



Planning & Transportation Commission

Staff Report (ID # 7101)

Report Type: Action Items **Meeting Date:** 8/10/2016

Summary Title: ARB Findings Ordinance

Title: Public Hearing and Recommendation for Council Adoption of an Ordinance Amending the Architectural Review Findings contained in Chapter 18.76 of the Palo Alto Municipal Code; Exempt from CEQA Pursuant to CEQA Guidelines Sections 15601(b)(3) and 15305

From: Amy French, Chief Planning Official

Recommendation

Staff recommends that the Planning and Transportation Commission (PTC) take the following action(s):

1. Recommend adoption of the proposed ordinance (Attachment B) to the City Council.

Background

Proposed are modifications to the Architectural Review (AR) findings that eliminate repetitive findings, combine similar concepts, and remove outmoded or redundant language. These amendments will improve the quality and consistency of staff's analysis and preparation of written findings, reduce writing and reading fatigue and, focus the ARB's deliberations. The changes would reduce the number of findings from 16 to six, and would also make it easier for applicants to understand the City's objectives, and for decision makers to evaluate the applicant's success at meeting those objectives.

Modifications to the Architectural Review findings in Palo Alto Municipal Code Section 18.76.02 were included in the "code clean-up" ordinance recommended by the Planning and Transportation Commission in 2015. The City Council, during its review of that ordinance on April 11, 2016, directed additional modifications for the ARB to consider. Staff conveyed the Council's request to the ARB and offered additional comments for its review and deliberation. Attachment A reflects findings that had been recommended by the ARB and Planning and Transportation Commission in 2015, with annotated edits showing changes proposed by Council in 2016. Attachment B is the recommended draft Ordinance including further changes recommended by the ARB.

Architectural Review Board Recommendation

The ARB had reviewed draft revised Architectural Review findings on two occasions (September 3 and October 1, 2015). The April 11, 2016 Council staff report, found at this link (<http://www.cityofpaloalto.org/civicax/filebank/documents/51728>) provided links to the two ARB staff reports and meeting minutes. The links to these ARB staff reports and minutes are also provided in this report:

- <https://www.cityofpaloalto.org/civicax/filebank/documents/48766> (9-3-15 report)
- <https://www.cityofpaloalto.org/civicax/filebank/documents/49026> (9-3-15 minutes)
- <https://www.cityofpaloalto.org/civicax/filebank/documents/49218> (10-1-15 report)
- <https://www.cityofpaloalto.org/civicax/filebank/documents/49410> (10-1-15 minutes)

On June 16, 2016, the ARB discussed the Council's proposed edits and recommended the changes in Attachment B. The ARB staff report can be found at this link: <https://www.cityofpaloalto.org/civicax/filebank/documents/52834>. Draft excerpt minutes are provided as Attachment D. Substantive changes are summarized below:

- The ARB embraced staff's suggestion to insert '(including compatibility requirements)' following Council's insert 'Coordinated Area Plans' into AR Findings #1, to address a concern about compatibility. This is a logic structure to parallel 'zoning code (context based design criteria)' as an alternative to some of the Council-added wording for AR Finding #2, which duplicated language already found in the SOFA II Coordinated Area Plan.¹
- In AR Finding #2, the ARB added "is compatible with its setting" to address the fact that ROLM, GM, MOR, RP, and PF zones do not have context based design criteria nor compatibility criteria embedded in the zoning code (as do Commercial, Multifamily Residential, and SOFA). The ARB added back the phrase "and land use designations" that Council deleted. Zoning designations are also important to the ARB – a site's designation may be different than the current use of the site.
- ***In AR Finding #3, the ARB added "integrated" to ensure that materials are appropriate to the building design and context.***
- ***In AR Finding #5, the ARB supported the addition of the terms "climate appropriate" and "when feasible" to improve the clarity of the requirements. With these changes, the finding reads: "The landscape design complements and enhances the building design and its surroundings, is appropriate to the site's functions, and utilizes climate appropriate ~~to the extent practical indigenous drought-resistant~~ plant material capable of providing desirable habitat when feasible, and that can be appropriately maintained."***

