



Council Chamber
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 Monterey, California

Planning Commission Annotated Agenda

Regular Meeting
 November 12, 2008

**Afternoon Session Only
 4:00 p.m. – 6:30 p.m.**

Commissioners

Luis Osorio, Chair
 David Stocker, Vice-Chair
 Toynette Bryant
 Paul W. Davis
 Leon Garden
 Willard McCrone
 Ralph Widmar

CALL TO ORDER

Chair Osorio called the meeting to order at 4:00 P.M.

ROLL CALL

Commissioners Present: Bryant, Davis, Garden, McCrone, Osorio, Stocker, Widmar
Commissioners Absent: None
Staff Present: Chief of Planning Chip Rerig, Principal Planner Kim Cole, Senior Planner Forrest Ebbs, City Engineer Tom Reeves, Recording Secretary Terry Lebda

PUBLIC COMMENTS

PUBLIC COMMENTS allows the public to speak for a maximum of three minutes on any subject, which is not on the agenda. Any person or group desiring to bring an item to the attention of the Planning Commission may do so by addressing the Commission during Public Comments or by addressing a letter of explanation to: Planning, Engineering and Environmental Compliance Division (PEEC), City Hall, Monterey, CA 93940. The appropriate staff person will contact the sender concerning the details. Note: Public Comments are taken during the afternoon session and continued at the evening session. Individuals may choose to speak once for up to three minutes at either session, but not both.

Bob Grimes, resident of Old Town and Commander of the American Legion Post 41, said that the only observance of the November 11 Veteran's Day was at their Post, placing flying flags at the Post and at the cemetery, but there were no flags on Veterans Way near the campground.

Chief of Planning Chip Rerig said that the Planning, Engineering and Environmental Compliance Division have successfully filled one out of ten vacancies within the Division. He introduced Senior Associate Planner Christy Hopper and thanked Commissioner Stocker and Commissioner Davis for sitting on the interview panels. He said that the Associate Planner position has also been filled by Tricia Wotan from Pacific Grove and she will start on November 24.

APPROVAL OF ANNOTATED AGENDAS

October 14, 2008

ACTION: Approved as submitted. 5-0-2 (Abstain-McCrone, Osorio)-0.

MOTION:

On a motion by Commissioner Garden, seconded by Commissioner Davis, the Annotated Agenda of October 14, 2008 was approved as submitted. The motion passed by the following vote:

AYES:	5	COMMISSIONERS:	Bryant, Davis, Garden, Stocker, Widmar
NOES:	0	COMMISSIONERS:	None

ABSTAIN: 2 COMMISSIONERS: McCrone, Osorio
ABSENT: 0 COMMISSIONERS: None

REVIEW OF CONSENT ITEMS

REVIEW OF CONSENT ITEMS allows for a review of those items recommended for approval on consent or recommended to be continued, tabled or withdrawn, etc. CONSENT ITEMS consists of those items which are routine and for which a staff recommendation has been prepared. A member of the public or a Commissioner may request that an item recommended for approval on consent be heard on the regular agenda for further discussion.

PUBLIC HEARINGS

PUBLIC HEARINGS are held to receive public comment on certain items pending Planning Commission action. You are welcome to offer your comments after being recognized by the Chair. The Chair may limit the time allocated to each speaker. Project representation is required.

1. **449 Alvarado Street and 470 Tyler Street; Rezone and Lot Line Adjustment Permit 08-221; Applicant Nader Agha; Owner Holman Building Associates, L.P.; C-2-H-1 Zoning District; Exempt from CEQA Requirements.**

Recommendation to City Council for consideration of the Historic Preservation Commission recommendation to approve a Lot Line Adjustment (between three (3) existing lots, resulting in two (2) lots) and rezone the parcel along Alvarado Street from C-2-H-1 (Community Commercial with H-1 Historic Overlay) to C-2 (Community Commercial).

ACTION: Recommendation to City Council for approval of the lot line adjustment and rezone as submitted. 7-0-0.

Staff Presentation/Commissioners Questions:

Kim Cole presented the staff report and answered Commissioners' questions. For clarification, Tom Reeves said that there is not a Final Map; rather, modifications will be documented with a Deed and Certificate of Compliance.

