



**CITY COUNCIL  
and  
COMMUNITY DEVELOPMENT AGENCY  
MINUTES**

Tuesday, May 24, 2005  
7:00 p.m.  
701 Laurel Street, Menlo Park, CA 94025  
Menlo Park City Council Chambers

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**6:00 p.m. STUDY SESSION** (Menlo Park City Council Chamber)

1. Discussion of and possible direction on a proposal to construct a 165,000 square foot hotel facility and a 100,000 square foot office complex on a property located at 2825 Sand Hill Road adjacent to the Sand Hill Road/Interstate 280 Interchange.

Mayor Winkler welcomed those present stating that the goal is to hear possible plans for a hotel on Sand Hill Road. Justin Murphy, Development Services Manager, presented the brief staff report stating that this project is in its beginning stages and this is an opportunity for Council to hear from the applicant and ask questions. Bill Phillips, Managing Director of Stanford Management Company, addressed Council explaining the reasons for the project and the approach taken. John Hill, Principal of Hill Glazier Architects, provided details on the resort environment. John Scott, President and CEO of Rosewood Hotels and Resorts, provided the history and philosophy behind Rosewood hotels. Council asked questions of the applicant.

City Manager Boesch explained the potential positive fiscal impact of a hotel project of this type. Mr. Boesch is committed to, with Council direction, making this a high priority project. Mayor Pro Tem Jellins has concerns that this type of project will impact the regular day to day business of the Planning Department. He hopes that staff will keep Council abreast of the progress. Mr. Boesch said that what is needed is a team approach. Mr. Murphy covered the key milestones and timeline of this project. Mayor Winkler is looking forward to learning about the TOT (Transient Occupancy Tax).

**Public Comment**

Mary E. Turner shared concerns about guaranteeing that current level of quiet will not be effected.

John Turner expressed concerns about traffic impacts from the proposed development.

Stu Soffer supports this project because he has experienced firsthand the quality of the hotels.

Nancy Robertson vocalized concerns with traffic and the fact that the view will change.

Maya Sewald spoke about traffic issues and hopes the whole area is studied.

Lou Deziel thanked Council for having this Study Session and supports the location for a hotel.

Ronald Schloss thanked Council for hearing the public and requested revenue estimates.

Suzanne Guthner would like to know how she can stay informed about this project.

Mayor Winkler suggested addressing questions to [ccin@menlopark.org](mailto:ccin@menlopark.org) or contacting the Planning Department. Mr. Boesch added that those interested could give their contact information tonight and staff would prepare email and mailing lists.

**7:00 p.m. REGULAR MEETING** (Menlo Park City Council Chambers)

**ROLL CALL** - Winkler, Jellins, Cohen, Duboc, Fergusson

**STAFF PRESENT** - David Boesch, City Manager; William McClure, City Attorney; Silvia Vonderlinden,

City Clerk. Various department heads and other City staff were present.

## **PLEDGE OF ALLEGIANCE**

### **A. COMMISSION VACANCIES AND REPORTS**

1. Commission Reports.

Richard Cline, Chair of the Parks and Recreation Commission, explained the Buy-A-Brick Program. The idea came from Commissioner Rory Whittaker and the goal is to raise funds for a possible scholarship foundation. Council asked questions about the price range for the bricks.

### **B. PRESENTATIONS AND PROCLAMATIONS**

1. Presentation regarding the Sustainable San Mateo County Annual Indicators Report.

Shelley Kilday, Outreach Coordinator for Sustainable San Mateo County, provided details on this non-profit organization and why cities should care about sustainability. Ms. Kilday reviewed the indicators report for San Mateo County, inviting Clem Maloney, a Board Member, to address certain parts of the report. Ms. Kilday elaborated on the steps local governments can take to contribute to a more sustainable San Mateo County.

### **C. PUBLIC COMMENT #1 (*Limited to 30 minutes*)**

Marilu Serrano, East Palo resident, spoke about restoring the condominium conversion law.

