



MENLO PARK PLANNING COMMISSION MINUTES

Regular Meeting

March 17, 2003

7:00 p.m.

City Council Chambers

801 Laurel Street, Menlo Park, CA 94025

CALL TO ORDER – 7:05 p.m.

ROLL CALL – Bims, Fergusson, Fry (Chair), Halleck, Pagee, Soffer, Stein (Vice-Chair)

INTRODUCTION OF STAFF – Heineck, Murphy, Siegel, Smith, Thompson

A. PUBLIC COMMENTS

There were none.

B. CONSENT CALENDAR

1. Consideration of the draft minutes of the January 27, 2003 Planning Commission meeting.

Commission Action: M/S Fry/Halleck to approve the draft minutes for the January 27, 2003 Planning Commission meeting as presented.

Motion carried 5-0-1-1, with Commissioner Pagee abstaining and Commissioner Stein not yet in attendance.

C. PUBLIC HEARINGS

1. **Use Permit/Anatole Zelkin/1923, 1925, 1927 and 1929 Menalto Avenue:** Request for a blanket use permit to allow permitted uses in the C-2 zoning district to operate on a property that is nonconforming in regard to parking.

Commissioner Fergusson recused herself from the consideration of this item as she owns property located within 500 feet of the subject properties. She left the Council Chambers until the next agenda item.

Community Development Director Heineck said that Planner Murphy also has a conflict of interest on this item due to the proximity of his property to the subject properties and that Planner Murphy would join the meeting after the consideration of this item.

Staff Comment: Planner Smith presented the staff report. He stated that the property at 1923 through 1929 Menalto Avenue is located in the C-2 Neighborhood Shopping District and developed with an approximately 4,368-square-foot commercial building containing five

tenant spaces. He noted that the property is legal, but non-conforming in regard to parking. The property has zero parking spaces and the Zoning Ordinance requires a minimum of 27 parking spaces. He stated that when a property has a substandard number of parking spaces, a new use that has a similar or more restrictive parking requirement than the previous use may occupy the site subject to approval of a use permit. Also, City policy allows for the property owner of a multi-tenanted building to apply for a blanket use permit. The owner of the subject property has requested a blanket use permit for the five tenant spaces in his building. Planner Smith added that since the publication of the staff report, staff received a phone call from Mikela Schneider and Martin Reinhard, 348 Central Avenue, Menlo Park, voicing their support of the blanket use permit. He said that a memo summarizing Ms. Schneider's and Mr. Reinhard's comments had been distributed to the Commissioners at tonight's meeting.

Questions of Staff: In response to Commissioner Soffer's question, Planner Smith indicated that the fee for a use permit is \$1,250 against which time and materials are charged; thus the cost could exceed that amount. Commissioner Soffer asked whether there had been any blanket use permits issued by the Commission other than the one they granted for a property on north El Camino Real several years ago. Director Heineck noted that blanket use permits had been issued for a property on Willow Road and in the downtown area of Santa Cruz Avenue and El Camino Real in addition to the property on El Camino Real that Commissioner Soffer mentioned. In response to Commissioner Soffer's question, Director Heineck indicated that some use permits, although not blanket use permits, have been denied because of a lack of parking. Chair Fry asked if the Commission granted a blanket use permit whether there was a precedent for the Commission to review the permit in a year. Director Heineck indicated that a request for a review could be added as a condition. In response to Commissioner Soffer's question regarding the possibility of the use permit fee being burdensome on the business owner, Director Heineck said that there is a fee waiver request process that is taken to the City Council. She noted that usually such requests come from nonprofit organizations. In response to a question from Commissioner Soffer, Director Heineck indicated that a business license and a use permit are two separate requirements. Chair Fry asked if the blanket use permit were to be denied, whether the existing tenants might be able to have the process streamlined to obtain use permits. Director Heineck said that public notice requirements would apply and the future Commission calendars are already quite full. Assistant City Attorney Siegel indicated that the businesses would be able to operate in the interim until a use permit was obtained unless otherwise specified. Commissioner Pagee asked who is responsible for the maintenance of the numerous back alleys in the Willows area. Assistant City Attorney Siegel said that it varies and depends on who owns the alley and whether the alley has been dedicated to the City; it may be the City's or the property owners' responsibility. Commissioner Pagee asked who owned the alley behind the market and the length along Gilbert. Director Heineck indicated that there are alleys that are not assigned to anyone and there is no one actually responsible for maintaining the alleys.

