



# Planning & Transportation Commission

## Staff Report (ID # 13692)

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<b>Report Type:</b>	Action Items	<b>Meeting Date:</b> 12/15/2021
<b>Summary Title:</b>	985 Channing Avenue: Preliminary Parcel Map to Remove Height Restriction	
<b>Title:</b>	PUBLIC HEARING / QUASI-JUDICIAL. 985 Channing Avenue [21PLN-00167]: Request for Public Hearing of a Preliminary Parcel Map to Remove Recorded Height Restrictions on the Underlying Parcel Map. Environmental Assessment: Exempt from the provisions of the California Environmental Quality Act (CEQA) in accordance with Guideline Section 15315 (Minor Land Divisions). Zoning District: R-1 (Single Family Residential).	
<b>From:</b>	Jonathan Lait	

### Recommendation

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

1. Recommend approval of the proposed preliminary parcel map to the City Council based on findings and subject to conditions of approval.

### Report Summary

The applicant submitted a Preliminary Parcel Map application to remove several height restrictions placed on the property associated with the underlying Parcel Map. At the project's first hearing on October 13, 2021, the PTC continued the hearing to enable staff to research the applicability of the process for an "amending map," which is set forth in Palo Alto Municipal Code Section 21.16.280. Upon further research, staff have determined that the process set forth in Section 21.16.280 is an available alternative, but that it is not mandatory. In other words, an applicant may choose to pursue an amending map, or may simply apply for a new parcel map, which would supersede an existing map for the property. In this case, the applicant is seeking a new parcel map, staff believes is the most appropriate process in these circumstances. As a result, staff's recommendation and the majority of this report remain unchanged.

The existing property was established by approval of a subdivision application in 1980 (under file #80-PM-4, 991 Channing Avenue). The Council approval included approval of lot size exceptions. The dimensions of the property the subdivision created – 985 Channing Avenue – were less than the standard lot size dimensions of 60 feet wide x 100 feet long. At the time, the property owner at 991 Channing Avenue accepted a condition that was recorded on the new property's Parcel Map based on neighborhood concerns for impacts from two-story development. The condition limited the height of any structure to 13 feet or less, prohibited construction of a two-story home, and prohibited the property owners from requesting a Variance or other exception to these limitations. This restriction was intended to alleviate the neighbors' concerns about privacy and massing impacts from a two-story home on this property.

Since the 1980's, Palo Alto improved its regulations for two-story homes to ensure massing is minimized and resident's privacy impacts are considered. Since 2001, all new two-story homes and second floor additions to homes located in the R-1 zone must adhere to the City's Single-Family Individual Review Guidelines. The Planning entitlement for two-story homes through the Individual Review process is a discretionary decision made at the Director's level, unless appealed to Council.

