TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER DEPARTMENT: PLANNING & COMMUNITY ENVIRONMENT

DATE: OCTOBER 4, 2004 CMR: 437:04

SUBJECT: ZONING ORDINANCE UPDATE: ADOPTION OF AN ORDINANCE ADOPTING A REVISED SINGLE FAMILY RESIDENTIAL (R-1) CHAPTER (18.12); AMENDING RELATED DEFINITIONS CONTAINED IN CHAPTER 18.04 AND RELATED HOME IMPROVEMENT EXCEPTION PROVISIONS IN 18.76 AND 18.77; AND INCORPORATING RELATED R-1 SINGLE-STORY HEIGHT COMBINING DISTRICT (S) REGULATIONS CONTAINED IN 18.13, RELATED SPECIAL RESIDENTIAL BUILDING SITE COMBINING DISTRICT REGULATIONS CONTAINED IN CHAPTER 18.15, AND RELATED R-1 SINGLE FAMILY INDIVIDUAL REVIEW PROVISIONS CONTAINED IN CHAPTER 18.14 INTO CHAPTERS 18.12, 18.76 (PERMITS AND APPROVALS) AND 18.77 (PROCESSING OF PERMITS AND APPROVALS) OF TITLE 18 (ZONING ORDINANCE) OF THE PALO ALTO MUNICIPAL CODE.

RECOMMENDATION
Staff and the Planning and Transportation Commission (P&TC) recommend Council approval of the proposed ordinance (Attachment A), including Exhibit A, comprising the revised Single Family Residential (R-1) Chapter (18.12) of the Zoning Ordinance.

BACKGROUND
Planning staff and the City Attorney’s office have developed a revised and reformatted R-1 chapter of the Zoning Ordinance, intended as a stand-alone chapter. The adoption of this R-1 Chapter will allow for its implementation in advance of the complete Zoning Ordinance Update (ZOU). The R-1 district and its various subdistricts encompass approximately 74% of the total number of lots in Palo Alto (about 15% of the City’s total acreage), and the adoption of this chapter is a significant step forward in the implementation of the Zoning Ordinance Update (ZOU).

The intent of a stand-alone R-1 chapter is to provide all of the relevant regulations related to R-1 development in one place, avoiding the need for applicants and others to search
the entire code for pertinent requirements. The proposed revisions to the R-1 chapter are critical to implementing Housing Element and other Comprehensive Plan programs by providing added opportunities to develop second dwelling units, to discourage loss of housing units, and to protect existing residential character through context-based setbacks and garage placement criteria. The reformatted code also is more readable than the existing zoning, including the use of tables to outline allowable uses and development standards, with cross-references as needed to other sections of the chapter.

Preliminary revisions to the R-1 chapter have been developed based on review and comments from the Planning & Transportation Commission (P&TC), the P&TC Low Density Residential (LDR) Working Group, the Single Family Advisory Committee (SFAC) Co-chairs, ZOU and Current Planning staff, and public input through community workshops, focus groups, the ZOU website and e-mails. The P&TC met six times between May 26 and August 4, 2004 to review issues and draft provisions related to the R-1 chapter. The LDR Working Group met a total of nine times during the past year plus three additional times jointly with the SFAC Co-chairs as input to the P&TC. Three focus group meetings were held with R-1 residents in May of 2004, and ZOU staff participated in two public workshops related to Housing Element programs and second units in 2002. The P&TC recommended approval of the attached ordinance at its August 4, 2004 meeting.

DISCUSSION
The R-1 chapter includes tables and text outlining the allowable uses and required development standards for the district and its subdistricts, as well as related overlays, combining districts and review processes that are primarily applicable to R-1. The revisions incorporate the Single Story (S) Combining District, Individual Review, and Home Improvement Exceptions into the R-1 chapter. Some procedural updates made by staff and resulting from the City Auditor’s report are also included and are discussed below.

