



ARCHITECTURAL REVIEW BOARD
DRAFT MINUTES: December 7, 2023
Council Chamber & Zoom
8:30 AM

Call to Order / Roll Call

The Architectural Review Board (ARB) of the City of Palo Alto met on this date in Council Chambers and virtual teleconference at 8:35 a.m.

Present: Chair Peter Baltay, Vice Chair Kendra Rosenberg, Boardmember Yingxi Chen, Boardmember David Hirsch, Boardmember Mousam Adcock

Absent:

Oral Communications

None

Agenda Changes, Additions and Deletions

Chief Planning Official Amy French indicated there were no Agenda changes, additions, or deletions.

City Official Reports

1. Transmittal of 1) the ARB Meeting Schedule and Attendance Record, 2) Tentative Future Agenda items and 3) Recently Submitted Projects

Chair Baltay noted there had been a change in the retreat date. Chief Planning Official Amy French stated that was correct, it was scheduled the same day as the Historic Resources Board (HRB) meeting and staff would not be in attendance. It is now scheduled to be held on February 29, 2024. Ms. French also stated they have advertisement to the Public and is invited to speak under Oral Communications.

Boardmember Hirsch inquired if the meeting would be recorded. Chief Planning Official Amy French responded that every ARB meeting is advertised in advance to allow for public comment and every meeting is recorded.

Chair Baltay expressed an interest in creating an ad hoc subcommittee for 156 California Avenue, an SB330 application that is currently outside the current zoning standards. Boardmember Adcock and Chair Baltay were appointed as subcommittee ad hoc members.

Study Session

2. 70 Encina Avenue [23PLN -00291]: Request for Preliminary Architectural Review of a Proposed Project Consisting of 10 new Condominium Townhouse Units in a new 3-Story, 22,230 SF Building

(1.84 FAR), and Site Improvements to Replace the Existing Surface Parking Area. The Formal Application Will Include a Rezoning to Planned Home Zoning. Environmental Assessment: Not a Project. The Formal Application Will be Subject to California Environmental Quality Act (CEQA) Review. Zoning District: CC (Community Commercial). For More Information Contact the Project Planner Emily Kallas at Emily.Kallas@CityofPaloAlto.org.

Chair Baltay inquired if any Boardmembers had disclosures.

Boardmember Chen disclosed she visited the site.

Chair Baltay disclosed he visited the site.

Boardmember Hirsch disclosed he visited the site.

Vice Chair Rosenberg stated she had visited the site.

Chair Baltay introduced the item and called for a staff presentation.

Project Planner Emily Kallas introduced the preliminary review for 70 Encina Avenue. The proposal is to rezone two Community Commercial (CC) Zoned properties to the Planned Home Zoning (PHZ) to allow for construction of ten residential condominium units in a three story structure on a vacant property, and a Certificate of Compliance to merge two lots. Per the PHZ requirements there would be a net increase in housing with no jobs generated and at least a 20% Below Market Rate (BMR) units provided. In September 2022 there had been a Council pre-screening, however, the project has been substantially redesigned since that screening. Site plan includes ten units arranged around a central driveway courtyard with two units having one parking space, with the rest having two spaces. Outdoor space includes second story balconies and the side yards of the site. The project proposed is three stories high with thirty-eight feet and two inches at its tallest points, fifty feet is allowed. Ms. Kallas presented the elevations for the front and two sides, as well as the rear which is adjacent to Town and Country. The proposed materials include a brick veneer and glass block on the first floor with board and batten siding on the upper floors, as well as bronze and orange metal accents. The considerations for discussion include the relationship between the proposed project and it's setting the Town and Country parking lot, the site circulation, the usability of ground level open space and overall site landscaping, architectural design, cohesiveness and quality of the materials, and the Consideration of the Context-Based Criteria and Objective Design Standards (ODS).

Chair Baltay explained the order of the study session and called for ARB questions for staff.

Chair Baltay inquired about the parking lot taking a portion of Town and Country's parking and how it affected compliance, stating there was a community interest in understanding what was going on.

Project Planner Emily Kallas stated the lot was independently owned, and not under the LS Partners who own and operate Town and Country. Owners Ellis Partners have a Transportation Demand Management (TDM) plan that will not impact parking, making it within their rights to propose a project on this parcel.

Chair Baltay questioned if the adjacent properties and parking lots were privately owned and could also be redeveloped.

Chief Planning Official Amy French stated they did not have Town and Country on the agenda, she was not allowed to go into detail about the site. However, the site is within a half mile radius of the train station and parking under AB 2097, it is not required for uses other than hotels and event centers within the half mile radius.

Boardmember Chen referred to the comment list on packet page 17 and questioned who made the list and if the comments and questions were delivered to applicants prior to the meeting and if applicants have heard staff concerns and responses.

Emily Kallas responded that they were staff recommendations, comments, and concerns for the ARB's discussion. The staff report was forwarded to the applicants when it was published.

Boardmember Adcock inquired if this was the only portion of the parking lot that was individually owned.

Project Planner Emily Kallas responded that was correct.

Boardmember Adcock referenced A 0.3 which shows the parcel with the building layout, and the parcel to the west seems to be privately owned, however, on A 1.01 it appeared to be shown as an existing driveway into Town and Country.

Project Planner Emily Kallas referred to sheet A 0.3 showing where the different parcels were located, and the one directly west of the subject site is the driveway entry and is owned by Town and Country.

Boardmember Adcock requested clarification that this parcel only has a street frontage on Encina and does not have any other drives for fire access and to the townhouses being proposed on the backside and is a couple hundred feet from any public fire access.

Project Planner Emily Kallas stated the site should be treated as an individual lot and as it continues through the formal review process staff and Fire will ensure there is adequate access to the site.