### **D. CONSENT CALENDAR**

#### **Item D1 pulled**

1. Adoption of Resolution No. 5605 amending the Master Fee Schedule to incorporate proposed changes in the child care fees to become effective July 1, 2005.
2. Adoption of a Resolution No. 5603 giving preliminary approval of the Engineer's Report for the Landscaping Assessment District for Fiscal Year 2005-06; and adoption of Resolution No. 5604 of Intention to order the levy and collection of assessment for the Landscaping Assessment District for Fiscal Year 2005-06.
3. Preliminary approval of a regulatory fee, which is unchanged from the prior Fiscal Year, to implement the City of Menlo Park Storm Water Management Program (SWMP) for Fiscal Year 2005-06, and setting a Public Hearing for June 28, 2005, on the adoption of the fee.

#### **Item D4 pulled**

4. Waiver of reading of Ordinance No. 936 and adoption of Ordinance No. 936 amending Zoning ordinance regulations pertaining to commercial development.

**M/S Duboc/Winkler to approve items D2 and D3 Duboc. Motion carries unanimously.**

#### **Discussion on Item D1**

1. Adoption of Resolution No. 5605 amending the Master Fee Schedule to incorporate proposed changes in the child care fees to become effective July 1, 2005.

Council Member Fergusson thanked staff for the report and discussed accreditation, training of staff and security. Ms. Fergusson believes this will increase the quality of City programs and the 5% fee increase is reasonable for the Burgess programs. Cost recovery in the various programs was discussed and Curtis Brown, Community Services Director, added that the gymnastics program is the one program that is closer to full cost recovery. Mayor Winkler referred to a cost recovery study that was recently conducted by Stanford students and she would like it discussed.

Mayor Pro Tem Jellins questioned the utility of the accreditation process and its cost. Mike Taylor, Senior Supervisor, said that at this time there has been no direct cost incurred. However, to formally start the accreditation process there will be a \$1,000 application fee. The value of accreditation was discussed and Mr. Taylor provided details. Mr. Brown added that accreditation adds credibility to the programs. Council Member Duboc added that child care is at least half of

the Community Services budget, and when this area does not have cost recovery it has an impact on the overall picture. Mr. Brown confirmed those statements. Mr. Brown added that while accreditation is being investigated now, ultimately it will be a Council decision. Council would like to review, at a later date, the pros and cons of accreditation.

**M/S Duboc/Fergusson to approve Consent Calendar item D1. Motion carries unanimously.**

**Item D4**

4. Waiver of reading of Ordinance No. 936 and adoption of Ordinance No. 936 amending Zoning ordinance regulations pertaining to commercial development.

Council Member Fergusson stated that she agrees with much of the ordinance, however she finds it inappropriate to loosen the triggers on the M2 zoning district and allow conversion of certain uses without administrative review. Mayor Winkler said that a lot of these items will be reviewed in Phase III.

**M/S Duboc/ Winkler to approve Consent Calendar D4. Motion carries with Cohen and Fergusson opposing.**

**E. PUBLIC HEARING**

1. Adoption of Resolution No. 5606 to abandon a portion of the public utility easement at 2900 Sand Hill Road.

Pat Stone, Supervising Engineer, provided background on the project explaining why the applicant is requesting abandonment of the public utility easement. Mr. Stone said the Planning Commission has concurred that the abandonment is consistent with the General Plan, and that such abandonment was categorically exempt from CEQA (California Environmental Quality Act) requirements. He added that this abandonment would allow the Sharon Heights Golf and Country Club to have clear title to the land. Council Member Fergusson asked about the power lines that used to go through the easement and Mr. Stone said the power lines were relocated. The new easement was discussed and Ms. Fergusson asked if the City is giving up a future public utility easement in exchange for a private easement. Mr. Nino, Engineering Services Director, stated that since this is in private property staff does not foresee a need from the City.

**Public Comment - None**

**M/S Fergusson/Duboc to close the Public Hearing. Motion carries unanimously.**

**M/S Fergusson/ Winkler to approve the staff recommendation. Motion carries unanimously.**

Mayor Winkler recused herself leaving the Chambers, because she lives within 500 ft of the site.