The proposed ordinance adopting revised definitions, process changes and the updated R-1 chapter is included as Attachment A. Exhibit A to that attachment is the R-1 Chapter 18.12 of the Zoning Ordinance. A summary table outlining all of the proposed changes (other than minor formatting) is presented in Attachment C. Attachment D is a redlined version of the R-1 chapter and the revised Low Density Residential definitions, presenting the changes in a strikethrough/underlined format to compare to the existing regulations. P&TC staff reports and attachments, along with the Commission’s minutes, are also attached.
**Planning and Transportation Commission Review and Recommendation**

The Planning & Transportation Commission (P&TC) considered and recommended approval of the proposed R-1 Ordinance and related Low Density Residential definitions on August 4, 2004. A summary of Commission votes on various sections of the ordinance is included as Attachment E to this staff report. The following discussion is intended to outline the Commission’s revisions related to several key R-1 issues, but is not intended to be a comprehensive review of the changes. Attachment C provides a complete list of the proposed revisions.

**Format Changes**

The stand-alone R-1 chapter has been reformatted, substituting easier to read tables for development standards and allowable uses, as well as for frequently requested information, such as gross floor area measurement and basic R-1 parking. References to metric measurements have been deleted. The encroachment and exception sections, formerly in Chapter 18.88, are also incorporated as they apply to the R-1 district. References to other sections or chapters of the Code applicable to the R-1 district have also been added.

Staff is also working with the ZOU urban design consultants to incorporate some of the tools of the Context Based Design Form Code into the R-1 Chapter, including illustrations for calculating the daylight plane and locations for attached and detached second dwelling units. Examples of these illustrations are shown in Attachment C. This form code component will be incorporated with the final ZOU along with clarification of the existing illustrations contained in the definitions Chapter 18.04.

**Allowable Uses and Basic Development Standards**

Allowable uses in the R-1 code remain substantially unchanged, but have been updated to reflect current State law for day care homes, delineate the sizes of accessory structures, and provide flexibility for below-grade patios and lightwells for basements. The R-1 update also revised criteria for substandard lots to allow more flexibility for building on those constrained parcels, including permitting second story development, subject to Individual Review, and less stringent contextual garage, site coverage, and streetside setback standards. This would provide for more incentives to retain this type of affordable market rate housing, help families needing a new bedroom, and discourage lot mergers resulting in the potential loss of two houses.

The ZOU staff recommended new location criteria for placement of noise –producing equipment, specifically in the rear setback area. The P&TC recommended requirements
for noise-producing equipment to require the permitted location outside of all setbacks and that all such equipment be fully “housed and insulated.”

Since the P&TC’s action, the City’s Building Department and some local architects have expressed concern regarding requiring all such equipment to be located outside all setbacks and to be “housed and insulated.” They indicated that some equipment such as air conditioning equipment cannot be completely insulated or housed. Additionally, the Building Department indicated that many manufacturers of such equipment would void warranties if such equipment is entirely enclosed. ZOU staff recommends that the Council consider other options to the Commission proposal, including:

- Allowing the Director limited discretion to locate, screen, and/or house such equipment based on existing conditions on the site;
- Allowing such equipment in the rear setback, except where the rear setback is directly adjacent to the sideyard of an adjacent property, it must be located at least 6 feet from the rear property line; and/or
- Retaining the existing language in the Code stating that “if visible from off-site, the equipment shall be screened or fenced from view.”

The P&TC review also included substantial discussion of contextual setbacks for front setback and garage placement. This review involved discussions with the LDR Working Group and Single Family Advisory Committee (SFAC) Co-chairs. The contextual garage placement standards were mainly clarified and modified for more efficient application and to reduce the need for continual interpretation.