Public Comment: Anatole Zelkin, owner/applicant, indicated that the possibility that potential tenants may have to obtain a use permit was hindering his efforts to get spaces rented. Potential future tenants include painting classes for children and a neighborhood café. He did not think small businesses would negatively impact the parking. He indicated that he wanted to give people the opportunity to open a small business and improve the space. He

said that when he bought the property it was with a blanket use permit. He indicated that he was worried that the remaining tenants would leave if required to obtain a use permit.

Commissioner Soffer asked if the area in back of the building might be paved for parking. Mr. Zelkin indicated that the area was not owned entirely by him. Commissioner Soffer asked about an abandoned vehicle in the back; Mr. Zelkin indicated that he would take care of the abandoned vehicle.

Lisa Van Horn, Menlo Park, said she has lived in the neighborhood for five years. She urged the Commission to reject the blanket use permit. She indicated that the community should have input on what businesses go into the neighborhood; she stated that the individual businesses should be responsible for their impact on the neighborhood. She said that the building at the subject property has not been maintained and noted peeling paint, planter boxes of dying weeds, no striping for parking and potholes in the parking area. She noted that the tenants' signage does not meet code. She urged the Commission to require each business to obtain a use permit.

Diane Mavica, Menlo Park, indicated that she had written the memo attached to the staff report and is the head of a neighborhood mothers group. She said that the neighborhood needed a forum to come to when new businesses wanted to move into the neighborhood, which need she believed was served well by the use permit process.

Laure Laprais, Menlo Park, indicated that she walked around the neighborhood with a Code Enforcement Officer investigating signage violations by some of the tenants of the subject property. She said that the traffic and parking create safety hazards for those people who live in the area and noted that there are no sidewalks on Menalto Avenue. She said that she opposes the issuance of a blanket use permit because of the parking and traffic concerns and the lack of building maintenance. She said that she had written a letter to the Commission regarding her concerns. Commissioner Halleck indicated that he had received the letter by e-mail.

Rebecca Wang, Menlo Park, said that she supported the comments made by the other speakers. She said that other business owners in the areas have met with the community groups, but Mr. Zelkin has never done so. She indicated that she and her husband had fallen in love with the area when they bought their home, but they have seen negative changes, which deeply concerns them. She also expressed concern about traffic safety in the area.

David Speer, Menlo Park, expressed his support of the Willows community's efforts to upgrade its image and improve traffic safety. He said that Mr. Zelkin was the only owner in this business district who had not responded to a letter sent by the neighborhood group. He urged the Commission to deny the blanket use permit and have the property owners meet with the neighborhood groups to develop a list of permitted uses that would be consistent with the neighborhood.

E. Gary Smith, a resident of the Willows for 22 years, and the owner of Menalto Cleaners, located at 1921 Menalto Avenue for 15 years said that he wants businesses in the neighborhood that supply a product or service useful to the neighborhood and the City of Menlo Park. He said that his experience with the tenants of Mr. Zelkin's building indicates

that they do not have any understanding of the neighborhood or business target market available to them. He said that those tenants are not maintaining a clean or well-maintained store appearance. He said that he did not support the blanket use permit.

In response to a question from Commissioner Soffer, Mr. Smith said that the space in the back is shared with the adjacent property owner. He noted that deliveries are received in the back and that some parking occurs at the rear, but that there is debris and trash in the area and the alley is not maintained.

Rich Mintz, Menlo Park, Menalto Beautification Group and Menalto Traffic Safety Group, indicated his support of the other speakers' comments and denial of the blanket use permit. He said that Bess Greenfield the next speaker needed to leave but she also supported denial of the blanket use permit.

Patrick Farris, a resident of Palo Alto, and owner of the building at 1919 Menalto Avenue, Menlo Park, said that he has been actively involved with the Willows' community groups. He said that he has made efforts to improve his building and beautify the street area with flowers and trees. He said that \$1,250 for a use permit is a lot, but his tenants are concerned with the quality of the tenants in the subject property. He said that he has an easement to use a majority of space in the back area owned by Mr. Zelkin but the area is so poorly maintained that his tenants are concerned with using it.

