

**CITY OF BELMONT**  
**PLANNING COMMISSION**  
**SUMMARY MINUTES**

**TUESDAY, SEPTEMBER 6, 2011, 7:00 PM**

Chair Reed called the meeting to order at 7:00 p.m. at One Twin Pines Lane, City Hall Council Chambers.

**1. ROLL CALL**

Commissioners Present: Reed, Mercer, Parsons, Horton, Mayer, Wheeler, d'Souza  
Commissioners Absent: None

Staff Present: Community Development Director de Melo (CDD), Senior Planner DiDonato (SP), Associate Planner Gill (AP), Interim City Attorney Kane (ICA), Recording Secretary Turning (RS)

**2. AGENDA AMENDMENTS - None**

**3. COMMUNITY FORUM (Public Comments)**

Damon Campbell, San Carlos resident, addressed the Commission. He introduced himself as the applicant for the City of Belmont's Monte Cresta Hillside Road Improvement Plan, which he expects will come before the Commission on October 4<sup>th</sup>. Due to the large amount of data and the 4-5 days the Commission will have to review staff's packet, he presented Commissioners with an advance copy of information that he assembled from the Planning Department's files. He asked that Commissioners ask themselves why the road is only 104 feet, why there are retaining walls in a public right-of-way, and how the variables relate to the San Juan Hills Area Plan and the City of Belmont's Municipal Code. He concluded that he looks forward to presenting the project and thanked them for their time.

**4. CONSENT CALENDAR**

**4A. Minutes of August 4, 2011**

Referring to page 8, Commissioner Horton asked that the word "LEAD" be corrected to read "LEED" and that the 5<sup>th</sup> bullet point under her discussion indicate that "the applicant responded that the railing as shown on the ramp was a CAD template."

**MOTION: By Commissioner Horton, seconded by Vice Chair Mercer, to accept the Minutes of Thursday, August 4, 2011, as amended.**

**Ayes: Horton, Mercer, d'Souza, Wheeler, Parsons, Reed**  
**Noes: None**

**Abstain: Mayer**

**Morton passed 6/0/1**

**5. PUBLIC HEARINGS:**

**5A. PUBLIC HEARING - 1019 Maywood Drive**

To consider a Single Family Design Review approval to construct a 550 square foot addition to the existing 1,949 square foot single family residence for a total of 2,499 square feet. (4,227 sq. ft. maximum building size permitted for this site). (Appl. No. 2011-0030)

APN: 045-090-500; Zoned: R-1H (Single Family Residential)

CEQA Status: Categorical Exemption per Section 15303

OWNER: Michael and Nancy Jung

PROJECT PLANNER: Rob Gill, (650) 598-4204

Chair Reed determined that no one on the Commission had any ex parte communications with anyone involved with this project.

AP Gill summarized the Staff Report, recommending approval subject to the conditions attached.

Commissioner Mayer questioned if there had been previous actions on this property, such as the addition of a family room, since the floor plan does not seem to conform to the general pattern in the neighborhood. AP Gill responded that he believed what was unusual is that it is a small lot zoned R-1H.

Responding to Commissioner Mercer's comment that no neighborhood outreach material was attached to the packet, AP Gill stated that he has the material and will see that it is included in the file.

Commissioner Mercer asked for clarification of the inconsistency of the deck as shown on drawings A1 and L1 and questioned if there is a door accessing the patio on the south side yard. Nancy Jung, applicant/owner, came to the podium and stated that there is no other door to the patio and that the deck comes along the walkway to the brick patio and will stay. She will work with staff to assure that the plans are clear.

Chair Reed opened the Public Hearing. There were no speakers.

**MOTION: By Commissioner Parsons, seconded by Commissioner Horton, to close the Public Hearing passed 7/0 by a show of hands.**

Commissioner Parsons stated that he believed the family room was added to the house – that it was not in the original plans for the house – but that did not affect his decision. He could make the findings.

Commissioner Horton could make the findings. She suggested that staff ask applicants to put a point of reference such as the street on drawings as she found these drawings difficult to read.

Commissioner Mercer could make all the findings. She appreciated the small scale and asked that the conditions of approval include clarification of the proposed deck.

Commissioners Mayer, d'Souza, Wheeler and Chair Reed stated that they could make the findings.

It was agreed that the conditions of approval will be changed to require clarification of the deck and at least a north arrow on the drawings, and that the neighborhood outreach materials will be added to the file.

