



Planning & Transportation Commission

Staff Report (ID # 13995)

| | | |
|-----------------------|---|-------------------------------|
| Report Type: | Action Items | Meeting Date: 2/9/2022 |
| Summary Title: | 985 Channing Avenue: Preliminary Parcel Map to Remove Height Restriction | |
| Title: | PUBLIC HEARING / QUASI-JUDICIAL. 985 Channing Avenue [21PLN-00167]: Request for Public Hearing of a Preliminary Parcel Map with Exceptions to Remove Recorded Height Restrictions on the Underlying Parcel Map. Staff Recommends the PTC also Make Findings for an Amending 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). | |
| From: | Jonathan Lait | |

Recommendation

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

1. Recommend that the City Council approve the proposed Preliminary Parcel Map with Exceptions and, alternatively, an Amending Map removing a height restriction from the subject property, based on the attached findings and conditions.

Report Summary

This report provides updated analysis of the subject application following further staff review of the application and two letters submitted on behalf of neighboring property owners. Staff continue to believe that a one-lot parcel map is an available procedure to accomplish the applicant's goal and that it is the most appropriate process in this situation. However, upon review, staff have determined that the preliminary parcel map would need to be approved with exceptions, because the 52.5 foot width of the lot does not meet the 60 foot width required in Chapter 18.12 of the Palo Alto Municipal Code.

In addition, staff now recommend that the PTC and Council also make the findings required under PAMC Section 20.18.102 (and Government Code Section 66472.1) for an amending map. While staff believe the preliminary parcel map process and the amending map process are both available as alternative means of revising existing maps, this is an esoteric area of law and this application appears to present novel issues. Therefore, in an abundance of caution, staff recommends that a recommendation to approve the applicant's request to remove the height restriction include findings for both a preliminary parcel map with exceptions and an amending map.