Chair Baltay requested confirmation that the service alley appearing to be a public alley in the plans is privately owned by Town and Country, thus could not be considered as a fire emergency access for the site. Ms. Kallas stated that was correct.

Vice Chair Rosenberg inquired how the existing lot was zoned. Planner Kallas responded it is zoned as Community Commercial (CC). Vice Chair Rosenberg asked if they were looking to rezone the property to be allowed to build the residences or if that is allowed under CC zone.

Project Planner Kallas stated it does not need to be rezoned to allow residential use, however, requires that the floor area is more than what would otherwise be allowed.

Vice Chair Rosenberg questioned if the floor area is meeting the CC zoning compliance of a residential development, and if it needs to be mixed use.

Project Planner Kallas referred to Attachment B which compares what is being proposed to what is required under the CC zoning district. The only place it varies is in the rear yard setback, which is typically required to be 10 feet, the build to lines which is usually 50% of the frontage built to the front setback, the site coverage which is 7% over what is allowed, and the floor area ratio of 1.84 is being proposed.

Vice Chair Rosenberg inquired how they are going to be allowed to have these exemptions, and how will they be allowed to have no rear setbacks when Palo Alto usually requires five feet.

Project Planner Emily Kallas stated it was a fully discretionary process and provided the process flowchart for Planned Community projects.

Chief Planning Official Amy French added that it was legislative as well, so it would go to Council for zoning.

Vice Chair Rosenberg clarified that it was being zoned for a specific use and the applicant is asking for it to be used for residential, and they are asking for exceptions to the rules under residential development.

Amy French responded the exceptions would be handled through the Planned Community Legislative Act and are all part of the ask that Planning Commission (PTC) could recommend for City Council approval.

Vice Chair Rosenberg inquired about the architectural deference to the surroundings, such as neighborhood context, noting that it is in close proximity to Town and Country which is low slung and Mediterranean looking, which the plan is not and questioned whether the requirements for development ask for any respect to its neighbors from an architectural reference. Ms. French stated saying when Staff is looking at projects, they consider the codes and Objective Standards (OS) so they can compare projects to those guidelines. Ultimately the final decision for this site and project will come from City Council.

Seeing no more ARB questions for staff, Chair Baltay called for the applicants presentation.

Applicant Jeffrey Galbraith greeted Council and thanked them for the opportunity to be heard. Mr. Galbraith The project is surrounded by CC and CS projects and properties well outside the radius of other residential projects. The properties on the north side of Encina are medical and professional offices that support uses on the block and noted the Council's questions on parking, as well as a rear ingress and egress for Town and Country on both sides, with the southern edge being flanked by the service alley behind the shopping center. The northern and southern neighboring buildings along Encina have a mix of materials used and building descriptions. Mr. Galbraith stated they took a pre-screening before Council a little over a year ago for a 20-unit condo that was well received by Council as well as Town and Country, who have since been working to compromise on pairing the building to work for both parties. Mr. Galbraith provided details into the changes of character on the back façade with extensive covering similar to Town and Country. Mr. Galbraith stated after many revisions and trying to maintain a podium concept while taking in consideration the high cost, they needed to find a point where the project could still be viable which led them to the three-story town home concept, getting rid of the concrete construction of the podium and instead using an all-wood concept. The units will now have their own internalized single garage. Mr. Galbraith showed a depiction of the overlay of the site with an axis aisle down the middle for exiting and entering garages and safe distancing. The Courtyard is a vehicular and pedestrian entry with the unit doors facing the Central Courtyard. There are three plans A, B, and C: B and C extruding vertically with some adjustment to the exterior façade. The program yield of the new concept is half of the original 10 condo units, mostly three bedrooms, with at least 20% being affordable. Mr. Galbraith stated they have done material studies looking at similar pallets from the first proposal of lighter tones and wood but have now introduced some board and batten siding, which is also used at Town and Country. They have now decided on a darker pallet with board and batten siding with a light buff brick base on the ground floor.

while showing slides of the units previously discussed. Mr. Galbraith described the sidewalk and landscaping plans and the terraces which allow access to the Central Courtyard.

Chair Baltay thanked Mr. Galbraith and asked Council if there were any questions for the applicant.

Vice Chair Rosenberg stated it was a very informative presentation and requested clarification about the addition of the trellises and rock wall and the material that will be used.

Mr. Galbraith responded that the material is two layers of woven metal mesh with rock in between, so more like a gabion style rock.

Vice Chair Rosenberg noted the edge of the wall was uneven and inquired if it was intentional and if the material for the trellises was to match Town and Country.

Mr. Galbraith confirmed that the rock would fill unevenly, and the language and rhythm of Town and Country is post and beam with exposed structure and dark colors, so they wanted to be compatible and pick up on those cues.

Vice Chair Rosenberg questioned the 20% below market rate on the BMR units and if that would equate to two.

Mr. Galbraith responded Vice Chair Rosenberg was correct.

Vice Chair Rosenberg thanked the applicant and stated that was all the questions she had for now.

Boardmember Adcock asked for clarification if the additional renderings plans were the plans on the set, which are pretty much the same. Mr. Galbraith responded that was correct.

Boardmember Adcock inquired about the fourteen foot wide entry pedestrian gate from Encina, stating it seemed a little narrow for two way traffic and if emergency vehicles would have access.

Mr. Galbraith responded that the project was small enough for access and the fire department would not bring the engines inside, but rather use a much higher entry portal.

Boardmember Adcock stated that a three story and thirty-foot eve height is what pushed them to the aerial axis which they have exceeded.

