TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER DEPARTMENT: PLANNING AND COMMUNITY ENVIRONMENT

DATE: MAY 6, 2002 CMR:225:02

SUBJECT: MODIFICATIONS TO FENCE HEIGHT AND FLOOR AREA RATIO (FAR) REGULATIONS FOR RESIDENTS IMPACTED BY SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY FLOODWALL REPLACEMENT PROJECT.

REPORT IN BRIEF

The enlargement of the creekside easements resulting from the San Francisquito Creek Joint Power Authority Floodwall Replacement Project requires relocation and reconstruction of rear yard fences and removal of substantial, mature screening vegetation. The City Council directed staff to develop a plan to address the fence height and Floor Area Ratio (FAR) issues as a result of a Colleagues’ Memorandum from Vice Mayor Mossar and Council Member Burch. Staff proposed amendments to Titles 16 and 18 of the City of Palo Alto’s Municipal Code to address both the fence height and FAR issues. The Planning and Transportation Commission reviewed the proposed amendments at its April 10, 2002 meeting and unanimously passed a motion to recommend to the City Council the adoption of the proposed amendments to the Palo Alto Municipal Code, provided that staff modify language on the proposed amendment addressing the fence height issue in order to allow ten foot rear fences or walls to sites adjacent to the San Francisquito Creek flood control expansion area if the portion of the site subject to a permanent easement is altered in any way. Based on the Commission’s comments, staff has modified the proposed amendments for the City Council’s review and adoption.
RECOMMENDATION
Staff and the Planning and Transportation Commission recommend that the City Council adopt the proposed amendments to Title 16 (Section 16.24.020) and Title 18 (Section 18.88.070) of the Palo Alto Municipal Code to modify fence height and Floor Area Ratio (FAR) Regulations for residents impacted by the San Francisquito Creek Joint Powers Authority Floodwall Replacement Project.

BACKGROUND
The City is working with the other member agencies of the San Francisquito Creek Joint Powers Authority (JPA) on a project to restore earthen levees along San Francisquito Creek downstream of Highway 101 to their original as-built elevations. The project also includes the replacement of an existing floodwall upstream of Highway 101 at the rear of fifteen properties along Edgewood Drive by the Santa Clara Valley Water District (District). The District is seeking permanent easements across a portion of these properties in order to facilitate future long-term maintenance of the floodwall.

The Edgewood Drive residents expressed concerns about two potential impacts of the floodwall project during neighborhood meetings held on October 24, 2001, November 26, 2001, and March 7, 2002. First, they are concerned that it will be necessary for the District to remove a certain amount of screening vegetation along the rear of their properties in order to construct the wall. Therefore, they requested that the City amend the Municipal Code to allow them to construct rear property fences taller than normally allowed under the Zoning Ordinance (seven feet) in order to compensate for the lack of vegetation and restore their existing level of privacy.

Secondly, the Zoning Ordinance stipulates that easement areas are excluded from gross lot area when calculating the floor area ratio (FAR). Since the residents do not want to have their allowable FAR reduced as a result of granting an expanded flood control easement to the District for the floodwall construction, they asked the City either to amend the ordinance or grant a variance for all affected properties to prevent potential loss of FAR for future development.

On March 25, 2002, the City Council directed staff to develop a plan to address the fence height and FAR issues as a result of a Colleagues’ Memorandum dated March 21, 2002 from Vice Mayor Mossar and Council Member Burch.

PLANNING AND TRANSPORTATION COMMISSION REVIEW
The Planning and Transportation Commission (Commission) reviewed the proposed amendments on April 10, 2002. The primary focus of the Commission discussion centered on the public testimony of Mr. Jeffrey Shore. Mr. Shore, who resides at 1905 Edgewood Drive, Palo Alto, asked the Commission to reevaluate the language of the proposed amendment addressing the fence height issue. At the time of the Commission
review, the proposed amendment to Title 16 allowed sites adjacent to the San Francisquito Creek flood control expansion area to build rear property fences or walls up to ten feet in height only if there was a net increase in area to the portion of the site subject to a permanent easement. Mr. Shore stated that some easements will not increase in size but boundary changes will still require fence rebuilding and result in loss of mature vegetation. The Commission unanimously recommended to the City Council that the proposed amendments to the Palo Alto Municipal Code be modified to allow ten feet rear fences or walls to sites adjacent to the San Francisquito Creek flood control expansion area if the portion of the site subject to a permanent easement is altered in any way.

Subsequent to Commission review, staff reassessed the proposed amendment addressing the FAR issue and concluded that setback requirements should also be included as one of the calculations that should not be altered. Staff considered it inappropriate for these lots in an existing, developed neighborhood to suffer reduction in permitted floor area and potential developable area because of floodwall modifications. As a result, staff recommends to the Council the adoption of the amendment to Title 18 (Section 18.88.070) specifying that lot area, lot dimensions, and setback requirements shall be calculated for properties adjacent to San Francisquito Creek as if the post-January 1, 2002 easement had not been created.

**POLICY IMPLICATIONS**

The recommended amendments are consistent with the goals and policies in the Palo Alto Comprehensive Plan. Applicable policies are as follows:

- **Natural Environment Policy N-10**
  Work with the Santa Clara Valley Water District and other relevant regional agencies to enhance riparian corridors and provide adequate flood control by use of low impact restoration strategies.

**TIMELINE**

If Council approves the proposed amendments, the ordinance shall be effective on the thirty-first day after its adoption.

**ENVIRONMENTAL REVIEW**

The adoption and implementation of this ordinance is exempt from the California Environmental Quality Act under Guideline 15305.

**ATTACHMENTS**

Attachment A: Draft Ordinance
Attachment B: 4/10/02 Staff Report to the Planning and Transportation Commission