261:04

SUBJECT:  ORDINANCE STREAMLINING PLANNING PROCEDURES BY
          MODIFYING AND CONSOLIDATING REGULATIONS FROM
          PALO ALTO MUNICIPAL CODE, INCLUDING CHAPTERS 16.48
          (ARCHITECTURAL REVIEW), 18.90 (VARIANCES, HOME
          IMPROVEMENT EXCEPTIONS, AND CONDITIONAL USE
          PERMITS), 18.91 (DESIGN ENHANCEMENT EXCEPTIONS), 18.92
          AND 18.93 (APPEALS), AND 18.99 (ADMINISTRATIVE
          APPROVAL OF MINOR CHANGES IN PROJECTS). NEW
          CHAPTERS 18.76 (PERMITS AND APPROVALS), 18.77
          (PROCEDURES FOR PERMITS AND APPROVALS) AND 18.78
          (APPEALS) WILL ALSO BE ADDED.

          ORDINANCE OF THE COUNCIL OF THE CITY OF PALO ALTO
          STREAMLINING PLANNING PROCEDURES BY ADDING
          CHAPTERS 2.21 (ARCHITECTURAL REVIEW BOARD), 18.76
          (PERMITS AND APPROVALS), 18.77 (PROCEDURES FOR
          PERMITS AND APPROVALS), AND 18.78 (APPEALS), DELETING
          CHAPTERS 16.48 (ARCHITECTURAL REVIEW), 18.90
          (VARIANCES, HOME IMPROVEMENT EXCEPTIONS, AND
          CONDITIONAL USE PERMITS), 18.91 (DESIGN ENHANCEMENT
          EXCEPTIONS), 18.92 AND 18.93 (APPEALS), AND 18.99
          (ADMINISTRATIVE APPROVAL OF MINOR CHANGES IN
          PROJECTS), ADDING SECTIONS 18.88.200 AND 18.88.210, AND
          MODIFYING CROSS-REFERENCES IN VARIOUS OTHER CODE
          SECTIONS.
**RECOMMENDATION**
Staff recommends that the City Council approve the attached ordinance (Attachment A) reorganizing and modifying the Municipal Code to implement City Auditor’s recommendations to streamline the development review process.

**BACKGROUND**
On October 15, 2003, the City Council’s Policy and Services Committee received the results of the City Auditor’s audit of the development review process. The audit recommendations included the need for a reduction in the number of processes and appeals, more rapid turnaround times for applications, and increased use of the Planning and Transportation Commission in processing “quasi-judicial” items. Implementing these recommendations requires changes to the Palo Alto Municipal Code.

In response, the Planning Department developed initial recommendations in January of this year, and then developed them further over the course of four Planning and Transportation Commission (PTC) meetings and two outreach meetings involving neighbors, architects, and one Planning and Transportation Commissioner. At its March 24, 2004 meeting, the PTC recommended adoption of the attached ordinance with some minor modifications, all of which staff agrees with and has incorporated into the ordinance.

**DISCUSSION**
The ordinance, as proposed, will accomplish several tasks:

1. It will re-organize the development and review and appeals processes contained in the Municipal Code. These processes are currently spread throughout the Code, which generates confusion on the part of applicants and neighbors, and can result in increased staff time as planners are forced to search through the Code for information. This ordinance consolidates the bulk of the City’s quasi-judicial procedures into two chapters of the Zoning Ordinance (Title 18), and updates the language (generated in 1978 or prior) to make it easier to read.

2. It will streamline the procedure for granting variances and conditional use permits while providing more effective notice to the public. Under the current procedures, these applications require a minimum of one hearing, and can require as many as three, if controversial. This ordinance establishes a process where, if staff’s decision is not contested, a hearing is unnecessary. When requested, a single hearing is required.

3. To balance the faster timeline, the ordinance adds requirements for more effective and more frequent notice, including the availability of an electronic, subscriber-based newsletter.
4. The ordinance adds a Council consent-calendar review process based on what currently exists for Individual Review. This is intended to give the City Council more control over its agenda with respect to development applications, and to give more weight to the Planning and Transportation Commission’s recommendations on certain quasi-judicial items.

5. The ordinance also clarifies the findings for variances. Staff believes these proposed findings implement the purpose of a variance better than the existing findings.

The following information is provided to assist the City Council in its review of this ordinance:

1. A chart of the proposed variance and CUP process is included in Attachment A.
2. A general overview of the structure of the ordinance, as well as a detailed guide, is included in Attachment B.
3. Notes from a neighborhood outreach meeting are included in Attachment C.

It should be noted that ordinance does not change the current Home Improvement Exception and Individual Review processes. These processes are currently being reviewed by the PTC and its Low-Density Residential Subcommittee. The provisions related to Home Improvement Exceptions contained in new Chapters 18.76 (Permits and Approvals (Exhibit 2)) and 18.77 (Processing of Permits and Approvals (Exhibit 3)) of the ordinance, are simply a renumbered and restated version of existing provisions.