2. Consideration of an appeal of a Planning Commission action to approve a Use Permit for construction of a new two-story residence with a detached garage and workshop with primary access from the alley in the R-1-U (Single-Family Urban Residential) Zoning District, for property located at 510 Central Avenue.

Tracy Cramer, Principal Planner, presented the staff report. Ms. Cramer explained that the Planning Commission voted 6-1 to approve the project. Staff explained the basis for the appeal, adding that Mr. Subbiah (one of the appellants) contacted staff clarifying that his only reason for the appeal was the granting of sole access to the garage via the alley, and that the other issues previously listed were no longer a concern for the appellants. Ms. Cramer enumerated correspondence received in favor and against the project.

Mayor Pro Tem Jellins asked about the votes needed to uphold the appeal, and Mr. McClure explained that if Council is unable to reach a majority vote to change or deny the Planning Commission action, it becomes final. Mr. McClure confirmed that to uphold the appeal three votes are required. Council

discussed the trees to be removed and Ms. Cramer said that there is at least one heritage tree that needs to be assessed.

### **Public Comment**

Sandy Stuart hopes Council overrides the appeal because the alleys belong to no one in particular, and some houses already have access solely through the alleys.

Shirley Chiu supports the applicant and Ms. Chiu referred to her own experience with the process. Ms. Chiu suggested the creation of an alley association with its own rules and regulations.

Richard Li referred to property rights and he opined that the applicant should have the project approved because the plans are legal and conforming.

Dana Tribula supports the project and finds it tasteful. She encourages the Council to support it.

Diane Comey said one of the challenges is the lack of front access; however, there are other houses in the same situation. She doesn't object to the project.

Maria Menard shared concerns with safety and access because in her opinion cars don't have enough space to park and turn in the alley.

Jennifer Dahmus thanked Council for its efforts with the La Hacienda Market. She supports developing the property but she fears Council is setting a precedent and overlooking possible cumulative impacts.

Anne Hilbert hopes a unified solution is found because she does not believe addressing issues on an ad hoc basis is the right approach.

Margaret McGann visits the alley about three times a week and she opined that the alley is tight for turning. She believes this will add a lot of traffic to the area and decrease safety.

Diane Mavica opposes this project and agrees with the previous three speakers. She participated in the appeal because the sole access through the alley does not seem feasible.

David Chu is one of the property owners. Mr. Chu shared what he believes are the numerous compromises he has made along the way and it is his intent to preserve the heritage trees. He believes that only twice a day will the alley be used because mail deliveries, visitors, and other deliveries will occur from Central Avenue. Mr. Chu offered that he held an open house to get feedback from neighbors and his architect included the input in the design. He provided details about other garages in the alley, reiterating that his strategy has been to satisfy reasonable concerns from neighbors. He asks Council to deny the appeal and approve the project.

Michelle Harbottle urges Council to uphold the Planning Commission decision. Ms. Harbottle believes this project will benefit the neighborhood. She disagrees with neighbors determining alley access.

Ivan Odum opposes the appeal and believes property owners should have similar rights of access. He opined that if other property owners have sole alley access this owner should be able to do the same.

James Bartosh stated that alley access should be available to all because it is public domain. He does not believe neighbors should be able to set the use of the alleys. He supports the project.

Irene Lawrence, one of the applicants, said she fulfilled all the conditions required by the Planning Commission. Ms. Lawrence presented letters in support of her project, as well as pictures of the area. She clarified that she has no intention to use the garage as a secondary unit, and she believes that all objections are related to alley access. She assured Council that most access will be through the front door, with the exception of parking in the garage. Ms. Lawrence named two of the appellants who currently have sole access through the alley. She spoke to the issue of privacy and how it applies to the applicant as well as to other residents. Ms. Lawrence opined it is unfair for two existing houses to turn the public alley into their private lane. She reiterated that the proposed project was designed in strict adherence to all rules and regulations. Ms. Lawrence provided historical data about alley use. She addressed concerns about setting precedents and in her opinion this is not a fair argument.

