



MENLO PARK PLANNING COMMISSION MINUTES

Regular Meeting

April 7, 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, Sinnott, and Soffer present; Pagee absent

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

A. PUBLIC COMMENTS

There were none.

B. CONSENT CALENDAR

1. **Consideration of the draft transcripts of the July 15, 2002 Planning Commission meeting.**

Commission Action: M/S Fergusson/Halleck to continue consideration of the draft transcripts of the July 15, 2002 Planning Commission meeting to a future meeting.

Motion carried, 5-0-1. Commissioner Sinnott abstained.

2. **Consideration of the draft minutes of the February 10, 2003 Planning Commission meeting.**

Commission Action: M/S Halleck/Fry to approve the draft minutes as presented of the February 10, 2003 Planning Commission Meeting.

Motion carried, 6-0.

C. PUBLIC HEARINGS

3. **Use Permit and Variance/Morad Fakhrai/1003 Greenwood Drive:** Request for a use permit to construct first and second story additions to an existing single-family residence on a lot that is substandard in regard to lot width and lot area and a variance to allow an encroachment of approximately one foot into the required corner side setback.

Staff Comment: Planner Thompson reported that the property owners of 1003 Greenwood Drive appeared before the Planning Commission on February 24, 2003 to

request consideration of a use permit approval for the reconstruction of the existing residence. She said that the Planning Commission voted to continue the project to address specific concerns regarding daylight plane, as the proposed design included three gables that would protrude into the daylight plane, landscaping, and parking surfaces. She said that staff had included a condition requiring the applicant to lower the gables to comply with the Zoning Ordinance. She said that the Planning Commission gave the applicant an option to request approval of a variance to exceed the daylight plane limit and requested that the plans be revised to incorporate a landscape hedge to screen the carport on the east Elevation and to include solid, all weather surfaces for the driveways.

Planner Thompson noted that the proposed first floor remodel and the addition of a second floor to the existing single-story, single-family residence at 1003 Greenwood Drive would result in an addition greater than 50% of the existing floor area and that the subject property has a substandard width of 52 feet and lot area of 5,772 square feet. She said that all new development on a substandard parcel requires use permit approval from the Planning Commission. She noted also that the applicant was requesting variance approval to exceed the daylight plane requirement as the three gables on the right side elevation would protrude one-foot into both the horizontal and vertical dimensions. She said that Section 16.67.020 of the Zoning Ordinance allows exceptions to the daylight plane for gables and dormers, but they are limited to side setbacks less than eight feet.

Questions of Staff: In response to a question from Commissioner Fergusson, Planner Thompson provided information on the setbacks of the house.

Public Comment: Bob Doane, the architect for the project, provided an overview of the variance request and the proposed modifications since the last meeting.

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

Motion carried, 6-0.

Commission Action: M/S Fergusson/Sinnott to approve as recommended in the staff report.

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 injurious or detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Make the following findings as per Section 16.82.340 of the Zoning Ordinance pertaining to the granting of variances:

- a. The narrowness of the parcel and the location of the property on a corner create a constraint to building an addition 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.
4. Approve the use permit and variance subject to the following conditions:
- a. Development of the project shall be substantially in conformance with the plans prepared by Doane + Doane Architects, consisting of nine plan sheets dated March 3, 2003, and approved by the Planning Commission on April 7, 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 heritage trees on the subject property for review and approval to the Building Division.
- g. Prior to final inspection, the applicant shall plant seven, five-gallon shrubs with characteristics similar to *Pittosporum tenuifolium*, subject to approval by the Planning Division.
- h. Prior to building permit issuance, the applicant shall obtain encroachment permits for the existing and proposed fences in the public right of way.
- i. Prior to final inspection, the two driveways approved in 1995 to access required parking spaces, should be constructed with all weather materials and the existing driveway on Greenwood Drive should be restored with landscaping.

Motion carried, 6-0.

- 4. **Variance/Kastrop Group Architects/948 Timothy Lane:** Request for variances to allow a maximum lot coverage of 38 percent where 35 percent is otherwise required, to allow the construction of a carport to encroach into the required front building setback for properties where the front of the lot abuts the outside of a curve with a radius of 100 feet or less, to provide one required parking space where two spaces are required, and to locate the required parking space in the required front yard setback.