Mr. Zelkin by consensus of the Commission spoke again. He indicated that he lives at 722 46th Avenue in San Francisco. He said that the debris and garbage in the back area was generated by tenants of Mr. Farris and he questioned how the cleanup became his responsibility. He expressed his concern that having a use permit required for each tenant would further hamper the difficult task of finding tenants in the current market conditions.

Commission Action: M/S Soffer/Stein to close the public hearing.

Motion carried unanimously, 6-0, with Commissioner Fergusson recused.

Commissioner Pagee said that she has lived in the Willows area 31 years and has seen tremendous change. The Menalto business area has declined steadily, but Mr. Farris is working to create an attractive business area. She indicated that she would not support a blanket use permit as Mr. Zelkin has not maintained his property well.

In response to a question from Commissioner Soffer, Assistant City Attorney Siegel said that the use permit fee could be amortized whether over one use or multiple uses of the same type but if the business changes, the permit would need to change.

Commissioner Soffer said that he voted for a blanket use permit on a property reluctantly several years ago. He said that blanket use permits are completely discretionary and removes the checks and balances of the use permit process. He said that the parking situation at the subject property is bad. He said that he was not in favor of issuing the blanket use permit. He suggested that he move denial. Director Heineck indicated that with the motion for denial the Commission should provide a basis of findings for the denial. Commissioner Soffer indicated concerns with the general safety and welfare of the residents. Assistant City Attorney Siegel said that a second was needed and more detailed

reasons. Commissioner Halleck seconded. Commissioner Stein asked about a waiver of the \$1,250 fee for the individual uses. Assistant City Attorney Siegel restated Director Heineck's statement that fee waivers must go before the City Council. Commissioner Stein asked why the project is exempt from CEQA. Director Heineck said that Class 1 allows for minor renovations and changes in commercial and residential structures.

Commissioner Halleck stated that a blanket use permit was not appropriate for the site. He indicated that he agreed with the sentiments expressed by Mr. Zelkin to create a flourishing business area for the community, but the neighbors' comments regarding the poor maintenance and parking, traffic safety concerns and questionable business practices disconcerted him. He hoped the Commission's action tonight would encourage Mr. Zelkin to engage in dialogue with the community and work cooperatively to create acceptable solutions for everyone.

Commissioner Bims said that in general he thinks each business needs to be accountable to the Planning Division and Commission and that the blanket use permit circumvents the process. He feels that there should be a larger plan that looks at the area comprehensively.

Chair Fry said that the Commission strives to affect a balance between the needs of the businesses and the needs of the community. In this instance, she must support denial of the blanket use permit. She encouraged Mr. Zelkin to work with the neighborhood and if they develop consensus about use, traffic safety, and aesthetics, she would be open to consideration of a blanket use permit at a future time. She would look for an annual review in that instance.

Assistant City Attorney Siegel asked if the Commission was willing to add a requirement that the use permits for the existing businesses be applied for by June 1, 2003. Chair Fry confirmed with Commissioners Soffer and Halleck that they agreed to that amendment to their motion. Chair Fry suggested that improvement of the maintenance of the back area might be included. Assistant City Attorney Siegel said that staff could certainly look into the problem but if it is private property, it might be a private dispute.

Commission Action: M/S Soffer/Halleck to deny the request for a blanket use permit as follows:

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 blanket use permit will be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed uses, and will be detrimental to property and improvements in the neighborhood or the general welfare of the City because it would have allowed for the property owner to lease tenant spaces without involvement from the neighborhood and without City review when the property owner has not maintained the building or property in a safe manner and in a quality consistent with other buildings in the vicinity, and has historically allowed the property to be occupied by uses that are inconsistent with the intent of

the Zoning District to provide neighborhood serving uses and uses that have exacerbated the parking problems in the area.

3. Deny the blanket use permit request. Require the tenants to apply for use permits by June 1, 2003.

The motion carried unanimously, 6-0 with Commissioner Fergusson recused.

2. **Use Permit/Robin Joy/8 Reyna Place:** Request for a use permit to demolish an existing single-family residence and construct a new residence on a lot that is substandard in regard to lot width and for excavation into the required right side setback for the construction of a light well and sunken courtyard associated with a basement.

Chair Fry recused herself because she lives within 500 feet of the subject property and left the room.