**MOTION: By Commissioner Parsons, seconded by Commissioner Mayer, to adopt the Resolution approving a Single-Family Design Review at 1019 Maywood Drive (Appl. No. 2011-0030) with the amended conditions attached.**

**Ayes: Parsons, Mayer, Wheeler, Horton, d'Souza, Mercer, Reed**

**Noes: None**

**Motion passed 7/0**

Chair Reed stated that this decision can be appealed to the City Council within 10 calendar days.

**5B. PUBLIC HEARING – 2400 Palmer Avenue**

To consider a Single Family Design Review to construct a 1,327 square foot addition to the existing 1,725 square foot single-family residence for a total of 3,052 square feet that is below the zoning district permitted 3,110 square feet for the site. (Appl. No. 2011-0016)

APN: 043-282-010; Zoned: R-1B (Single Family Residential)

CEQA Status: Categorical Exemption per Section 15303

APPLICANT: Coast to Coast Development, Inc.

OWNER: Marc and Joelle Abrams

PROJECT PLANNER: Damon DiDonato, (650) 637-2908

Chair Reed recused himself from this item for personal reasons, turned the gavel over to Vice Chair Mercer, and left the room.

Vice Chair Mercer asked if any members of the Commission had had communication with the applicant regarding this project. Commissioner Parsons stated that he had not talked to the applicant but had received a call from a neighbor and told the neighbor that he was open to listening to what they had to say.

SP DiDonato summarized the Staff Report, recommending approval with the conditions attached. He added that there was extensive neighborhood concern regarding a wide range of issues, and that staff did its best to clarify the issues with the neighbors. He discussed the following concerns in particular:

- Staff reviewed the slope of the site and determined that it was approximately 8% and the total FAR would be consistent with that, based on the total square footage of the lot.
- The applicant made attempts to address some privacy impacts. Some issues remain unresolved in terms of privacy for the adjacent neighbors.
- The applicant revised the project to include a hip roof which addressed some of the issues of building bulk.
- Staff received a communication from neighboring property owners requesting that they address two key zoning issues prior to review by the Planning Commission. Those communications are

attached to the Staff Report. They asked for review of the legality of the garage and the height of the fence.

- Staff reviewed past zoning ordinances to review the legality of the garage and had the Building Official crawl under the house and look at the foundation. He determined that the foundation of the garage was built at the exact same time as the home and they are connected with one pour. Building permits indicate that the garage was built with the house in 1952. Staff reviewed the Ordinance that was in effect at the time and it appears that the house is in substantial conformance with those requirements, although they are very difficult to discern. He noted that the project was built with a permit, it was built and inspected by a City inspector and substantial expenditures had been made by the owner at the time. Staff considers the project legal non-conforming.
- The proposed additions are conforming to all required setbacks. The addition over the garage as proposed conforms to the 15' rear setback as required for the R-1B district.
- The fence was constructed sometime in the 1970's and the City required that the applicant move the fence from its original construction location which was in the public right-of-way to the property line.
- An issue was raised as to whether the fence being 6' high and at the corner was in violation of City ordinance in terms of fence height at an intersection. It was determined that the project site was not technically an intersection and so it could be allowed at that location. However, staff is recommending a condition requiring that the fence be lowered in height because they do not feel that placement and aesthetics are in keeping with the design of the project.

A street concept had been placed on the dais.

SP DiDonato concluded by stating that staff fully evaluated the project and believed that all findings could be made in the affirmative and that the project is very well articulated on many of the façades. However, if the Commission is not in agreement with the two-story element in the front in terms of bulk, staff would recommend that additional articulation occur at its most visible location from the street corner.

Commissioner d'Souza raised the following questions:

- Referring to sidewalks, what are the circumstances under which staff determines what public amenities should be included? SP DiDonato responded that Public Works has certain thresholds that they use that typically involve whether there is a continuation of a sidewalk from adjacent properties as well as the crossroad. Public Works initial review indicated that it did not make sense for a sidewalk in this location but upon further consideration they determined that this project would trigger the threshold to require a sidewalk.
- What were the issues regarding height and how did staff look at it? SP DiDonato responded that the question was how we measure height. The applicant had not initially submitted a section to measure height for the building. He subsequently submitted a revised elevation that showed the maximum height on the project site.
- Questioned if this is in the context of slope. SP DiDonato stated that it is; they measured from average grade and followed the slope along the property. He demonstrated how it was measured on the plans, from the average finished grade to the topmost point of the roof.
- Regarding the neighborhood character, it seemed to him that there are two types of houses – one with the garage set back and the house facing the street, and another with the garage on the side and articulated to the house. This property didn't seem to him to have the same neighborhood