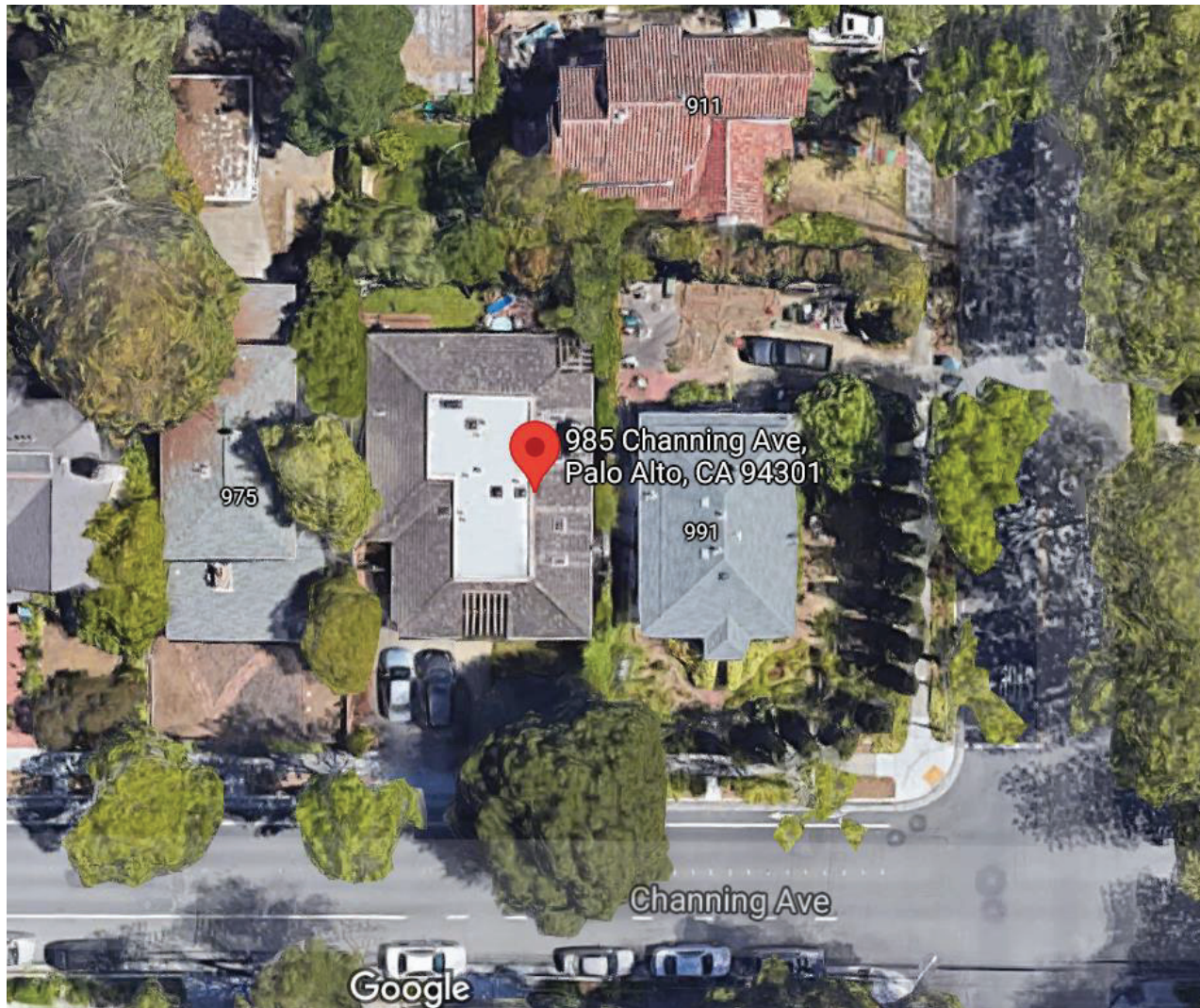
## Background

### Project Information

Owner:	Frank M. & Peimin Lin Dunlap
Architect:	Shelley Farrell
Representative:	N/A
Legal Counsel:	N/A

### Property Information

Address:	985 Channing Avenue
Neighborhood:	Crescent Park
Lot Dimensions & Area:	52.5 feet wide x 100 feet deep
Housing Inventory Site:	N/A
Located w/in a Plume:	N/A
Protected/Heritage Trees:	N/A
Historic Resource(s):	N/A
Existing Improvement(s):	One-story single-family residence; Built in 1980; approximately 2,300 square feet
Existing Land Use(s):	Single-Family Residential
Adjacent Land Uses & Zoning:	Single-Family Residential Uses surround the site on all sides (R-1)
Special Setbacks:	N/A
Aerial View of Property:	



Source: Google Images

Land Use Designation & Applicable Plans/Guidelines

Zoning Designation:	R-1
Comp. Plan Designation:	Single-Family Residential
Context-Based Design:	N/A
Downtown Urban Design:	N/A
SOFA II CAP:	N/A
Baylands Master Plan:	N/A
ECR Guidelines ('76 / '02):	N/A
Proximity to Residential Uses or Districts (150'):	Yes
Located w/in AIA (Airport Influence Area):	N/A

Prior City Reviews & Action

City Council:	Preliminary Parcel Map with Exceptions [1980]; 80-PM-4 – 991 Channing Avenue
PTC:	Preliminary Parcel Map with Exceptions [1980]; 80-PM-4 – 991 Channing Avenue
HRB:	None
ARB:	None

### October 13, 2021 PTC Meeting

On October 13, 2021, the PTC held a public hearing to consider the subject application. During the hearing, several commissioners questioned whether a Preliminary Parcel Map was the appropriate process to consider the applicant's request. Based on this feedback, staff suggested that a process in the Palo Alto Municipal Code for an "Amending Map" in may be more appropriate and requested that the hearing be continued to allow further research.