Mr. Galbraith stated they have had previous meetings with the fire department and there would be more discussion on that. The majority of the bedrooms are all located on the courtyard side so the fire department is able to have ladder access to the third floor from the ground, they would not need a ladder truck to access the courtyard. There is still logistics to work out. Once inside the courtyard, it is thirty feet wall-to-wall, so there is enough room for two cars to pass each other with some buffer on the side and stated the City has a document that lists the required width of the ingress ways based on the number of units, and fourteen feet is allowable for up to ten units.

Boardmember Adcock requested clarification that the fence that was indicated in the drawings was the rock wall he was proposing. Mr. Galbraith stated that was correct.

Boardmember Adcock referenced the side behind the small patio for each unit and questioned if that is a requirement, as well as the logic behind making people go between units.

Mr. Galbraith stated those are still being worked through with the fire department and the assumption was the fire department personnel would need to be able to come down the side yards to have access to the rear units.

Boardmember Adcock referred to 2.01, the ground floor plan, behind the rock wall, she noted a green patch and asked how it will be maintained knowing that it is landlocked and by people's property.

Mr. Galbraith replied the project is still in early preliminary review with the ARB and was waiting for Council feedback on what they had presented.

Chair Baltay inquired why they did not choose to have underground parking and why all the previous proposals maintained at grade parking.

Mr. Galbraith stated with the contributing factor was cost, as a ramp for below grade parking would decrease the buildable area of the property. .

Chair Baltay questioned the reasoning for going from a five story condo unit to a three story townhome and the rationale between the two designs seeing as it is radically different.

Mr. Galbraith stated that it was completely cost driven. They needed to find a way to get the construction costs down enough to make the project feasible. With many of the costs not changing, they still had massive costs for utilities and infrastructure and City fees making it a tough equation to solve.

Chair Baltay inquired if the owner would consider building four-stories. Mr. Galbraith stated he did not know, but based on gut feeling it would be no due to the numbers they had studied so far.

Chair Baltay thanked Mr. Galbraith for his honest answer and asked for any other Council questions.

Boardmember Chen inquired about the functional side for a package delivery room and trash room and how it was to be used by the tenant, and if they would need to go through the front entry and gate to have access.

Mr. Galbraith stated that would be the typical strategy, the tenants would go out their front doors to the central courtyard, then around to the trash room. He added hypothetically they could use the rear yard, but in doing so they would be crossing into their neighbor's yards, and they are still working through the bylaws of the development.

Boardmember Chen inquired about the upstairs windows and asked if they had considered offsetting them since they currently are facing each other directly.

Mr. Galbraith responded it had been a key concern, but it was determined at the living room level they would have to offset the windows to the corner and people do not typically sit in the corner., so with that they would not see directly across into someone else's living room. The bedrooms he states they could certainly flip which side the glass goes on if it was felt to be a benefit and felt that was a good comment to bring up.

Boardmember Hirsch inquired about the front single units having a reduced area making the tenants maneuver their vehicles in order to get to their garages, and if they had explored that.

Mr. Galbraith referred to a San Francisco project Fon Grove and how it was a very similar project with the thirty-foot-wide courtyard and the two units at the front. It is negotiable and can be done and was sure that they will be asked to provide vehicular turn radius studies showing feasibility.

Boardmember Hirsch questioned whether they had given thought to off the street parking and if that would be a code issue for the two units.

Mr. Galbraith responded that typically they are not allowed to have more than one curb cut in a project but if the City had alternate suggestions, they would be happy to look into it.

Boardmember Hirsch inquired how the tables in the outside areas would be used.

Mr. Galbraith stated those spaces would be used by the tenants with their own ideas on how to use them.

Vice Chair Rosenberg commented about the trash in the front of the units and the parking that her colleagues were questioning and suggested possibly flipping the two locations, and the end units which are both on the setback of the sides that sit on the drive aisle of the service alley as she understood that the residential setbacks are ten feet; and requested clarification of having no set back which would become an issue for neighboring future development.

Mr. Galbraith stated that it was common for a residential building to be right up to a property line, noting that the more side yard you can cut out, the more space you could potentially use. The rear yard setback fronts a service alley that has back doors, bollards, and trash bins so if they pull the building back it will not be a space used by occupants. They felt that it could be utilized better by pushing the units to the edge and pushing the space to the core so the occupants can enjoy more square footage.

Vice Chair Rosenberg questioned the cost calculations of the two final units being tandem spaces versus something similar to the front unit spaces and if that would be a deal breaker. Mr. Galbraith stated that was something they could consider.

Boardmember Hirsch noted that if the parking were moved, there would be better access to the front of the building from the courtyard to the garages and trash rooms, but it would change the planning.

Mr. Galbraith commented that was true and an interesting thought.

Chair Baltay inquired what made them feel this project was compatible architecturally with Town and Country.

Mr. Galbraith stated that compatibility comes in the use of materials and the vernacular additions and the trellises; Town and Country has a unique style of its own, and they felt a one story project would not be feasible.

Chair Baltay opened the item to public comment.

PUBLIC COMMENT

Ms. Dao stated there was one public comment card submitted.

Dean Rubinson, with Ellis Partners, commented he has been the director of development for Ellis Partners in Town and Country Village since 2005 as well as managed the improvements on the property for the last 18 years. Mr. Rubison wished to clarify that Ellis Partners is very supportive of the new housing in Palo Alto and the Bay area but feels the proposed project will degrade Town and Country Village due to the disregard of the contextual urban planning and lack of impact on vehicles, pedestrian parking, and other operational elements. Mr. Rubison stated that future development at this site should preserve its existing amenities, pedestrian scale and architectural character and commented the design does not enhance the living conditions on the site as indicated on the design guidelines of Palo Alto. The proposal only replaces 25% of the existing tree canopy. Mr. Rubison stated that until the proposal could achieve mitigation with the existing constraints the application should be returned for modification.

Chair Baltay closed public comment and offered applicant Mr. Galbraith a counter response and he declined.