¹ The Council-added wording that already appears in the SOFA II Plan and is therefore not recommended for inclusion is: "is compatible within the context of existing development in that it establishes design linkages with surrounding existing buildings so that the visual unity of the street is maintained at a minimum by: Siting, scale, massing, materials; The rhythmic pattern of the street established by the general width of the buildings and the spacing between them; The sizes, proportions, and orientations of windows, bays, and doorways; The location and treatment of entryways where applicable;"

Planning and Transportation Commission

In the fall of 2015, the Planning and Transportation Commission (PTC) reviewed and recommended changes to the AR findings after the ARB had completed its review. The PTC recommended that Council approve the changes along with other code changes. Staff is seeking the PTC's recommendation on the revisions to the original draft ordinance and requests that the PTC forward the revised ordinance to the City Council for consideration and adoption.

As the PTC did not comment on the wording of the draft revised AR findings during the 2015 review, staff does not anticipate the PTC will have extensive comments on the wording at this time.

Environmental Review

The April 11, 2016 report to City Council included the reasons the modifications to the existing AR findings are in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The report cited CEQA Guideline sections 15061(b)(3) (Review for Exemption) and 15305 (Minor Alterations in Land Use Limitations), because: (1) the activity (rewording of Architectural Review findings) is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment, and it can be seen with certainty that there is no possibility that the activity in question may have a significantly effect on the environment, and (2) this 'minor alteration in land use limitations' does not result in any changes in land use or density.

Public Notification, Outreach & Comments

The Palo Alto Municipal Code requires notice of this public hearing be published in a local paper at least ten day in advance. Notice of a public hearing for this project was published in the *Palo Alto Weekly* on July 29, 2016.

Public Comments

As of the writing of this report, no project-related, public comments were received.

Attachments:

- Attachment A: Council's Version (DOCX)
- Attachment B: Draft Ordinance (PDF)
- Attachment C: ARB Edits to Council's proposed draft (PDF)
- Attachment D: 06-16-16 ARB excerpt minutes discussion on AR findings (DOCX)

Attachment A

Council Proposed Findings Annotated to Show Council Revisions

“(d) Findings

Neither the director, nor the city council on appeal, shall grant architectural review approval, unless it is found that each of the following applicable findings is met:

1. The design is consistent with applicable elements of the Palo Alto Comprehensive Plan, Zoning Code (including context-based design criteria, as applicable), coordinated area plans, and any relevant design guides.
2. The project has a unified and coherent design, creates an internal sense of order and desirable environment for occupants, visitors, and the general community, and preserves, respects and integrates existing natural features that contribute positively to the site and the historic character including historic resources of the area when relevant appropriate, and provides harmonious transitions in size, mass, scale and character to adjacent land uses and land use designations, is compatible within the context of existing development in that it establishes design linkages with surrounding existing buildings so that the visual unity of the street is maintained at a minimum by:
 - a. Siting, scale, massing, materials;
 - b. The rhythmic pattern of the street established by the general width of the buildings and the spacing between them;
 - c. The sizes, proportions, and orientations of windows, bays, and doorways;
 - d. The location and treatment of entryways where applicable; and enhances living conditions on the site (if it includes residential uses) and in adjacent residential areas.
3. The design is of high aesthetic quality, is an aesthetically holistic design of massing and materials (intended to avoid superficial and “applied” appearance of design), using high quality materials and appropriate construction techniques, and incorporating textures, colors, and other details that are compatible with and enhance the surrounding area.
4. The design is functional, allowing for ease and safety of pedestrian and bicycle access and providing for elements that support the building’s necessary operations (e.g. convenient vehicle access to property and utilities, appropriate arrangement and amount of open space and integrated signage, if applicable, etc.).
5. The landscape design complements and enhances the building design and its surroundings ~~is suitable, integrated and compatible with the building and the surrounding area~~, is appropriate to the site’s functions, and utilizes to the extent practical, indigenous drought-resistant plant material capable of providing desirable habitat and that can be appropriately maintained.

