



**CITY COUNCIL
and
COMMUNITY DEVELOPMENT AGENCY
MINUTES**

Tuesday, September 20, 2005
7:00 p.m.

701 Laurel Street, Menlo Park, CA 94025
Menlo Park City Council Chambers

5:30 p.m. CLOSED SESSION (First Floor Conference Room – Administration Building)

1. Closed Session pursuant to Government Code Section §54957 for the City Manager and City Attorney performance evaluations.

Reconvene in Open Session and Report on Aforementioned Closed Session.

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; Audrey Seymour, Assistant City Manager; and Silvia M. Vonderlinden, City Clerk. Various department heads and other City staff were also present.

PLEDGE OF ALLEGIANCE

A. COMMISSION VACANCIES AND REPORTS

1. Recognition of an outgoing City Commissioner.

Linda Nanfria, former Library Commissioner, was recognized for her commitment to this body.

Mayor Winkler made the following announcements:

- On September 24 Senator Joe Simitian will hold a town hall meeting in Palo Alto.
- The League of Women Voters of South San Mateo County will hold a forum with the Fire District candidates.
- A “welcome back” was extended to the fire fighters who helped the victims of hurricane Katrina.

2. The Parks and Recreation Commission will have two vacancies for seats that expire September 2005. The appointees will serve until September 2009. The deadline for receipt of applications is September 21, 2005 at 5:30 p.m.

3. Commission Reports.

B. PRESENTATIONS AND PROCLAMATIONS - None

C. PUBLIC COMMENT #1 (*Limited to 30 minutes*) - None

D. CONSENT CALENDAR

1. Authorization of an agreement with Testing Engineers, Inc. in the amount of \$35,000 for inspection and testing services for the Burgess Pool and Locker Room Project.
2. Award of contracts to S & C Ford in the amount of \$117,233; Putnam Chevrolet in the amount of \$29,898 and Municipal Maintenance Equipment in the amount of \$26,107 for the purchase of Police Vehicles and to Priority One in the amount of \$36,241 for the purchase and installation of emergency equipment and the transfer of computers to the new vehicles; and authorization of a total budget of \$219,479 for police vehicle purchases, police vehicle equipment, and contingencies.

3. Approval of the City Council Minutes for the meetings of July 19, 2005, and August 16, 2005.

M/S Jellins/Fergusson to approve the Consent Calendar. Motion carries unanimously.

Public Comment

Holly Still spoke about truck traffic heading to Bay Road and cutting through residential areas in the Willows.

E. PUBLIC HEARING

1. Consideration of an appeal of a Planning Commission action to deny a request for a Use Permit revision to eliminate a condition of approval requiring the demolition of an existing warehouse at the rear of the property located at 441 El Camino Real.

Justin Murphy, Community Development Services Manager, provided the staff report. He stated staff's recommendation to uphold the decision of the Planning Commission requiring removal of the warehouse within 90 days of tonight's meeting.

Council asked questions about the history of this project and the conditions of the demolition. The use permit and other permitted uses on site were discussed. Mr. Murphy explained that the removal should have happened by December 2004. Mayor Pro Tem Jellins posed questions about the property and the level of awareness of the demolition requirement.

Kristina Lawson, the applicant's attorney, explained that the request is to have the applicant remain at the site until the lease expires in August 30, 2006 and then demolish the building. Paul Alexander, the applicant, addressed Council saying that the move is hard because of the various components of his catering business, i.e. office area, kitchen space, refrigeration, etc. Mr. Alexander said this is high season for his business and it is hard to find a suitable location. Mr. Alexander gave details about his lease and how he was unaware of the demolition requirement. He provided details about his lease agreement and its renewal. He asked Council to postpone the demolition until August 30, 2006 so that he may successfully relocate his business.

Mayor Pro Tem Jellins pursued questions about the possible existence of a use permit for 441 El Camino Real. Staff could not confirm that there is a use permit for 441 El Camino Real. Mr. Jellins stated that if Council were to extend the demolition date, staff would have to revisit the issue of the use permit at 441 El Camino Real. Mr. McClure responded that it is possible that a use permit will be needed. The specifications for a new warehouse were discussed including the area for the refrigeration as well as square footage needed for the kitchen.

Mayor Winkler opened the public hearing. There was no public comment.

M/S Duboc/Fergusson to uphold the decision of the Planning Commission but extend the deadline until August 2006 and encourage Mr. Alexander to stay in Menlo Park.

Ms. Duboc stated she made the motion because she understands this is poor timing for the caterer. She suggested having staff work with Menlo Vello to keep an area for storage. Ms. Fergusson supports this motion but wants it to be clear that August 2006 is the final deadline. Mayor Winkler asked if there were any code enforcement issues and Mr. McClure said that there might be some minimal ones that staff will review. Mayor Pro Tem Jellins recalled various discussions over the years about this item, and that the owner has known about this upcoming demolition for a while. Consequently, he believes this is a matter between the owner and tenant.

Mayor Pro Tem Jellins would like to have the demolition permits planned in advance so that August 2006 is when the demolition occurs. This was accepted as a friendly amendment.

Mayor Pro Tem Jellins would like staff to address the question whether a use permit is needed at 441 El Camino Real. Council Member Cohen disagreed with the approach because the owner and the tenant had adequate notice to demolish the site, and he is concerned about the other people who follow the rules. Ms. Fergusson clarified that the use of the warehouse had been grandfathered in and so she

does not have a problem with this. Council asked when the City began requiring use permits and Mr. Murphy said sometime between 1991 and 1996.

