



MENLO PARK PLANNING COMMISSION MINUTES

**Regular Meeting
January 13, 2003
7:00 p.m.
City Council Chambers
801 Laurel Street, Menlo Park, CA 94025**

CALL TO ORDER – 7:10 p.m.

ROLL CALL – Fergusson, Fry, Halleck, Soffer (Chair), Stein

- **COMMISSIONERS ABSENT:** Pagee

INTRODUCTION OF STAFF – McClure, Murphy, O'Connell, Smith, Thompson

A. PUBLIC COMMENTS

- The Commission recognized former Commissioner Mike O'Donnell for his service on the Planning Commission and presented him with a Certificate of Appreciation and a book on architecture in the Silicon Valley.

B. MINUTES

- Consideration of the draft transcripts of the December 2, 2002 Planning Commission meeting.

Commissioner Fergusson noted that on page 35, line 5, "Elk" should be "Oak" (Grove); page 37, line 22, "Rober's" should be "Robert's" (Rules); and page 38, line 16, "Caplar's" should be "Kepler's."

Commission Action: M/S Fergusson/Fry to approve the minutes with corrections as noted.

Motion carried, 5-0, with Commissioner Pagee absent.

C. PUBLIC HEARINGS

1. **Use Permit/Roger Kohler/1700 Bay Laurel Drive:** Request for a use permit to construct first and second floor additions to an existing single-family residence on a lot that is substandard in regard to lot width and for additions to an existing legal, nonconforming residence to exceed 50% of the replacement cost of the structure within a 12-month period.

Staff Comment: Planner O'Connell presented the staff report.

Public Comment: Applicant Roger Kohler indicated that his clients, the Goldmans, had met with their neighbors, the Berkowitzs, and that landscaping for screening was agreeable and that the upstairs bathroom window on the second floor was no longer a concern.

Commission Action: M/S Fry/Stein to close the public hearing; motion carried 5-0 with Commissioner Pagee absent.

Commission Questions of Staff: In response to a question from Commissioner Fergusson, Planner O'Connell indicated that the landscaping plan was included in the staff report packet as Sheet L, Circle Page B-4, and that the design is subject to staff approval. Commissioner Fergusson asked that consideration be made as to what type of plants would be allowed on the northeast property line, due to the close proximity to the Berkowitz' pool. She asked about the note plans on Sheet A-5 regarding a wood burning fireplace and whether adherence to restrictions regarding air pollution was being required. Planner O'Connell indicated that the fireplace would need to comply with the City's Ordinance.

Commission Action: M/S Stein/Soffer to:

1. Make a finding that the project is categorically exempt under Class 1 of the current State CEQA Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the use permit subject to the following conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Kohler Associates, dated September 17, 2002 with revised pages dated December 27, 2002, consisting of 13 plan sheets, and approved by the Planning Commission on January 13, 2003, except as modified by the conditions contained herein.
 - b. Prior to building permit issuance, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Transportation Division, and Engineering Division that are directly applicable to the new construction.
 - d. Prior to issuance of a demolition permit or building permit, the applicant shall submit a plan for construction safety fences around the periphery of the construction area for review and approval of the Building Division. The Building Official may waive this requirement on a case-by-case basis. The fences shall be installed according to the plan prior to commencing construction.

- e. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. All utilities shall be placed underground. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
- f. Prior to the issuance of a building permit, the applicant shall submit revised plans that clearly indicate that no attic space exceeds five (5) feet in height and that no finished floor to ceiling space exceeds 12 feet in height unless the areas of excessive height are counted at 200% in FAL calculations. The revised plans shall be subject to Building Division staff review and approval.
- g. Prior to the issuance of a building permit, the applicant shall submit a detailed landscape plan. The project arborist shall review the landscape plan to insure that any new plantings will not interfere with the health of the existing heritage trees, due to tree placement or irrigation requirements. The plan shall be subject to Planning staff review and approval.
- h. Prior to the issuance of a building permit, the applicant shall submit a revised arborist report that specifies tree protection measures that are to be in place during the construction for the protection of the existing heritage trees. The plan shall be subject to Planning staff review and approval.
- i. Prior to issuance of a building permit, the applicant shall provide a note on the elevation drawings and floor plan corresponding to the three windows adjacent to the bathtub in the master bedroom. The note shall indicate that the windows will have appropriate internal coverings.

Motion carried, 5-0, with Commissioner Pagee absent.

- 2. Use Permit and Variance/Tom Jackson/1185 Woodland Avenue:** Request for a use permit to demolish an existing single-family residence and construct a new, two-story residence on a lot that is substandard with regard to lot area and lot width.