Staff Comment: Planner Thompson reported that the applicant is proposing to demolish an existing one-story, single-family residence and construct a new single-story, single-family residence at 8 Reyna Place. She noted that the subject lot is substandard as to lot width and excavation is proposed. New development on a substandard parcel and excavation into a required setback require use permit approval from the Planning Commission. She indicated that as designed the proposed residence is technically considered a single-story structure according to the Zoning Ordinance. However, the proposed residence possesses features that give the impression of two stories, due to the basement and the associated sunken courtyard. Staff has also included a condition to require the applicant to redesign the turret to be more compatible with the neighborhood. Staff has received letters from neighbors regarding concerns with height, excavation, noise, drainage and landscaping. Staff also received a letter from the Fursts, owners of 10 Reyna Place, located to the left of the subject property, expressing their concerns about the protection of their heritage and potential noise impacts. She indicated that she received summaries of letters of support and a petition of support and perspective drawings from the applicant.

Questions of Staff: Commissioner Soffer asked if the Commission had some flexibility regarding required parking spaces. Planner Thompson indicated that the Commission has flexibility, but the applicant must meet the minimum parking requirements. In response to a question from Vice-Chair Stein, Planner Thompson said that the applicant did submit an arborist report and the City's arborist confirmed the recommendations in the report and provided more direction and specific conditions that are included in the staff report.

Public Comment: Robyn Joy, Los Altos Hills, the architect for the project, said that the property is located on a cul-de-sac and the main structure needed a hub, developed into what people are describing as the turret. The turret is 24-plus feet, under the height requirement, with a four and twelve pitch roof that complies with the character of the neighborhood in warm colors. He indicated that trees proposed to be planted in the courtyard are for color not size; the surfaces are interlocking pavers and are permeable; they will work with the arborist in the courtyard and basement area by excavating by hand to protect the existing heritage trees.

David Ferrari, Redwood City, owner of the property, said that they worked with the surrounding property owners. Out of 45 property owners, only Mr. Mroz refused to discuss his concerns with the Ferrari's. The property owners at 905 Wallea Drive had signed a letter written by Mr. Mroz objecting to the turret. The 905 Wallea Drive owners met with the Ferrari's however and at the end of the discussion were supportive of the project.

Commissioner Soffer said that he likes the basement design. He asked what Mr. Ferrari thought about installing more area for parking. Mr. Ferrari thinks that two-car garages are pretty standard for 5,000 square feet and up properties and wondered about the expense of going down deeper to accommodate more parking.

Responding to a question from Commissioner Pagee, Mr. Ferrari indicated that they would like to get the house enclosed by winter and hopefully accomplish the project within the next 12 months. Mr. Ferrari said that they are motivated to get the project done and acknowledged that in the area there have been a lot of remodels and empathized with neighbors' concerns regarding noise impact. Vice-Chair Stein asked about reduction of hardscape. Mr. Ferrari indicated that in actuality the area between the pool and the corner of the kitchen is only about eight or nine feet. He believes that the area around the jacuzzi could be brought in; he is willing to work with Planning. Vice-Chair Stein asked about the air conditioning unit; Mr. Ferrari indicated that he would work to locate the unit where it has the least impact. She also asked about a sound wall for air conditioning. Mr. Ferrari indicated that he would rather buy a more efficiently running quieter unit than build a sound wall.

David Crouch, Menlo Park, said that he does not live within 300-feet of the subject project. The Ferraris sought him out, as they understood that he had put a lot of work into a recent permit application. They took his advice and talked with the neighbors and obtained a petition of support. Regarding the turret, he noted that the height is less than a second story and the building is located 70 feet from the street. He compared that to other remodels that have a 25- to 26-foot second story and are located 30 feet from the street. He said that there are no privacy issues with the turret as it is not designed as a room. He did not think additional parking should be required. He encouraged the Commission to approve the project as is.

Tom Furst, Menlo Park, said they live adjacent to the subject property and have no fundamental objections to the project. Their specific concerns are three trees on the property line and it appears that if the work is accomplished per the arborist's recommendations, the trees should be protected. He also is consulting with an arborist and will forward additional recommendations, if any. He said that their bedroom wing is located along the property line, and he has concerns with noise impact. They are concerned that the hardscape and the air conditioning may affect their bedroom and they hope that mitigation would be considered to prevent any potential impact on them. He said that the proposed design was well developed.