The consistent application of these provisions, without requiring frequent interpretation, and reduced anxiety for applicants was also a major goal of reviewing contextual front setback standards. The calculation of contextual front setbacks is clarified to apply only where the average setback is greater than 30 feet, and to clarify what is included and excluded in the calculations, and to address setback “anomalies.” Additionally, staff will “memorialize” (record) contextual front setbacks for entire blocks as applications are received or as staff resources allows.

Staff notes that the Single Family Advisory Committee (SFAC) Co-chairs indicated their support for most of the changes presented above. However, they supported a lower threshold of 25 feet when contextual front setbacks would be required, reasoning that the difference between 20’ and 30’ is quite obvious.

Housing Element Policies
Staff identified approximately twelve key Comprehensive Plan Housing Element policies and programs that provided a basis for revisions to the R-1 Chapter. These are described
in the May 26 P&TC staff report, Attachment G:(page 8). A major tenet of these policies for single family residential is the protection of existing houses and neighborhoods. Rather than be strictly regulatory in approach, staff’s preference was to develop a positive approach to protection of existing homes through 1) improved regulations to facilitate second units, 2) Home Improvement Exception (HIE) incentives for retaining existing homes, including historic homes, 3) provisions in the nonconforming provisions of the code allowing minor improvements and upgrades to existing nonconforming units, and 4) village residential (cottage cluster) regulations that would provide incentives for preserving that unit type rather than developing new homes. Some of these changes such as the nonconforming provisions and the cottage cluster land use are being developed outside of the R-1 Chapter.

Two key Housing Element policies addressed by P&TC review in the R-1 Chapter include providing greater opportunities to construct second dwelling units and providing for maximum lot sizes to restrict the potential for lot mergers and the subsequent loss of housing units.

1. Second Dwelling Units

Housing Element Program H-4 states (in part): “evaluate the provisions for second dwelling units in single family areas to determine how additional units might be provided.” including “increased flexibility in the regulations such as reduced parking requirements, limiting the maximum size of the unit, allowing for attached units, and reducing the minimum lot size requirement.”

To address this policy, the proposed R-1 chapter includes many revisions to encourage second dwelling units:

- Allowing small (up to 450 sq ft) units on single-family lots meeting the minimum lot size requirements, rather than requiring lots to be 35% larger than the minimum.
- Reducing the required parking for such small (up to 450 sq ft) units to one parking space, rather than two.
- Permitting attached units up to a maximum size of 900 square feet, similar to detached units.
- Allowing second story second units, either detached or attached, subject to the Single-Family Individual Review criteria and all other development standards.
- Eliminating open space requirements for second dwelling units.

All second dwelling units would still be required to meet all other development standards, including the setback requirements of the R-1 district.
2. Maximum Lot Size/Loss of Housing Units

Housing Element policy H-5 states (in part): “Address the loss of housing due to the combination of single family residential lots. Consider modifying the R-1 zoning district to create a maximum lot size to prevent the loss of housing or housing opportunities.”

To address this policy, the proposed R-1 chapter includes the creation of maximum lot sizes that are just under the twice the minimum lot size to discourage lot mergers that could result in the reduction of potential housing (buildable lots) in the City. In the R-1 districts where 6,000 square feet is the minimum lot size, the maximum was set at 9,999 square feet, to specifically prohibit the merging of two 5,000 square foot lots. Exceptions are provided for cases where lot mergers are required to eliminate nonconformities and to allow for modifications that do not reduce the number of lots or potential housing units.

The P&TC and staff heard concerns at the last public hearing from members of the real estate community in opposition to this change. The speakers’ primary issues were that 1) the City should allow the housing market to determine the size and number of lots, 2) the effect of the requirement would be insignificant compared to other means of increasing housing stock, especially facilitating higher density housing in appropriate areas, and 3) combining lots helps preserve open space. Staff believes, however, that the ordinance provisions provide for sufficient flexibility to address most unusual situations, and directly implement a very specific adopted Housing Element program. Staff has met with the real estate community to discuss their issues and will continue this discussion with them for the entire ZOU.

