



**CITY COUNCIL
COMMUNITY DEVELOPMENT AGENCY
MINUTES**

Tuesday, March 13, 2007

7:00 p.m.

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

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

ROLL CALL - Fergusson, Cohen, Boyle, Cline, Robinson

Staff Present - Kent Steffens, Interim City Manager, William McClure, City Attorney, Arlinda Heineck, Acting Assistant City Manager and Silvia Vonderlinden, City Clerk. Other City staff was present in the audience.

PLEDGE OF ALLEGIANCE

A. COMMISSION VACANCIES AND REPORTS

1. There is one vacancy on the Planning Commission to fill an expiring term that ends April 2007. The deadline for applications is Wednesday, March 28, 2007.
2. There are three vacancies on the Bicycle Commission to fill expiring terms that end April 2007. The deadline for applications is Wednesday, March 28, 2007.

The Mayor announced the upcoming vacancies.

3. Commission member and Chamber of Commerce reports. None.

Mayor Fergusson announced the release of an Environmental Impact Report for the Salt Pond Restoration Project and she informed the public that the public review period has started and comments are due by April 23, 2007.

B. PRESENTATIONS AND PROCLAMATIONS - None

B1. STUDY SESSION

1. Consideration of and possible direction to staff on a proposal to construct a mixed use development comprised of 134 residential units and approximately 81,000 square feet of commercial space on property located at 1300 El Camino Real. (Staff Report #07-043)

Megan Fisher, Associate Planner, presented the report to the Council. She covered the current zoning for the area and details on the proposed project. She provided background on the R-4 Zoning District.

The applicant, Mr. Jeff Warmoth, and his architect presented the project in detail. They shared slides of the various features of the proposed project.

Council asked questions about the trees and the developer addressed the issue of the set back. He offered to provide an arborist report. Council asked questions about the R-4 zoning issue and what other historical items the City has looked at over the years. Council Member Boyle asked about the parts of the project that are not in congruence with current standards. Mr. Murphy said that the issue of density and FAR (floor area ratio) needs to be addressed by the Council.

Jim Bramlett, with time donated by Lynne Bramlett, does not support the height of the proposed project. He believes the proposed set back is not wide enough and he has concerns with the sunlight to the Glenwood Inn being blocked. He asked Council to consider the costs of high density housing.

David Speer opined that there is a need for a plan for El Camino Real and all of the costs need to be reported and understood. He questions how this can be moved forward without a vision for El Camino Real. Mr. Speer opined that the proposed heights are too high.

Elizabeth Lasensky pointed out that the density of this project is less dense than the Glenwood Inn and she stated that this is the first rental housing project that Menlo Park is putting forth in a long time.

Morris Brown, representing Menlo Park Tomorrow, thanked staff for the clarity of the public notice that was provided for this project and stated that he hopes this new approach to the notice is used in the future. He believes the project is too high and too dense. He noted that since the City is going to embark on a study of El Camino Real he believes this project should be delayed and scrutinized.

Paul Collacchi, former Mayor, does not believe that Council should be providing direction at Study Sessions. He provided a drawing to Council. He said that there is a Housing Element that would place housing in residential zones and this is an attempt to place it in a commercial zone. He opined that the proposed zoning modifications are similar to the Derry Project and those were referended by the community. He does not find this project conforming and noted that it could be controversial.

Jack Morris, former Mayor, referred to a communication from Elias Blawie. He supports receiving information from the community tonight. He concurred with the previous speaker but he does not support providing direction until the Council hears from the Commissions.

Patti Fry said that she was on the Planning Commission and she believes strongly that the business community and the property owners need predictability, and a plan is needed. She takes deviations to the major plan seriously and the first step should be to update the plan. Ms. Fry does not think that all the data has been provided to Council.

Peter Hart opined that Menlo Park has a chance to define the El Camino Real corridor via a plan, and this happens maybe once in a generation. He believes that a plan is needed instead of having what he called spot zoning.

Vincent Bressler said that this is a big project and having a plan would be advisable. He believes that there will be a lot of controversy around this development because there is no plan. He does not support this project because he calls this planning by default.

Laurie Shepard, a property owner on El Camino Real, agrees with the comments made by the other members of the community. She would like to have a plan and a vision for the El Camino Real corridor and Santa Cruz Avenue. She does not support this project. She supports underground parking and the use of a plaza as an architectural feature.