Based on additional research, staff have concluded that the amending map is an alternative, but not mandatory, approach to enacting changes to an existing subdivision map. In general, the procedure for map amendment is more appropriate for minor changes that do not have a substantive impact on the property rights associated with the map. These may be more significant than simple clerical corrections (e.g. correcting a misspelling), but nonetheless not substantive. For example, an amending map may be used to remove or alter a condition relating to tree preservation where the subject tree has died. As a reflection of this limited scope, an amending map is subject to a streamlined approval process compared to a preliminary parcel map and parcel map.

For more substantive changes, a new subdivision map, superseding the existing map, is the appropriate vehicle. This remains true even where, as here, the only change sought is the removal of a condition of approval.

### **Project Description**

With this Parcel Map the owner seeks to eliminate the height restrictions currently in place on the subject property. The applicant intends to redevelop 985 Channing Avenue with demolition of the existing home and construction of a new two-story home. The applicant was notified of the height limitation during the Individual Review (IR) application review process (File No. 20PLN-00192). The IR application review is on hold until a decision is rendered on the Preliminary Parcel Map application and any subsequent Parcel Map application.

When the property was originally subdivided in 1980, adjacent residents raised concerns that a potential two-story home may impact their property. The neighbors sought to limit development of the newly created 985 Channing Avenue. At the time, the property owner indicated agreement so that the subdivision application could proceed. The PTC and City Council approved the application with the following restrictions:

1. All structures on-site could not exceed 13 feet tall;



2. No Two-Story home could be developed on the site;
3. No Variances, including, but not limited to, fence exceptions shall be allowed.

While Preliminary Parcel Maps are generally handled through a Director's Hearing process, the City's Surveyor determined that it is necessary for the decision-making bodies that imposed these restrictions to be the body to rescind them, by approving and thus recording a new Parcel Map that does not include these restrictions.

Requested Entitlements, Findings and Purview:

The following filed discretionary applications are subject to PTC purview:

- Preliminary Parcel Map: The process for evaluating this type of application is set forth in Title 21 of the Palo Alto Municipal Code and Government Code Section 66474. Palo Alto Municipal Code Section 21.12.090 requires the Director of Planning to review whether the proposed subdivision complies and is consistent with the Subdivision Map Act (in particular Government Code 66474), Title 21 of the Palo Alto Municipal Code, the Palo Alto Comprehensive Plan, and other applicable provisions of the Palo Alto Municipal Code and State Law. If, in the opinion of the Director of Planning, there are issues of major significance associated with the proposed parcel map, such map may be referred by the Director of Planning to the Planning Commission and the City Council for processing in accordance with the procedures set forth in subsections (c) and (d) of Section 21.12.090. The findings to approve a Subdivision are provided in Attachment C.

## **Analysis<sup>1</sup>**

### Neighborhood Setting and Character

All R-1 lots have a standard height limit of 30 feet per Palo Alto Municipal Code section 18.12.040. In some instances, R-1 lots may have a 17-foot height limitation under the following conditions:

- 1) that the property is considered to be a substandard lot; or
- 2) that the property is part of a collection of homes in a single-story overlay district (represented as R-1(S) on the City's zoning map).

Substandard lots are defined in Palo Alto Municipal Code Section 18.12.040(c) as having either a lot width less than 50 feet or depth less than 83 feet and a total lot area that is less than 83% of the minimum lot size required by the underlying zone district's standards. Single-story overlay districts limit all properties within the district to only one-story homes and generally do not allow homes to be taller than 17 feet, unless located in a flood zone.

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<sup>1</sup> The information provided in this section is based on analysis prepared by the report author prior to the public hearing. Planning and Transportation Commission in its review of the administrative record and based on public testimony may reach a different conclusion from that presented in this report and may choose to take an alternative action from the recommended action.

985 Channing Avenue does not fit into either of the above two categories. The lot width is 52.5 feet and the lot depth is 100 feet and the lot is located outside an R-1(S) district. The closest properties that are in an R-1(S) district are adjacent to Duveneck Elementary School, more than a half mile away.

