



CITY COUNCIL AND COMMUNITY DEVELOPMENT MINUTES

Regular Meeting
Tuesday, January 15, 2002
7:30 p.m.
Menlo Park Council Chamber
801 Laurel Street, Menlo Park

6:30 P.M. STUDY SESSION Held in the First Floor Conference Room of the City Hall Building located at 701 Laurel Street, Menlo Park.

1. Discussion of potential changes to the Heritage Tree Ordinance.

The Council discussed potential changes to the Heritage Tree Ordinance, Chapter 13.24 of the Municipal Code, in four topic areas of the regulation: definitions, prohibitions, permitting and penalties. Council agreed in concept with the proposed changes to specify Heritage Tree to be a tree with a diameter of 15 inches or larger (measured four feet above grade), except for oaks and redwoods which would qualify at 10 inches diameter or larger. Council directed staff and the Environmental Quality Commission to hold a public meeting to assess public support for the changes before the draft ordinance is presented to Council. Council asked for more information regarding new permit procedures and the types of permits and applications that have been administered over the past year or two.

7:30 P.M. REGULAR MEETING

ROLL CALL – Mayor Schmidt called the meeting to order at 7:55 p.m. Mayor Pro Tem Kinney, Councilmembers Collacchi, Borak and Jellins were present. Staff present included City Manager Boesch, City Attorney McClure, City Clerk Ramos and other department heads.

A. PRESENTATIONS AND PROCLAMATIONS

1. Presentation of Environmental Awards.

Mary Kenney, Environmental Quality Commission, provided background about the awards program and announced the following winners: Metcall Inc., Acterra's San Francisquito Watershed Education and Restoration program, and the U.S. Geological Survey for their efforts in recycling, energy conservation, air quality, and resource conservation.

Mayor Schmidt provided some background on the name change initiative of the Commission and the development of its mission statement. He expressed support and thanks to the Commission and staff for its efforts.

B. ANNOUNCEMENTS, APPOINTMENTS AND REPORTS

1. There are no current commission vacancies.
2. Councilmember Reports: Schmidt, Kinney, Borak, Collacchi, Jellins

Councilmember Kinney reported on the Bay Area Water Users' Association (BAWUA) steering committee regarding Hetch Hetchy water system. He also reported on the San Francisquito Creek Joint Powers Authority goals and direction.

Mayor Schmidt provided a brief update on safety around the train stations.

C. PUBLIC COMMENT #1 – None

D. CONSENT CALENDAR

Mayor Schmidt read the consent calendar. Councilmember Jellins pulled items 2 and 5. Councilmember Collacchi pulled item 4.

M/S Kinney/Collacchi to approve consent items 1, 3, 6, 7 and 8 as presented. Motion passed 5-0.

1. Approval of audited bills for period 26 ending December 21, 2001, period 27 ending December 28, 2001 and period 28 ending January 4, 2002.
3. Award of contracts for the police vehicle replacements and purchases for a total amount of \$97,127.
6. Agency approval of a Resolution to accept grant deeds from Donald Anthony Segale and Christine Renee Segale, Co-Trustees, Howard L. Wenrick, Free Wesleyan Church of Tonga, Menlo Park, and Ignacio Del Rio and Trinidad Del Rio for the purchase of properties commonly known as 519, 535, 543 and 551 Hamilton Avenue, Menlo Park (APNs 055-341-150, 170, 230 and 240).
7. Adoption of a Resolution accepting the public improvements and releasing the improvement performance bond for the Menlo Place Subdivision located at 1242-1254 Hoover Street.
8. Approval of the City Council Minutes for the meetings of November 27, 2001 and December 4, 2001 and a special meeting of December 5, 2001.

PULLED ITEMS

2. Introduction of an Ordinance amending Municipal Code, Chapter 12.42, Flood Damage Prevention, as required by the Federal Emergency Management Agency (FEMA).