Stu Soffer said that he was a Planning Commissioner, and he echoed comments made by other speakers. In his view, Menlo Park is missing an economic plan and a land use plan. He reminded Council that this is a Study Session and Council does not have to make any decisions.

Dorcas Cheng-Tozun noted that housing is a concern for hardworking professionals. She supports using land smartly and that may include higher densities. She is asking that Council consider this plan and any others that offer housing.

Margaret Fruth supports a unified plan and if this project moves forward she asks Council to apply the parking, zoning and height requirements.

Council Discussion

Mayor Fergusson said she heard the comments about the exclusion of commissions on the process and the fact that a El Camino Real plan has not been fully developed. She reminded Council that at the last Study Session Council agreed that it would not stop applications that are in the pipeline.

Council Member Robinson said that he would like to hear from the commissions but those bodies also need to hear from Council. Council Member Robinson is willing to go through the questions posed by staff but he would not like to give direction. Council Member Cline believes that answering the questions

is premature. He supports having a plan for El Camino Real but not answering the questions before having a plan. Mayor Pro Tem Cohen asked if there was a reason why notice was given beyond 500-feet of this project. Ms. Fisher said that the City mailed a notice to about 2,000 residents. Mr. McClure said that there was an intent to provide a broader notice beyond the 500 feet.

Council Member Boyle asked Interim City Manager Steffens to explain the discussion they had and clarify what is the objective of this Study Session.

Interim City Manager Steffens, said that the staff report poses a number of questions and this is a way for the Council to look at what it might be willing to consider in the future. He said that further staff analysis will be needed and could include an Environmental Impact Report. Mr. Steffens said that if this is a project that Council does not wish to pursue then staff and the applicant would rather find that out now. Mayor Fergusson said that she is willing to share her personal opinion with the understanding that it does not include the commissions and other community members input.

Staff led the Council through the questions.

Mayor Pro Tem Cohen stated that he values the input from the numerous speakers and opposes this project in the present form. He thinks it would be a mistake to move forward on the other questions at this point. Council Member Boyle said that he supports using what we already have in the books. He believes we should proceed and provide some direction via the questions. Council Member Boyle complimented the staff report because it posed most of the issues but what he found missing were the benefits of the project. He noted that benefits included addressing the housing shortage, the creation of a pedestrian friendly environment along El Camino Real, and the future sales tax, property tax and the rec-in-lieu fees and increasing business vibrancy. Council Member Boyle mentioned that blight and the other issues should be considered in the context of this project.

Council Member Robinson concurred with Mayor Fergusson and Council Member Boyle in that Council did not want to stall current projects. He could consider the project but it has to fit within the current zoning. He said that there were a couple of speakers who spoke about the need for housing, and that is a reality. He believes this project is similar to the Derry project and consequently he does not think that, as proposed, this project works for him.

Mayor Fergusson said that the vibrancy element is one that resonates with her and she voted for the Derry Project but she did not feel that there was enough negotiation between what was being granted to the developer and what was being provided as public benefit. She believes this is the place for density given the history of the R-4 zoning.

Council Member Cline does not agree with the process. He said he ran on the idea that El Camino Real needs to be reviewed as a whole. He believes the Council is leading this down the path of a decision instead of having the community decide for itself. If this plan came back and was what the community had said it wanted then he would support it. He believes in looking at the entire plan for El Camino Real.

Regarding the height of the project, Council Member Boyle said that he compared this project to other projects and they are all within 10 feet of each other. Council Member Robinson said that he walked around the area and asked why this project is exceeding the R-4 zoning. Ms. Fisher said that this project is applying for a planned development permit which allows for modifications of development regulations such as height. He stated that he is comfortable with Menlo Square and probably 40 feet would be the maximum he would go to. Mayor Fergusson agreed with comments made by Council Member Robinson.

Mayor Pro Tem Cohen said that the sun will not shine on the Glenwood Inn in the winter; this is a concern to him. He provided information on the Derry Project and he asked how the benefits granted are quantifiable in terms of money. Council Member Robinson said this project should be looked at in the context of a larger plan and that he is not comfortable without a plan unless the current rules apply. Council Member Cline agreed with these comments and stated that he would like consistency that can be applied in multiple scenarios. Mayor Fergusson said that she felt the public benefit for the Derry project was too low. Council Member Boyle asked staff to research what other cities do regarding variances on FAR or zoning, as well as what other cities require for public benefit.