Applicant:

Jim Wurz of Bestor Engineers, representing the applicant, said that they have prepared an ingress/egress map as part of the proposal and they have received their recommendations from the utility companies. He said that the access easement along side of the property was at one time deeded to the property and the title company is researching it to be sure it is part of the property; if not, the applicant is prepared to get whatever easements are required. He said that the proposed conditions are fine with them.

Public Comments:

Alex Hubbard, Hubbard and Hubbard, said he is representing Saucito Land Company who is also a party to the land easements. He said they have concerns with the proposed Condition of Approval 2 and they do not want the lot line adjustments to negatively impact their property. He said that the easement in question is only 12 feet wide. He said that because there is no allowance vehicular access from Alvarado Street, any access to these parcels would have to be from Tyler Street.

Ms. Cole said that, as proposed, there is no change to the easement that exists and the only clarification is that the trash from 449 Alvarado can be taken out in barrels and put on Tyler Street. She said that as proposed there are no changes to the rights to that easement in regards to use, size, shape, or location. Mr. Reeves said that the issue is the ability to take out the trash over that easement, and emergency and utility ingress and egress.

Commissioner Stocker asked for clarification from Mr. Hubbard that there is no issue with rezoning to a historic property and there is no issue with merging of lots, but the only issue is making sure easements stay in place pertaining to the Saucito lot. Mr. Hubbard said that they are working with the title company to find out where the

easements are located. Mr. Reeves said that if they cannot fulfill Condition 2, then the lot line adjustment would not proceed. They will need to prove that there are existing ingress and egress emergency and utility easements or they will create those in order to facilitate that condition. If the condition is not met, then he would not sign the Certificate of Compliance.

Mr. Wurz said that if the easements are not accessible or do not go with the property, Mr. Agha will furnish separate easements for the utilities.

Mr. Hubbard said that Jerry Anderson, representative of Saucito Land Company, is here and responded, in answer to Commissioner Bryant's earlier question, that there was an access contract agreement but it is no longer in affect.

Commissioner Comments:

Chair Osorio inquired if the Commissioners had adequate information to address Mr. Hubbard's concerns. Mr. Reeves responded affirmatively. Being no comments, Commissioner Stocker moved to recommend to City Council approval with staff conditions. Commissioner McCrone seconded the motion.

MOTION:

On a motion by Commissioner Stocker, seconded by Commissioner McCrone, it was moved to recommend to the City Council approval of the lot line adjustment and rezone as submitted. The motion passed by the following vote:

AYES:	7	COMMISSIONERS:	Bryant, Davis, Garden, McCrone, Osorio, Stocker, Widmar
NOES:	0	COMMISSIONERS:	None
ABSENT:	0	COMMISSIONERS:	None

2. 156 Stephen Place; Subdivision 08-314; Applicant/Owner Chris Dinner; R-1-15 Zoning District; Exempt from CEQA Requirements.

Recommendation to the City Council to amend a Final Subdivision Map. The amendment alters the building envelope for Lot 3 (156 Stephen Place).

ACTION: Recommendation to City Council for adoption of the resolution amending the Final Map. 7-0-0.

Staff Presentation/Commissioners Questions:

Kim Cole presented the staff report and answered Commissioners' questions.

Applicant:

James Smith, Architect, explained the changes and the proposal will give the buildings some breathing room and the building will be moved back to the original location.

Public Comments:

None.

Commissioner Comments:

After staff answered Commissioner Garden's question, he moved to recommend to City Council approval of amending the Final Map as submitted. Commissioner Widmar seconded the motion. 7-0-0

MOTION:

On a motion by Commissioner Garden, seconded by Commissioner Widmar, it was moved to recommend to City Council adoption of the resolution amending the Final Map. The motion passed by the following vote:

AYES:	7	COMMISSIONERS:	Bryant, Davis, Garden, McCrone, Osorio, Stocker, Widmar
NOES:	0	COMMISSIONERS:	None
ABSENT:	0	COMMISSIONERS:	None

3. 414 Larkin Street; Appeal 08-323 of Architectural Review 08-296; Appellant/Owner Nelson Vega; R-3-6 Zoning District; Exempt from CEQA Requirements.

Appeal of Architectural Review Committee decision to deny an application to install six sliding glass doors and balconies on the first, second and third floors of the existing three-story multifamily building.

ACTION: Denied the appeal and upheld the Architectural Review Committee’s decision. 4-0-3 (Abstained-Davis, Osorio, Widmar)-0.