The project webpage, linked in Attachment D, has an archived document of the City's Municipal Code from 1978 in effect when the subdivision was approved. The screenshot below captures the height limitation and development standards applicable at the time:

**18.12.050 Site development regulations.** The following site development regulations shall apply in the R-1 single-family residence district. Modifications of some regulations may be applicable if the R-1 single-family residence district is combined with the special building site combining district.

(a) Site Area. The minimum site area shall be 557 square meters (six thousand square feet).

(b) Site Width. The minimum site width shall be 18.3 meters (sixty feet).

(c) Site Depth. The minimum site depth shall be 30.5 meters (one hundred feet).

(d) Front Yard. The minimum front yard shall be 6.1 meters (twenty feet).

(e) Rear Yard. The minimum rear yard shall be 6.1 meters (twenty feet).

(f) Side Yards. The following side yard regulations shall apply:

(1) The minimum interior side yard shall be 1.8 meters (six feet).

(2) The minimum street side yard shall be 4.9 meters (sixteen feet).

(g) Residential Density. Not more than one single-family dwelling shall be permitted on any site.

(h) Site coverage is regulated as follows:

(1) The maximum building site coverage shall be thirty-five percent of the site area.

(2) Covered patios and overhangs otherwise in compliance with all applicable laws may cover five percent of the site area in addition to the maximum site coverage of thirty-five percent prescribed in subsection (1).

(i) Height. The maximum height shall be 10.7 meters (thirty-five feet); however, no structure except television and radio antennas and chimneys and flues shall extend above or beyond a daylight plane having a height of 3.0 meters (ten feet) at each site line and an angle of forty-five degrees.

(j) Accessory Facilities and Uses. Regulations governing accessory facilities and uses, and governing the application of site development regulations in specific instances, are established by Chapter 18.88. (Ord. 3064 § 1 (part), 1978; Ord. 3048 (part), 1978).

At that time, the City allowed for homes to be developed up to 35 feet in height and did not include a provision which restricted height for sub-standard lots. The City did not include provisions for substandard lots in its Municipal Code until 1998. The City's current zoning code imposes a height limit less than 17 feet on certain structures such as accessory buildings or Accessory Dwelling Units. A height of 17 feet is the lowest height the City may restrict development of single-family homes. There were no other prevailing development standards in existence when the map was approved, nor are they in the current code, restricting the height of a single-family home to anything less than 17 feet in height.

### Privacy Concerns

Attachment D includes emails from residents that do not support removing the height limit imposed on the site in 1980. The correspondence includes a copy of the Parcel Map that the City recorded in 1980. The residents raising concerns have reiterated issues brought up in 1980

regarding privacy impacts from the potential development of a two-story home on the lot. In 1980, residents raised concerns that the proposed project would not fit into the neighborhood character. The Planning Commission expressed concerns that the code did not have adequate privacy measures in place to limit impacts to neighbors. Looking at the surrounding properties today, staff notes the predominant pattern on the block appears to be two-story homes. This block has several flags lots developed with single-story homes, as is the requirement per Code Section 18.12.040(c)(2).

Until the early 2000's the City did not have a process in place that served to mitigate impacts of second story home construction. Due to community concerns regarding new two story homes, the City established the Individual Review program and Guidelines ([bit.ly/paloaltoIRguidelines](http://bit.ly/paloaltoIRguidelines)). The IR program was to address streetscape, privacy and massing of new two-story homes; additional techniques were imposed over time, to further protect adjacent residents from privacy intrusion. Many designs submitted into the City's IR process are significantly modified to conform with the five IR Guidelines. It is rare for staff to approve a two-story home in the first round of review; generally, staff requires modifications to massing and improvements intended to enhance privacy. Given that the City has sought to directly address the residents' concerns regarding a two-story home at this property, through the IR Guidelines and program, staff believes it is reasonable to now reconsider the map conditions.

### Zoning Compliance<sup>2</sup>

Staff performed a detailed review of the proposed project's consistency with applicable zoning standards. A summary table is provided below. The applicant does not propose to modify the existing lot layout approved in 1980.