character and questioned how staff makes a decision on what fits in the character of the neighborhood. SP DiDonato responded that they look at the way the house is laid out, where the front door and garage face, general materials, and roof forms. He stated that there is an eclectic mix of styles in the neighborhood in terms of how the garages are incorporated into the house. Some are built right into it with living space above, some are set back a bit, and most of the garages are facing the Palmer Avenue frontage.

- Questioned what the legal options are to meet the zoning code for an addition when there is a bedroom or bath or a right setback that's non-conforming. SP DiDonato responded that the question is what is legal and what is not. In determining that this home was built with a permit and the setback for the garage was evidently conforming enough to be approved at the time, but is not conforming today, it is legal non-conforming to the current code. The City can require that they build to code if they demolish the garage. They cannot do an addition to this garage area that continues the setback. Any addition has to meet the current code and so the upper story addition that they are proposing has to be stepped in 15 feet, which is the required setback for the rear.
- What was the issue regarding solar shading? SP DiDonato responded that his understanding is that it was not necessarily a solar shading issue for passive solar gain to a particular room in the home but rather solar shading to an amenity area for the adjacent residence. Initially, the design of the home included a gable roof which shaded a bit more into the amenity area, so the applicant initially drew in solar access lines in order to indicate where shading occurred, what date and what month that would occur, and then further revised the project to hip the roof. If the roof line was continued straight out, the solar shading would be worse but with the roof hipped it brings it back and allows for less shading on that amenity area.
- What constitutes bulk? SP DiDonato stated that bulk depends on the massing of the building and how it is broken up, so what they look for in terms of breaking up bulk is articulating or setting back the building on different planes. This particular project is set back on multiple planes on multiple elevations.

Responding to Commissioner Mayer's question regarding what portion of the fence will be lowered, SP DiDonato stated that he believed the applicant's proposal is to lower the fence along the driveway apron and for a certain portion up to adjacent to the front of the building. He added that staff disagrees with stopping at that point. They did not see a site distance issue but believed it was very aesthetically displeasing in its current location at 6' high, so they recommended that the fence be modified in some fashion.

Commissioner Horton commented that she had received another letter that day regarding the accessory of the garage. This had already been explained and she thought legally taken care of. SP DiDonato explained that the letter was delivered by an adjacent neighbor right before the meeting and staff had not had an opportunity to look at it. SP DiDonato reiterated that staff's position is that the structure, no matter what it was considered when it was built, whether it was considered an accessory structure that was attached to the main building that couldn't be built over in 1950, they consider this garage as completely attached to the new structure, it is an accessory use within the main structure which can be built over providing that the building occurs within the required setback. Staff considers it to be legal non-conforming, not an attached accessory building. CDD de Melo stated that unless there is information provided in this letter that is compelling, staff continues to believe that all of the actions associated with the construction of this home in 1952 was in conformance with the code at the time and that it is vested and legal, there's a building permit on file, and that they are maintaining the proposed second story addition in conformance with the current code. ICA Kane added for the record that she had

engaged in the review – it was not just at staff level. It did receive the attorney’s office review and concurrence with staff’s conclusions.

Commissioner Parsons confirmed with SP DiDonato that the non-conforming setback would not be in jeopardy if the homeowner decided to extend the garage towards the existing house to make it conforming and that there was no discussion between staff and the applicant as to why they were not proposing to expand the garage at this time. He added that the applicant did meet the City’s standards in leaving floor area on the table for future expansion of the garage prior to reaching the maximum floor area. Commissioner Parsons commented that it seemed to him that when putting this kind of money into this large a house one would want a conforming garage. He added that he did not understand the Public Works decision that this is not an intersection since there are two distinct streets with different names. ICA Kane responded that Public Works looked carefully at the technical definition of an intersection; it has to do with the angle of incidence at which the two streets intersect, and there is no stop sign.