Review Process Changes
The revised R-1 chapter incorporates provisions and changes related to the Single Story (S) Combining District, the Individual Review (IR) process, and Home Improvement Exceptions (HIE):

- The review process and criteria for establishing (and removing) the Single Story overlay has been incorporated into the Code, including establishing defined percentages for “overwhelming support” and “prevailing single story” criteria and eliminating the “moderate lot sizes requirement.”
- The Individual Review process is added to the Chapter.
- The HIE provisions are modified to provide for specific limitations of exceptions that may be granted, and to make the findings less stringent.
References to architectural (ARB) and historical (HRB) review have also been added and incentives for historical preservation are added to exclude certain basement and attic space from floor area calculations on historic homes. The HIE process also provides exceptions for historic homes, including increased floor area.

In response to the audit, the P&TC recommendations serve to streamline and clarify the processes for Single Family Individual Review and Home Improvement Exceptions. The revised IR and HIE procedures may be found in Section 18.77.075 of the Zoning Ordinance (Section 36 of Attachment A).

Definitions
The Low Density Residential (LDR) definitions included in the ordinance provide necessary clarifications to gross floor area and other terms, and adds definitions for terms such as porch, structure, porte-cochere, and vaulted entry feature. These modifications will also apply to the other LDR districts (R-E, R-2, and RMD).

RESOURCE IMPACT
The implementation of the proposed ordinance is not expected to significantly impact staff resources or the City’s budget. Some additional staff time will be required to initially call out the proposed changes to both staff and the public. Staff anticipates that the revisions and reformatting of the regulations will result in an ordinance that is more readily accessible and understood by applicants and staff, with no increase in the time or resources required for staff review.

POLICY IMPLICATIONS
Recommendations of this staff report are consistent with the overall land use and housing goals of the Comprehensive Plan, some of which are listed in the discussion above. The Zoning Ordinance Update is intended to bring the Zoning Ordinance into compliance with the 1998-2010 Comprehensive Plan. Staff and the Commission believe that the proposed amendments are a significant step in that direction.

ENVIRONMENTAL REVIEW
Staff has considered the proposed revisions to the R-1 district, especially including changes made to basement and second unit requirements, in comparison with the existing zoning regulations and with the environmental analysis that was conducted for the adoption of the Comprehensive Plan. The Comprehensive Plan Environmental Impact Report (EIR) was certified by the City Council on July 20, 1998. The Addendum to the Comprehensive Plan EIR was adopted by the City Council on December 2, 2002, and encompasses the Housing Element policies and programs, including second unit regulations, addressed in the R-1 Chapter. In addition, upon request from the Commission, staff asked the ZOU environmental consultant (EIP) to prepare a
groundwater/basement issue paper that was presented and included as an attachment to the July 14, 2004 P&TC staff report. The report concluded that there would be no significant impact on groundwater, either individually or cumulatively, from the construction of basements. It is staff’s determination that the changes proposed with the R-1 chapter therefore do not have significant environmental impacts and that they do not extend beyond those already analyzed in the Comprehensive Plan EIR.

**ATTACHMENTS**

Attachment A: Proposed Ordinance Adopting Changes to the R-1 Chapter (18.12) and Definitions (18.04) of the Zoning Code  
Exhibit A: Final (Clean) Version of R-1 Code  
Attachment B: Map of R-1 and R-1 Combining Districts  
Attachment C: Summary of Changes being made to the R-1 Chapter  
Attachment D: Edited (Redlined) Version of R-1 Code & Definitions (Chapter 18.04)  
Attachment E: Summary of P&TC Votes on R-1 Items  
Attachment F: January 14, 2004 Staff Report and Commission minutes  
Attachment G: May 26th Staff Report and Commission minutes from May 26th, June 2nd and June 9th  
Attachment H: July 14th Staff Report and Commission minutes from July 14th and 21st  
Attachment I: August 4th Staff Report and Commission minutes

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