Ed Mroz, Menlo Park, indicated that he has lived in Menlo Park for 43 years. He agrees with the Planning Division staff's observation that the turret is out of character for neighborhood and that the turret should be lowered. He suggested that if the property were sold in a few years, the new owner might want to install stairs and a window in the turret. He said that the basement and sunken courtyard might well impact the ecological system as drainage would go to the basement and be pumped to the sewer system. He thought that a hydrological

study should be done to determine whether increased building of basements and sunken yards would threaten the ecosystem.

Commissioner Fergusson asked whether Mr. Mroz's concern about a new owner installing a window in the turret was legitimate. Planner Murphy and Assistant City Attorney Siegel both indicated that it was possible that the installation of a window might not get flagged in the future. Commissioner Fergusson asked about Mr. Mroz's concern about hydrology impacts. Assistant City Attorney Siegel said that at this point there has been no evidence of impacts and because of budgetary concerns such a study would most likely not occur. However, should evidence arise that basements and sunken areas have negative impacts, the City would consider to budget such a study.

Herbert Stone, Menlo Park, indicated that they do not object to the construction and only object to the "tower."

Commission Action: M/S Soffer/Halleck to close the public hearing.

Motion carried unanimously, 6-0. Chair Fry recused.

Commissioner Halleck said that the project is fantastic. He complimented the applicant on doing the groundwork to garner support. He identified minor issues such as lowering the turret, the light well, the use of a high efficiency air conditioner and pump to mitigate noise, and attention to mitigating the hardscape.

Commissioner Soffer said that the Planning and Building Department should check with the Fire Department as to a potential change in the requirement for fire sprinkler systems.

Commissioner Pagee suggested that there be landscaping around the light well. She would like to see less hardscape and to eliminate the turret in the design.

Commissioner Fergusson said that the design fits the lot well. She said that the turret was acceptable to her. She indicated that she would like a condition to say that additional windows in the turret would not be acceptable. She said that a construction parking plan is needed. Regarding hardscape, Page A-1.1, tree number 3, she suggested that rather than pavers, a very permeable surface be used. Mr. Ferrari said that they are considering using turf block.

Commissioner Soffer asked about a hydrological report. Mr. Ferrari indicated that was a requirement of the building permit. Planner Murphy asked for clarification of what type of hydrological report was desired. Commissioner Soffer said a report that addresses the impact of the proposed hardscape and the amount of square footage sunken below grade and the displacement of drainage area and where it percolates. Assistant City Attorney Siegel indicated that would need to be a part of the motion as it is potentially more detailed than a soils report looking at liquefaction and percolation testing.

Vice-Chair Stein said that she would not support the turret. She wanted more facts on the landscaping and hardscape. She wanted to see a better developed parking plan. She thought detail was missing on mechanical equipment and potential impacts, and there needed to be more detail on the hydrological issues.

Commissioner Halleck moved to approve the permit as recommended by staff to include lowering the turret a minimum of one foot subject to Planning staff review and approval, that all surfaces be permeable to the greatest extent feasible; provision of a parking construction plan; requiring the applicant to work with Planning staff and neighbors to situate mechanical equipment with least impact, and provision of a soils report that addresses the effects of the proposed basement and sunken patio to drainage on the site for review and approval by the City Geologist. Commissioner Soffer seconded the motion.

Commissioner Fergusson asked for a friendly amendment to the mechanical equipment provision of Commissioner Halleck's motion to state that mechanical equipment should not be located on the south elevation adjacent to the neighbor's bedroom wing. Commissioners Halleck and Soffer accepted the friendly amendment.

Commissioner Soffer asked if there were hesitation on the other Commissioners' part regarding the proposal. Vice-Chair Stein said that the project was lovely but that there should be more detail and suggested she would prefer a continuance to have the applicant come back with a landscaping plan, construction parking plan, more detail about the trees and monitoring during construction process, and location of mechanical equipment and mitigation.

Commissioner Fergusson requested a friendly amendment to state that no more windows be installed in the turret feature. Commissioners Soffer and Halleck accepted the friendly amendment. Commissioner Fergusson requested an additional friendly amendment to require the use of a material more permeable in the vicinity of tree #3. This was also acceptable to Commissioners Soffer and Halleck.

Planner Murphy asked for clarification of condition "I" regarding the lowering of the turret and whether this would be subject to Planning staff review and approval. Commissioner Halleck indicated that was appropriate. Commissioner Soffer suggested that it should also include input from neighbors. Assistant City Attorney Siegel referred back to condition "I" in the staff report noting that it would be modified to include "The plans shall be subject to Planning staff review and approval." Commissioner Soffer indicated that was acceptable.