Vice Chair Mercer thanked SP DiDonato for his patient and clear explanation of some of the issues regarding this project. She raised the following questions:

- Since the sidewalk is not illustrated on the plans, she asked how far the sidewalk will extend towards the fence and if there will be a landscaping strip between the sidewalk and the fence. SP DiDonato responded that there is adequate room between the curb and the fence to include a 4-5’ sidewalk at that location. There are 6 to 8 feet, which would allow room for vines on the exterior fence.
- She could not see on the plans where the irrigation system will run. She recalled that the arborist was concerned that some of the lines went under existing trees and were in an area that could not be trenched for new lines and that any new trenching needs to be outside of the tree drip line. SP DiDonato stated that the irrigation plan can be added as a condition of approval.
- She noted that the Staff Report and the applicant’s plan (page T1) shows only 24% hardscape, which does not include the footprint of the house and garage. She calculated that the total hardscape is actually about 54% and asked that that be reflected in the Staff Report.
- She questioned if the Oak tree to the left of the driveway belongs to the neighbor or the applicant. SP DiDonato stated that a recent survey of the property line indicates that the setback between the garage and this property line is actually 5’ so the tree is a bit more on the subject property than was envisioned originally. It might be straddling those lines and the plans should indicate that the Oak as at least a shared tree.
- She noted that the table in the Staff Report shows a 25½’ front setback from the property line on Carmelita Avenue but she does not see a measurement on the plans to confirm that. She asked that all setbacks be clearly labeled on the drawings.

Augie Peccei, project designer, explained that this addition reflects the needs of the owner’s growing family and desire to stay in the neighborhood. He explained in detail his attempts at neighborhood outreach, stating that all neighbors within the proper radius were notified of the April 20<sup>th</sup> outreach meeting and only 3 neighbors came; one from two houses away who approved the project, one diagonally across the street who had no comment, and the adjacent neighbor at 2404 Palmer who had some issues with light shading, privacy, mass and bulk. When he started to address those concerns many more issues were brought up from neighbors whom he had never seen or met or heard from before. He stated that he tried to address the issues in early May by changing some of the windows by making them obscure, reducing the size, turning them into awning windows so that one cannot see out of them but they

could still allow for light and ventilation and gave privacy for people in the bathroom and for the neighbors. He also looked into the solar shading and realized that the gabled roof design that he felt was slightly more attractive presented a slightly larger bulk to the house, so he changed all of the roofs, except for the two front gables, to hip roofs, which drastically reduced the overall bulk and massing of the house and reduced the solar shading on the neighbor from two and a half months or so to about 6 to 8 days. It was his understanding that there are no ordinances stipulating that he must adhere to this design but as part of the neighborhood outreach he tried to find a happy medium between the house that the owners are trying to create and the neighbor's concerns. He then set subsequent meetings with the neighbors who had come forth to try to mitigate more of their concerns but could not make a lot of progress. The garage and the fence became big issues and he did not believe it made sense to move or change the windows if the garage was completely illegal. He then had the side yard re-surveyed and determined that it had a 5.1-foot setback, which was legal in 1952 if that was considered the side yard. It was determined that the house was built legally in 1952 with an approved permit and that the garage was always attached to the house with a continuous monolithic foundation. He confirmed with staff that every ordinance that they have looked at says that that garage is allowed to be there, the portion of the house that was built at that date that is inside any current setback is allowed to be there and it cannot be modified. So rather than tear down a large portion of the client's house that is slightly over the setback or encroaching in the setback they left it as is. He designed the addition adhering to the current setback, keeping in reserve the FAR required by the City for the garage, staying well below the design height threshold, calculating the slope of the lot to insure that the FAR calculation was correct, and having that verified. He noted that the front of the house has 20 different planes, the right side has 7 different planes, the back has 4 different planes and the left side has about 6 different planes and he found that to be a happy balance between something that was aesthetically pleasing, had articulation, could actually be constructed and something that was just very, very busy. Prior to this meeting he stated that he had never met any of the other neighbors, except for the three that came to the original meeting, and the neighbor at 2400 Palmer on two different occasions. He invited them to his home and also discussed the project with them and staff, trying to make forward progress. He stated that he was glad they were present and will be happy to try to address their comments. He was finding it difficult to provide the proper neighborhood outreach since he canvassed them once, made revisions to the plan, sent out a second letter on June 1<sup>st</sup> to all the neighbors within a 300' radius saying that he had made changes in the plans, but he had not been contacted by anybody. He hoped that if they can make determinations on the questions of the garage and the fence he can move forward to other issues. He is trying to get his clients closer to actually building their dream house in what was their dream neighborhood. He asked for permission to return after the Public Hearing to answer any questions that may arise.