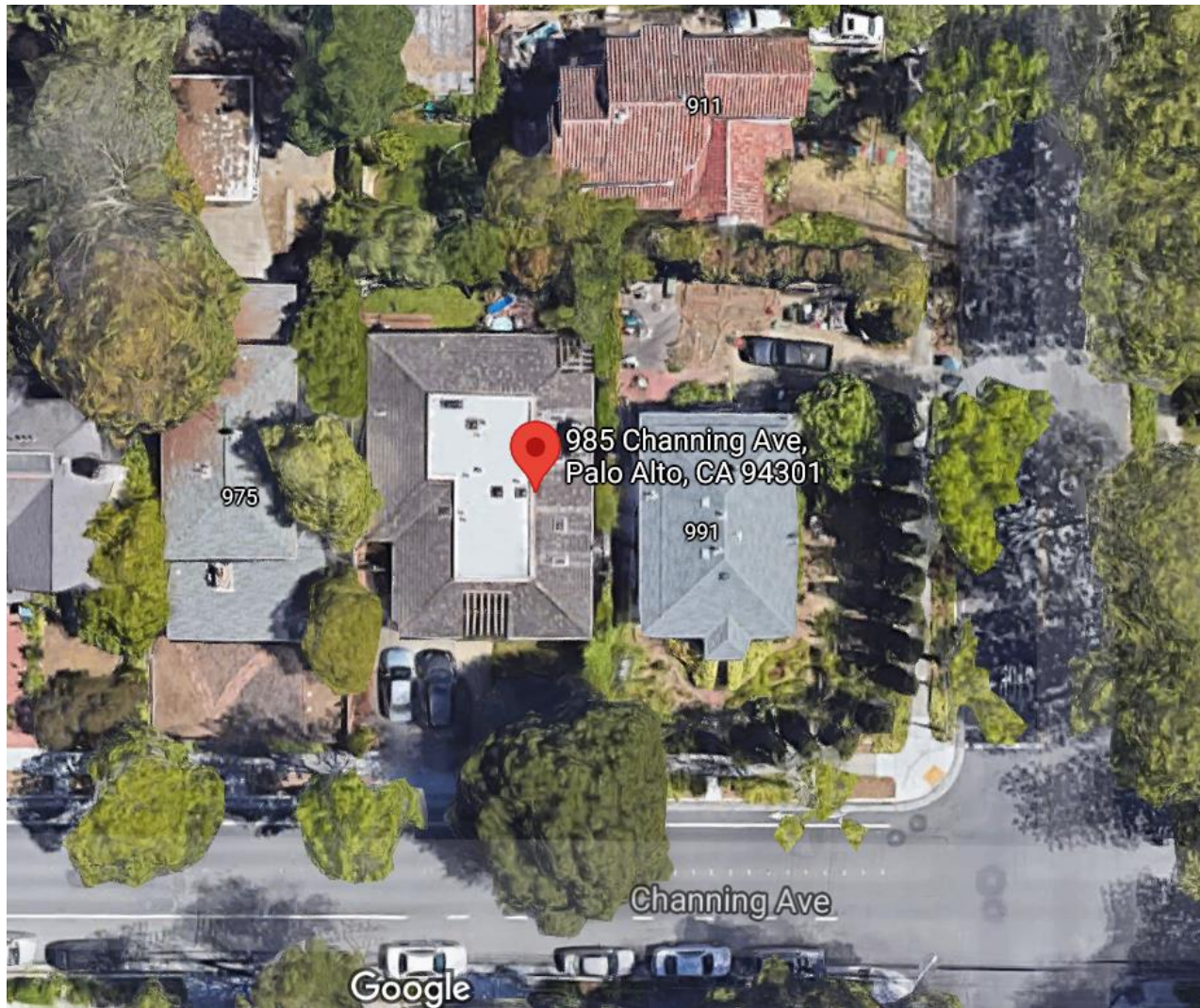
Background

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 |

2021 PTC Meetings

On October 13, 2021, the PTC held a public hearing to consider the subject application¹. 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 requested that the hearing be continued to allow further research into a process in Palo Alto Municipal Code Section 21.16.280 and the state Subdivision Map Act, Government Code Section 66472.1, for an "Amending Map."

Staff provided an updated staff report for the November 10, 2021 PTC meeting,² explaining that the amending map procedure appeared to be an alternative means of accomplishing the applicant's goals, but that it was not the exclusive or required procedure. This meeting was adjourned before the hearing commenced, however, due to a problem with the notice provided in the agenda.

On December 15, the PTC held a public hearing to consider the subject application again, with a staff report identical to the November 10 report.³ However, shortly before the hearing was to occur the applicant's legal counsel provided staff and the PTC with a letter summarizing their concerns with the proposed project (Attachment D). The applicant did not have sufficient time to review the letter prior to the hearing and the PTC continued the item to a date uncertain at the applicant's request.

Project Description

With this Preliminary Parcel Map application, 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.

¹ October 13, 2021 PTC Staff Report: <https://bit.ly/3HdTgb5>

² November 10, 2021 PTC Staff Report: <https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/planning-and-transportation-commission/2021/ptc-10.11-985-channing.pdf>

³ December 15, 2021 PTC Staff Report: <https://bit.ly/3IH5XeQ>

Since the December 15, 2021 PTC meeting, staff determined that this map requires exceptions, because the 52.5 foot width of the lot is less than the 60 foot minimum width for the R-1 zone. Therefore, the application is now being processed as a Preliminary Parcel Map with Exceptions.

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. In addition, Preliminary Parcel Maps with Exceptions must be approved by the City Council.

Requested Entitlements, Findings and PTC Purview:

The following filed discretionary applications are subject to PTC purview:

- ***Preliminary Parcel Map with Exceptions:*** 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 and Development Services (Director), there are issues of major significance associated with the proposed parcel map, such map may be referred by the Director to the Planning and Transportation Commission and the City Council for processing in accordance with the procedures set forth in subsections (c) and (d) of Section 21.12.090. In addition, because the lot width remains unchanged below 60 feet, staff believes that the Preliminary Parcel Map with Exceptions findings in PAMC Section 21.32.020 must also be made. Draft findings to approval are provided in Attachment C.

In addition, if the PTC is supportive of the applicant's request, staff recommend that the PTC also make the findings required for an Amending Map, pursuant to PAMC Section 21.16.280. Draft findings for an Amending Map are also provided in Attachment C. This recommendation represents an abundance of caution, as these circumstances are highly unusual and raise a question of procedure for which there is little or no guidance in the law.

Analysis⁴

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.

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:

⁴ 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.

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). 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.

Neighboring Property Owners' Objections

An attorney representing several neighboring property owners has submitted two letters, dated December 15, 2021 and December 22, 2021. These letters argue, in short, that: 1) the proposed actions are not authorized by the Subdivision Map Act, PAMC, or PTC Rules; 2) the height restriction is enforceable covenants under the Civil Code; 3) "reverse findings" for a preliminary parcel map cannot be made; and 4) the affirmative findings for an amending map cannot be made. Staff disagrees with each of these contentions.