Regarding setbacks, Mayor Fergusson would like to see a set back of 20 to 25 feet at a minimum from the street. Council Member Robinson said that he would like to hear from an arborist and maybe save one of the trees.

Regarding parking, Mayor Fergusson stated that she is flexible. Council Member Boyle said he would like to know what other cities do. Council Member Robinson supports the idea of parking underground. Mayor Pro Tem Cohen said that his preferred model is parking underground like at Menlo Center. Council Member Cline would like to have staff review regional information. Council Member Boyle asked about the current underground parking and staff said it could come back with more specific information.

Regarding public benefit, Council Member Cline and Mayor Fergusson stated they would like to work on this once for all projects and not on a project by project basis. Council Member Cline said that there is the concern of limited staff resources and for that reason he does not support having staff work on the same thing multiple times.

Council Member Robinson is not proposing stopping anything but he is not comfortable considering plans that do not meet existing zoning codes. He would possibly consider a project meeting R-4 zoning. Council Member Boyle said that there hasn't been a single commercial development that didn't have a variance or a special element, and so he is not sure it is realistic to be so attached to the current zoning.

Regarding noticing, Council Member Boyle asked if the current notice includes all of the Santa Cruz area. Megan Fisher confirmed. Council Member Cline asked if all commissioners were notified about this issue. Mr. Murphy said that historically this has not been the case. Mayor Fergusson's preference would be to notify the whole city. Mr. Murphy said that this has implications in the cost of the mailings and for certain projects this could mean up to six notices being sent out.

Council Member Robinson believes that the need for citywide noticing will be driven by the plan, noting that a plan that meets current zoning might not need citywide notice. For this particular project, Council Member Cline supports the city wide notification. Council Member Boyle supports a more expanded area and maybe city wide notification via a newspaper. Mayor Pro Tem Cohen said that the issue that is important for him is who is affected by the unmitigated traffic impacts? If it is everyone in the city, then everyone should be notified and he agrees with having this be a pass along cost to the developer.

Council Member Boyle said that he would like to see a list of public benefits if the Council were to grant these variances. Council Member Robinson asked if staff has enough information and when this would be coming back to Council. Council Member Cline needs to see the El Camino Real plan before taking a clear position on the matter. Mayor Fergusson said that the issue of rental versus ownership housing is an important one and she would like the city to share in the economic benefit of the housing. Mayor Fergusson believes there is a lot of rental housing in Menlo Park. What she believes is missing in Menlo Park is condominium housing. She liked the idea of after hours parking for the park theater or possibly a parking sharing agreement that could benefit both sites. She would suggest the issue of historic preservation as having a high level of public benefit.

Council took a break at 9:20 p.m. The meeting resumed at 9:25 p.m.

C. PUBLIC COMMENT #1 - None

D. CONSENT CALENDAR

1. Approval of minutes for the City Council meeting of February 6, 2007 (attachment); and the minutes of the Special City Council meeting of February 8, 2007. (attachment)

M/S Boyle/Cline approve the minutes as amended. Motion carries 5-0-0.

E. PUBLIC HEARING

1. Consideration of a revision to a conditional development permit for an approved Safeway and retail services building at 525 and 625 El Camino Real in the C-4-X (applicable to El Camino Real, Conditional Development) Zoning District. (Staff Report #07-042)

Thomas Rogers, Associate Planner, provided a brief report on the modifications proposed by the applicant.

The applicant, Steve Burnt with Safeway, thanked the Council for hearing this matter. He said that this is a pretty unique opportunity to ask for an amendment of the plan during the construction phase. At Safeway they see the increase in the sidewalk as a positive situation for the City of Menlo Park because it will be more pedestrian and bicycle friendly. He believes the new signs are softer in lighting and the changes are overall an aesthetic improvement. Regarding the proposed color scheme, Mr. Burnt said Safeway is trying to unify some of the internal and external colors. He believes the new design is timeless.

Mayor Fergusson opened up the public hearing. There was no public comment.

M/S Cline/Robinson to close the public hearing. Motion carries 5-0-0.

Council Member Cline received verification from Mr. Burnt that that the sign will now be a reversed sign and will have less impact on El Camino Real. Council Member Robinson thanked Safeway for meeting with various Council Members. He likes the improvements and he appreciates Safeway's flexibility in trying to improve the design.