Responding to Commissioner Horton's question, Mr. Peccei stated that the adjacent fence is currently on the applicant's property. The former owners of 2404 Palmer built their own fence, which will probably be removed because it is entirely on the applicant's property; it had never been surveyed. In trying to determine the garage setback the survey determined that the fence was built at 5.1 feet at the front and 5.4 feet in the back. He added that somewhere in the history of the property there was an illegal bedroom added behind the garage that would be completely removed. There is no permanent record on that.

Vice Chair Mercer opened the Public Hearing.

RS Turning noted that the Abrams, owners of the subject property, had requested to speak but preferred to wait until after the public comments.

Neville Concessio, Belmont resident, stated that he welcomes the addition but that he and other neighbors believe that they can strike a balance that gives the applicant a bigger house but also addresses their concerns about neighborhood compatibility. He raised concerns about the number of setbacks, the loss of privacy from the second story façade with a minimum 13” setback being right over his and the neighboring back yards, an illegal non-permitted room in what was the back yard, the design is bulky and does not quite conform to the natural slope of the lot, the FAR is not in keeping with the scale of the other houses in the neighborhood, and the windows on the second story are overlooking his only yard space. He concluded by stating that he welcomes improvements and that 17 neighbors had signed a petition in May with the same concerns that remain unresolved, and asked that the item be continued.

Larry Gonzales, Belmont resident, stated that he is not opposed to enlargement of the home, but is concerned with the overall compliance and characteristics of the proposed home and reiterated Mr. Concessio’s comments regarding the overall appearance of the home. He mentioned that there is a history of non-compliance as far as the current owners are concerned, noting that a fence had to be taken down and moved back several feet. The height of the fence is also a concern since cars coming around the corner cannot see and it is within a block of two elementary schools, but asking them to reduce the height concerned him since there is a dog that has bitten a neighbor and another dog. He concluded that his primary concern is that he did not feel that the applicant has regard for the safety of the neighborhood.

Janet Calloni, Belmont resident, concurred with the previous speakers about the bulk and compatibility with the rest of the neighborhood. She was further concerned about the height of the fence because drivers on both streets cannot see oncoming traffic as they approach the corner from either direction, and for the safety of children from Cipriani School who are often walking in the middle of the street.

Terry Burton, Belmont resident, stated that he welcomes the Abrams to improve their property but believes there are alternative design options that would address concerns about neighborhood compatibility and character, the relationship between the proposed addition and the adjacent properties, building bulk and the size of the house to the size of the lot, the garage, which appears to him to have been constructed as an accessory building rather than an accessory portion of the main building, the fence that prevents drivers from being able to see around the corner and the building setback. He asked that the Commission continue the item in order to consider alternative design options, adding that 5’ was the setback for an accessory building in 1952 and the setback for the main building would have been much wider than 5’.

Gillian Hartford, Belmont resident, was concerned that the proposed remodel is out of proportion to the nearby houses, and will not fit in the neighborhood in size and style. She also expressed concern about the effects of the noise and disruption of the 12-month building period on the elderly and ailing residents in the neighborhood.

Warren Kline, Belmont resident, retracted his original agreement with the project, because he now is not in agreement with the architect regarding the lighting effect on his back yard. He was concerned with the bulk, large size and style of the home. He felt there was potential for the home to devalue neighboring properties with the current economy and houses going into foreclosure. He did not believe any house in the Cipriani area was built for more than \$1.2 million; if this house gets built and the owners can’t pay for it and have to sell it for \$1.2 million the average price per square foot is \$400. He believes the fence should be at 3.5 feet due to the unsafe corner for kids going to school.

Maria Farinha, Belmont resident, believed that the large property will affect her back yard privacy and her deck will be looking at the “dinosaur monster.” She mentioned that the applicant has two vicious dogs and she was afraid to walk when the fence was lower because they were ready to jump the fence. The shading will affect her back yard and privacy and the windows will be facing her yard. She hopes they make some revision to the height of the second floor.