First, the neighbors argue that the Subdivision Map Act and PAMC do not authorize the removal or amendment of a condition on a final map, providing an analysis of Government Code Section 66469 and PAMC Section 21.16.280, which implements Government Code Section 66472.1. This analysis misses the mark, as the application at issue here is approval of a preliminary parcel map, which is generally authorized by Government Code Section 66428 and PAMC Chapter 21.12. In addition, as discussed below, staff believe an amending map is authorized as an alternative procedure by Government Code Section 66472.1 and PAMC Section 21.16.280.

The neighbors further argue that the PTC does not have jurisdiction over the proposed change because the PTC's rules state the Commission does not review "final maps." This is confusing the approval of a final map, which is generally a ministerial process, with a change to a final map, either by approval of a preliminary parcel map or approval of an amending map, both of which require discretionary findings. Moreover, it is confusing a list of the types of hearings in which certain procedures apply for a limit on the PTC's jurisdiction.

Second, the neighbors argue that the height restrictions are enforceable covenants under Civil Code Section 1468. This is inaccurate and represents a basic misunderstanding. A covenant is an agreement or promise between two parties. By contrast, the height restriction here is a condition of approval by a government agency. This is an exercise of regulatory authority, not an agreement. When the City desires to create a privately enforceable covenant, it creates a condition that requires the execution of a separate agreement, usually prior to the recordation of a final map. That did not occur in 1980 and no covenant exists that would limit the City's ability to modify a condition it imposed.

Third, the neighbors argue that the “reverse findings” for a preliminary parcel map cannot be made because they believe some comprehensive plan policies weigh against approval of the application. The PTC and City Council may exercise their discretion in determining whether the application is consistent with the Comprehensive Plan and complete consistency with all policies and programs is not required.

Fourth, the neighbors argue that the affirmative findings for an amending map pursuant to PAMC Section 21.16.280 cannot be made; specifically the findings that: the modifications do not impose any additional burden on the present fee owner of the property; and the modifications do not alter any right, title, or interest in the real property reflected on the recorded map. As explained in detail below, staff believe that the statute may be interpreted in a manner that would allow both of these findings can be made.

Ultimately, although staff agree that this is a procedurally vexing area of the law, staff cannot agree with the neighbors’ basic substantive contention that the City must obtain the consent of all property owners in order to change a condition of approval on a parcel map. As noted above, the height restriction at issue here is not a private covenant but an exercise of governmental authority for the general welfare. Whatever procedure applies, the City must retain the ultimate ability to change a condition that it believes no longer serves the public interest.

Zoning Compliance⁵

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.

| Table 1: COMPARISON WITH CHAPTER 18.12 (R-1 DISTRICT) | | | |
|--|-----------------|-----------------|-----------------|
| Regulation | Required | Existing | Proposed |
| Minimum/Maximum Site Area ⁽¹⁾ | 6,000 sf | 5,250 sf | 5,250 sf |
| Minimum/Maximum Site Width ⁽¹⁾ | 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 Guidelines⁶

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

⁵ The Palo Alto Zoning Code is available online: http://www.amlegal.com/codes/client/palo-alto_ca

⁶ The Palo Alto Comprehensive Plan is available online: <http://www.cityofpaloalto.org/gov/topics/projects/landuse/compplan.asp>

Residential designation is intended to allow for detached single family homes on lots. The proposed map would not change this classification.

Consistency with Application Findings

The necessary findings for approval of the Preliminary Parcel Map with Exceptions 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 a Preliminary Parcel Map to justify approval. In addition, because this map requires exceptions, the City Council must make the findings contained in PAMC Section 21.32.020. 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.

Finally, if the PTC and Council are supportive of the applicant’s goal, staff recommend that the findings for an Amending Map also be made. As noted above, the recommendation is made in an abundance of caution given the novel procedural questions raised by this application. As noted above, the attorney for the neighbors raised concerns about how the City could make two of the required findings for an amending map, namely: the modifications do not impose any additional burden on the present fee owner of the real property; and the modifications do not alter any right, title, or interest in the real property reflected on the recorded map.

Staff is unaware of any precedent or other guidance on the interpretation of these required findings. With respect to the first finding at issue, it is unclear whether “the present fee owner of the real property” should be interpreted to refer to all properties reflected on the recorded map or simply the property of the applicant seeking an amendment. Contrary to the neighbors’ assertion, the PTC could interpret these findings to refer solely to the property of the applicant. Moreover, even if it does refer to all properties on the recorded map, the PTC could find that the amendment does not create “any additional burden” because it does not create any new obligations of the any property owner.