Staff Comment: Planner Thompson reported that the proposal was to rebuild an existing carport and construct an addition to the single-family dwelling at 948 Timothy Lane. She noted that the project site was located in the R-1-U (Single Family Urban Residential) zoning district and was substandard in regard to lot width and lot area, but that the proposed work was below the threshold that would trigger use permit review. She said, however, that the applicant was requesting a total of four variances related to the proposal. The first was a variance from Section 16.16.030(5) of the Zoning Ordinance to allow for 38 percent lot coverage where 35 percent is the maximum allowed. The second was a variance from Section 15.16.110 of the Subdivision Ordinance to allow the rebuilt carport to encroach 13 feet into the required building setback for lots located on a curve with a radius of 100 feet or less. The third and fourth variances were from section 16.72.020 of the Zoning Ordinance to allow for one parking space where a minimum of two spaces are required and for the space to be partially located within the front setback.

Questions of Staff: In response to a question from Commissioner Sinnott, Assistant City Attorney Siegel said that the Commission had imposed a deed restriction in similar situations in the past and that the rules for requirements such as lot coverage may change in the future.

Public Comment: Ms. Christen Fischbach, Kastrop Group Architects, said that the proposal is to update the residence without jeopardizing the character of the neighborhood that is primarily one-story single-family residences and allow the property owners some flexibility to further extend their stay, noting that they had lived there for over 20 years. She said that

there was not a way to fit one covered space or two spaces without doing tandem parking or encroaching into the setback because of the location of the residence. She said that three of the four variance requests were very related.

Ms. Janet Manger, property owner, said that the problem with the property was not only that it was substandard in size, but that without building another level to the house, they were constrained by the shape of the lot. She said that they had considered a second story but there were none on Timothy Lane and the two second-story homes on Peggy Lane were not of a design that interested them. She said that there was no possible way to extend at the front of the house and it would be difficult to do along the sides, so their proposal was to extend the back of the house to create a dining room and family room. She noted that their family needed the additional space.

Commissioner Sinnott asked Ms. Manger if she was comfortable with the deed restriction. Ms. Manger indicated that if it were necessary for the proposal to be approved, then she would do it. She said that she had read that the City Council was considering increasing the maximum lot coverage from 35 to 40 percent. She asked whether the deed restriction would be necessary since her proposal would be 38 percent.

Assistant City Attorney Siegel said that the proposal had to comply with current regulation, which would require the deed restriction, but that if the Commission were interested, they could discuss language to the deed restriction that would allow for its removal if the regulation were to change.

Mr. Mike Kastrop, Principal Architect for the Kastrop Group, Inc., said that condition 3.e regarding the placement of all utilities underground was onerous for the property owners. He said that the nearest utility pole to the property was 90-feet away across the cul-de-sac and that to run the line underground would mean street excavation and digging near the sewer and water lines of 12-15 properties. He said that if this property had underground utility lines, it would be the only one in the neighborhood that had underground utility lines. He asked that requirement be removed. He also asked that the deed restriction be waived based on condition of approval of the revised zoning for substandard lots. He said that the current owners did not want to build a second story but that restriction was unfair to future owners.

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

Motion carried, 6-0.

Commissioner Halleck asked staff to address the condition for underground utility. Planner Murphy said that there are exceptions made on a case-by-case basis based on the extent of work being done on the project, and said that there is additional language that allows for screening to be used if the utility were to be placed aboveground. He said that the Commission could limit the wording to require screening. Commissioner Halleck asked why underground utilities were required. Planner Murphy indicated that for this proposal it was a condition, not a requirement, and that new construction was required to have underground utilities. He said that the Commission might re-write the condition. Commissioner Halleck said that he was comfortable with the wording and that it gave staff enough flexibility to not require underground utilities if it were too onerous.