Staff Comment: Planner Smith presented the staff report and noted that the applicant has met with the neighbors and redesigned the project, which eliminated the need for a variance request. He noted that the distance shown on B-5 from fence to garage was an error. He also noted that prior to tonight's meeting, staff received a letter from Commissioner Pagee regarding meeting with the applicant and neighbors and proffering her support of the project as redesigned.

Commissioner Fergusson recused herself from the discussion and sat in the audience as a member of the public.

Commission Questions of Staff: Commissioner Fry clarified that the garage is legal size and a variance for it is not being requested.

Public Comments: The applicant and property owner, Mr. Thomas D. Jackson, addressed the Commission. He indicated that he was not requesting a variance, and that since the second consideration of his application by the Commission in November, he and his neighbors had met. Based on that discussion, his architect redesigned the project based on the input and sent plans to all participating in the discussion. He has not received any negative response. In response to a question from Commissioner Fry, Mr. Jackson said that the proposed circular driveway would be grasscrete or gravel, not concrete. Mr. Jackson went on to say that he would be willing to eliminate the proposed circular drive.

Mr. Philip C. Volkmann, Architect, provided an overview of the changes in design. In response to questions from Commissioner Soffer, he indicated that the turning radius for the driveway had been checked against standards and the garage had been moved two feet forward and away from the Ellsworth's property.

Ms. Kelly Fergusson, 168 Oak Court, Menlo Park, asked staff to bring to the attention of Engineering that drains installed on Woodland Avenue are compromising the safety of pedestrians and bikers.

Mr. Steven Russell, 1163 Woodland Avenue, Menlo Park, indicated his support of the project, but was concerned that the property owners who would most be affected by the circular driveway were out of town and not able to comment.

Mr. William Ellsworth, 1215 Woodland Avenue, Menlo Park, thanked Commissioner Pagee for her assistance, and gave his general support for the project. He concurred with Mr. Russell's concern about the circular driveway and with Ms. Fergusson regarding drains and safety.

Principal Planner Murphy noted constituents' concerns about drains and safety, and will forward their concerns to Engineering.

Mr. John Sakamoto, 1205 Woodland Avenue, Menlo Park, thanked Commissioner Pagee for her assistance, and indicated his support of the project with revisions and with a request that landscaping on the right hand side of the property be enforced.

Commission Action: M/S Soffer/Stein to close public hearing; motion carried 4-0, with Commissioner Pagee absent and Commissioner Fergusson recused.

Commissioner Soffer made a motion to approve the project, and Commissioner Halleck seconded it. Commission discussion then ensued.

Commission Discussion: Chairman Soffer thanked the applicant and neighbors for making the process work. Commissioner Halleck indicated that he was impressed with the project and the cooperative efforts of the property owners and neighbors. Commissioner Fry asked staff about Mr. Sakamoto's concern about the landscaping; Planner Smith indicated that staff review of landscaping and the driveway are two of the conditions of approval. Commissioner Stein suggested a friendly amendment to the motion that staff has final approval of the landscaping and driveway design, which was amenable to Chairman Soffer and Commissioner Halleck.

Commission Action: M/S Soffer/Halleck to approve project as recommended by staff with amendment to Condition h to include Planning's final approval of the landscaping and driveway design.

Recommendation to:

1. Make a finding that the project is categorically exempt under Class 3 of the current State CEQA Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the use permit subject to the following conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Barry & Volkmann Architectural Productions, consisting of five plan sheets dated January 7, 2003 and one plan sheet dated July 2002, and approved by the Planning Commission on January 13, 2003, except as modified by the conditions contained herein.
 - b. Prior to building permit issuance, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility company's regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the new construction.
 - d. Prior to issuance of a demolition permit or building permit, the applicant shall submit a plan for construction safety fences around the periphery of the construction area for review and approval of the Building Division. The Building Official may waive this requirement on a case-by-case basis. The fences shall be installed according to the plan prior to commencing construction.
 - e. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering, and Building Divisions. All utilities shall be placed underground. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
 - f. Prior to building permit issuance, the applicant shall submit a landscape plan for the review and approval of the Planning Division. At a minimum, this landscape plan shall indicate all trees and screening vegetation proposed by the applicant, as well as any new or replacement fences.

- g. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance. Prior to building permit issuance, the applicant shall submit a tree protection plan for all applicable heritage trees for review and approval to the Building Division.
- h. Prior to building permit issuance, the applicant shall submit a revised driveway and street tree plan for the review and approval of the Public Works Department and the Planning Division.