Subbramian Subbiah opposes sole access via the alley, because he believes the alley is overloaded. Mr. Subbiah identified removal of an electricity pole as an issue that has never been addressed. He added that many of the supporters of the project do not use the alley. He has been waiting for a document that addresses the status of the alleys.

Mayor Pro Tem Jellins closed the Public Hearing.

### **Council Discussion**

Council Member Fergusson asked for Mr. Subbiah to clarify his situation with the maintenance agreement. Mayor Pro Tem Jellins stated that Council would come back to this. Council Member Cohen commented that developing property is the right of everyone who owns it, but he would like to understand why if the other two addresses have a 20-foot setback, this one doesn't. Mr. McClure explained that the issue is this is an accessory building and is not required to have a 20 ft. setback from the rear property line. He added that in this case the garage is required to have a minimum 5 ft. setback. Ms. Cramer said the applicants' proposal was for a 6 ft. back setback however the Planning Commission required 10 ft and that is the current proposed setback.

Mayor Pro Tem Jellins offered Council Member Fergusson the floor to bring up a previous (questioning Mr. Subbiah) if it relates to the discussion, otherwise he would like to continue the discussion. Council discussed paved alleys. Ms. Fergusson enumerated her main issues with the project are cumulative impacts and a concern that a precedent is being set. She would like to understand how alleys are being changed. Mr. McClure covered various Uniform Building Code requirements. Ms. Fergusson would like to understand if this garage approval will set a precedent for subsequent approvals. Mr. McClure said that Council is not bound by other decisions but this may be used as evidence.

Motion by Council Member Duboc to approve the staff recommendation, reject the appeal, and uphold the decision of the Planning Commission granting the use permit. Motion dies for lack of a second. Mayor Pro Tem Jellins favors an approach that puts a motion forward to focus the debate, but at this time will not second the motion.

Council Member Cohen is uncomfortable with the 10 ft set back because he doesn't think it is enough. He is looking for suggestions that would have neighbors work their out differences.

**M/S Cohen/Fergusson to sustain the appeal with direction to grant the use permit provided it is amended to include a condition of approval of a 20 ft. setback, and in all other respects remain as recommended by staff.**

Council Member Fergusson suggested an amendment to have access to the garage solely from Central Avenue. Mr. Cohen does not agree with this approach. Council Member Duboc said she has been in this area a lot and she outlined some of the reasons she supports the applicant: the project respects trees, protects the permeable surface of the alley, the majority of the neighbors support the design, the owner compromised with the neighbors, and privacy and traffic are concerns for all and not just this site. Council Member Fergusson referred to a meeting where approximately 150 residents addressed the Planning Commission sharing concerns about the status of the alleys in the Willows. She would like the use of the alleys to be addressed. She believes the setback issue carries weight and there is a strong neighborhood pattern of garages in the back. She has concerns about cumulative impacts because there are no standards in place. Mayor Pro Tem Jellins will not support the motion because he agrees with the Planning Commission.

**Council Member Cohen withdrew his motion. Council Member Fergusson agreed.**

Mayor Pro Tem Jellins reiterated that in the absence of an affirmative action that the appeal fails. Motion by Council Member Fergusson to deny the appeal, with the condition that the applicant redesigns the project creating a single legal parking location, either in front or to the side of the dwelling. Motion fails for lack of a second.

Council Member Jellins announced that in the absence of an action the appeal fails.

*Mayor Winkler rejoins the Council at the dais.*

## **F. REGULAR BUSINESS**

1. Denial of a request for the establishment of a red curb zone restricting on street parking at 20 Kelly Court.

Rene Baile, Transportation Engineer, gave details about the site and the type of properties in the area, which are mostly industrial. Staff explained that the Transportation Commission supports the request. Based on staff's investigation the majority of parking issues come from drivers who park in front of neighboring businesses. On the basis that there is no safety concern, and the ample width of the cul-de-sac, staff recommends no action. Council asked if the problem still exists and Mr. Baile said that staff has been there twice and they did not witness parked cars. Staff confirmed that it had contacted the business at 1 Kelly Court about the issue.