Motion by Council Member Robinson to approve the revisions to the use permit and approve the color scheme. Due to no second, motion fails.

Mayor Pro Tem Cohen asked if the barriers in the parking area could be increased to 3 or 3.5 feet in height. He also thanked Safeway for keeping the skylights in the break room for employees. Council Member Robinson asked how tall the plants will be around the barriers. Mr. Burnt said approximately 36 inches.

The Safeway applicant said that they could raise the barrier to 24 inches but would not want to go taller so that it does not become a focal point.

Council Member Boyle said that he agrees with the revision. He is concerned with some suggestions made by Mayor Pro Tem Cohen, when the Planning Commission has voted unanimously on the matter, and he is satisfied with the process.

M/S Robinson/Cline to approve the applicants' request, including the color change and allowing some flexibility regarding the issue of the height of the barrier.

Mayor Fergusson would like to uphold the Planning Commission decision on the issue of the color. Council Member Cline said that what has gone on with Safeway and the community and this process should be emulated because of the well thought out process, the outreach, and engagement of the community.

M/S Boyle/Fergusson alternate motion to approve the plan as approved by the Planning Commission.

Council Member Robinson acknowledged receipt of an email about the Safeway issue and he respects the voice of that resident who supports the change.

Motion to substitute fails 2-2-1 with Mayor Fergusson and Council Member Boyle voting in favor, Council Members Cline and Robinson opposing and Mayor Pro Tem Cohen abstaining.

Vote on the original motion: motion carries 4-1 with Mayor Pro Tem Cohen abstaining.

F. REGULAR BUSINESS

1. Adoption of findings for granting an appeal to approve a Use Permit to operate a private school in an existing industrial building at 1215 O'Brien Drive in the M-2 (General Industrial) Zoning District. (Staff Report #07-040)

Thomas Rogers, Associate Planner, provided a brief staff report. He said that the revised draft findings were provided as part of the staff report.

Council Member Robinson referred to a letter sent by the Menlo Park Chamber of Commerce. Mr. Rogers responded to some points related to the risk management plan and the fact that it is only for extremely hazardous materials.

Council Member Boyle said he is confused because he talked to the Fire District and the answer was somewhat different. Mayor Fergusson said that she found it extraordinary that a letter was sent by the Fire District regarding this matter so late in the review process. Mr. Rogers said that the Fire District was contacted last year prior to the Planning Commission meeting and the feedback provided was that the data presented by staff was correct. Council Member Boyle believes the bottom line is that the Fire Chief expressed his explicit concern about the fact that children can be present.

The Mayor asked for public comment.

Greg Klingsporn addressed Council about the process and how there has been a stack of additional material submitted late that he had not seen. He is hesitant to address the information because he is not sure it is part of the public record. He said that with respect to the Fire Chief letter there is no additional regulatory safety burden that this school will lend to the area. Mr. Klingsporn does not understand the statement that Casa dei Bambini will add different priorities for the Fire Department because there are already children in the area.

He believes that if there is a philosophical difference in having children in that area, then this matter should be addressed at the zoning level. He expressed his appreciation for the Council granting an extension for more discussions to take place with the other party, and that there have not been any potential resolutions on this matter.

Sahyoun Joseph thanked Council for all the efforts and he fails to see how at the last minute there are all these letters heightening the fear of a possible explosion. He does not support the allegations about toxic materials.

Sara Armstrong thanked Council for voting to approve the use permit and she is hoping the Council will adopt the findings tonight. Ms. Armstrong said that the heart and soul of a community are the families and the children.

Margaret Fruth commented that the letter from the Fire Chief is interesting.

John C. Tarlton believes this is debate about the land use and not about children. He shared an incomplete plan for the area that he is working on. He does not find the current use compatible. He respectfully requests that the plans be sent back to the Planning Commission.

Keith Higgins, a traffic engineer, commented on the support of on-site parking. He asked how special event parking would be handled. He said that there are a few items related to the parking ordinance that are not in compliance. He also spoke about lighting noting that there are some dark spots that might have safety implications.

Prosad Wagle said that he takes his daughter to a school in Palo Alto and yes there are costs in having the school at this location but the benefits outweigh the disadvantages.

Wesley Skow does not think the CEQA exemption is acceptable. He said that Council heard from the traffic engineer and the fire chief letter also shows that there are issues that need to be mitigated and studied via the CEQA process. He said that the test that needs to be applied is a fair argument test. He emphasized that there is a master plan for this area and it is his opinion that this attempts to change it.