<b>Table 1: COMPARISON WITH CHAPTER 18.12 (R-1 DISTRICT)</b>			
<b>Regulation</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Minimum/Maximum Site Area <sup>(1)</sup>	6,000 sf	5,250 sf	5,250 sf
Minimum/Maximum Site Width <sup>(1)</sup>	60 ft	52.50 ft	52.50 ft
Minimum/Maximum Site Depth	100 ft	100 ft	100 ft

### Consistency with the Comprehensive Plan, Area Plans and Guidelines<sup>3</sup>

The site has a Comprehensive Plan land use designation of Single-Family Residential. However, the proposed map does not include any proposed improvements to the site. The Single-Family Residential designation is intended to allow for detached single family homes on lots. The proposed map would not change this classification.

<sup>2</sup> The Palo Alto Zoning Code is available online: [http://www.amlegal.com/codes/client/palo-alto\\_ca](http://www.amlegal.com/codes/client/palo-alto_ca)

<sup>3</sup> The Palo Alto Comprehensive Plan is available online: <http://www.cityofpaloalto.org/gov/topics/projects/landuse/compplan.asp>

### Consistency with Application Findings

The necessary findings for approval of the Preliminary Parcel Map Amendment are contained in State law and incorporated into Title 21 of the Municipal Code. Under the Subdivision Map Act, the Director of Planning must make a series of “reverse” findings for the Preliminary Parcel Map to justify approval. The findings for the proposed map are included in Attachment B and the draft conditions of approval of the proposed map are included in Attachment C.

Although no new lots are proposed to be created and the lot lines are to remain the same, the PTC and ultimately the City Council are required to make the findings as if the lots were being created in their current configuration. The most relevant question in these circumstances is whether the findings can still be made in the absence of conditions limiting height for 985 Channing.

### **Environmental Review**

The subject project has been assessed 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. Specifically, the project is exempt from CEQA in accordance with categorical exemption 15315, Minor Land Divisions.

### **Public Notification, Outreach & Comments**

The Palo Alto Municipal Code requires notice of this public hearing to be published in a local paper and mailed to owners and occupants of property within 600 feet of the subject property at least ten days in advance. Notice of the public hearing was published in the *Daily Post* on October 29, which is 12 days in advance of the meeting. Postcard mailing occurred on October 29, which is 12 days in advance of the meeting.

### Public Comments

As of the writing of this report, four individuals provided public comments. The comments can be found in Attachment D. The neighboring residents’ main concern appears to be the possibility of privacy impacts from a future two-story home.

### **Alternative Actions**

In addition to the recommended action, the Architectural Review Board may:

1. Approve the project with modified findings or conditions;
2. Continue the project to a date (un)certain; or
3. Recommend project denial based on revised findings.

### **Report Author & Contact Information**

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 (650) 329-2471

### **PTC<sup>4</sup> Liaison & Contact Information**

Rachael Tanner, Assistant Director  
 (650) 329-2441

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<sup>4</sup> Emails may be sent directly to the PTC using the following address: [planning.commission@cityofpaloalto.org](mailto:planning.commission@cityofpaloalto.org)