6. The project incorporates design principles that achieve sustainability and green building requirements in areas related to energy efficiency, water conservation, building materials, landscaping, and site planning ~~and sensible~~

Not Yet Approved

Ordinance No. _____

Ordinance of the Council of the City of Palo Alto Amending Palo Alto Municipal Code (PAMC) Title 18 (Zoning Regulations), Section 18.76.020 (Architectural Review)

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as follows:

A. As part of the City's annual Zoning Code update, the City desires to improve its Architectural Review findings to ensure robust design review, to eliminate repetitive findings and to remove outmoded and unnecessary findings.

B. On September 3 and October 1, 2015, the Architectural Review Board (ARB) reviewed the draft updated architectural review findings and provided input. Subsequently, the Planning and Transportation Commission (PTC) reviewed the AR findings and recommended that Council approve them without any changes.

C. On April 11, 2016, the Council reviewed the draft findings, suggested revisions and directed staff and the ARB to review the updated language and offer approval, feedback or changes.

D. On June 16, 2016, the ARB reviewed the updated findings and provided additional comments.

E. On August 10, 2016, the Planning and Transportation Commission reviewed the updated findings and concurred with the ARB and Staff's comments.

F. On September 12, 2016, the City Council conducted a public hearing on the current draft of the updated architectural review findings.

SECTION 2. Subdivision (d) of Section 18.76.020 of the Palo Alto Municipal Code is amended to read as follows:

18.76.020 Architectural Review.

(d) Findings

Neither the director, nor the city council on appeal, shall grant architectural review approval, unless it is found that each of the following applicable findings is met:

- (1) The design is consistent ~~and compatible~~ with applicable ~~elements~~provisions of the Palo Alto Comprehensive Plan; Zoning Code (including context-based design criteria, as applicable), coordinated area plans (including compatibility requirements), and any relevant design guides.

Not Yet Approved

- (2) The project has a unified and coherent design, that:
 - (a) creates an internal sense of order and desirable environment for occupants, visitors, and the general community,
 - (b) preserves, respects and integrates existing natural features that contribute positively to the site and the historic character including historic local resources of the area when relevant,
 - (c) is compatible with its setting,
 - (d) provides harmonious transitions in scale and character to adjacent land uses and land use designations, and
 - (e) enhances living conditions on the site (if it includes residential uses) and in adjacent residential areas.
- (3) The design is of high aesthetic quality, using high quality, integrated materials and appropriate construction techniques, and incorporating textures, colors, and other details that are compatible with and enhance the surrounding area.
- (4) The design is functional, allowing for ease and safety of pedestrian and bicycle traffic and providing for elements that support the building's necessary operations (e.g. convenient vehicle access to property and utilities, appropriate arrangement and amount of open space and integrated signage, if applicable, etc.).
- (5) The landscape design complements and enhances the building design and its surroundings, is appropriate to the site's functions, and utilizes climate appropriate plant material capable of providing desirable habitat when feasible, and that can be appropriately maintained.
- (6) The project incorporates design principles that achieve sustainability in areas related to energy efficiency, water conservation, building materials, landscaping, and site planning.