Vivian M. Leal thanked the Council for its civic service. Ms. Leal does not understand why this letter arrived at the last minute and the last minute traffic report. She asked if permits for extremely hazardous material have been issued.

Jose Fesas thanked the Council for its service and he is surprised at the letter from the Fire Chief. He said what is happening here is enforcing existing law. He made mention that the services he is getting in Palo Alto he could get in Menlo Park if these were available.

Sandra Bahrazetti said that the opposition was present at the November 27, 2006 meeting and she spoke with the Chief today and he repeated over and over that in a perfect world this is what he would like to see. She asked the Chief why this letter now and he said that he was asked to write it by former Mayor Jellins.

Fran Dehn, on behalf of the Chamber of Commerce, said she is in support of Mr. Tarlton's comments. Ms. Dehn read from the letter which outlines why the Chamber of Commerce does not support the Casa dei Bambini application.

Council Discussion

Council Member Boyle asked if the original decision could be reconsidered. City Attorney McClure explained the options before Council. Mayor Fergusson said that regarding the letter she would draw a distinction between an opinion shared at a meeting and an official stance. She shares the vision of this area as a research and development area but she also sees the social justice aspect of this. She said she looked at the map and it is missing the girls club. She would like to treat everybody the same and she agrees with the Chief this will be an extra operational requirement; however, that is the Fire District's job.

Mayor Pro Tem Cohen said that the situation calls for a statement. He encouraged the parties to find a resolution and he is not surprised with the threat of a lawsuit. He sees nothing new that would require a reconsideration. He supports accepting the findings that staff prepared.

Council Member Boyle agrees with many of the facts that have been put forth. He said that the other schools in the area are in the periphery, larger arterial roads, and so it is not apples to apples. He said that the findings state that there will be no impacts and he cannot agree with ignoring the letter from the Fire Chief and so there is clearly an impact in emergency services. He thinks that at a minimum this should be sent back to the Planning Commission.

Council Member Cline outlined the issues he heard tonight and he does not understand how there are already four schools there so there is already a prioritization in place for the safety team. Council Member Robinson said that the Public Hearing on this was closed weeks ago. He outlined the issues and he asked about the findings and the CEQA exemption. The City Attorney provided an explanation.

M/S Robinson/Cohen to adopt the findings.

Council Member Boyle stated his opposition to the findings. Mayor Fergusson said that she told the Chief to take a public stance and until his opinion is out there it is not part of the public discourse. Council discussed their different interpretations of the letter from the Fire Chief. Council Member Boyle said that his suggestion is to take this back to the Planning Commission to study the approval.

Motion carries 4-1-0 with Council Member Boyle opposing.

2. 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.

Kent Steffens, Acting City Manager, spoke about proposition 1B and the dedication of \$1 billion across the State. He noted that SB 286 would require that the cities would receive the first share of funds in the 2007-08 fiscal year. He asked that Council support the legislation and have the Mayor sign a letter of support. **Council agreed with this approach.**

G. WRITTEN COMMUNICATION - None

Mayor Pro Tem Cohen asked if there wasn't a written communication that should be listed on the agenda. Acting City Manager Steffens said that the item Mayor Pro Tem Cohen is referring to will be on next week's agenda.

H. INFORMATION ITEMS - None

I. COUNCIL MEMBER REPORTS

Council Member Boyle asked if he can be at the Green Ribbon Task Force meeting. Mr. McClure said that Council Member Boyle cannot attend. He said that this committee is working towards making recommendations and so it would be a violation of the Brown Act if a quorum attends the meeting. Mr. McClure said that in all meetings, unless it is a ceremonial or social event, a quorum of the Council cannot be present unless the meeting has been duly noticed. Mayor Fergusson said that she has done a lot of outreach and so she hopes this can be rectified. Mr. McClure said that the suggestion by Council Member Cline to rotate the Council Members is not the way to go because Council could be reaching a consensus. Council Member Boyle has a concern that this committee will make recommendations and he finds the process frustrating and it is not inconsequential that three-fifths of the City Council cannot attend.

Council discussed if and how this would be placed on a future agenda.

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

K. ADJOURNMENT - The meeting adjourned at 11:38 p.m.

Respectfully submitted,

Silvia M. Vonderlinden, Certified Municipal Clerk

Approved at the Council Meeting of April 10, 2007.