PLANNING AND TRANSPORTATION COMMISSION RECOMMENDATION
At its meeting of March 24, 2004, the P&TC recommended adoption of the ordinance, but declined to make a recommendation on the number of Council votes that should be required in order to remove quasi-judicial land-use items and appeals of Director’s decisions from the consent calendar for discussion. The Commission requested that the amount of time available for an interested party to request a hearing or an appeal of a Director’s decision be increased from ten days to fourteen days. It also requested some language clarifications. Staff has included the Commission’s modifications in the ordinance.

RESOURCE IMPACT
Staff anticipates a reduction in both staff and Council resources as a result of implementing these recommendations.

POLICY IMPLICATIONS
This ordinance responds to several recommendations of the City Auditor in her 2003 Audit of the Development Review Process. These include:
#4. Simplify and reduce the number of development review processes.
#5. Establish one standard and simple process for appeals.
#11. Review and approve more minor Architectural Review projects at staff level.
#13. Modify the Municipal Code to permit the Director to make a decision on an Architectural Review application in the absence of a timely ARB recommendation.
#15. Give the P&TC increased responsibility for quasi-judicial land-use items.

In addition, this ordinance will complete a major Zoning Ordinance Update work item: to reorganize and revise the procedural sections of the Zoning Ordinance.

**ATTACHMENTS:**

A: Ordinance Streamlining Planning Processes which includes (not available on website):
   - Exhibit 1 (Pg. 70): New Chapter 2.21 (Architectural Review Board).
   - Exhibit 2 (Pg. 72): New Chapter 18.76 (Permits and Approvals).
   - Exhibit 3 (Pg. 82): New Chapter 18.77 (Procedures for Permits and Approvals).
   - Exhibit 4 (Pg. 96): New Chapter 18.78 (Appeals).

B: Flowchart of new Variance and CUP process.
C: Guide to reading the Ordinance.
D: Comments from neighborhood outreach meeting.
E: Minutes of the March 24, 2004 P&TC meeting.
F: Minutes of the March 3, 2004 P&TC meeting.

**PREPARED BY:**

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**DEPARTMENT HEAD REVIEW:**

STEVE EMSLIE  
Director of Planning and Community Environment

**CITY MANAGER APPROVAL:**

EMILY HARRISON  
Assistant City Manager

CC: Individual Review and Single-Family Sub-Committee Members
Proposed Standard Staff Review Process:
Variance and Use Permits Only

Application received

Application reviewed

App complete? No

Applicant revises application

App complete? Yes

Notice mailed

Tentative Director’s Decision – Notice mailed

Hearing requested? Yes

Notice mailed

Planning Commission hearing

Hearing requested? No

Decision final

Council call-up

How would notice be sent?

1. By mail, to owners/residents within 600 feet
2. By inclusion in a weekly newsletter posted online, sent by e-mail to subscribers, and posted at the library and in the newspaper.
Ordinance Summary

The substantive parts of staff’s recommendation are mainly in the proposed chapters 18.76 and 18.77 (Exhibits B and C of the ordinance). A brief summary of the ordinance’s organization is included below:

<table>
<thead>
<tr>
<th>Section</th>
<th>Where Located</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>New chapter 18.76 (Permits and Approvals)</td>
<td>Ordinance Exhibit B, blue-tipped pp 72-81</td>
<td>This chapter lists the different types of permits and exceptions the City may grant, their purposes, and the findings required.</td>
</tr>
<tr>
<td>New chapter 18.77 (Procedures for Permits and Approvals)</td>
<td>Ordinance Exhibit C, blue-tipped pp 82-95</td>
<td>This chapter lists the procedures for granting, denying, or revoking the permits and approvals in chapter 18.76.</td>
</tr>
<tr>
<td>New chapter 2.21 (Architectural Review Board)</td>
<td>Ordinance Exhibit A, blue tipped pg 70-71</td>
<td>All Boards and Commissions should be established in Title 2. Currently, the ARB is established in Title 16. This section of the ordinance corrects that problem.</td>
</tr>
<tr>
<td>New chapter 18.78 (Appeals)</td>
<td>Ordinance Exhibit D, blue-tipped pg 96</td>
<td>This creates a standard appeal procedure for certain Director determinations.</td>
</tr>
<tr>
<td>Fixing cross-references, deleting old chapters that are replaced by this ordinance</td>
<td>Main body of the ordinance, blue-tipped pp 1-69</td>
<td>If a more detailed guide to reading the main ordinance body is desired, one is provided on the next page of this attachment.</td>
</tr>
<tr>
<td>Code Sections (Pages)</td>
<td>Changes made</td>
<td>Description of changes</td>
</tr>
<tr>
<td>----------------------</td>
<td>-------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Section 2 (1)</td>
<td>New chapter 2.21 (architectural review board)</td>
<td>Code section establishing the composition and protocols of the Architectural Review Board; previously in Chapter 16.48</td>
</tr>
<tr>
<td>Section 3 (2)</td>
<td>Miscellaneous cross-references</td>
<td>No substantive changes</td>
</tr>
<tr>
<td>Section 4 (3)</td>
<td>Modifications to 8.10.140 (appeals of tree removal permits)</td>
<td>This code section previously referred to Chapter 16.48 and had to be modified</td>
</tr>
<tr>
<td>Sections 5-20 (3-21)</td>
<td>Miscellaneous cross-references</td>
<td>No substantive changes</td>
</tr>
<tr>
<td>Section 21 (21)</td>
<td>Deletes chapter: 16.48 (Architectural Review)</td>
<td>Removes code sections that were incorporated into the new chapters</td>
</tr>
<tr>
<td>Sections 22-61 (21-31)</td>
<td>Miscellaneous cross-references</td>
<td>No substantive changes</td>
</tr>
<tr>
<td>Section 62-63 (32)</td>
<td>Modifications to 18.30 (Neighborhood Preservation Combining District)</td>
<td>Repair cross references, move neighborhood preservation exception to new Chapters 18.76 and 18.77.</td>
</tr>
<tr>
<td>Sections 64-106 (32-51)</td>
<td>Miscellaneous cross-references</td>
<td>No substantive changes</td>
</tr>
<tr>
<td>Sections 107-111 (51-53)</td>
<td>18.68 (Planned Community Districts)</td>
<td>Eliminate references to 16.48, simplify language regarding the role of the ARB. No substantive change.</td>
</tr>
<tr>
<td>Sections 112-115 (53-54)</td>
<td>Miscellaneous cross-references</td>
<td>No substantive changes</td>
</tr>
<tr>
<td>Sections 116-118 (54-55) Exhibits B-D</td>
<td>New chapters: 18.76 (Permits and Approvals) 18.77 (Processing of Permits and Approvals) 18.78 (Appeals)</td>
<td>Consolidates several processes into two chapters, simplifies language, makes process changes.</td>
</tr>
<tr>
<td>Sections 119-121 (55-56)</td>
<td>18.82 (Site and Design Review)</td>
<td>Eliminate references to 16.48, simplify language regarding the role of the ARB. No substantive change.</td>
</tr>
<tr>
<td>Sections 122-124 (55-57)</td>
<td>Miscellaneous cross-references</td>
<td>No substantive changes</td>
</tr>
<tr>
<td>Sections 125-126 (57-61)</td>
<td>Modifications to 18.83.120 and 18.83.130 (Adjustments to parking regulations)</td>
<td>These exceptions are now granted using the Standard Staff Review Process. Previous process was unclear.</td>
</tr>
<tr>
<td>Section 127 (61)</td>
<td>Miscellaneous cross-references</td>
<td>No substantive changes</td>
</tr>
<tr>
<td>Sections 128-129 (62-65)</td>
<td>New 18.88.110 (Temporary Use Permits) and 18.88.120 (Alcoholic Beverages)</td>
<td>These sections are currently in 18.90. Moved to 18.88 pending reorganization of the code by the ZOU team.</td>
</tr>
<tr>
<td>Sections 130-133 (65)</td>
<td>Deletes chapters: 18.90 (Variances, CUPs, HIEs) 18.91 (Design Enhancement Exceptions) 18.92 (Appeals – zoning administrator) 18.93 (Appeals – Director) 18.99 (Administrative Approvals)</td>
<td>Removes code sections that were incorporated into the new chapters</td>
</tr>
<tr>
<td>Sections 134-138 (65-67)</td>
<td>Miscellaneous cross-references</td>
<td>No substantive changes</td>
</tr>
<tr>
<td>Section 139 (67)</td>
<td>Modifications to 21.12.110 (Amendment to approved tentative map or preliminary parcel map)</td>
<td>Currently refers to 18.93, should refer to the appeals section in Title 21.</td>
</tr>
<tr>
<td>Section 140 (68)</td>
<td>Miscellaneous cross-references</td>
<td>No substantive changes</td>
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</tbody>
</table>
Comments from the March 21 Neighborhood Outreach Meeting
on Process Changes

- Staff should avoid having plans changed at the last minute for a project. If they are changed, the neighbors should be notified.
- The Planning Commission will not be as receptive to neighbor concerns as the Council has been.
- It would help if people requesting a hearing or making an appeal could do so by e-mail.
- A 21-day period between application completeness and the tentative Director’s decision is desired. After the Director’s decision, there should be at least ten days.
- Some neighbors have concerns about the proposed home improvement exception limits on FAR, side setback, and architectural features. Some are concerned that an exception should never be granted for FAR, that the side setback limits are too large, and that no exceptions should be granted for architectural features.
- There is concern that the limits on size of home improvement exceptions, rather than being maximums for the exception, will become automatic grants of privilege.
- Many neighbors want to see the Director’s decision and the conditions posted online.
- Some neighbors raised the possibility of having extra variance findings for floodplains and substandard lots.
- Almost all at the meeting wanted two rather than four Council members to be able to pull a development application from the consent calendar.
- There is concern that staff is focusing too much on using the neighbors as an information source, rather than making sure themselves that an exception is merited and will not have a negative effect on the surrounding environment.
- Some neighbors said that a variance is a “yes/no” issue. There is no compromise, and staff should not focus on that possibility.
- It should be clear what recourse neighbors have when a project that does not comply with the zoning code makes it through the development process. If possible, it should not happen at all.
- Staff reports should be carefully reviewed for accuracy, and should be easier to read.