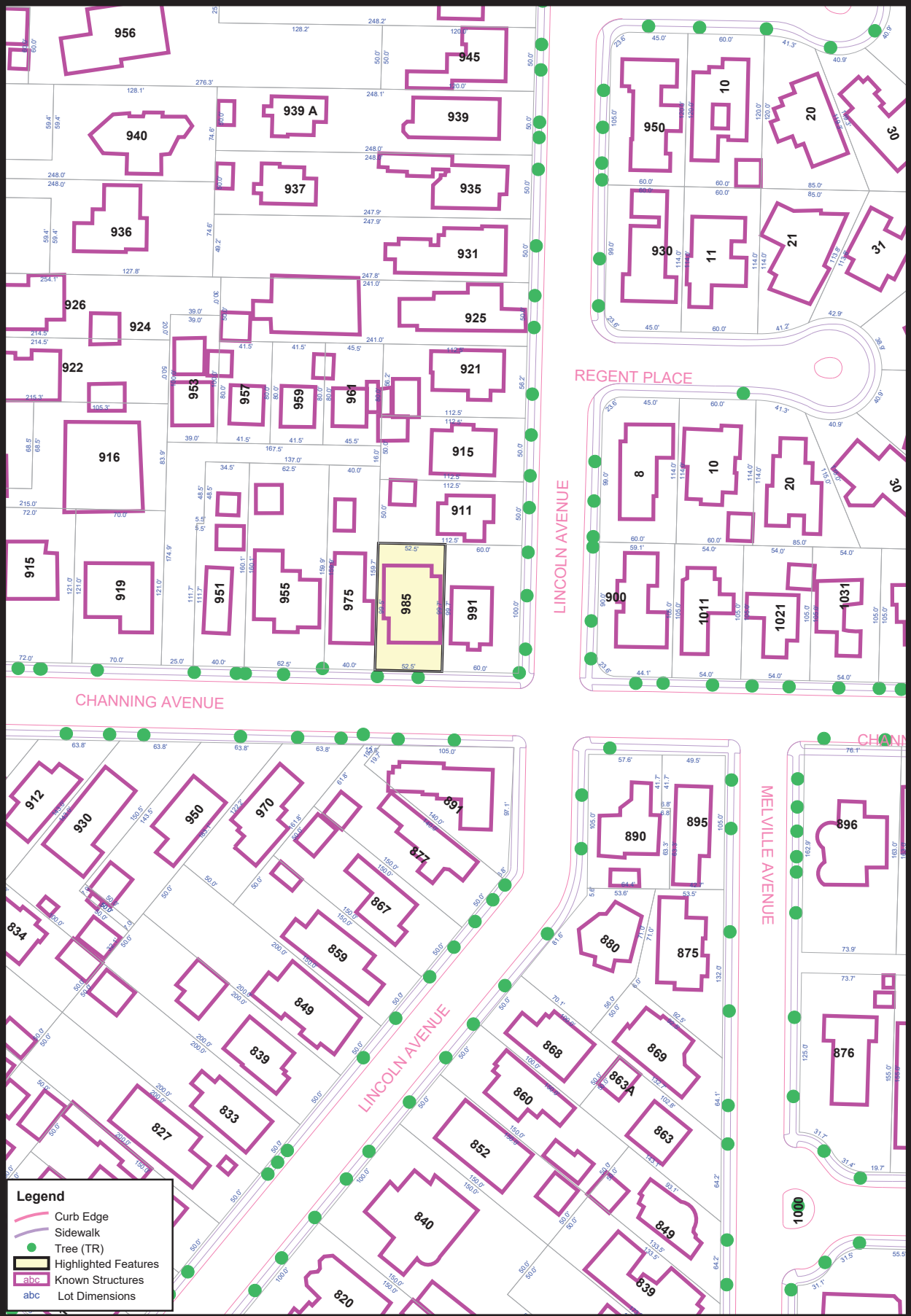


[Garrett.Sauls@CityofPaloAlto.org](mailto:Garrett.Sauls@CityofPaloAlto.org)

[Rachael.tanner@cityofpaloalto.org](mailto:Rachael.tanner@cityofpaloalto.org)

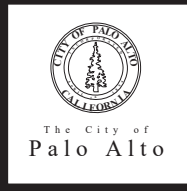
**Attachments:**

- Attachment A: Location Map (PDF)
- Attachment B: Draft Findings for Approval (DOCX)
- Attachment C: Draft Conditions of Approval (DOCX)
- Attachment D: Project Plans, Supporting Documents, and Public Comments (DOCX)



**Legend**

- Curb Edge
- Sidewalk
- Tree (TR)
- Highlighted Features
- Known Structures
- Lot Dimensions



985 Channing Avenue  
[21PLN-00167]

This map is a product of the City of Palo Alto GIS

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This document is a graphic representation. The City of Palo Alto assumes no responsibility for any errors.

**ATTACHMENT B  
PRELIMINARY PARCEL MAP FINDINGS**

985 Channing Avenue, File No. 21PLN-00167  
Preliminary Parcel Map for Single-Family Use

A legislative body of a city shall deny approval of a Preliminary Parcel Map, if it makes any of the following findings (CGC Section 66474):

1. *That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451:*

The site does not lie within a specific plan area and is consistent with the provisions of the Comprehensive Plan as further described below.

2. *That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans:*

On balance, the map is consistent with the Comprehensive Plan and specifically the following policies:

- a. Program L-1.6: Encourage land uses that address the needs of the community and manage change and development to benefit the community.
- b. Policy L-1.11: Hold new development to the highest development standards in order to maintain Palo Alto's livability and achieve the highest quality development with the least impacts.
- c. Policy L-3.1: Ensure that new or remodeled structures are compatible with the neighborhood and adjacent structures.
- d. Policy L-6.1: Promote high quality, creative design and site planning that is compatible with surrounding development and public spaces.