- ~~—(2) The design is compatible with the immediate environment of the site;~~
- ~~—(3) The design is appropriate to the function of the project;~~
- ~~—(4) In areas considered by the board as having a unified design character or historical character, the design is compatible with such character;~~
- ~~—(5) The design promotes harmonious transitions in scale and character in areas between different designated land uses;~~
- ~~—(6) The design is compatible with approved improvements both on and off the site;~~
- ~~—(7) The planning and siting of the various functions and buildings on the site create an internal sense of order and provide a desirable environment for occupants, visitors and the general community;~~
- ~~—(8) The amount and arrangement of open space are appropriate to the design and the function of the structures;~~
- ~~—(9) Sufficient ancillary functions are provided to support the main functions of the project and the same are compatible with the project's design concept;~~
- ~~—(10) Access to the property and circulation thereon are safe and convenient for pedestrians, cyclists and vehicles;~~
- ~~—(11) Natural features are appropriately preserved and integrated with the project;~~

~~— (12) The materials, textures, colors and details of construction and plant material are appropriate expression to the design and function and whether the same are compatible with the adjacent and neighboring structures, landscape elements and functions;~~

~~(13) The landscape design concept for the site, as shown by the relationship of plant masses, open space, scale, plant forms and foliage textures and colors create a desirable and functional environment and whether the landscape concept depicts an appropriate unity with the various buildings on the site;~~

~~— (14) Plant material is suitable and adaptable to the site, capable of being properly maintained on the site, and is of a variety which would tend to be drought resistant and to reduce consumption of water in its installation and maintenance;~~

~~(15) The project exhibits green building and sustainable design that is energy efficient, water conserving, durable and nontoxic, with high-quality spaces and high recycled content materials. The following considerations should be utilized in determining sustainable site and building design:~~

~~— (A) Optimize building orientation for heat gain, shading, daylighting, and natural ventilation;~~

~~— (B) Design of landscaping to create comfortable micro-climates and reduce heat island effects;~~

~~— (C) Design for easy pedestrian, bicycle and transit access;~~

~~— (D) Maximize on site stormwater management through landscaping and permeable paving;~~

~~— (E) Use sustainable building materials;~~

~~— (F) Design lighting, plumbing and equipment for efficient energy and water use;~~

~~— (G) Create healthy indoor environments; and~~

~~— (H) Use creativity and innovation to build more sustainable environments.~~

~~— (16) The design is consistent and compatible with the purpose of architectural review as set forth in subsection (a).~~

SECTION 3. Adoption of this ordinance is found to be categorically exempt from the California Environmental Quality Act under CEQA Guideline sections 15061(b)(3) (Common Sense Exemption) and 15305 (Minor Alterations in Land Use Limitations) because: (1) the activity (rewording of Architectural Review findings) is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment, and it can be seen with certainty that there is no possibility that the activity in question may have a significantly effect on the environment, and (2) this ‘minor alteration in land use limitations’ does not result in any changes in land use or density.

SECTION 4. If any section, subsection, sentence, clause or phrase of the ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it should have adopted the ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Not Yet Approved

SECTION 5. This ordinance shall be effective upon the thirty-first day after its passage and adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

Senior Asst. City Attorney

City Manager

Director of Planning and Community
Environment

6/16/16 ARB Edits of 4/11/16 City Council Recommendation

KEY: Council edits accepted by ARB *ARB Edits (including ARB-accepted Staff edits)*

Neither the director, nor the city council on appeal, shall grant architectural review approval, unless it is found that each of the following applicable findings is met:

