You should note that the portion of the definition which identifies the types of view and examples of views has not been altered.

3. Attic: The proposed ordinance defined "attic" as an area that was capable of being converted to habitable space. This definition would be subject to varying interpretations. For example, what would be used to determine if an area was "capable" of being converted? Depending upon the area to be considered, varying results are possible. In addition, the definition specified that if an attic was capable of being converted to habitable space, then that portion constituted a story or half-story as defined by County Code Sections 82-4.266 and 82-4.268. This portion of the definition conflicts with the existing Code because the referenced Code section utilizes a different definition for story and half story. It appears that the intent of this section was to maximize the use of interior space without exterior modification.

   To address these issues, the proposed ordinance has been amended to eliminate the conflicting portion of the definition. In order to ensure that the intent remains, the text **"maximizing the use of interior space"** has been added to Section 84-74.1206 as a standard to be considered as part of the public hearing on all projects.

4. Determination of whether a hearing is required:

   The proposed ordinance limited those who may request a public hearing to "surrounding neighbors," a term that was otherwise defined as either occupants or owners of properties within 300 feet of the subject site. The County cannot limit those who may ask for a public hearing. As such, Section 84-74.1006 does not include this limitation.

   It should be noted that the proposed ordinance requires the Community Development Department to provide notification to property owners within 300 feet of the subject property. In addition, the Department is otherwise required to provide notification to those that have submitted a written request. In order to reflect the intent of the drafters, staff will not be otherwise providing notification of the opportunity to request a public hearing beyond the 300 foot property owner requirement.

IX. FINDINGS

A. General Plan Amendment Finding:

1. Government Code Section 65860 (a) 1 & 2 "… A zoning ordinance shall be consistent with a County General Plan only if both of the

following conditions are met: 1) The County has officially adopted such a plan; and 2) The various land uses authorized by the ordinance are compatible with the objectives, policies, general land uses, and programs specified in the plan."

Staff Response: The proposed amendment to the Land Use Element of the General Plan would add policies to support the design review procedures provided by the Kensington Combining District. Taken together, the new supporting land use policies for Kensington and the ordinance, would provide the ability to preserve and protect unique characteristics of Kensington's residential neighborhoods. The primary purpose of the General Plan is to guide the physical development of a community by expressing goals, policies, implementation measures that represent the hopes and concerns of its residents in terms of defining and preserving a quality of life. The establishment of policies supporting the new design review procedures for Kensington under this General Plan amendment would be consistent with the overall intent and purpose of the General Plan.

B. Rezoning Findings

1. Required Finding – The change proposed will substantially comply with the General Plan.

   Project finding - The Kensington community is an established and unique part of the County. This community has expressed a desire to recognize the individual property owners right to improve their home, while at the same time minimizing impact upon surrounding neighbors and not substantially impairing the value and enjoyment of their neighbors' property.

   A General Plan Amendment has been prepared and considered in conjunction with the proposed rezoning. The General Plan Amendment includes the addition of text which provides the policy framework for the Combining District.

2. Required Finding – The uses authorized or proposed in the land use district are compatible within the district and to uses authorized in adjacent districts.

   Project Finding - The uses proposed within the land use district are the expansion of the existing design review process and criteria. The purpose of the proposed Kensington Combining District is to

provide a land use process which will promote the community's values of preservation of view, light and solar access, privacy, parking, residential noise levels and compatibility with the neighborhood with regard to bulk and scale. Features of development that could influence these values include size, bulk, building envelope, height, setbacks, relative scale, off-street parking spaces, window placement, artificial lighting, and location of mechanical devices such as motors fans and vents.