Mayor Schmidt and Councilmembers Collacchi and Borak expressed a conflict of interest. In the interest of a quorum, City Attorney McClure recommended selecting one of the three who will participate and vote. A coin flip was conducted and by process of elimination, Mayor Schmidt remained on the dais and Councilmembers Collacchi and Borak recused themselves.

Councilmember Jellins expressed concern about the financial impact to property owners. Staff responded and noted that the proposed changes are a direct result of federal requirements.

M/S Jellins/Kinney to introduce the Ordinance as presented. Motion passed 3-0, with Councilmembers Collacchi and Borak abstaining due to a conflict of interest.

4. Adoption of a Resolution appropriating \$32,569.58 from the General Fund Capital Improvement Fund Balance for emergency storm drainage work at 1420 Bay Laurel Street and approval of the related emergency expenditure.

Staff responded to Councilmember Collacchi's questions regarding cost recovery.

M/S Collacchi/Kinney to adopt a Resolution as presented. Motion passed 5-0.

5. Authorization of the City Manager to enter into an agreement in the amount of \$44,000 with Kimley-Horn Associates, Inc. to conduct the Middle Avenue Corridor Study and to prepare a traffic safety and management plan for the Oak Knoll School area.

Questions and discussion ensued regarding safe routes for students and resident concerns, scope of work, timeline and process. Staff clarified points contained in the staff report.

M/S Jellins/Borak to approve item D5 as presented. Motion passed 5-0.

E. PUBLIC HEARING

1. Consideration of an appeal of the Planning Commission decision to deny a Mitigated Negative Declaration, Use Permit and Architectural Control for the construction of a two-story 10,481 square foot commercial building at 145 El Camino Real and an appeal of the Environmental Quality Commission decision to deny the removal of a heritage tree.

Tracy Cramer, Senior Planner, presented the staff report and noted that additional materials and correspondence received after the agenda packet was completed were provided to the Council tonight.

Questions and discussion ensued regarding the mitigated negative declaration environmental analysis, traffic study, Cambridge Road widening, and the heritage tree removal.

Eric Doyle, project co-owner, provided project background and requested clear direction on the process. He cited issues noted by the Planning Commission including: 1) Traffic impact on Cambridge; 2) Environmental concerns; and, 3) the Heritage tree. Mr. Doyle further explained that the Commission approved the Cambridge widening, that the project owners and Exxon would be responsible for the hazardous clean up and maintenance of the site, and that the heritage tree presents safety hazards and affects the project's design and removing and replanting it would be problematic based on the arborist's report that the state of the tree is close to its lifecycle.

Questions and discussion ensued regarding the parking lot, lighting, use and tenancy.

Mayor Schmidt opened the public hearing at 9:24 pm.

Nancy Farmer, Menlo Park, opposed to the removal of the tree.

Frank Carney, Menlo Park, supported the removal of the tree based on its location and the arborist's recommendation. He suggested putting a bus shelter in that location since the tree provided shade to people waiting for the bus.

Mitchell Bayersdorfer, Menlo Park, opposed the project based on his concerns about building size, parking, inadequate traffic study, the widening of Cambridge Avenue; over use of retail in the proposed location, and the removal of the heritage tree.

Mark Jones, Menlo Park, supported the project and believed that the widening of Cambridge Avenue will improve traffic flow with the turn lane.

Timothy Harris, Menlo Park, opposed the project for the same reasons stated in the staff report. He also cited other reasons including the underground parking, the adverse traffic impact on Harvard Avenue and Alto Lane and the exposure to toxic substance during excavation, noting that the staff report does not report any action taken in response to the concern by the State Department of Toxic Control. Lastly, he is concerned about the intensification of retail use in the affected residential neighborhood.

Jerry Jones, Menlo Park, urged Council to uphold the decision of the Planning Commission and oppose the project based on the inadequacy of the traffic study noting that Cambridge Avenue is already congested.

Steve deLaet, Menlo Park, supported the project and believed that it would help improve the neighborhood and the traffic.

Mike Heffernan, San Francisco, opposed the project based on: 1) Retail or higher density nature; 2) underground parking and; 3) Alto Lane safety issues.