Mr. Cohen does not fully understand the impossibility of adapting to legal requirements and still keeping the business operational. City Attorney McClure said that 441 El Camino Real has a use permit for the construction of the building and it allowed the warehouse building in the rear which was used in 1991 by Continental Caterer's. Mr. McClure said that what is before Council is an application to amend the use permit to give the applicant until no later than August 31, 2006. He added that the motion includes the caveat of having the demolition permits be initiated before that date so that by August 31, 2006 the building is destroyed. Mayor Pro Tem Jellins explained that what he was referring to was the separate use permit for the office space, at the front of the building, and this is a separate use permit issue. Mr. Jellins said this is relevant because if the applicant had gotten a use permit he would have known about the previous conditions.

Motion carries with Cohen opposing and Jellins abstaining.

2. Consideration of request for General Plan Amendment, Rezoning, Conditional Development Permit, Major Subdivision, and Below Market Rate Housing Agreement; Introduction of an Ordinance amending Zoning Ordinance regulations pertaining to Conditional Development Permits and the Below Market Rate Housing Program; and environmental review to construct twelve detached residential units at 966-1002 Willow Road (Resolution No. 5624).

Justin Murphy, Community Development Services Manager, presented the staff report and reiterated the unanimous support of the Planning Commission for this project. Council asked questions about the project and the trees. Council inquired about the number of stories and Mr. Murphy said the houses will be 3 stories high (approximately 34 feet). The unique shape of the site was discussed and Mr. Murphy provided a list of various applications that have been unsuccessfully filed over the last nine years.

Mayor Pro Tem Jellins asked questions about the property line in the back and Mr. Murphy said the back is owned by Caltrans. Mr. Jellins asked if the effects of pollutants found should be a concern to the City. Mr. Murphy said that the applicant did look at some of these issues through the environmental review. Ms. Fergusson asked what the environmental review showed, and Mr. Murphy said that it showed the need for additional assessments and the applicant is aware of these obligations. Council Member Cohen addressed landscape issues as well as the removal of heritage trees. Mr. Murphy confirmed that staff identified a few trees that need to be removed because they will not survive construction.

Jeff Warmoth, the applicant, gave details about the plan. Mr. Warmoth explained that the R3 zoning is being used here to its best, and his goal was a uniform project that unites the seven parcels. He would prefer to build single family detached homes that are affordable. He gave details about the design and layout of the project. The applicant answered questions about the look and the color scheme. Council asked details about sound impacts, and Mr. Warmoth said an acoustical study was conducted and a solid 8 ft. sound barrier will be along the back of the units. In addition, mechanical ventilation will be installed. Mr. Warmoth is committed to using quality windows to prevent noise problems. Flood insurance was discussed and Mr. Warmoth said a foot of soil will be added and the drain and gutters are of permeable surface.

Mr. Warmoth added that fire sprinklers will be included in the project. Council Member Fergusson asked about the CC&R's and Mr. McClure said that he reviewed the document. Ms. Fergusson asked about the maintenance of the area and Mr. McClure explained that homeowners will be responsible for their unit. The maintenance of a private street was discussed and the Association, with a shared cost by the homeowners, will maintain it. The exterior project colors were discussed and Mr. Cohen would like some variation on the color schemes to add more brightness. Council discussed trying to keep a certain heritage tree that is an 18-inch oak on lot 8. The applicant said that it is his intention to try and save it. Council Member Fergusson asked about the wording on 16.82.050 (section 2), as well as the condition GG to more closely reflect the intent of the applicant on the quality of the windows. Ms. Fergusson asked how section 16.96.040 of the ordinance relates to density and FAR and BMR ratios and Mr. McClure gave additional details.

Public Comment

Britt von Thadem supports the project because some of his concerns were addressed via the Planning Commission. Mr. von Thadem asked that the trucks be aware of the circulation plan.

Russell Dember believes the sound proofing will be essential. He does not believe this project had enough public notification.

With the Council consensus, Mayor Winkler closed the public hearing. Mayor Pro Tem Jellins voiced his belief that the applicant is being sensitive to the need for color variety in the different units.

M/S Jellins/Duboc to adopt the staff's recommendation and introduce the ordinance.

Mayor Pro Tem Jellins said that he is satisfied with the approach to exceed the requirements for the windows. Ms. Fergusson is satisfied with the wording on section 16.82.050. of the ordinance. She asked questions about the notification and Mr. Murphy said that it included an area beyond the required 300 feet. Ms. Fergusson asked if children can get to open spaces without having to use a car and Mr. Murphy explained the sidewalk network in the area. Mr. Murphy added that there are some bike lanes and others might be added. The color of the buildings was discussed and Mr. Cohen would like more variety and more color.

Motion carries unanimously.

Mayor Pro Tem Jellins inquired on how Mr. Warmoth sells his homes, and he said he that deals directly with those who call or drop by.

F. REGULAR BUSINESS

1. 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

1. Correspondence from Scott Bohannon, Senior Vice President of Bohannon Development Company requesting that Menlo Park enforce "No Overnight Parking" in the M-2 zoned Bohannon Park.

Mayor Pro Tem Jellins explained that he is familiar with this request and he thinks this might be related to a lack of enforcement. He is satisfied with directing the Police Department to be more stringent. Mr. McClure said that the current ordinance does not apply to commercial or industrial areas. Mayor Pro Tem Jellins said that it might be a good idea to contact the property owners and he will work with staff on this matter. Mr. Boesch said that he does not think this is a large endeavor but the concern is the cost associated with signage and enforcement. Mayor Pro Tem Jellins will come back to Council with more information on the size of this project.

H. INFORMATION ITEMS - None

I. COUNCIL MEMBER REPORTS - None

J. PUBLIC COMMENT #2 (Limited to 30 minutes)

K. ADJOURNMENT – the meeting adjourned at 9:53 p.m.

Respectfully submitted,

Silvia M. Vonderlinden, Certified Municipal Clerk

Approved at the Council Meeting of October 18, 2005.