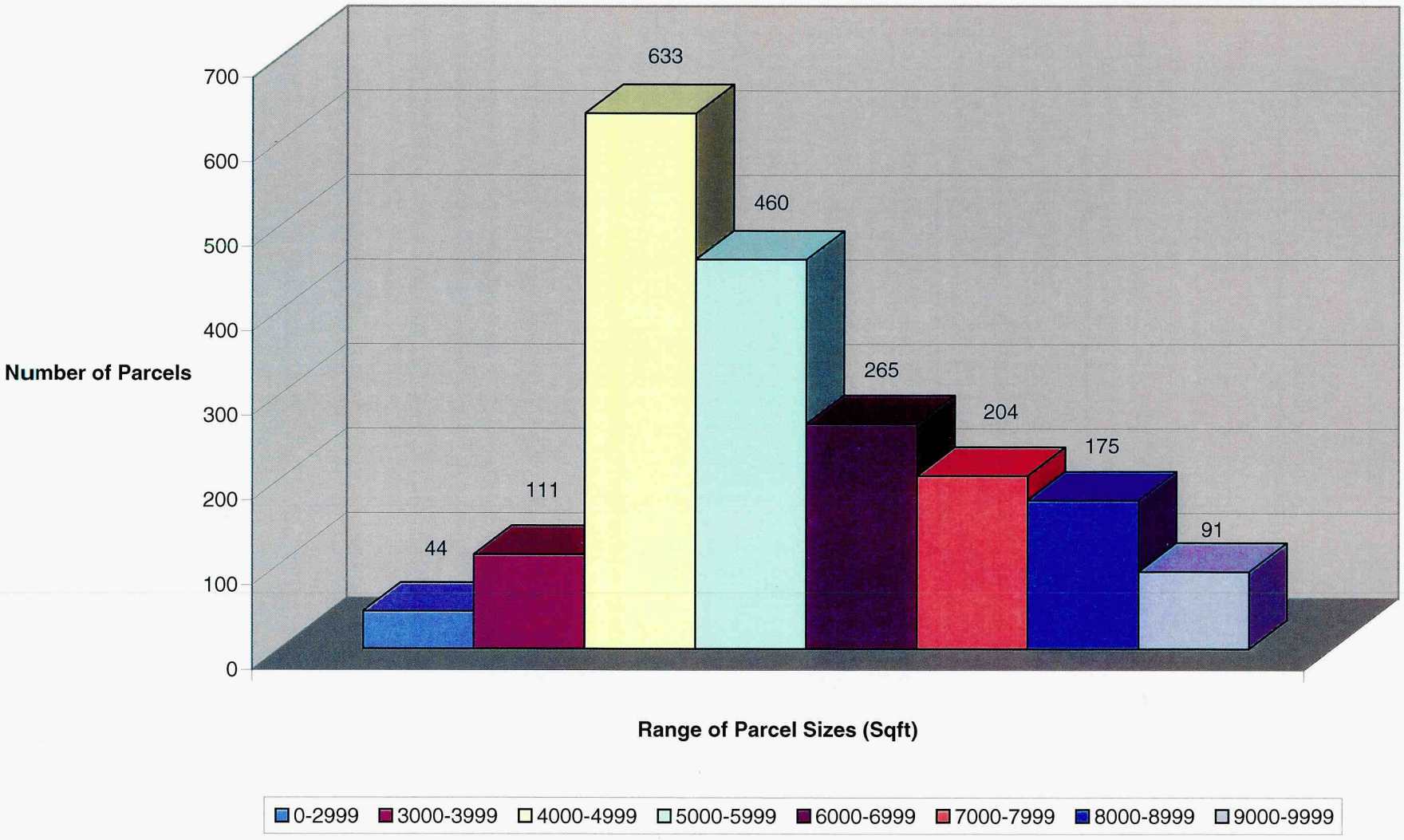
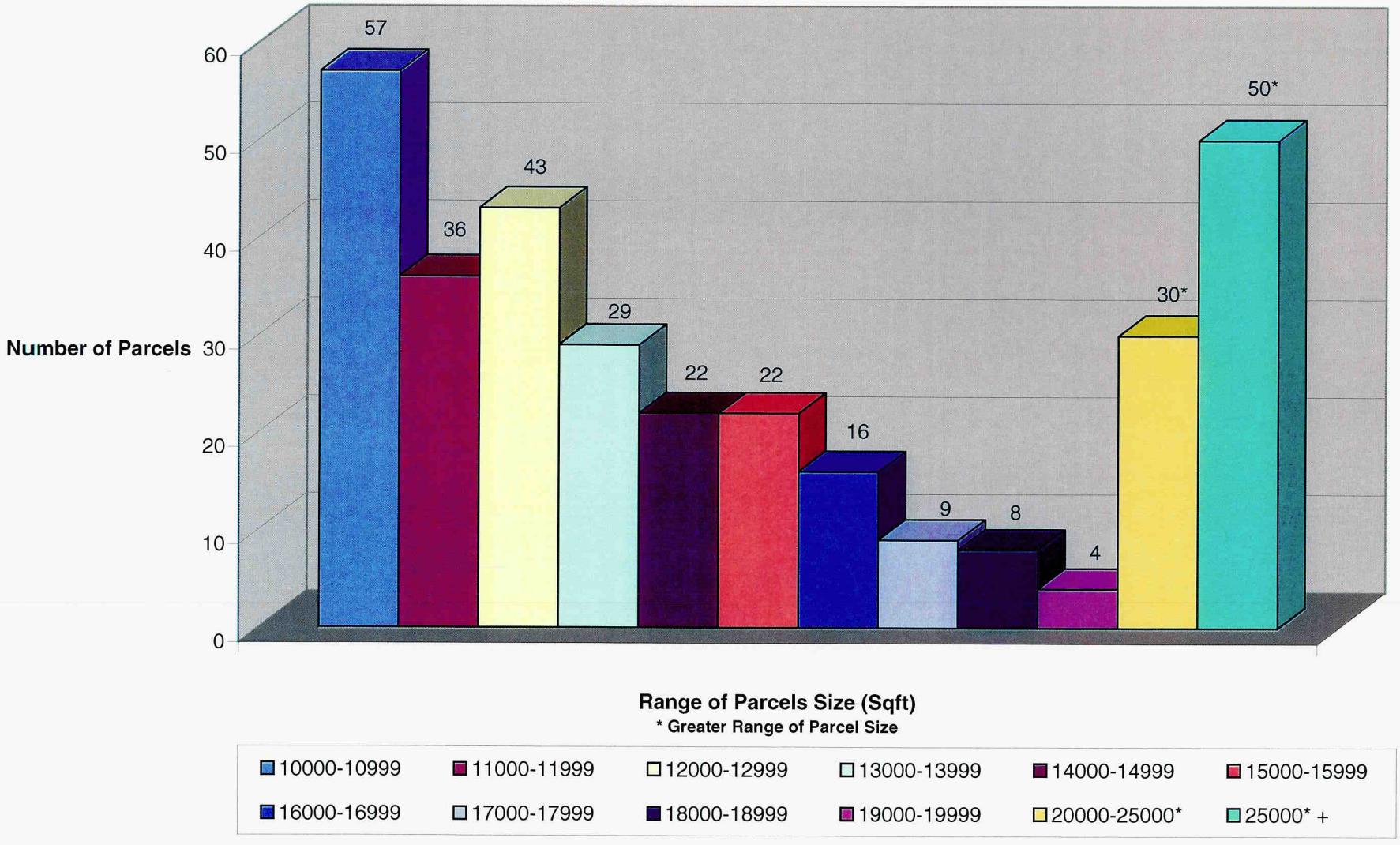
Kensington's proposal to modify the design review criteria will better represent the purpose and intent of the proposed combining district and is compatible with the underlying the land use districts. The proposed Combining District does not alter the permitted uses or the uses allowable upon approval of a land use permit.

3. Required Finding – Community need has been demonstrated for the use proposed, but this does not require demonstration of future financial success.

   Kensington is a unique community in terms of its topography, lot sizes, existing architecture, narrow and winding roads, limited parking and striking views of the bay and city skylines. The proposed Combining District is designed to reflect the community's characteristics and land use values.

(Reference 26-2.1806 of the Ordinance Code)

Distribution of Existing Parcels Ranging from 0-9999 square feet



Distribution of Existing Parcels
Ranging from 10,000-25,000+ square feet