With respect to the second finding at issue, the neighbors appear to interpret the phrase “alter any right, title, or interest in the real property” very broadly to mean that an amending map cannot result in any change in property rights. This would render the amending map process meaningless, as all non-clerical modifications to a recorded map will impact some property right, and mere clerical corrections may be accomplished by a “certificate of correction.” Alternatively, it reinforces staff’s view that a superseding preliminary parcel map and parcel map is the more appropriate path here. Regardless, the PTC could interpret this finding more narrowly to mean that an amending map may not alter any person’s ownership interest in the real property reflected on the recorded map.

Alternative actions

In lieu of the staff recommendation, the PTC may take the following actions:

1. The PTC could recommend that the City Council deny the proposed Preliminary Parcel Map with Exceptions, and alternatively, an Amending Map, because one or more of the required findings cannot be made.
2. The PTC could recommend that the City Council approve either the proposed Preliminary Parcel Map with Exceptions or an Amending Map, but not both, because one or more of the required findings cannot be made.

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 January 28, which is 11 days in advance of the meeting. Postcard mailing occurred on January 25, which is 14 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

Garrett Sauls, Associate Planner
 (650) 329-2471
Garrett.Sauls@CityofPaloAlto.org

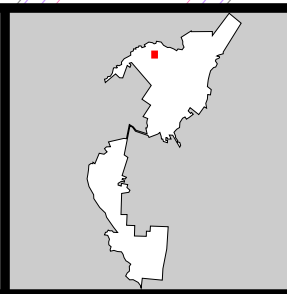
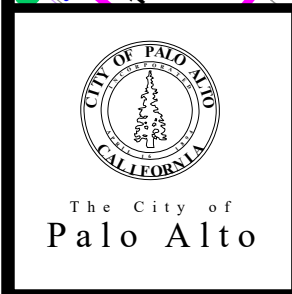
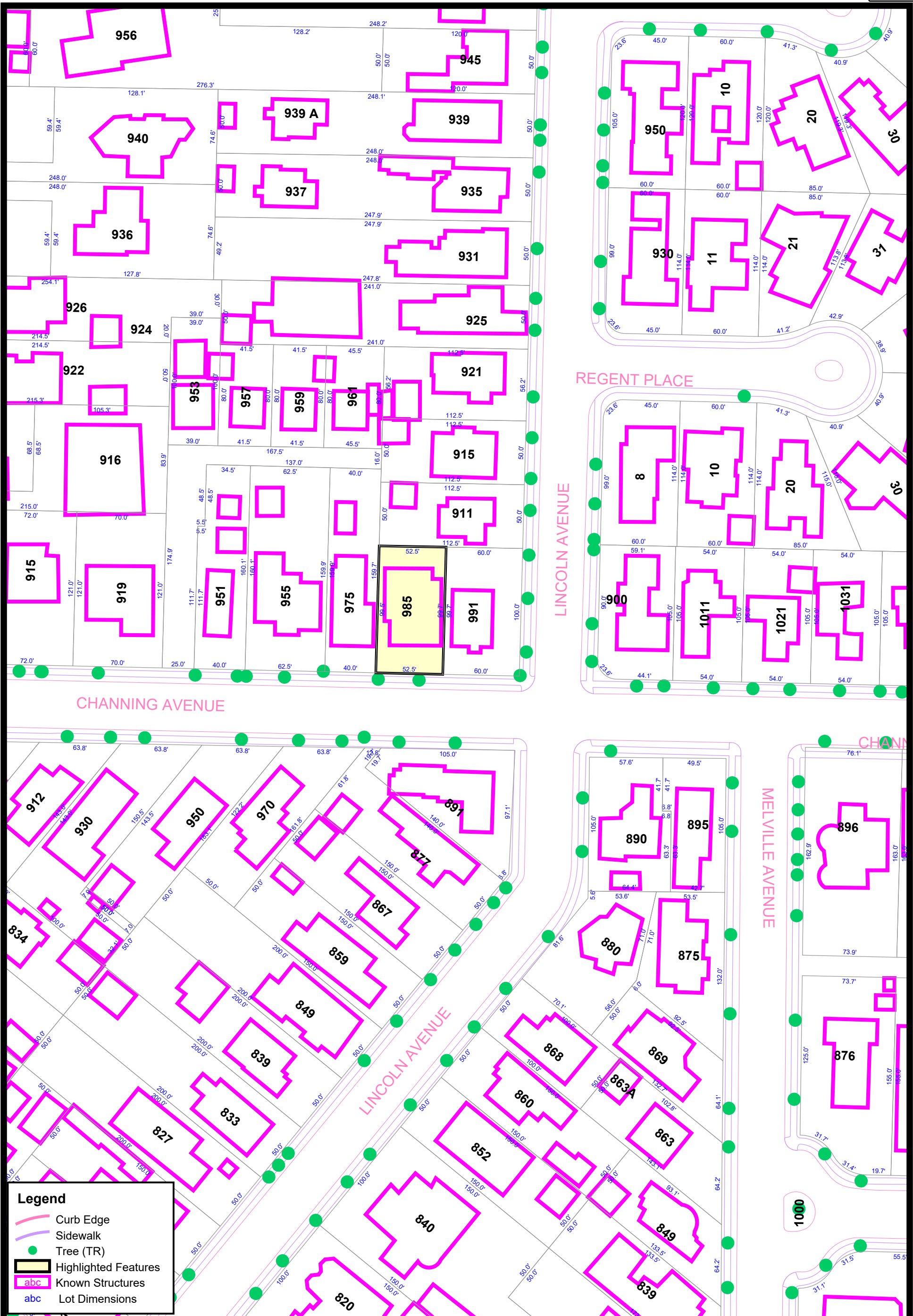
PTC⁷ Liaison & Contact Information