Chair Baltay stated Council's concern when they reviewed this project initially was the well-being of Town and Country Shopping Center, and did not want the project to negatively impact the shopping center. With that said, Chair Baltay offered the Board a chance to ask questions of Ellis Partners.

Boardmember Hirsch inquired about how this piece of property got separated from their facility.

Mr. Rubison stated that the owners ground lease the Town and Country facility from the Williams foundation with a seventy-to-eighty-year term, they do not own any of the land. They have been leasing this parcel since 2005 to a separate entity as a parking lot. Mr. Rubison referred to Boardmember Hirsch's earlier question regarding development on the rest of the site and stated that they could develop additional housing on the site with a similar PHZ process, however there is a specific section in the comprehensive plan requesting it be preserved in its current form and without residential housing. Adding the ten units ignores all the regulations and developing housing or future projects will downgrade the overall experience they are trying to preserve.

Boardmember Hirsch inquired if they had ever put any thought into expanding the Town and Country.

Mr. Rubison commented they have considered feasibility, however, they would need to replace existing retail parking if they wanted to have other uses and would therefore have to go underground or higher up and the numbers didn't work out with either.

Boardmember Adcock asked if the community development plan prohibits housing while maintaining existing amenities, and inquired if there was anything that would prevent the city from approving this project since the property is privately owned.

Mr. Rubison stated that the comprehensive plan states conversion to residential capacity should not be considered at Town and Country Village, and believed the zoning was only allowed for mixed use residential with a certain amount of office space as a component, with a density of 0.15 Floor Area Ratio (FAR).

Ms. French commented the zoning code for is permitted to have residential as part of a mixed-use development or designated housing inventory sites in the housing elements, and this parcel is cited for a capacity of four units.

Planner Kallas reported that of the two sites, one is designated as a housing inventory site in the housing element with a realistic capacity of four units based on the zoning allowance of 1.25 FAR for potential residential development; and being a housing inventory site, it is also allowed to be 100% residential. However, with this project site being composed of two lots, the second is not designated as a housing inventory site and was not sure how that would affect it if mixed-use would be required.

Chair Baltay stated that only Council's staff can provide zone and code information.

Boardmember Adcock noted that this development would add vehicles to its site but noticed it would replace more parking space than the property currently has, and questioned if the average daily parking is expected to be 100%; and if replaced, would the additional cars increase the vehicular traffic to the area.

Mr. Rubison stated when this site was no longer leased to Ellis Partners two years ago, the owners installed a fence surrounding the forty-two stalls, and expressed concern about the logical place for tenants and service workers entering and exiting their property.

Chair Baltay asked staff if they wanted to comment on the fencing.

Chief Planning Official Amy French commented she did not have code enforcement information for the fence on hand.

Chair Baltay again offered Mr. Galbraith a chance to respond.

Mr. Galbraith appreciated the opportunity and stated he wished to clarify the section of the comprehensive plan, it had different types of information, policies and programs. The letter referenced program L2.4.4, which addresses non-residential development potential in community commercial service, commercial downtown, commercial district, and neighborhood commercial district, and converting non-retail commercial FAR to residential FAR. Key consideration is to find out how much commercial development is allowed under the current zoning in the downtown area, and how to incentivize residential development. Section L2.4.4 quoted "conversion to residential capacity should not be considered in Town and Country Village" and confirmed that they have the study sessions around Town and Country Village due to it being a big portion of CC and CS. The owners feel it is a misapplication of the section and not a policy and there has been no policy or text amendment that has stated no residential development.

Chair Baltay thanked the applicant and Staff and brought discussion to the Board.

Chair Baltay commented the discussion has been mostly about large scale planning and parking in Palo Alto, little of which is a direct purview of ARB, they should discuss these as they see fit and be careful when focusing on the appropriate and compatible design of the building.

Chair Baltay directed the discussion to Boardmember Adcock.

Boardmember Adcock stated the colors and materials are toned enough and are more compatible compared to what had been previously presented and the project would sit as a backdrop, not a competitor to Town and Country; however expressed concerned about the plans for the back units which would need alley access for emergency services, which could would work with the property being right

up against Town and Country Village. Boardmember Adcock commented that she thought it was commendable for their work to reduce the scale and cost of the project and thanked them for their presentation.

Boardmember Hirsch commented he agreed with previous comments, and felt the canopy was similar to Town and Country and it was more of an add-on to non-functional space for perimeter aesthetics. The courtyard scheme was terrific, but the element was out of place and if it surrounded the rest of the area and parking lot it would be better. If the project were to move forward, the parking issues and the first two units' access to garbage and package rooms do not work as they should. If facing the courtyard, he believed using the PC zoning would allow for additional access from the outside for two parking spaces. Boardmember Hirsch stated he accepted the images of the facades on the building and felt it should not be built.

Chair Baltay requested clarification that Boardmember Hirsch stated he did not feel the building should be built. Boardmember Hirsch stated that was correct.

Boardmember Chen thanked Staff for their presentations and requested they inform Council of the entire process and history of the design and focus on the building itself. Boardmember Chen stated there were some functional issues and fire concerns, mentioning the code allowing a fourteen-foot-wide gate is a minimum requirement and they should consider the functionality for the tenants' daily use. Understanding this development is a challenge, but for the tenants it would be extra work to access their amenities and that should be considered. There was improvement with the materials considering it would be a backdrop to Town and Country Village. On a pedestrian level the colors were too dark and harsh and suggested reconsidering the brick to a different material that focuses on the street level. Referencing sheet A3.04, the dark colors could cause the already limited lit area to be darker. The offsetting of the windows should be reconsidered, specifically the third floor bedrooms. One suggestion might be to flip one side of the unit so not to face the other. The upper floor unit seemed small for the floor plan.