Mark Abrams, owner of the subject property, noted that he has been trying to get the project approved for more than three months and that initially there was no communication from neighbors except from the owners of 2404 Palmer, who met with staff and the contractor several times. They were able to cross about 7 items off of the list but those items seem to have come up again. He noted that the house is actually 2600 square feet, not including the 400 square-foot garage, so the previous speaker’s calculation of cost per square foot using 3000 is incorrect. He also pointed out that in 2000 the house at 2403 Palmer had an approved plan for 2900 square feet, which, if it had been built, would have been larger than the house they are proposing. The house at 2508 Buena Vista is 46% onto their lot size, or probably over 50% if the garage is included. That property owner signed a form complaining about the bulk of his project. Another neighbor at 2401 Palmer signed the first letter, then subsequently admitted that “I don’t know a lot about the plans for your construction.” He also thought that the emails that were sent that morning were the result of cutting and pasting and did not contain anything original that had not been discussed with staff and included a lot of the issues that had already been resolved. He also referred to the bulk of the house at 2702 Newland that is over 3000 square feet that was approved by the Planning Commission in the past two years. He expressed his distress that the neighbors did not come directly to him to talk about their concerns and that a lot of the issues that had already been resolved are coming back again.

Joelle Abrams, owner, stated for the record that her dogs are not vicious and did not bite anybody. Regarding the fence, she noted that people who live on Buena Vista do not need to go down Palmer and Carmelita but could go down Buena Vista to Cipriani, adding that Buena Vista and Palmer is actually an intersection and that parking at that intersection to drop children off at Cipriani School is very dangerous. She felt that if anything should be changed that lane should be painted red and that SUV’s parked there are taller than their fence, so that visibility would be impaired even if the fence were lowered. She added that they had talked to a few neighbors who were supportive, one of whom cried when she learned that others were trying to prevent them from building their house. These neighbors could not come to the meeting because they had children. Some mentioned that they had received a note in their mailbox inviting them to a private meeting to discuss the project. She concluded by saying that she is expecting their second baby, they want one more and that even though they are relatively new residents, they have pride in their neighborhood.

Ralph Northrup, Belmont resident, noted that there are bulky two-story houses on all sides of the subject property and throughout the neighborhood. He believed that improving the neighborhood with this property would be a great thing and increase everyone’s value. He mentioned a house across the street from him that is about 3000 feet that he believes is approved. He felt that everyone has a right to improve their property and it seemed to him that the applicants are in conformance with all of the City’s regulations and are being asked to do things well beyond what he would expect to have to do. He stated that perhaps he was speaking for the silent majority by stating that this project would be a good improvement.

**MOTION: By Commissioner Parsons, seconded by Commissioner Mayer, to close the Public Hearing. Motion passed 6/0/1 by a show of hands, with Chair Reed recused.**

Commissioner Wheeler's request to have the Recording Secretary read the addresses of the speakers was denied because it is not required that this information be revealed.

Commissioner Wheeler went to the site, had reviewed everything, and could make all of the findings for the project. She believed the larger two-story house fits the character of the neighborhood better than the current house, and was pleased to learn that there are two-story houses on both sides of the subject property. She agreed with the condition of approval to modify the fence slightly as it would be aesthetically more pleasing, and she would not require any additional changes.

Commissioner d'Souza liked the additional drawing that was provided, especially the second-story seems bulkier relative to the other second stories in the neighborhood. He would like to see that more articulated for the changes that staff had suggested. He could make all the other findings.

Commissioner Mayer believed that the proposed project represents an enormous improvement to the neighborhood, noting that everything conforms to the requirements of the Belmont Zoning Ordinance. He stated that there is no reason why one cannot build a home to the FAR that is allowed for that particular property, adding that the owners have the right to develop their property. He expressed regret that the neighbors have gotten themselves into a conflict over this and hoped that if the project is approved they all take steps to come together and try to reconcile themselves to this process. He added that the Planning Commission is not there to act on complaints – they are there to enforce the Belmont Zoning Code and he could do that by being able to make all the findings.

Commissioner Horton could also make the findings. She reiterated that the City has no solar protection ordinance, no ordinance to protect private views, and that everyone in the City is entitled to build a house that is 28' high from grade with floor area ratios of a simple mathematical calculation. She noted that designs of homes change with the times, that this is a unique community where a lot of people choose to remain for extended periods of time, and change is difficult. Since it is no longer safe for children to play outside people build larger houses and have family rooms, which you don't find in any of these homes. This home is being built for people who live in this century to accommodate a family of 5 and they have the right to build a home that could house that many people. She believed the house is tastefully done and that the architect has made many, many attempts at changing the design to conform to neighborhood requests. She could not see how this house could get the desired square footage by doing what the neighbors have asked. She could make every finding and hoped that people in the neighborhood understand what the Abrams are doing and that they have every right to do so, adding that they all have the same right.