Rachael Tanner, Assistant Director
 (650) 329-2167
Rachael.tanner@cityofpaloalto.org

⁷ Emails may be sent directly to the PTC using the following address: planning.commission@cityofpaloalto.org

Attachments:

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



985 Channing Avenue
[21PLN-00167]

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

aATTACHMENT B
PRELIMINARY PARCEL MAP WITH EXCEPTIONS AND AMENDING MAP FINDINGS

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

A. 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 a single-family home as the site is located in 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 already established by its creation from 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.

- B. Because the subject lot provides less than the minimum lot width of 60 feet, the City must also make the findings for Conditional Exceptions listed in PAMC 21.32. Exceptions shall only be granted upon making the following findings:

1. *There are special circumstances or conditions affecting the property.*

The lot was created with its present dimensions in 1980, and the dimensions are not proposed to change. The lot has a width of 52.5 feet, which is less than the minimum lot width requirement of 60 feet, but does not result in the lot being considered “substandard” under Title 18 of the Palo Alto Municipal Code. Although many lots in Palo Alto have a similar width less than a 60 foot, this lot is subject to a unique and burdensome conditions restricting height.

2. *The exception is necessary for the preservation and enjoyment of a substantial property right of the petitioner.*

This lot has existed with its current width for over four decades. Removal of the unique conditions limiting height would allow the applicant to enjoy the same property rights as all other similarly situated lots.

3. *The granting of the exception will not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated.*

Granting the exception for lot width will not change the current dimensions of the lot. Removal of the unique conditions limiting height will not result in detriment to the public welfare or injury to other properties because the City has developed a Single Family Individual Review process that addresses impacts of two-story homes on neighboring properties.

4. *The granting of the exception will not violate the requirements, goals, policies, or spirit of the law.*

Granting the exception to lot width and removal of the height restriction is consistent with the requirements, goals, policies, and spirit of the law in Palo Alto today. A lot width between 50 and 60 feet is not uncommon in the City and the Single Family Individual Review program was developed to better address the concerns about two-story homes.

- C. In addition to modification through a superseding preliminary parcel map with exceptions and parcel map, pursuant to the findings in Sections A and B, a recorded map may be modified by an amending map based on the following findings. To the extent the findings for conditional exceptions are also required for an amending map, those findings are provided in Section B.

1. *there are changes in circumstances which make any or all of the conditions of such a map no longer appropriate or necessary*

Since the conditions restricting height was placed on the lot, the City has developed a Single Family Individual Review process that addresses impacts of two-story homes on neighboring properties. The conditions restricting height is therefore no longer necessary.

2. *that the modifications do not impose any additional burden on the present fee owner of the property*

The removal of the conditions restricting height on 985 Channing does not impose any additional burden on the present fee owner of that property. In addition, the removal of the conditions does not impose any additional burden on the present fee owner of 991 Channing, as it does not create any new obligations or restrictions on that property. Further, the Single Family Individual Review process represents the City of Palo Alto's determination regarding full and appropriate safeguards against burdens created by two-story homes on neighboring properties.

3. *the modifications do not alter any right, title, or interest in the real property reflected on the recorded map*

The City Council understands this finding to refer only to ownership interests in real property, and not the full range of potential property rights. The removal of the conditions restricting height will not alter any person's ownership interest in the real property reflected on the recorded map.

4. *the map as modified conforms to the provisions of the Subdivision Map Act and Chapter 21.16 of the Palo Alto Municipal Code*

The map as modified conforms to the provisions of the Subdivision Map Act and Chapter 21.16 of the Palo Alto Municipal Code, as demonstrated by the findings in Sections A and B above.

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
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>

**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).
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.