Motion carried, 4-0, with Commissioner Fergusson recused and Commissioner Pagee absent.

- 3. Use Permit/Jack McCarthy Designer, Inc./1210 Bay Laurel:** Request for a use permit to demolish an existing single-family residence and construct a new, two-story residence on a lot that is substandard with regard to lot width.

Mr. William McClure, City Attorney, recused himself, as Mr. McCarthy is a client.

Staff Comment: Planner Smith presented the staff report, noting that since the Commission's first review of the proposed project, the applicant had met with neighbors and substantially redesigned the project.

Public Comment: Mr. Jack McCarthy, applicant, noted changes to design, including bringing forward the garage to attach to the residence; setting back the second floor from the ground floor on all four elevations; reducing the overall height of the residence by approximately 1.3 feet; increasing the front setback by three feet to protect the cedar tree; eliminating the second story windows on the right side elevations; and reducing the size of the second story windows on the left side elevation. He distributed photographs of the site to the Commission.

Ms. Annabelle Nye, 1200 Bay Laurel, Menlo Park, a 30-year resident at that address, strongly objected to the project because the home as designed will block sunlight and the view of the foothills from her home, and it will undermine the rural character of the neighborhood. She also questioned the use of a sump pump in the basement and the effect on trees from that water drainage.

Mr. Jeff Siegel, 1220 Bay Laurel Drive, Menlo Park, objected to the project, noting his concerns that once the property was sold, there would be nothing to prevent landscaping changes that would impact the privacy of his property.

Ms. Fredi Elliott, 355 San Mateo Drive, Menlo Park, indicated that her backyard faces the subject property and expressed her concerns that the house is too big for the neighborhood and worried about landscaping changes that might negatively impact her property and that of the Siegels.

Mr. Bob Elliott, 355 San Mateo Drive, Menlo Park, thanked Mr. McCarthy for meeting with the neighbors, but he still objected to the project, as he believes the house should be one story only and the proposed design is too big for the property.

Commission Action: M/S Fry/Soffer to close public hearing; motion carried 5-0, with Commissioner Pagee absent.

Commission Action: M/S Fergusson/Halleck to accept project as recommended with a condition to require maintenance of the landscaping on the rear and southwest property lines to existing, or equivalent.

Commission Discussion: Commissioner Fergusson indicated that she would move to approve the project with two conditions: that the owners of 1210 Bay Laurel be required to maintain foliage and landscaping on the rear property line and the southwest property boundary as, or equivalent to, what exists. Planner Murphy indicated that enforcement would be a consideration, noting that for 260 Arden Road, covenants running with the lands were written to accomplish the same. Soffer indicated that perhaps the item could be brought back next time after consultation with outside legal counsel as to how to accomplish enforcement. Commissioner Halleck indicated that despite the conflict that larger homes and the lack of clear guidelines create for him, he was comfortable with this project because of such elements as shaded windows, setback, a reasonable amount of windows, and the requirement of landscaping for screening. Commissioner Stein indicated that she would have preferred to comment prior to the motion and second as she wanted to consider the neighbor's concerns about losing the view of the foothills. She suggested that the second story be reworked to remove view constraints from the Nye's property by putting the bulk of the bedroom on the opposite side. Commissioner Fry complimented Mr. McCarthy on his efforts to create a design agreeable to the neighbors, but indicated that she had concerns regarding the impact of the proposed large home on the character of the neighborhood and on visuals of sunlight and view experienced by the Nyes. Soffer asked Mr. McCarthy if he would be willing to go back to the neighbors once more and try to revise the design to be amenable. Mr. McCarthy indicated his assent, but with reservation that there would likely not be agreement on the issue of size. Commissioners thanked Mr. McCarthy for the quality cedar shingles and windows he proposes to use.

Motion failed, 1-4, with Commissioner Fergusson voting "for," Commissioners Fry, Halleck, Soffer and Stein voting "against," and Commissioner Pagee absent.

Commission Action: M/S Soffer/Halleck to continue the application per Option 2 in the staff report (***Option 2 – Continue the request to a future meeting date, providing the applicant with specific direction for a redesign.***)

Direction to the applicant is:

- Provide a solar study showing the shadows that would be cast by the proposed residence.
- Meet with the neighbors to resolve issues regarding the mass of the second floor and providing light and views to the adjacent neighbors. Suggested changes include bringing more of the second floor down to the first floor, relocating the mass of the second floor on the right side of the residence to the left side of the residence, and reducing the overall height of the structure.
- Modify the garage door to give the appearance of two doors.
- Maintain the quality of materials, particularly the simulated true divided light windows and the cedar shingle siding, which were incorporated in the most recent proposal.