Don Brawner, Menlo Park, opposed the project for reasons including the underground parking structure, inadequate environmental analysis and traffic study, and the retail use. He suggested considering a park at the proposed site.

Mayor Schmidt declared a recess at 9:50 p.m. and reconvened the meeting at 10:00 p.m. and suggested opening the discussion on the heritage tree.

There was consensus of the Council that the decision on the heritage tree would not have a direct bearing on its decision, on the merits of the use permit.

Councilmember Kinney supported the idea of providing a bus shelter if the tree were removed.

Mayor Schmidt asked for Council's position on the other issues surrounding the project.

Councilmember Borak noted that she would not want the tree removed if the project is denied. She then moved to oppose the project based on its size, the underground parking, and the soil problems at the site.

Councilmember Collacchi seconded the motion.

Councilmember Kinney would support the project with conditions including a bus shelter, additional landscaping in the parking lot and closer to the building. He felt that the project meets the General Plan and zoning requirements, he supports the proposed Cambridge Avenue right turn lane, the toxic soil issues during excavation will be addressed, the underground parking structure will be secured. He remains concerned about traffic on Alto Lane.

Councilmember Collacchi expressed concern about the retail and office mix. He supports the concept but felt that housing would be more ideal at this site. He asked the applicant to explain why housing was not considered.

The applicant replied that the contaminated soils on the site makes financing difficult and that there would be safety issues on Alto Lane, Cambridge Avenue and El Camino for future residents with children.

Councilmember Collacchi commented that having some office on that site provides an opportunity to have a better building. He does not support the proposed office/retail mix and the percentage of retail on the first floor, and suggested doing the entire ground floor retail which would change planning parameters, traffic analysis and parking requirements somewhat. He concurred with the idea of adding a bus shelter and other potential mitigations as conditions to the project and suggested staff explore them and return to Council for further consideration.

Councilmember Jellins is concerned about the unknown retail use. Given the wide variety of traffic generated from retail, he asked if the project could be approved in its current configuration and conditioned to require the applicant to bring the proposed retail use back for Planning Commission review before allowing that use to locate within the retail space.

City Attorney McClure replied in the affirmative and suggested that the project approval could be conditioned to preclude and prohibit specific retail uses of concern.

Mayor Schmidt believed that a mitigated negative declaration is appropriate for this project based on the information in the staff report. He felt that the traffic and soil contamination issues have been addressed. He believed that a building of this height at this site would help alleviate noise in the neighborhood. He would not support the current motion to deny the project. He asked about a variance process if the tree were not removed and the parking and driveway were reconfigured, thereby losing five parking spaces.

City Attorney McClure explained that the project would have to go back to the Planning Commission for review with a reduction in square footage and/or parking before the Council could approve it.

Questions and discussion ensued.

In response to Mayor Schmidt, Jack Bariteau, co-applicant, explained that the reason for the project's proposed office/retail mix was to establish a project that would not create more traffic and be marketable.

Discussion ensued about the retail component of the project and its impacts.

M/S Kinney/Schmidt to close the public hearing at 10:45 p.m. Motion passed 5-0.

M/S Borak/Collacchi to uphold the Planning Commission decision and deny the project and adopt the findings as outlined in the recommendations of the staff report. Motion failed 1-4 with Councilmembers Schmidt, Kinney, Collacchi and Jellins dissenting.

Councilmember Collacchi summarized the issues to include toxic remediation, Alto Lane circulation, installing a bus shelter if the tree were removed, accepting the two-foot extension on the right hand turn lane, and exploring the retail-office mix and tenant control.

Discussion ensued regarding tenant control concerns and defining them.

City Attorney McClure noted that an approved project would have permitted and conditional uses.

Jack Bariteau, co-applicant expressed their willingness to work with the City in this regard.

City Attorney McClure suggested to Council that it direct staff to come back with proposed conditions of approval based on the discussion tonight; and, at the same time, to receive input from the neighborhood regarding their concerns and come back to Council on February 12, 2002.