Commissioner Fergusson asked staff how difficult it would be for the property owners to install underground utilities. Planner Murphy said that he did not have the information to answer that question, but that the applicant had information that might help. Mr. Robert Manger, applicant, said that PG&E's utility pole is 90-feet from their home and 60-feet of that is in the street. He said that a number of sewer and water lines converge in that cul-de-sac. He said that the 50 other properties in the neighborhood had above ground utilities. Chair Fry asked if he were comfortable with the language to require screening. He said that he thought it would be impossible to screen an aboveground service line.

Commissioner Halleck asked for staff comment. Assistant City Attorney Siegel said that the Commission might instruct staff to look at this condition with a liberal eye. He said that if only aboveground utilities were reasonable, then staff might recommend some screening at the front of the house and where the line connects to the house that would not create a fire hazard. He said that direction would be best rather than eliminating the condition.

Commissioner Soffer said that he would like to move approval per staff's recommendation. The motion died for lack of a second.

Commissioner Sinnott said that she thought condition "f" was punitive. She suggested that it might be deleted or reworded to release the restriction if the regulation changed. Commissioner Soffer did not support that change and said that all of the lots had the same situation with pie-shaped lots. He said that the Commission did not know when or if any new regulations would be enacted.

Commissioner Fergusson said that she would like a flexibly-worded condition that would lift the restriction if regulations changed.

Commissioner Sinnott moved to allow staff to be liberal with condition "e," and to reword condition "f," as suggested by Commissioner Fergusson. Assistant City Attorney Siegel said that there should be a time limit for the passage of any changed regulations and that property owners might at any time, when a regulation changed, approach the City for release from a restriction.

There was discussion about condition "e." Assistant City Attorney Siegel said that there only needed to be a direction by the Commission that if placing the utilities underground would be onerously difficult then the lines could be placed aboveground with screening as recommended by staff. Chair Fry asked if condition "f" would address the variance for the parking if at some point the house were re-done, retained the 38-percent lot coverage and a second story were added. She said she would not be comfortable with the variance for one parking spot; she would like the deed restriction to include something that would dissolve the variance. Chair Fry said that previous deed restrictions were more specific and required that if a second story were allowed at a future time that the situation requiring a variance must be rectified. Planner Murphy said that there are multiple deed restrictions and this was like the one used for 1050 Tehama Avenue. He said that this version acknowledges that there might be future changes to the ordinances, but requires at a minimum that if a change were proposed, that the adjacent neighbors would be notified. Chair Fry asked about an application for new construction on the property. Assistant City Attorney Siegel said that any new construction would require use permit review.

Commission Action: M/S Sinnott/Halleck to approve as recommended in the staff report with acknowledgment that staff are allowed to liberally apply condition "e" related to underground utilities and a modification to condition "f" as indicated to eliminate the need for the deed restriction in case the rules change.

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 configuration of the parcel and location of the existing residence and carport create a constraint to building an addition 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 The Kastrop Group, Inc., consisting of three plan sheets dated April 2, 2003, and approved by the Planning Commission on April 7, 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 final building inspection, the applicant shall record a deed restriction with the San Mateo County Recorder's Office stating that any second story addition shall be reviewed and approved by the Planning Commission in accordance with the procedures and requirements for a use permit in Chapter 16.82 of the Zoning Ordinance. A copy of the final recorded document shall be kept on file in the Planning Division. This condition of approval shall not be applicable if, and only if, by April 7, 2004 or the date of final building inspection, whichever occurs first, the City has adopted an ordinance amending the regulations for single-family development which eliminates the need to obtain a variance to have a building coverage of 38% at 948 Timothy Lane.
- g. Prior to building permit issuance, the site plan shall be revised to include accurate building coverage and floor area numbers subject to review and approval by Planning Division staff.
- h. Prior to final building inspection, the applicant shall remove the shed and covered patio located in the rear yard.

Motion carried, 6-0.

- 5. **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.

Assistant City Attorney Siegel recused himself from consideration of this item, noting that his legal office has done work for Mr. McCarthy. He left the Council Chambers.