- (1) The design is consistent with applicable ~~elements~~*provisions* of the Palo Alto Comprehensive Plan, Zoning Code (including context-based design criteria, as applicable), coordinated area plans (*including compatibility requirements*), and any relevant design guides.
- (2) The project has a unified and coherent design, *that*:
 - (a) creates an internal sense of order and desirable environment for occupants, visitors, and the general community,
 - (b) preserves, respects and integrates existing natural features that contribute positively to the site and the historic character including historic local resources of the area when relevant,
 - (c) ~~is compatible with its setting, within the context of existing development in that it establishes design linkages with surrounding existing buildings so that the visual unity of the street is maintained at a minimum by:~~
 - ~~a. Siting, scale, massing, materials;~~
 - ~~b. The rhythmic pattern of the street established by the general width of the buildings and the spacing between them;~~
 - ~~c. The sizes, proportions, and orientations of windows, bays, and doorways;~~
 - ~~d. The location and treatment of entryways where applicable;~~
 - (d) provides harmonious transitions in ~~size, mass,~~ scale and character to adjacent land uses *and land use designations*, and
 - (e) enhances living conditions on the site (if it includes residential uses) and in adjacent residential areas.
- (3) The design is of high aesthetic quality, using high quality, ~~integrated is an aesthetically holistic design of massing and materials (intended to avoid superficial and "applied" appearance of design)~~, materials and appropriate construction techniques, and incorporating textures, colors, and other details that are compatible with and enhance the surrounding area.
- (4) The design is functional, allowing for ease and safety of pedestrian and bicycle ~~access~~ *traffic* and providing for elements that support the building's necessary operations (e.g. convenient vehicle access to property and utilities, appropriate arrangement and amount of open space and integrated signage, if applicable, etc.).
- (5) The landscape design complements and enhances the building design and its surroundings, is appropriate to the site's functions, and utilizes ~~to the extent practical indigenous drought-resistant climate appropriate~~ plant material capable of providing desirable habitat when feasible, and that can be appropriately maintained.
- (6) The project incorporates design principles that achieve sustainability ~~and green building requirements~~ in areas related to energy efficiency, water conservation, building materials, landscaping, and site planning.

**ARCHITECTURAL REVIEW BOARD
JUNE 16, 2016**

VERBATIM MINUTES

DRAFT EXCERPT

Item No: 4: ARB Review of Council-Revised Architectural Review Approval Findings

Amy French reported the Council did not adopt the findings but asked staff to return with a Council item for the findings. The Council then offered modifications. The Council requested the ARB's input on the modifications. Ms. French reviewed the Council's modifications.

Board Member Furth understood the Council's major concern was that the adoption of context-based review standards did not achieve the desired results. In response, the Council added the SOFA CAP findings to Finding Number 2. It was helpful that the Mayor affirmed that a modern building located next to a much older building could be successful. The Council indicated that the ARB did not seem to think that all findings had to be made. She wondered whether the problem was the eight or nine findings and perhaps three dozen possible ways of achieving a project that met the standards. The goal of ARB comments was to communicate to property owners, neighbors and the community how a project would be judged. Verbiage should be eliminated. The ARB should consider adopting language that would inspire confidence in a review in court. She questioned whether the ARB had decision-making powers that allowed it to carry out the Council's wishes. She supported fewer standards organized around particular principles. The Council delivered a good message by saying only applicable rules mattered. The Council delivered a good message by saying the City should have coordinated area plans, but the staff messed it up by including compatibility requirements. There were two separate issues. One was whether the standards were adequate. The second was whether the ARB was applying them in a way that the Council considered to be appropriate. She recommended deleting "including Context Based Design Criteria" and "including compatibility requirements." Putting natural features and the historic character in the same subparagraph messed up the standards a bit. She was puzzled by the inclusion of "existing" natural features. Ms. French suggested it was added to clarify that it was what was there already. Board Member Furth thought the addition of "contributing positively to the site" was a good addition, because she hadn't realized trees were included as natural features. She suggested that Paragraph b end after "contributing positively to the site," and have a new Subparagraph c of "preserve, respect and integrate the historical character of the area including local historic resources, if any." She questioned deletion of the power to require that the project be compatible with adjacent land use designations. Ms. French indicated the Council deleted that language. Board Member Furth urged the Council to put it back, because the ARB dealt with many neighborhoods in transition. With respect to Finding Number 3, she supported the staff's formulation as it was clear and easy to apply. With respect to Finding Number 4, she questioned whether the language was sufficient for the ARB to address bicycle and pedestrian access along as well as to a site. Ms. French referred to language of ease and safety. Board Member Furth suggested replacing the word access with traffic. With respect to Finding 5, she expressed concern that by referring to native or indigenous plants, they could do something undesirable. She would support staff's proposed language. She did not believe the City Codes were adequate regarding sustainability. Finding 6 could be read to mean that only meeting the Code was fine. That was not what she had in mind. Ms. French suggested objectives could capture ideals. Board Member Furth clarified that the project should be sustainable. Chair Gooyer added that the language was applicable 5-6 years ago, but now was the norm. Ms. French indicated there were green points for innovation. Chair Gooyer suggested language of meeting LEED levels. The bar should be raised from what was done 5 years ago. Board Member Furth wanted to utilize "achieves maximum feasible sustainability," but that was a tough standard. Board Member Baltay noted the City had increased sustainability standards above CALGreen. To go beyond requirements of the Municipal Code was probably duplicitous. Board Member Furth advised that new things evolved and the Code did not catch up. Vice Chair Lew explained that net