Commission Discussion: Commissioner Fergusson indicated that she was uncomfortable with requiring a redesign from the Applicant.

Motion carried, 4-0-1, with Commissioner Fergusson abstaining and Commissioner Pagee absent.

- 4. Variance/David Greenwood/329 McKendry Drive:** Request for variances to demolish an existing carport and construct a new garage with a side setback of four feet, two inches where the minimum required setback is five feet, six inches, to provide one required parking space where two spaces are required, and to locate the required parking space in the required side setback.

Staff Comment: Planner Thompson presented the staff report and noted that Dan and Melody Pagee had written a letter of support for the project.

Public Comment: Applicant David Greenwood noted that the project involves the replacement of a carport and storage area with a garage. In response to questions from Commissioners Stein and Fergusson, Mr. Greenwood indicated that the carport is now for one car and that there is room for a wheelbarrow between the fence and the side of the proposed garage.

Commission Action: M/S Soffer/Halleck to close public hearing; motion carried 5-0, with Commissioner Pagee absent.

Commission Action: M/S Fry/Stein to:

1. Make a finding that the project is categorically exempt under Class 1 of the current State CEQA Guidelines.
2. Make the following findings as per Section 16.82.340 of the Zoning Ordinance pertaining to the granting of variances:
 - a. The location and configuration of the existing house and the location of the existing 13-inch Chinese Elm tree create a constraint on this property without the approval of the requested variances.
 - b. The proposed variances are necessary for the preservation and enjoyment of substantial property rights possessed by other conforming property in the same vicinity, and the variances would not constitute a special privilege of the recipient not enjoyed by neighbors.
 - c. Except for the requested variances, the addition will conform to all other requirements of the Zoning Ordinance. Granting of the variances will not be materially detrimental to the public health, safety, or welfare, and will not impair an adequate supply of light and air to adjacent property since the addition would remain one story in height.
 - d. The conditions upon which the requested variances are based would not be applicable, generally, to other property within the same zoning classification since the variances are based on characteristics unique to this property.

3. Approve the variances subject to the following conditions:

- a. Development of the project shall be substantially in conformance with the plans prepared by Greenwood Studio, consisting of two plan sheets dated November 8, 2002, and approved by the Planning Commission on January 13, 2003, except as modified by the conditions contained herein.
- b. Prior to building permit issuance, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility company's regulations that are directly applicable to the project.
- c. Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the new construction.
- d. Prior to issuance of a demolition permit or building permit, the applicant shall submit a plan for construction safety fences around the periphery of the construction area for review and approval of the Building Division. The Building Official may waive this requirement on a case-by-case basis. The fences shall be installed according to the plan prior to commencing construction.
- e. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. All utilities shall be placed underground. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
- f. Prior to building permit issuance the applicant shall submit a tree protection plan for the 13-inch Chinese Elm for review and approval by the City Arborist.

Motion carried, 5-0, with Commissioner Pagee absent.

- 5. Use Permit/Ken & Dianne Spindola/507 Bay Road:** Request for a use permit to construct a single-story addition to an existing single-story, single-family residence on a lot that is substandard in regard to lot width and lot area.

Continued to the meeting of January 27, 2003 prior to the January 13, 2003 meeting.

- 6. Use Permit and Architectural Control/Michael Wallau/150 Middlefield Road:** Request for a use permit and architectural control to demolish an existing restaurant building and construct a new restaurant building.

Continued to the meeting of January 27, 2003 prior to the January 13, 2003 meeting.

D. COMMISSION BUSINESS

7. Election of Planning Commission Chair and Vice-Chair for the 2003 Calendar Year.

Commission Action: The Commission selected Commissioner Fry as Chair and Commissioner Stein as Vice Chair for 2003.

8. Designation of a Planning Commission representative on the Belle Haven Park and Housing Developer Selection Committee.

Commission Action: The Commission selected Kelly Fergusson as its representative on the Belle Haven Park and Housing Developer Selection Committee.

- **Other Business**

The Commission discussed the recent changes to the name identification placards and designated newly elected Chairperson Fry to write a letter to the City Council on the Commission's behalf. In addition, the Commission designated Commissioner Halleck and out-going Chairperson Soffer to write a letter to City Council regarding the process for considering changes to the City's Transportation Impact Analysis Guidelines.

ADJOURNMENT: 9:37 p.m.

Staff Liaison: Justin Murphy, Principal Planner

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission on February 24, 2003.