Staff Comment: Planner Smith reported that the applicant proposes to demolish an existing single-story residence and construct a new two-story residence with a basement on a property located at 1210 Bay Laurel Drive. The property is located in the R-1-S (Single Family Suburban Residential) zoning district, and is substandard in regard to lot width. Since the applicant is proposing to build a new residence on a substandard lot, the proposal requires use permit approval by the Planning Commission. He said that since the

staff report had gone to print the applicant found an error in the report on page 5, lines 5 and 6, regarding the window treatment. He said that the surround would be wood frame and crown and that decorative concrete molding was from a previous design and report. Planner Smith said that 11" X 17" plans of the shadow casting study had been distributed to each Commissioner as well as an addendum to that study prepared by the applicant that looked at November at 10:00 a.m. and 2:00 p.m. that compared the shadow cast by the proposed height of the new structure with that of the surrounding residences. He said that staff was prepared to answer questions on the report as well as with the applicant on the shadow casting study.

Questions of Staff: Commissioner Fergusson said that asked if a bay laurel tree on the adjacent property was identified on the heritage tree report. Planner Smith said that it was not and did not see it on the site plan either. He said that the applicant might like to address the matter.

Public Comment: Mr. Jack McCarthy, the project designer, said that he did not know the answer about the bay laurel tree, but that he would have the arborist look at it and he would make adjustments as necessary. He said that the last time the Commission considered the project, the applicants were asked to relocate the bedroom which might cast a shadow on 1200 Bay Laurel Drive. He said that he redesigned the entire floor and brought the bedroom into the center of the house. He said that the other neighbor was concerned about keeping the bushes between his house and the project property. Mr. McCarthy, because of the location of the fence between the properties, had a surveyor survey the property line and the finding was that the shrubbery was on the neighbor's property. Mr. McCarthy said that he let the neighbor know the shrubbery was his to maintain. Mr. McCarthy said that the neighbor was happy with that. Mr. McCarthy asked if there were any questions about the shadow casting study, which had been done at grade. He said that the addendum was done to show the height of the shadow.

Commissioner Sinnott asked about the simulated true divided light windows. Mr. McCarthy said that these would have a grill in back and front and a metal band in the center.

Chair Fry asked why the shadow looked to be the same from a one-story house and a two-story house. Mr. McCarthy said that the house on the left, 1220 Bay Laurel Drive, has a gabled roof and the gable is 17-feet from the ground. He said that he has photographs that shows the gable. He said that their project, although high, is five to six feet up the sidewall with no windows. Chair Fry said that she thought the gable was set back. Mr. McCarthy showed her the photograph of the gable. Chair Fry said that the square footage is larger than what is allowed. Mr. McCarthy said that he would adjust the overall width of the structure to reduce the square footage. Chair Fry said that at the previous meeting the Commission had suggested lowering the height of the house. He said that the only way that could be done would be to lower the height of the roof, which is already at a 12 and 5 foot pitch to allow for drainage and so the roof would not look flat. He said that the ridge of the roof was determined by the width of the structure. He said that he could have undulated the roof, but that would have created more impact on the neighbors. Chair Fry said that the Commission had suggested that the garage doors should be simulated double door. Mr. McCarthy said that he looked at that and there was so much going on in the front of the house that he thought that would make the design look busy. He noted that there are

interesting features on the door as designed, but that if the Commission wanted, he would do simulated double doors.

Ms. Annabelle Nye, Menlo Park, owner of the property to the right of the proposed project, said that she was still unhappy with the mass of the proposed residence. She questioned allowing such a structure to be built in a rural area of Menlo Park when it would block light, air and views of the foothills. She said that the structure when redesigned actually became bigger. She said that the bedroom on the second floor could be relocated to the first floor. She said that she was very displeased with massive homes that fill up the lots both above and below ground. She said that the height of their one-bedroom addition is not 28-feet but 26-feet 2.5-inches. She said her neighbor Mr. Siegel also feels the house would be too big and did not like the basement, as the sump pump would be noisy and would be located next to their bedroom window. She said despite what the shadow casting study indicated, she would not be able to see the sun at 3:00 p.m. from her kitchen window.

Commissioner Fergusson asked Ms. Nye if she would want screening. Ms. Nye said that would not be desired as it would not really change anything.

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

Motion carried, 6-0.