Staff Presentation/Commissioners Questions:

Commissioner Davis, Commissioner Widmar, and Chair Osorio recused themselves from this item. Vice Chair Stocker called for a recess at 4:45 p.m.; the meeting reconvened at 4:47 p.m. Forrest Ebbs presented the staff report and answered Commissioners’ questions.

Appellant:

Charlie Hornisher of the Paul Davis Partnership said that Appellant Nelson Vega has made improvements bringing the building up to code and creating a better architectural style. He said that the Old Town Area Plan section 1.1.4 is in conflict with section City standard 1.1.12, that the wording is not clear and policy should follow city standards rather than old town standards. He said that the three foot balcony is not open space; that the ARC said the openings were a modest impact, and that there is no language in the Old Town Area Plan that links a remodel with new development, but they are being held to new development standards. He said that they proposed removing the balconies and replacing them with plastered guard rails prohibiting anyone from inhabiting the balcony space reducing view impact concerns because the eyes will naturally look upwards out to the bay. He said that the ARC found that no reduction of balcony would suffice; they also suggested that they would remove the lights in question.

Public Comments:

Elisa Manuguerra said that she has concerns regarding the inconsistencies with Old Town Area Plan. She said they did not have permission to build the balconies and the Planning Commission should uphold the ARC decision to deny the appeal for the cantilevered balconies. She said that there are privacy and lighting impacts and the balconies significantly encroaches onto their property.

Mary Ann Finocchi, Chairman of the Old Town Area Plan Committee, said that she was surprised when their plan changed from windows to balconies with sliding doors and lights, which invades the privacy of the neighbors. She said that this is inconsistent with the policies of the Old Town Area Plan, and she requested that the Planning Commission uphold the ARC decision and deny the appellant’s request.

Colleen Sullivan said that she, too, was a member of the Old Town Area Plan Committee and she recalls that their intent was clear regarding privacy standards for both old and new construction. She said they worked hard on this area plan and they do not wish for it to be ignored. She asked why this project was not red tagged before and urged the Planning Commission to deny this appeal.

Bob Grimes said that he also served on the Old Town Area Plan Committee and the sections in question were created to eliminate problems between single family residents and apartment complexes. He said he was at the ARC meeting and he thought their deliberations were well done and he concurred with the ARC findings to deny the project.

Mike Dawson said that the ARC decision was based on the fact that the balconies were done without a permit and that the design violates Old Town Area Plan policies and significantly impacts neighbors. He said that he understands that Mr. Vega would like to find a middle ground.

Barbara Bass Evans said that she supports the neighborhood plans as code, law, and as adopted. She said she supports the ARC decision and that she is concerned that this construction proceeded without a permit and that the contracted company gave permission to go ahead without presenting plans, and that the companies representatives serve on Commissions.

Sharon Dwight, President of the New Monterey Neighborhood Association, said that this item was discussed at their Monday's meeting and they are Interested in consistencies with area plans. She said that their concerns are with the first floor balconies needing sliding doors and a balcony for a storage room and that the inconsistent style of the building is inappropriate. She said that the lighting will spill down to neighbor and that the Arc considered a solid balcony but found that the privacy impact would not be sufficiently mitigated. She said a three foot wide balcony would be a privacy impact; and 18" wide balconies were discussed, but a 9" depth was never discussed. She said that she believes the ARC approached this appropriately, denying the design.

Nelson Vega said that he had a permit to do the structure with the side decks approved and in the process a few changes were made. He said that he visited with staff who directed him to put the changes on the plans and he was of the understanding that was an approval. He said the windows were changed in April, but now in November the concern arose. He said that post 1950's buildings are not required to meet the full Old Town objectives and that he respects citizens and their rights. He said this was not arbitrary or capricious and he believes the lower level should have access to the outdoors. He said that neither staff nor the architects did anything wrong and he is willing to compromise on the privacy issues, but the letter of the law is on his side and he did more than what was required. He said he can block out the bottom of the windows or create a solid balcony railing. Mr. Vega answered Commissioner Garden's question stating, no, he does not have a building permit for the sliding glass doors on the side of the building.