Vice Chair Rosenberg stated this is a unique project and would not be an easy one, and felt it was hard to value the capacity to park a single level garage over the capacity of people living in the City that needs communal housing. It will be difficult as this will be the first residential development in this area, but felt it was appropriate to scale down the large condos and a huge step in the right direction. They should pay attention to the future potential of this space and believe that the zero setbacks are inappropriate. The community will have a better connection with Town and Country Village with the closer access to the Shopping Center but will need to respect its history. The design architecturally speaking does not match the geometry and the color palette is inappropriate for this location. The parking is an issue for the first and last units and needs to be reworked and suggested adding pedestrian gates leading to Town and Country on the backside. The windows need attention so as to not be installed directly across from one another and reiterated that this project will set the tone for future development in this area and context.

Chair Baltay stated he is in agreement with Vice Chair Rosenberg regarding the materiality and geometry not being sufficiently differential to Town and Country Village, suggesting the use of heavier timber posts for trellis construction and more even treatment would better link it closer to Town and Country's aspect. He also agreed the courtyard dark colors don't work, and parking functionality and the trash receptacles are an issue for tenants. Over time Encina will become a larger residential street with three- and four-

story buildings and he did not feel the comprehensive plan intended to say Town and Country should not be redeveloped for residential housing, however, it should not be replaced, and the parking area should be seen as a separate parcel fronting Encina Avenue. Chair Baltay expressed concern that the applicants were basically forced into a three-story type townhome development for economic reasons and not meeting requirements such as the parking issue. They should instead consider a four-story building with appropriate setbacks that would not negatively impact the Town and Country and could be beneficial as well. It might facilitate the residential uses allowing a step back for terraces and provide a middle path to Town and Country allowing more development and better economics. Chair Baltay expressed concern for the people living on Encina as the iron gates for vehicle entry and pedestrian gates on either side closes the building off, and stated they have an opportunity to give the residential housing a stoop onto the street providing a more traditional urban design pattern. The current frontage of the building facing Encina does not have a strong presence and felt there was a different way to go about it. Chair Baltay commented that the massing could be larger, and it could still work.

Boardmember Hirsch addressed his previous comment and stated there should be an overall plan for the parking lot and with the new development on Encina Avenue, an elaborate study of the block as a potential residential area would be useful. Boardmember Hirsch expressed it would be unfortunate if the City had to accept something that compromises future possibilities.

Chair Baltay commented that the applicant could take the bold step of being the first in bringing a real traditional San Franciscan development, and requested Board comments regarding the massing and if they would accept a larger building as long as it was differential to Town and Country.

Boardmember Hirsch commented that it was a piece of land that should be planned from one end to the other, and stated the City needs to address the housing crisis and should look at this site as a potentially great area for dense housing. As presented, this particular project could potentially prevent the rest from being developed.

Chair Baltay stated the Board was requested to make comments to the applicant on their proposal and not all of the map was consistent with many things but did not give any clear direction on which way to go.

Boardmember Chen commented she agreed with the massing comments and asked the applicant to consider both the Town and Country side and the street side; giving them a different concept for future development along the street as well as new ideas for the materials and colors. Boardmember Chen suggested the applicant provide a prospective view from Town and Country side to better convey how a four or five story building would not have a negative impact to the Center.

Vice Chair Rosenberg commented she liked the idea and feels the townhomes are an appropriate scale and would not encourage a four-story building next to Town and Country, however if they stepped back the front townhomes facing Encina, she would not be opposed. Vice Chair Rosenberg feels the three-story on the Town and Country side of the property is appropriate, just the geometry is lacking; the iterations provided were helpful. Four stories would make sense for future residential development, but they need to work with what they currently have and what they have presented was a step in the right direction.

Project Planner Emily Kallas thanked the Board for their feedback.

The ARB took a 14 minute break.

The ARB returned with all members present except Vice Chair Rosenberg who joined a few minutes later.

Study Session

1. STUDY SESSION: Summary of Focus Group Review and Feedback on the Existing Senate Bill (SB) 9 Standards Continued from November 16, 2023.

Chair Baltay introduced the item as a continuation from the November 16, 2023 meeting and called for staff's summary.

Chief Planning Official Amy French continued with Attachment B Items Two Story homes and introduced Consultant Mammarella who joined the meeting on zoom.

Chair Baltay moved into item 7, screening landscape and asked if any Board members had any input. Seeing none he moved into Item 8, planting type and size, and noted he was interested in seeing if the Board had an interest in making native species a requirement, which is also a requirement on the commercial side.

Boardmember Hirsch questioned on Item 7 regarding how the screening and landscaping works specifically on tight sights when you can't have a continuous screening on the sides of a project and what happens in a situation where there is not enough room to plant trees.

Planner Kallas explained that the screening requirement is to have one tree per 25 feet of property length, these do not need to be evenly placed, so it would be possible to stagger it in places where there may be basement light wells. Additionally, there may be cases where there is a six foot setback, something that is generally required on Individual Review (IR) project, some SB 9 projects may have as little as four foot setback. That would need to be studied more. They have not heard from the Building or Fire regarding there being a problem with planting trees within the side yard setbacks.

Boardmember Hirsch commented that it's not reasonable to suggest that owners can have a continuous line of trees in all circumstances, but that may be a case for an IR.

Chair Baltay noted that in Item 7 it also offers the opportunity to use screening shrubs in lieu of trees.

Boardmember Hirsch stated forcing plant screening could potentially limit the use of a six foot setback when it may be needed for light wells, trash bins, or electrical meters.

Boardmember Adcock clarified that a tree is required one every 25 feet and if it's not doable it should be an IR. The allowance to use shrubs instead of trees makes that requirement even easier to fulfill, the requirement should not be eliminated.