Commissioner Parsons asked staff if they had looked at the letter received that day and if there are any issues raised such as the height of the garage roof and putting a living space above the garage. CDD de Melo responded that staff continues to believe that this home was built legally with a permit as one structure – whether it is called accessory or otherwise, it is one building. The City's definition for a building spells it out that this is one single building. It was treated as such and the setback that was derived and resulted for the construction of this home is allowed and is vested. Staff is very careful about looking at a project and looking at its conformance with the zoning code and when an addition is proposed, making sure it continues to be in conformance with the zoning code; that is the case here.

They have set back their addition to comply with the current code. He added that there are two distinct facts related to this property – it is legal and was built with a permit. Whether you call it accessory, ancillary or otherwise, it is one building on this lot with a setback that was considered legal at the time.

ICA Kane interjected that part of the new letter perhaps clarified the point that had been brought up before but not stated in quite the same terms. It is saying that it should be treated as an accessory building rather than an accessory use within the main building. She quoted the following from the definition of a building from the City code: “Any structure with substantial walls and roofs to clearly affix to the land and entirely separated on all sides from any other structure by space or by walls in which there are no communicating doors, windows or openings which is designed or intended for the shelter, enclosure, protection...” The idea is that a building is a free-standing thing that is not connected to any other building. An accessory building is a free-standing item, which in this case it is not because it has a single pour and it has always been attached. The argument in the letter is sort of reverse engineering – that it should be treated as an accessory building because it was approved. The issue still remains that it was approved, it was built according to the approved permit in 1953 and the new proposed structure complies with the existing ordinance. She concluded by saying that the letter is in the same territory that they were in before but takes a slightly different tack than what was previously presented.

Commissioner Parsons stated that he could make all the findings but had difficulty with the finding for bulk. He suggested that making the bedroom a couple of feet smaller by pushing the upper floor of the house back on the Palmer side would make it look less bulky. He had some concerns about the garage but staff assured him that this is a non issue for this project. He concluded that the house meets all the requirements and he could make all the findings.

Vice Chair Mercer stated that staff had answered her concern about the legal non-confirming setback; she could make that finding. She believed that the privacy concerns with the initial design may have been legitimate but felt that those concerns were substantially answered with removal of the building on the back corner, keeping the building within the required setbacks, and with the redesign of some windows. The building does not now overlook any of the neighbors anymore than the neighbors own houses overlook their neighbors. Regarding suggestions that the house be stretched out longer in order to make it lower or possibly have a larger downstairs and less upstairs, she pointed out that doing that would actually increase the lot coverage which decreases the amount of landscape and increases the amount of water run off and that is not a goal of the City. It would also encroach upon the existing very large and beautiful tree on the Carmelita side of the property, possibly requiring its removal, which would result in the house appearing even more bulky. When considering all of the suggested options she believed that the current plan is the best alternative. She pointed out that one of the problems with corner lots is that there is really no back yard, and this applicant has tried to address that by utilizing their front yard and they have every right to do that. She added that they have tried very, very hard to create two fronts on their house, which is probably a standard that most people have not had to conform to, so that these applicants have gone above and beyond in an attempt to create a visually appealing solution. Since most of the complaints were about the bulk and the fence, and the visibility coming around the corner, she proposed that the applicant consider putting a 45° angle on the corner of the fence, from about 5’ on either side, and then adding a shrub there to soften the corner and increase the visibility. She did not believe the loss of a few feet in the back yard would be a big problem. She added that they might also consider doing a similar 45° angle on the fence corner on the front façade so that they get some symmetry and a softer view of the fence as you’re looking at the house; a more welcoming angle which would also provide for a little landscaping. She also pointed out to those who are concerned about the bulk of the

house that because the front of the property is considered to be the Carmelita side, this house is actually set significantly back from the side of its property and that there is a very large tree on the right-hand side that is going to provide significant mitigation for that bulk. She also pointed out that, because the applicant is now putting in a sidewalk on both street elevations, pedestrian safety is going to be significantly increased – people will no longer have to walk in the street or around the cars that are parked in the street – they’ll be able to walk on the sidewalk and it should be a far safer situation than it is now. She reminded that there are a number of omissions from the drawings that were discussed earlier with staff, and, aside from those, she could make all the findings.