Commission Action: M/S Halleck/Soffer to approve as recommended with modifications and additions as follows:

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 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 Robyn Joy, dated received February 24, 2003, consisting of seven plan sheets, and approved by the Planning Commission on March 17, 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 building permit issuance, the applicant shall submit revised plans that indicate the proposed stairs leading to the sunken courtyard are located a minimum of four feet from the property line.
- 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 City Arborist. The plan should include the recommendations identified in the Arborist Report.
- h) Prior to building permit issuance, the site plan shall indicate the cut line of the proposed driveway does not encroach within an eight-foot radius from the base of the Southern Magnolia (Tree #2 of the arborist report) heritage tree located on 10 Reyna Place.
- i) Prior to building permit issuance, the applicant shall submit a revised landscape plan showing the exact location of the heritage trees seven, eight, and nine in the arborist report, with an accurate configuration of their canopies and approved by the project arborist. The plan shall be subject to review and approval by the City Arborist.

- j) Prior to building permit issuance, the applicant shall submit revised plans that indicate the project arborist is using the Smiley/Bartlett formula for root protection of five times the trunk diameter at standard height to define the area where construction incursion is not permitted. If incursion is absolutely necessary it shall be limited to no more than 30 percent of that area with all work to be performed by hand and monitored by the Project Arborist.
- k) Prior to building permit issuance, the applicant shall submit a revised plan clearly indicating the excavation cut lines for the residence, proposed landscape planters, steps, and light well. The plan shall be subject to review and approval by the City Arborist.
- l) Prior to building permit issuance, the applicant shall receive input from neighbors regarding the height of the proposed turret. The turret should be lowered a minimum of one-foot. The plans shall be subject to Planning staff review and approval.
- m) No additional windows shall be installed on the turret feature. The installation of windows other than the one window approved with this permit shall require a revision to the use permit granted by the Planning Commission.
- n) Prior to the issuance of a building permit, the applicant shall submit plans that provide more detailed information to demonstrate that the proposed residence complies with the Floor Area Limit requirements for this single family residence. Specifically, the plans should clearly indicate areas where the distance between the finished floor and the roof directly above it exceed 17 feet in height. These areas shall count at 200 percent toward the FAL maximum. The plans shall be subject to Planning Division staff review and approval.
- o) Prior to building permit issuance, the applicant shall submit a landscape plan that provides visual screening for 945 Wallea Drive and 905 Wallea Drive. The plan shall be developed with input from the property owners at 945 Wallea Drive and 905 Wallea Drive and shall be subject to Planning staff review and approval. The landscape shall be installed prior to final inspection.
- p) Prior to building permit issuance the applicant should demonstrate in a plan that all hard surfaces are permeable to the extent feasible. Specifically, the site plan should indicate the area within the vicinity of tree #3 will be constructed with a permeable material. The sunken patio and pool deck are surfaces that could be impervious. The plan shall be subject to review and approval by the Planning Division.
- q) Prior to issuance of a grading or demolition permit, the applicants shall submit a construction traffic and management plan. The plan shall be subject to the review and approval of the Planning Division and the Transportation Division. The plan shall become part of the approved building plans and be available at all times as part of the on-site job plans. The plan shall include:
 - The location of a construction trailer, debris storage, materials storage, on site parking, and a traffic circulation plan.

- Detailed drawings of all proposed signage including materials, colors and staking details.
- r) Prior to building permit issuance, the applicant shall submit plans that identify the location of the equipment for the swimming pool, and heating, ventilation and air conditioning systems. In addition, the plans should indicate the specifications for noise generation, and the placement of the equipment should attempt to minimize impacts on surrounding properties. No equipment shall be located in the vicinity of the shared property with 10 Reyna Place. The plans shall be subject to review and approval by the Planning Division.
 - s) Prior to building permit issuance, the applicant shall submit a soils report that addresses the effects of the proposed basement and sunken patio to drainage on the site for review and approval by the City Geologist.

Motion carried, 4-2. Vice-Chair Stein and Commissioner Pagee against; Chair Fry recused.