Boardmember Chen agreed the requirement should stay as privacy is important, particularly when the SB 9 projects start coming in and the setback is reduced to four feet. In a four foot setback there is a limitation of the selection of tree species. She's currently working on a project in which the neighbors do not want anything planted as it will take away from their view. The project owners are fine with that, and questioned if an IR would still be necessary in that case.

Planner Kallas the IR process is discretionary which opens the door for other options to consider. Overall, the City encourages privacy landscaping. One of the considerations for SB 9 projects is that neighbors will not have the opportunity to comment because they are ministerial projects.

Chair Baltay inquired if it would be possible to add in ministerially if the adjacent property owner waives in writing the privacy landscaping requirements.

Chief Planning Official Amy French answered they do not have a mechanism for ministerial projects because they are not handled by a planner that is focused on design review. Once it's an exception it goes through the IR process.

Planner Kallas added there are no notification requirement for SB 9 projects because they are building permit projects rather than planning entitlement projects. The rationale for no notification is that the neighbors do not have an opportunity to appeal the project.

Chair Baltay questioned if the 25 foot number is too high.

Boardmember Adcock stated that also applies to mature shrubs. A mature width is five feet.

Chair Baltay inquired how staff enforces this.

Planner Kallas explained that Podocarpus species is a common screening tree and in the IR process staff has a list of other species that are commonly used. There are a couple of websites they use to look up the mature height of a species. The sunset guidelines also use a website called selectatree.com for that information.

Chair Baltay expressed favor in reducing the minimum mature height from 25 feet to 13 feet, and the width to 3 feet.

Vice Chair Rosenberg suggested knocking it down 10 feet.

Chair Baltay reminded these are intended for two story homes.

Boardmember Adcock many landscapers will have different mature heights so I may be better to use a range such as 12 to 15 feet.

Boardmember Chen said they had in the past required the height of a tree but as tall as the windowsill on the second floor, the math on that will require 15 feet if you include the floor thickness.

Chair Baltay inquired if Consultant Mammarella had an opinion.

Consultant Mammarella believed they were having a good discussion regarding the height of mature shrubs, mainly the issue of subbing shrubs for trees in a side yard is whether they have the capacity to

screen the upper floor of the house rather than being a fence high shrub. Consideration is needed to determine what is already in place. He believed 15 feet is a decent height on mature shrubs.

Chair Baltay inquired if there was Board consensus on a minimum of 15 feet high with a minimum width of 3 feet. Everyone agreed. Chair Baltay asked Consultant Mammarella if an adjacent property owner submits in writing a statement that they agree to not have privacy screening, could that be used instead of meeting the requirement. Consultant Mammarella stated when that had come up in the IR review context, they had required some type of landscaping on the side yards, but it was a height concern and would allow them to select items with a more limited height, a compromise that works with the neighborhood.

Boardmember Hirsch commented that the city doesn't have a way of regulating those types of requests.

Planner Kallas explained the issue with that type of scenario is that the city can't require the property owner to reach out to the neighbors that they are filing the project.

Chair Baltay continued to pose the question of letting two neighbors agree on privacy to include none, if that is what both parties want.

Chief Planning Official Amy French commented they had been ready to move further into the list and spent a good amount of time on something the ARB will never be involved in and suggested that staff take is as advisement with the ARB feedback and continue forward.

Chair Baltay requested planning raise the question to Council to see if it's viable to have an agreement form for neighbors who may not want any privacy screening.

Chair Baltay moved into item B8 – Planting type and size and had questioned whether a native species should be included and questioned the 8 feet requirement when planting a shrub.

Planner Kallas explained this is a standard condition of approval for Individual Review projects, it is something that staff does as part of the final inspections of projects and something that most applicants have been able to meet.

Boardmember Adcock believed the native species is a good idea, but believed if they planned to ask for some amount of native it should also include a percentage.

Chair Baltay asked if it was possible for staff to print a list of native trees and their heights to avoid future discrepancies. Planner Kallas responded they currently have a list that is essentially available upon request by the applicants. That list includes evergreen screening landscapes, drought tolerant regionally adapted screen trees, which applicants are able to ask if they don't know what they want to plant. These projects are also required to meet the other code requirements in the Water Efficient Landscape Ordinance (WELo) that encourages native species.

Boardmember Adcock commented that WELo helps however it's more about drought tolerance than native.

Chair Baltay mentioned he made the suggestion because it's a clear requirement in the ARB findings under the landscape requirements.

Moving into item B9, planting in utility easements, Chair Baltay requested clarification if this item requires planting in a Public Utility Easement (PUE) or if it's saying where to plant if you have one.

Planner Kallas responded the intent is to note that public utility easements (the last five feet of rear yard when present) are not exempt from the landscaping requirements of one per twenty-five feet and therefor is more of a reminder to applicants that that landscaping has to be planted outside of the public utility easements. There are height restrictions depending on if the utilities are above or underground. The utilities department preference is for nothing to be planted in the easement.

Vice Chair Rosenberg questioned how this would affect ADUs that only have a four foot setback.

Planner Kallas explained that the one per twenty-five feet is not intended to create a continuous hedge, it would be typical for there to be the ADU and then two or three trees planted at the five foot line.

Vice Chair Rosenberg debated that if there were a 25 foot ADU in length that abuts the 5 foot easement, a notch would have to be cut into the easement in order to plant the tree.

Chair Baltay noted that B7 states that the screening has to be within the interior lot lines, the board has been assuming that meant the side lot lines and questioned if the rear lot line was included.

Planner Kallas confirmed the rear lot line is included. The privacy landscaping is secondary to the permanent privacy requirements which on the side yard are fairly substantial with the five foot sills and the upscaled glazing, the rear facing windows or side facing windows that are more than 20ish feet away from the property line, you're allowed to have larger and fairly clear windows; the landscaping in those areas become the primary privacy feature.