Since they are going to be putting in a sidewalk and there will be space between the sidewalk and the fence, Commissioner Parsons asked that a landscape plan be prepared to include landscaping for that portion of the property all the way out to the sidewalk. After further discussion by the Commission, CDD de Melo suggested that the Commission give staff the latitude to enforce Condition 6 with landscaping improvements between the sidewalk and the fence to improve the aesthetics. Vice Chair Mercer added that she would like a drawing to be on record that documents the sidewalk, the fence, the location and nature of the landscaping, clear indication of the Oak and its ownership, and the location of the irrigation system to assure that it is not interfering with the tree.

**MOTION: By Commissioner Horton, seconded by Commissioner Parsons, to adopt the Resolution approving a Single-Family Design Review at 2400 Palmer Avenue (Appl. No. 2011-0016) with the conditions attached and with the additions to Condition 6 that were just discussed.**

**Ayes: Horton, Parsons, Weaver, Mayer, Mercer**  
**Noes: d’Souza**  
**Recused: Reed**

**Motion passed 5/1/1**

Vice Chair Mercer stated that this action can be appealed within 10 calendar days to the City Council and thanked the public for their input and participating in the process.

## **6. REPORTS, STUDIES AND UPDATES:**

CDD de Melo reported as follows:

### **6A. North Road Right-of-Way**

He received information last week that the Planet Granite refuse containers have been modified to the Recology type that can be wheeled up and down. They do not have to make any changes to the landscaping or the sidewalk. The San Mateo commercial units across the street have received all of the final sign-offs. There continues to be challenges with the western-most property, such as resistance to getting the pavement addressed and the associated things that are back there. The Code Enforcement officer continues to send letters. Commissioner Parsons added that it looks like there is now a restaurant at that location, which needs to be looked at.

### **6B. Ralston/US-101 Landscape Project**

No update at this time. He will have an update at the next meeting.

**6C. Sixth & O’Neill – Street Reconstruction Project**

The project has been stalled for 7 weeks waiting for the utility company to lower its equipment. Completion target is still the end of October. Discussion ensued regarding the level of sidewalks, traffic circulation from the Safeway parking lot and curb cuts on O’Neill Street. CDD de Melo assured the Commission that every component that is being constructed has to meet standards, noting that things will be a bit off until money for the second phase of 6<sup>th</sup> Avenue comes through.

**6D. US-101 Pedestrian/Bike Bridge Project**

Still looking at an October grand opening but he did not believe confirmation had been received from CalTrans as to when the railing will go up. He noted that the bridge has already been tagged and that Public Works is struggling with how to deal with that issue to prevent it from happening in the future.

Commissioner d’Souza mentioned that the Sharrows are now open on Ralston, which means that bikes and vehicles can use the same lane. CDD de Melo added that all weeds are down along that section and that the Hiller and Masonic street improvements are just about completed.

**6E. High-Speed Rail (HSR)**

Next meeting of the Ad Hoc Committee scheduled for Wednesday, September 21<sup>st</sup>, 6:45 p.m., EOC room. ICA Kane added that those interested might want to watch the tape because there will be someone speaking to the City Council about the blended rail options, tentatively scheduled for the following Tuesday meeting.

**Other Items**

The **new home on Alhambra Drive** that the Commission approved on August 16<sup>th</sup> was appealed by a group of folks on August 26<sup>th</sup>. The date for Council review has not yet been set.

Regarding the **brown building across the street from Safeway**, Commissioner Parsons asked CDD de Melo to make sure there is some landscaping included in the redesign of the parking lot. CDD de Melo stated that more improvements are slated for that building and staff will work on getting some landscaping.

CDD de Melo announced that the first meeting of the **Ad Hoc Committee for the Village Center** zone will be held the following day at 5:00 p.m. Two members of the business community will be at the meeting.

**7. CITY COUNCIL MEETING OF TUESDAY, SEPTEMBER 13, 2011 – 7:30 P.M.**

Liaison: Commissioner Wheeler  
Alternate Liaison: Chair Reed

**8. ADJOURNMENT:**

The meeting was adjourned at 9:00 p.m. to a Regular Planning Commission Meeting on Tuesday, September 20, 2011, at 7:00 p.m. in Belmont City Hall.

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Carlos de Melo

Planning Commission Secretary

*CD's of Planning Commission Meetings are available in the  
Community Development Department  
Please call (650) 595-7417 to schedule an appointment.*

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