Mr. Doyle, co-applicant asked that the Council vote to approve the project tonight contingent upon its approval of the tenant control list within ninety days.

For clarification, City Attorney McClure summarized the issues that Council would like staff to bring back as conditions:

- Monitor toxic remediation to ensure that it is done properly
- Ensure traffic safety on Alto Lane
- Remove the heritage tree and replace it with a bus shelter that will complement the architecture of the building (at the expense of the developer)
- Reduce the floor area square footage in office space to comply with allowed FAR as a result of the two-foot widening of Cambridge Avenue with a dedicated right turn lane.
- Secure the underground parking structure after business hours.
- Coordinate the timing for the irrigation/landscaping of the project with Phase 2 of the tree project on El Camino Real
- Increase landscaping on the site
- Ensure appropriate internal and external lighting and minimize impact to the surrounding residents

M/S Collacchi /Schmidt to direct staff to bring back conditions to enable the Council to approve the project that address the issues discussed as listed above to Council for its consideration on February 12, 2002, to request the developer to talk with staff about their ideas on low impact uses or restrictions that would prohibit high impact uses, and request the neighbors to contact staff with their concerns within the next week in order to complete the conditions and circulate them early for review and feedback before the Council meeting of February 12, 2002. Motion passed 4-1, Councilmember Borak dissenting.

2. Introduction of an Ordinance regulating the installation and use of wood burning appliances and fireplaces.

Dianne Dryer, Environmental Coordinator, presented the staff report and announced that Dan Johnson, Building Official, and Thomasina Mayfield with the Bay Area Air Quality Management District are available for questions.

Staff responded to questions regarding construction exemptions, Northern Sonoma County's model, local standards and process and seismic upgrades.

Mayor Schmidt opened the public hearing.

Michael Lambert, Menlo Park, questioned the validity of the air quality issue. He noted that the cities of Portola Valley, Woodside and Atherton rejected adoption of such an ordinance. He referred the Council to the points made in his letter .

The public hearing closed at 11:46 p.m.

M/S Schmidt/Collacchi to introduce the Ordinance as presented.

Councilmember Kinney recused himself due to a conflict of interest.

Discussion ensued regarding repair costs .

Motion passed 3-1, with Councilmember Borak dissenting and Mayor Pro Tem Kinney abstaining due to a conflict of interest.

Councilmember Borak noted she is opposed because she feels the Ordinance would affect many residents with existing masonry fireplaces and it would discourage residents from repairing their fireplaces, which could become dangerous.

F. REGULAR BUSINESS

1. Appointment of an alternate City Council representative for the January 24, 2002 meeting of the San Francisquito Creek JPA Board of Directors.

Councilmember Borak nominated Mayor Schmidt, seconded by Councilmember Kinney. Nomination passed unanimously.

2. Consideration of legislative items listed in the League of California Cities Bulletin(s), or items referred to in Written Communications or Information Items, including decisions to support or oppose any such legislative, communication or information item.

City Manager Boesch noted that the next issue of the League's Priority Focus is attached for Council's information and review. He noted AB 100 (Simitian), as an example of proposed legislation that staff would track closely.

G. WRITTEN COMMUNICATIONS

1. League of California Cities Priority Focus Newsletter dated January 4, 2002.
2. Letter from Mayor Schmidt dated January 9, 2002 regarding Vehicle License Fees.
3. Letter dated January 9, 2002 from Oak Knoll School.

Councilmember Jellins commented about the funding request from Oak Knoll School and asked whether the matter will be scheduled for Council consideration.

City Manager Boesch replied that the Parks and Recreation Commission will be conducting user focus group meetings with the first meeting to be held on January 29, 2002. He noted that this request has been forwarded to Community Services to bring forward at the appropriate focus group meeting for consideration.

H. INFORMATION ITEMS - None

I. PUBLIC COMMENT #2 – None

J. ADJOURNMENT – 12:07 a.m.

City Manager Boesch announced that the special meeting previously scheduled for tomorrow night has been cancelled until further notice.

Respectfully submitted,

Susan A. Ramos, CMC
City Clerk