zero was the new target. The State committed to doing that; therefore, he did not know if the City had to do more. He asked if Board Member Furth wanted to keep the issue as a discussion point in the findings. Board Member Furth did not want to approve a project that would not improve the environment, because there was no sustainability finding. Board Member Baltay referred Board Member Furth to the finding of "incorporates design principles that achieve sustainability." Board Member Furth suggested ending the sentence after "sustainability." Ms. French suggested eliminating green building requirements. Board Member Furth concurred. She questioned whether another finding specifically about compatibility was needed. Context Based Design Criteria and compatibility requirements should not be singled out in the first finding, because they were integral parts of the Code. Chair Gooyer would prefer not to have another finding regarding compatibility. Ms. French explained that she attempted to reduce the wording in the Council proposal for Finding 2. Board Member Furth suggested the only change in Finding 1 would be to talk about the applicable provisions rather than the applicable elements. Ms. French stated provisions would include elements, policies, and programs.

The Board agreed with changes as shown in the preamble.

In Finding 1, Board Member Furth suggested substituting "provisions" for "elements" in the second line. The Board agreed.

In Finding 2, Board Member Kim felt "internal sense of order" could be confusing. Ms. French indicated it referred to the interior of the site. Board Member Kim asked if that should be specifically stated. Board Member Furth felt it could be deleted, because the Board reviewed the whole project. Ms. French asked if the Board wanted to delete "internal" and retain "sense of order." Board Member Baltay asked if the language on the screen was the complete finding in placement of the larger paragraph. Ms. French reported it was staff's suggestion, because they placed compatibility requirements relating to coordinated area plans in Finding 1. Board Member Baltay suspected the Council would insist on adding something contextual, that word. Board Member Furth suggested "is compatible with the context of existing development." Chair Gooyer inquired whether she meant "provides compatibility in scale and character to adjacent land uses." Board Member Furth suggested a new "c" of "is compatible with its setting," "d" would be "provides harmonious transitions," and "e" would be "enhances living conditions." Vice Chair Lew noted the Board had not discussed that large sections of the City were not subject to the Compatibility Code. This would add it to the Research Park, General Manufacturing, Public Facility zones. Ms. French explained that the language acknowledged that large sites might not have the pattern that was found in an urban setting as far as building articulation, rhythm and those kinds of things. Vice Chair Lew remarked that a house in a residential district next to an office building in a commercial district triggered a daylight plane. A house in a business district did not automatically trigger a daylight plane. This would give some discretion over that. Ms. French indicated a better way would be to amend the Code. The Board agreed to changes as discussed.

In Finding 3, Chair Gooyer preferred "integrated" over "holistic." The Board agreed to changes.

In Finding 4, Board Member Kim recalled the suggestion to change "access" to "traffic." The Board agreed to changes.

In Finding 5, the Board agreed to changes.

In Finding 6, the Board agreed to changes.

Board Member Baltay inquired whether a Board Member could attend the Council discussion to represent the Board's views. Ms. French advised if discussion was needed, then an ARB Member would be invited to attend the hearing.

MOTION:

Board Member Furth moved, seconded by Board Member Baltay, to approve the Findings as discussed and agreed.

MOTION PASSED: 5-0