Consultant Mammarella added this is only a quantity standard. It's not saying that every twenty-five feet, it's only saying what quantity has to go in, they have the flexibility to plant it anywhere in the property that makes that work.

Chair Baltay questioned if that was true. Planner Kallas replied the one every twenty-five feet applies per property line, but they do not have to be evenly placed.

Vice Chair Rosenberg commented that the measurements are appropriate, suggesting the working of the item could be revised to prevent people from placing three trees on a 75 foot lot, together in a corner and calling it a day. The intent is for privacy, which would not be achieved if the trees were planted at will.

Chief Planning Official French stated staff would take a look at the wording.

Boardmember Hirsch asked what the fencing requirements are at the rear line between two properties.

Planner Kallas stated technically per the zoning code fences are not required, it is a choice of the property owners although staff rarely sees an owner who chooses not to have a fence. The maximum height for the interior side that is at least sixteen feet back from the property line and around the rear yard is seven feet.

Chief Planning Official French added there are no building permits required for fences on single family properties.

Chair Baltay asked if there was any way to eliminate B9 altogether and leave it between the applicant and the utility district of where they put the tree. It's a mistake the way it's being handled as there will be many lots that will result in trees where people don't want them.

Consultant Mammarella commented that people often see there's an easement and don't plan for landscaping and then they get backed into a corner. If the Board feels that the presence of the easement diminishes the need for the landscape, then that would be your sentiment on it. However, if you feel the landscape is important, having the requirement would let the people know they can't get out of landscaping just because they happen to have an easement they have to accommodate.

Chair Baltay suggested wording the item as a landscaping is required even in the presence of an easement.

Planner Kallas believed the original expectation was the trees would be on the perimeter of the property, and the standard allows them to be outside of the easement, which is also a requirement anyway.

Chief Planning Official French suggested adding shrubs with trees for E-9, so that bamboo could be included.

Chair Baltay suggested wording the item as a landscaping is required even in the presence of an easement.

Chief Planning Official French stated staff had their feedback and requested the Board move on.

Chair Baltay refused and stated he wanted to call a vote and requested Board comments on his request.

Vice Chair Rosenberg commented that she appreciated Ms. French's concept that it could be trees or shrubs, flexibility is important, she is aware of other cities that don't allow any planting in a utility easement. There is a conflict between trees planted that will later have to be removed because they weren't initially planted in an allowed area. In a PEU it should only be shrubs, they are easier to cut down, they are easier to replace, and are usually more cost efficient; shrubs can also be placed in mobile containers that can be rolled to a different location quite easily.

Chief Planning Official French commented staff would not allow an oak tree to be planted in a PEU, as it is a protected tree.

Chief Planning Official French stated that would be an elegant way of stated we change it to only include shrubs so we can move on.

Chair Baltay moved on to item B-10 – Privacy screening which seems to repeat what was already discussed and noted if they combine B-10 with B-7 it tends to answer the spacing of the trees concerns.

Planner Kallas responded staff would note that feedback.

Boardmember Chen questioned regarding B-9 if they should run the shrubs change by the Public works since they have height restrictions due to their equipment in the easement.

Planner Kallas responded that staff would look into that.

Chair Baltay moved on to B11 – Second Floor Window Privacy and commented that for any upper floor windows, stairways windows, bathroom or hallways windows are not subjective to the privacy requirement and is typically resolved in the IR process.

Vice Chair Rosenberg referenced minimum sill height of five feet from finished floor automatically prohibiting any emergency egress windows from being on those façades and commented that the unintended consequence of the five foot minimum sill height is that there will never be a bedroom window facing the neighbors. That increases privacy and forces applicants to regulate the windows to the interior of the lot, however, five foot tall windows present a challenge for people who aren't tall.

Chair Baltay responded there is an option of using translucent glazing and is quite usual in the IR process.

Staff confirmed for Vice Chair Rosenberg that five feet is used in the IR process.

Consultant Mammarella commented that Chair Baltay's suggested is correct depending on how large the windows measure and what they are facing. Often if there is a large hallway window that faces down into the neighbors house obscure glazing would be required. Those situations are less of a privacy concern but not completely without cause for concern. It's a case by case basis.

Planner Kallas stated that item C addresses the stairway windows and suggested it might be reworded to ensure the understanding is the window is five feet above the stairwell finished landing floor, not the finished ground floor.

Consultant Mammarella confirmed for Chair Baltay that the wording of the item is close to the current IR standard. The difference is the distance to the yard. The IR standard does not specify the distance and uses 'close proximity.'

Boardmember Adcock expressed concern that the item regulates the side yard distance at 20 feet from a yard and an SB 9 project a 20 would never foot space between the project and a neighbor and suggested adding wording to allow a shorter distance for a stairwell window.

Consultant Mammarella responded that the item is interpreted such that if the distance is less than twenty feet the regulation applies; if the distance is greater than twenty feet it does not. The code currently states you can't build a second story less than twenty feet from the rear lot line so it would never apply for a rear lot facing second story window.

Planner Kallas added that for context, a 20' distance from the rear property line comes from Director hearing interpretations when there have been neighbor concerns regarding privacy across rear property lines; property greater than a distance of 20' is not required to have obscured glazing on windows facing the rear yard.

Chair Baltay inquired about the standard applying to first floor windows when the finished floor is more than two feet above grade.

Planner Kallas explained that standard is a departure from the IR standard, but consistent with the ADU standards that was recently adopted due to neighborhood concerns about elevated floors in flood zones where the seven foot fence is not sufficient for providing first floor privacy.

Chair Baltay asked if the intent is to apply that to all houses in town, as most are above two feet off the ground, this will result in no side windows on a house.