Dario Slavazza, owner of CS Bio Company, explained to Council that the Transportation Commission agreed with the 80 feet of red curb. He requested the red curb be installed.

Council Member Cohen asked why trucks are parked there, and Mr. Slavazza said that other the company's trucks occasionally park there. He added that he is not interested in forbidding all parking, however he thinks aesthetics should to be considered. Mayor Winkler asked if what is happening is illegal and Mr. Baile said that it isn't except when vehicles are double-parked. Various options related to this site were discussed such as possible No Parking signs and various curb colors.

### **M/S Fergusson/Jellins to approve the request to install a red curb.**

Council asked about the maintenance cost agreement for the red curb, and why a No Parking sign wouldn't work. Mr. Slavazza said the problem is when a lot of employees from other companies park their cars all day. Mr. Slavazza agrees with a yellow curb so that loading and unloading can occur. He said his building is five feet from the street so the cars and trucks are a real impact for him.

Mayor Pro Tem Jellins suggested an amendment to have a yellow curb instead of red.

Council Member Cohen was agreeable to a mix of yellow and red. The requestor is flexible to having all red or all yellow. Mr. McClure clarified that the yellow curb is strictly for active loading and unloading, any other cars parked there will be ticketed. Council Member Cohen would like to know why No Parking signs won't work and Mr. Baile said that this is an option. Council discussed with the applicant if this would work for him and he was open to either color.

### **Council Member Fergusson could not agree with the yellow curb amendment, consequently Mayor Pro Tem Jellins withdrew his second to the previous motion.**

### **M/S Jellins/Winkler to install an 80 feet yellow curb in front of CS Bio.**

Council Member Fergusson believes this is putting a burden on the applicant because he will have to call the Police when cars or trucks are parked there.

### **Motion passes with Fergusson abstaining.**

2. Approval of Indemnification Agreement between the City of Menlo Park, the Community Development Agency of the City of Menlo Park and Clarum Hamilton Park, L.P. allowing Clarum to build two "Green Built" Homes on property owned by the Community Development Agency on Hamilton Avenue in connection with the Sunset Magazine Idea Home Program.

Arlinda Heineck, Director of Community Development, presented the report explaining the concept of showcasing two "green built" homes. Ms. Heineck said the construction of these homes would be expedited and would meet all rules and regulations. Because of the expedited construction, an indemnification agreement is needed, and she covered the terms of the agreement.

### **M/S Winkler/Jellins to approve the staff recommendation.**

Council Member Cohen asked if this could include a prototype of affordable BMR housings units. Ms. Heineck explained that all units are consistently built and equal.

**Motion passes unanimously.**

3. Consideration of state and federal legislative items including decisions to support or oppose any such legislation, and items listed under Written Communication or Information Items.

**G. WRITTEN COMMUNICATION - None**

**H. INFORMATION ITEMS**

1. Buy a Brick Program.
2. Assembly Bill 867 (AB 867) and potential impacts on elections held in San Mateo County.

Mayor Winkler asked if the bill is on hold and City Clerk Vonderlinden explained that the bill is in Committee and will be voted on the next day. Mr. Boesch added that the goal in listing this communication is to promote awareness by residents of this pending legislation. Mayor Winkler asks staff to keep Council apprised of its status.

**I. COUNCIL MEMBER REPORTS**

Council Member Duboc is honored to be the city's representative interviewing six architects designing the Menlo-Atherton Theater. Council Member Fergusson offered to be the alternate.

**J. PUBLIC COMMENT #2 (Limited to 30 minutes) - None**

**K. ADJOURNMENT – the meeting adjourned at 10: 47 p.m.**

Respectfully submitted,

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Silvia M. Vonderlinden, CMC

Approved at the Council Meeting of August 16, 2005.