3. *That the site is not physically suitable for the type of development:*

The site is well suited for, and currently developed as a single-family home; the site is within an urbanized area of the city and is neighbored by single-family use as well as other two-story homes.

4. *That the site is not physically suitable for the proposed density of development:*

The subdivision does not modify the physical conditions of the parcels already established in 1980 and is consistent with all zoning regulations allowed by the City at the time.

5. *That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat:*

The subdivision will not cause environmental damage or injure fish, wildlife, or their habitat. The project site has been fully urbanized and developed and is located within an area of the City where there is no recognized sensitive wildlife or habitat in the project vicinity.

6. *That the design of the subdivision or type of improvements is likely to cause serious public health problems:*

This application does not seek to further subdivide an existing lot which could have the effect of increasing density and introducing a more compact site for development purposes. The existing parcel will not cause serious public health problems, as it does not substantially affect the existing conditions and overall function of the property as a site for a future single-family, two-story home.

7. *That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.*

The property does not have any public easements recorded on site and the proposed map does not establish any going forward. As a result, the application does not create any conflicts with any public easements.

**ATTACHMENT C  
CONDITIONS OF APPROVAL**

**Planning Division**

1. **PROJECT PLANS.** The Preliminary Parcel Map submitted for review and approval by the Director shall be in substantial conformance with the Preliminary Parcel Map titled “Preliminary Parcel Map 1 Lot Subdivision”, consisting of one page, dated July 20, 2021, except as modified to incorporate the conditions of this approval. A copy of this plan is on file in the Department of Planning and Development Services, Current Planning Division.
2. **PARCEL MAP COVER PAGE.** At such time as the Parcel Map is filed, the cover page shall include the name and title of the Director of Planning and Development Services.
3. **PARCEL MAP EXPIRATION.** A Parcel Map, in conformance with the approved Preliminary Parcel Map, all requirements of the Subdivision Ordinance (PAMC Section 21.16), and to the satisfaction of the City Engineer, shall be filed with the Planning Division and the Public Works Engineering Division within two (2) years of the Preliminary Parcel Map approval date. The resultant parcel map must be recorded prior to any building permit issuance.
4. **INDEMNITY.** To the extent permitted by law, the Applicant shall indemnify and hold harmless the City, its City Council, its officers, employees and agents (the “indemnified parties”) from and against any claim, action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside or void, any permit or approval authorized hereby for the Project, including (without limitation) reimbursing the City for its actual attorneys’ fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its own choice.

**Public Works Engineering**

5. **THIRD PARTY SURVEYOR REVIEW:** The map shall undergo the review and approval for its technical correctness by a third-party surveyor -- hired exclusively by the City -- to function in the capacity of the City Surveyor, per the Subdivision Map Act.
6. **PRIOR TO FORMAL MAP SUBMITTAL:** The applicant shall provide the parcel map, title report, reference documents, preliminary parcel map, and closure calculations to Public Works Engineering (email electronic files to [ahmad.mokhtar@cityofpaloalto.org](mailto:ahmad.mokhtar@cityofpaloalto.org)).
7. **PAYMENT FOR THIRD PARTY SURVEYOR:** The applicant shall be responsible for covering the cost the City incurs for the (hired) third party surveyor's services. The costs will be described in a Scope and Fee Letter which will be provided to the applicant. The fees in said letter will be based on the scope of work and the documents provided as described in the previous Condition of Approval.



## Attachment D

### **Project Plans, Supporting Documents, and Public Comments**

Hardcopies of project plans are provided to Board members. These plans are available to the public online, as noted below.

#### **Directions to review Project plans online:**

1. Go to: [bit.ly/PAPendingprojects](https://bit.ly/PAPendingprojects)
2. Scroll down to find “985 Channing Avenue” and click the address link
3. On this project specific webpage you will find a link to the project plans and other important information

#### **Direct Link to Project Webpage:**

<https://www.cityofpaloalto.org/News-Articles/Planning-and-Development-Services/985-Channing>