- 3. Use Permit Revision/Howard Yee, AT&T Wireless/325 Sharon Park Drive:** Request for a use permit revision to allow for the modification of an existing cellular antenna facility at the Sharon Heights Shopping Center. The modifications would include the addition of a new, 29-foot-tall light standard with three panel antennas on top and concealed beneath a 5-foot-tall radome, and the expansion of the existing equipment cabinets at ground level.

Staff Comment: Planner Smith presented the report. He noted that the applicant is requesting an extension of the use permit for the existing light standard and omni-directional antenna. He distributed a photo-simulation showing the facility relocated to the top of the Safeway building and a letter from the applicants regarding the history of the site and the user.

Public Comment: Howard Yee, Rancho Cordova, applicant/representative of AT&T, noted that the Commission had previously reviewed the project on two other occasions. The project proposed is to add the antenna and cabinets that would allow customers to access high speed internet, video conferencing, faster data transmission and other wireless applications. They have looked at relocating the facility on the top of the Safeway building as was proposed by the Commission previously. He noted that the antennas would project visibly and create a more visible change to the site than the proposed design. He noted a second option to locate at a four-story building on Sand Hill Road for which they would need to obtain a lease agreement. He suggested that for at least economical reasons they would rather not relocate.

In reply to Commissioner Soffer, Mr. Yee indicated that they are seeking an extension of the existing use permit as well as approval for the proposed project. Planner Murphy clarified that if the Commission approves the project, it could act to extend the use permit. Also, if the Commission denied the project, the existing use permit could be extended.

In response to Chair Fry, Mr. Yee indicated that the existing omni-antenna and cabinet would remain, and they are requesting an additional cabinet and a second pole with the antenna hidden by radome. She asked whether the new antenna might be located elsewhere; Mr. Yee indicated that they would not want two cell sites.

Commissioner Halleck referred to staff's comments that they do not think the applicant has fully pursued alternatives. Mr. Yee said he believes they have; he indicated that they have talked to the property owner of the four-story building, but until there's approval of the project there is a reluctance to enter into a lease agreement. He noted that the photo-simulation shows the existing businesses and uses. Responding to Commissioner Halleck, Mr. Yee indicated that there is a possibility to locate on the four-story building but that would be more expensive. Commissioner Bims asked if the antenna installed would be specific to the G-3 technology; Mr. Yee said that it would be specific. Commissioner Soffer asked whether the adjacent building had antenna equipment; Mr. Yee indicated that he investigated but did not see any equipment. Replying to Commissioner Pagee, Mr. Yee said that the existing pole is 34-feet and the second pole would be 34-feet as well and the diameters would be the same. She asked if the poles could be combined if located on the top of the Safeway building. Mr. Yee indicated that the owner would prefer that they not locate on top of the building and noted that they need access 24 hours a day, 7 days a week. Responding to Commissioner Pagee, Mr. Yee indicated that the additional lighting would not impact residences but might actually improve the lighting at the back of the shopping center.

Thomas Scott, Santa Clara, Cambridge Management Company, thanked the Commission for their time. He said that what was being proposed is exactly what was proposed in November. He asked the Commission to reconsider the requirement to look further at other sites. He noted that the applicant has a substantial lease commitment and substantial capital improvement in the existing facility. To relocate would mean that the applicant would have to abandon the site. Regarding the light standards, he said they would be in areas that would provide more secure parking for Long's employees, an issue that was discussed during consideration of the Long's store expansion.

Commission Action: M/S Stein/Halleck to close public hearing.

Motion carried unanimously, 7-0.

Commissioner Halleck indicated that he previously had approved the project, but personally he would rather not see another pole at the location. He would prefer to see it on another building. He indicated that beyond his personal preferences he was in favor of the project but would not like to see more than two poles there.

Commissioner Fergusson said that she would support the project and noted the improvement in lighting.

Commissioner Stein asked about the color of the light. Mr. Yee indicated that the light could be whatever the Commission wanted. Commissioner Stein said that white light was preferable and requested the most discreet color. Mr. Yee said that he would work with staff on what was best. Commissioner Stein said that the concrete bases should be improved. She indicated that she would support the project and preferred its distance from residences.

Commissioner Pagee said that she had supported more research, but that she was okay with two poles but would not support any more poles.