Chief Planning Official Amy French stated that perhaps there is a setback that can be included. ADU's can all be four feet from the property line. Normal houses that are not SB 9 projects have to follow current setback standards.

Boardmember Adcock stated even normal houses are generally within a twenty foot setback on the side property lines.

Chief Planning Official Amy French suggested possibly rewording the last line of the item specifying the four foot setback restriction.

Planner Kallas added that the intent was for the first floor windows less than twenty feet away and elevated above grade. This standard was added as part of the change to the ADU code, the ARB may want to consider separating it into a different one for elevated one story house windows overall.

Chair Baltay agreed it should be separated out and not be listed under two story privacy and Ms. French's suggestion made a lot of sense. Add the addition on the setback of four feet, not six feet, then the standard is triggered, much like they do for ADUs. He cannot accept the current level of restriction on a house with a six foot setback on the side yard, one the ground floor windows.

Chief Planning Official Amy French responded so noted.

Chair Baltay moved into item B12 – Operable windows along the side property line and inquired how the standard applies to a double hung window.

Consultant Mammarella responded that this would allow double hung vertical sliding windows, it restricts horizontal sliding windows.

Chair Baltay asked what the difference is between the two as related to privacy.

Consultant Mammarella answered that the horizontal sliding windows with glazing allows the exterior view when the window is open. There is still some view with the vertical however it has been found that the bottom part of a vertical window has less affect on the view than the entirety of a horizontal open window.

Chair Baltay suggested using the specification of hinged window sash, which would encompass tilt turn windows and other privacy concerns.

Boardmember Adcock expressed concern that eliminating only one type of window is more a hindrance on architectural language than a solution to privacy issues from adjacent windows.

Vice Chair Rosenberg agreed and stated that her concern with a hinged window is those can be opened 100% and there is zero privacy. Overall, she felt they were overregulating windows.

Chair Baltay inquired from staff how often operable windows cause privacy concerns.

Chief Planning Official Amy French stated they have had several appeals where she stood in bathrooms and based on the direction of the window there were definitely privacy concerns with open windows.

Planner Kallas added that the standard was also written with the knowledge that there may be a potential requirement for fire egress windows, and they are not allowed to require only fixed windows that would prevent adequate fire egress. The standard was written as a compromise to all of those things.

Chair Baltay commented he felt they were making the process too complicated by regulating how a window functions. It's important to be consistent with the process in the IR standards, this is what is recommended they should stick with it.

Consultant Mammarella responded it doesn't come up in every IR, but it does come up enough to warrant some type of standard.

Chair Baltay moved on to B13 – Side Daylight Clearance. The daylight plane requirement was lowered to eight feet from ten feet for side yards.

Chief Planning Official Amy French noted this had been dealt with in previous discussions with the ARB about daylight planes, those notes can be forwarded for this process, and expressed an interest in continuing the Eichler section at the December 21st meeting since there are two ad hoc items following this meeting and she has another meeting at noon.

Boardmember Hirsch commented that the change in B12 would severely impact existing houses and questioned the reason for the reduction.

Planner Kallas spoke regarding the changes in the daylight plane were directly based on prior ARB feedback to not have a daylight plane plus a step back, it's also consistent with current IR interpretations that when adjacent to a single story house, the City requires them to be two feet below the current daylight plane. The rephrasing here was to eliminate the wording 'two feet under the daylight plane' and say the daylight plane is measured from eight feet instead of ten feet.

Chair Baltay stated he's okay with the change. It's restrictive but to staff's point the ARB has already discussed the item and that was their prior compromise.

Boardmember Hirsch disagreed stating in a tighter situation that would eliminate square footage from some buildings.

Chair Baltay responded that people are entitled to go through the discretionary process instead if they'd like and asked for any additional Board comments; noting that the Board's stance was four members okay with the item and one member strongly objecting to it.

Boardmember Hirsch stated he'd like to keep the daylight plane at ten feet.

Vice Chair Rosenberg stated she's a huge advocate for the daylight plane but feels they are again being too overly restrictive.

Boardmember Adcock agrees that it may reduce square footage on the first floor as well.

Vice Chair Rosenberg inquired about the daylight plane angle.

Planner Kallas answered forty-five degrees, and this is something they are currently doing on other IR projects that are adjacent to single family houses.

Vice Chair Rosenberg stated her vote would be to leave it as it is written.

Chair Baltay asked if there is an exception for flood zone properties that have a height increase.

Planner Kallas stated not as it is currently written, the way the daylight plane is currently measured, there is one half of the difference between the existing grade and the base flood elevation, which does create an addition bump to the daylight plane, which would apply in this case.

Chief Planning Official Amy French suggested adding wording about the flood plane.

Chair Baltay agreed that would be important.

Boardmember Chen is in agreement with the wording change.

Vice Chair Rosenberg also agreed.

Boardmember Adcock agreed.

Boardmember Hirsch continued his stance against the standard.

Chair Baltay moved into item B14 – Contextual Roof Pitch and asked who else on the ARB felt this one was wildly inappropriate.

Vice Chair Rosenberg agreed, the owners should be allowed to follow the daylight plane.

Chair Baltay requested the standard be removed.

Boardmember Hirsch agreed it should be removed.

The ARB was in consensus, B14 should be removed.

Planner Kallas noted their request and commented that this is something that would get revisited when they look at the ones that specifically pertain to an Eichler context as a subjective standard.

Chief Planning Official Amy French requested a vote to continue the Eichler standards to a date certain of December 21, 2023.

Motion: Moved by Vice Chair Rosenberg, seconded by Boardmember Chen, to continue section E to a date certain of December 21, 2023.

VOTE: 5-0-0

Public Comment

None

Boardmember Questions, Comments or Announcements

None

Adjournment

Chair Baltay adjourned the meeting at 11:51 a.m.