Commissioner Comments:

Mr. Ebbs clarified that he had a meeting with the appellant and the architect and he directed them to come back with modified plans. The perceived permission did occur at that point but there was a misunderstanding. He said that the post 1950's ruling is that the older apartment buildings do not need to convey older appearance, and the applicant is providing a more traditional design to it and the ARC does not want to change the style. Commissioner Bryant said that she would like to see the balcony doors replicated back to what was there previously. She said that she has experienced in her own neighborhood that the view and lighting is a privacy impact, but conversations from balconies can be heard by others. She is pleased that the applicant has removed the lights and improvements to the building have been made, but that the balconies are not appropriate.

Commissioner Garden said that he agrees for different reasons and he moved to deny the appeal with findings made by ARC and that they made no error in their decision. The condition associated is that this elevation is to be restored to the approved existing building permit, which is converting back to windows of the approximate same size and width, not sliding doors. Commissioner McCrone seconded the motion stating that he did not find any inconsistencies. He said that buildings prior to the 1950's are not required to conform, but one that should be looked at if there is a remodel. He said that he does not want to impose requirements not asked for, specifically, the remodel should not take the form of cantilevered balconies. He agreed that sliding doors will be open and conversations will be heard, hence privacy rules. Commissioner Stocker said that he does not find that ARC made any errors. He said that if there was a consideration for hiding the bottom half of the sliding glass doors, then that design concept would need to go back to the ARC for review. He said that with that concept, privacy impacts would not be mitigated.

MOTION:

On a motion by Commissioner Garden, seconded by Commissioner McCrone, it was moved to deny the appeal and uphold the Architectural Review Committee's decision. The motion passed by the following vote:

AYES:	4	COMMISSIONERS:	Bryant, Garden, McCrone, Stocker
NOES:	0	COMMISSIONERS:	None
ABSTAIN:	3	COMMISSIONERS:	Davis, Osorio, Widmar
ABSENT:	0	COMMISSIONERS:	None

Chair Osorio called for a recess at 5:45; the meeting reconvened at 5:47 pm.

4. Consideration of Amendments to Chapter 38 of the Monterey Municipal Code (Zoning Ordinance) to Eliminate Code-Prescribed Submittal Requirements and Delegate Authority to the Planning Commission and Architectural Review Committee.

Advisory recommendation to the City Council to amend the Zoning Ordinance to allow the Planning Commission and Architectural Review Committee to adopt submittal requirements by resolution.

ACTION: Recommendation to City Council for approval of the proposed amendments to the Municipal Code and the proposed submittal requirements for Use Permit and Variance applications. 6-1 (Noes-Stocker)-0.

Staff Presentation/Commissioners Questions:

Forrest Ebbs presented the staff report and revised the Zoning language per ARC comments at their November 5, 2008 meeting. He answered Commissioners' questions.

Public Comments:

Mike Dawson was against this Code amendment saying that the only difference is that any future changes to this Code do not need to go to City Council for approval, which is a minor change. He said he has a problem with consistencies, if Planning Commission is making a checklist and ARC another, there is no consistencies in the review process. As it is now, it goes up from ARC, to PC, to Council with consistencies built in. He said that since there is no problem, save time and don't do it.

Barbara Bass Evans said that she supports the previous speaker regarding consistencies and that the Code needs to be examined across the board for consistencies. She said she was concerned with the wording that at the discretion of the Chief of Planning, submittal of all items may be waived, which can be open for abuse. She raised the question whether this encouraged public input or shut down public input, and whether or not it supports consistencies? She said she likes what staff is doing by making it simpler, but the City needs to make everything consistent. She suggested that maybe a direction for staff is for consistent area plans and checklists develop from that.

Sharon Dwight, President of the New Monterey Neighborhood Association, said that anything adopted by Resolution is taken as a guideline and not the code of law. She said with the addition of the Green Building Checklists and requirement for an Engineers report, time is best served by bringing the Code current, but leaving it in the Zoning Ordinance. She said it is not an effort for the City Council to hear these types of items and it is very important to have public process.

Commissioner Comments:

Mr. Ebbs clarified that the notion of the Chief of Planning, Engineering and Environmental Compliance waiving requirements will be part of the checklist. He said that the current process for ARC regulations to be approved by the Planning Commission is asking them to do something that they legally are not required to do and guidelines are typically adopted by resolution which has the full weight of the ordinance and law.