Chair Fry indicated that she would move approval. Commissioner Halleck indicated that landscaping needed to be required and would second the motion with that inclusion. Mr. Yee indicated that there was limited space and some of it might be City land. Assistant City Attorney Siegel indicated that if it is City land, the City could look at planting screening. Chair Fry indicated that she would include Commissioner Stein's request to improve the appearance of the concrete base in her motion. Commissioner Stein suggested that a wooden exterior might be added. Mr. Yee indicated that they would be able to do that. Chair Fry asked if the permit was coterminous with the lease. Mr. Yee indicated that he thought that the lease ran longer than the permit. Commissioner Soffer asked about the language of condition "i." Planner Murphy indicated that the language was customary. Discussion ensued regarding the expiration for the permit. Planner Murphy confirmed that the recommendation would be that the permit expire June 15, 2008.

Commission Action: M/S Fry/Halleck to approve the project as follows:

1. Make a finding that the project is categorically exempt under Class 3 of the current State CEQA Guidelines.
2. Make necessary findings, pursuant to 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 the proposed use, and will not be detrimental to property and improvements in the neighborhood or general welfare of the City.
3. Approve the use permit revision subject to the following conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Pacific 17, consisting of three plan sheets dated received February 10, 2003, and approved by the Planning Commission on March 17, 2003, except as modified by the conditions contained herein.
 - b. Prior to building permit issuance, the applicant shall comply with all County, State, and Federal regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility company regulations that are directly applicable to the project.
 - d. 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.
 - e. The equipment cabinet shall be painted to match the surrounding landscaping and the existing equipment cabinet.
 - f. Prior to final building inspection, both the existing light standard and the proposed light standard shall be painted a light brown color to reduce the visual impact of the light standards.

- g. Prior to building permit issuance, the plans shall be modified to include a shield on the light standard that acts to prevent light from being cast onto Sand Hill Road.
- h. The applicant and the owner of the property upon which the cellular facilities are to be installed shall cooperate with the providers of other cellular, personal communication, or similar communication systems for the co-location of facilities, including similar antenna facilities, if such co-location is structurally feasible and will not interfere with other co-located facilities, as reasonably determined by the City of Menlo Park. In the event the applicant and/or the property owner fails to cooperate with the co-location of other communication facilities, such refusal or lack of cooperation shall be grounds for termination / revocation of the use permit granted herein.
- i. This use permit for the existing omni antenna and proposed radome shall expire on June 15, 2008 unless extended by the Planning Commission. If the applicant desires to extend the use permit, the applicant shall explore and implement, to the extent feasible, then available technology to reduce the size and/or visibility of the antenna facilities.
- j. Prior to building permit issuance, the applicant shall submit a plan showing the planting of one or two evergreen trees, such as coast live oak trees, to help screen the new light standard from Sand Hill Road. This plan shall be submitted for the review and approval of the Planning Division. Prior to final building inspection, Planning Division staff shall inspect the site to confirm the installation of these trees.
- k. Prior to building permit issuance, the applicant shall submit a plan to improve the appearance of the bases of both the existing and proposed light standards, such as by covering the bases with a wooden box structure. This plan shall be submitted for the review and approval of the Planning and Building Divisions.

The motion carried unanimously, 7-0.

- 4. **Use Permit and Architectural Control Revisions/Aubrey Moore, Jr., Architect & Associates/15 El Camino Real:** Request for a use permit revision for structural alterations to an existing motel that is legal, but nonconforming and for the new work to exceed 25% of the currently assessed value of the existing building within a 12-month period, and for an architectural control revision to remodel the existing motel.

Item was continued to a future meeting previous to tonight's meeting.

- 5. **Use Permit/S. Sebastian/1080 Lemon Street:** Request for a use permit to maintain hedges and construct a fence of six feet in height within the front setback of the property where the maximum allowed height is four feet and within the line-of-sight triangle at the corner of the property where the maximum allowed height is three feet.

Item was continued to a future meeting previous to tonight's meeting.

- 6. Use Permit/Duc Dinh/201 El Camino Real:** Request for a use permit to operate a personal service salon in a building that is substandard in regard to parking.

Item was continued to the Planning Commission meeting of April 7, 2003 previous to tonight's meeting.

D. COMMISSION BUSINESS

- Discussion of Planning Commission meeting procedures. The Commission discussed whether or not it wanted to consider changes to any of its meeting procedures and decided to maintain the status quo.

ADJOURNMENT

The meeting adjourned at 11:55 p.m.

Staff Liaison: Justin Murphy, Principal Planner

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission on January 26, 2004.