Commissioner Stocker said that what has been proposed with some modifications is appropriate. He said that what ARC wants needs to come to the Planning Commission and should be by resolution or it will take years to make minor corrections and does not make sense. He said he would like to see the current application process streamlined so that applicants know what is expected of them. Commissioner McCrone said that the Planning Commission and staff are here to serve the public and that is the purpose of the checklists. He said that the

Commission should be able to change the checklist whenever necessary so that the public can be informed as soon as possible and to require a change to the Zoning Ordinance is absurd. He moved to approve staffs recommendation as submitted. Commissioner Davis seconded the motion.

Commissioner Garden said that he is not ready to discuss the items on the checklist and would want it to come back for the opportunity to add those things that were overlooked. He also suggested that the motion be revised in, that the language in 38-91 that the ARC resolutions be made and approved by the Planning Commission rather than only the Architectural Review Committee. Commissioner McCrone said that he would not change his motion because the Architectural Review Committee should determine what they want to see in their review process and applicants don't need to meet with the Planning Commission if the item is not in the purview of the Planning Commission.

Commissioner Garden said that he is disappointed that he is seeing piecemeal changes to the Zoning Ordinance and that for years he has asked that the Zoning Ordinance be reviewed and brought into compliance. Commissioner Widmar said that obvious exceptions can be noted, for instance interior modifications do not need a full survey. He said that there are areas to identify where language can be simplified such as if it is interior design or not. Commissioner Davis said that this is only a checklist and Monterey is the only city in the Peninsula that does not have an integrated checklist. He said that as an applicant, he wants the checklist and it is transparent as everybody knows what is being submitted. He said that ARC decisions will still go through a public process and will be heard by the Planning Commission if appealed. He said this is less erroneous than the current process and it supplies a consistent list that staff can use to guide applicants. He said that more is being made of this than it really is. Commissioner Bryant said that her questions have been clarified and what she likes about it is that it is easier to change a Resolution as needed than it is to change an Ordinance. Chair Osorio said that every item on a checklist does not apply to every project and that a resolution is as valid as what is in the ordinance; it is a legally binding adopted document. He said there is public involvement because all projects or application are open to the public as visited by the individual committees.

MOTION:

On a motion by Commissioner McCrone, seconded by Commissioner Davis, it was moved to recommend to City Council approval of the proposed amendments to the Municipal Code and the proposed submittal requirements for Use Permit and Variance applications. The motion passed by the following vote:

AYES:	6	COMMISSIONERS:	Bryant, Davis, Garden, McCrone, Osorio, Widmar
NOES:	1	COMMISSIONERS:	Stocker
ABSTAIN:	0	COMMISSIONERS:	None
ABSENT:	0	COMMISSIONERS:	None

Revised Language Per November 5, 2008 ARC Meeting Comments:

38-158 Submittal Requirements

Submittal requirements for Use Permit and Variance applications shall be developed, maintained, and adopted by Resolution by the Planning Commission and shall be made available to the public at City Hall.

38-184 Required Plans and Materials

Submittal requirements for Development Review Committee review shall be developed, maintained, and

adopted by Resolution by the Planning Commission *and shall be made available to the public at City Hall.*

38-191 Required Plans and Materials

Submittal requirements for Architectural Review shall be developed, maintained, and adopted by Resolution by the Architectural Review Committee *and shall be made available to the public at City Hall.*

COMMISSION COMMENTS

Commissioners may ask a question for clarification, make a brief announcement or make a brief report on his or her activities. In addition, the Commission may provide a referral to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any City matter, or direct staff to place a request to agendaize a matter of business on a future agenda (G.C. 54954.2).

5. Response to Commissioners' Comments at October 14, 2008 meeting. Report received.

New Comments:

- Commissioner McCrone made comment that the park next to the Monterey Plaza Hotel is obliterated and is a waste of excellent landscaping. He requested that staff notify the Parks Division regarding this matter.

PLANNING DIVISION UPDATES

This report supplies information on activities or announcements and may request clarification or direction regarding scheduling of Commission meetings and study sessions.

6. Planning Division Updates. Report received and reviewed. No additional updates to report.

ADJOURNMENT

There being no further business, the meeting adjourned at 6:30 P.M.

APPROVED:

ATTEST:

Planning Commission Chair Luis Osorio

Principal Planner Kimberly Cole, AICP

Respectfully Submitted, Terry Lebda
Recording Secretary
Planning Commission