Commission Comment: Commissioner Fergusson said that the last time the Commission considered the project, she had moved for approval. She said that she would again move to approve the project, noting that the designer had worked to resolve issues with the neighbors. She said that she would like to see, if necessary, a condition that kept the shrubbery to the rear maintained as is. She also expressed concern about the bay laurel on the neighboring property.

Commissioner Soffer seconded the motion. He said Mr. McCarthy moved the windows into the middle which was what he was seeking and the mass of the house was not inconsistent with the neighborhood.

Chair Fry said that for the record Mr. McCarthy was indicating that the rear screening is indicated as remaining on page B-8 of the plans.

Discussion ensued about the location of the sump pump. Commissioner Fergusson asked what was done to ameliorate such noise as it would not fall under the noise ordinance. Planner Murphy indicated that there had been a condition regarding the location of the sump pump at 8 Reyna Place that could be used. Commissioner Fergusson indicated that she would like that condition added to her motion, which was acceptable to the maker of the second.

Commissioner Halleck said that the project had taken the neighbors' concerns into consideration and the architect had done a great job in pulling the second story wall back and bringing it below the daylight plane. He said that he was pleased with the lesser amount of shadow and that at 2:00 p.m. the shadow on the neighboring home would be significantly less than before. He said that the way the home was designed the look would be broken up by a simulated double door for the garage. He confirmed with staff that there

was a condition to reduce the FAL. Chair Fry said that the project was one of the most troubling projects in that the neighbors remain upset and the house was large. She noted that the applicant had put efforts into redesigning the project in response to the neighbors' concerns. She encouraged persons who were troubled with the rules to push to have the rules change.

Commission Action: M/S Fergusson/Soffer to approve as recommended in staff report with a modification to condition "f" related to the bay laurel tree on the neighboring property and an additional condition related to the sump pump and mechanical equipment as indicated.

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 Jack McCarthy Designer Inc., consisting of eight plan sheets dated received February 25, 2003, one plan sheet dated March 7, 2003, and approved by the Planning Commission on April 7, 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. 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 heritage trees on the subject property and adjacent properties, including the bay laurel tree located at the front of the 1220 Bay Laurel Avenue property, for review and approval to the Building Division.
- g. Prior to building permit issuance, the applicant shall submit revised plans that are in compliance with the maximum allowable FAL for the subject property. These revised plans shall be submitted for the review and approval of the Planning and Building Divisions.
- h. Prior to building permit issuance, the applicant shall submit plans that identify the location and specifications for noise generation of the equipment for the sump pump and heating, ventilation and air conditioning systems. The placement of the equipment should attempt to minimize impacts on surrounding properties. The plans shall be subject to review and approval by the Planning Division.

Motion carried, 5-0-1, with Commissioner Bims abstaining.

The Commission took a five-minute break. Assistant City Attorney rejoined the meeting.

- 6. **Use Permit/Randolph S. Charlton/1250 Hoover Street:** Request for a use permit to retain latticework of four feet in height for an overall fence height of 11 feet, 10 inches where a maximum overall height of seven feet is otherwise allowed without a use permit.

Staff Comment: Planner Smith reported that the applicant was requesting a use permit to retain latticework of four feet in height for an overall fence height of 11 feet, 10 inches, where a maximum overall height of seven feet is otherwise allowed without a use permit.

Public Comment: Gary Lekan, of AA Lock and Alarm, said that he was opposed to the current addition, an 11-foot, 10-inch fence, which from his business' side was 12-feet 5-inches. Chair Fry asked Mr. Lekan to recap for the new Commissioners what his original complaint had been. Mr. Lekan indicated that he had intended for his original complaint to encompass the entire rear fence for both 1246 and 1250 Hoover Street. Mr. Lekan stated that he felt the fences were too tall and were poorly constructed, creating a safety hazard and also blocking access to light for the single-story office building at the rear of his property. He also indicated that the fences are up to 12 feet, three inches tall, not the 11-feet, 6-inches that had been indicated in the application. He stated that the tall fences block egress from the rear of his property in case of a fire or other calamity. He said that eight-feet, six-inches of fence was enough protection. Mr. Lekan confirmed for Commissioner Sinnott that there is a window at the rear of his building.

Ms. Sally Morgan, said that she was representing Mark Colella, the applicant, who was away on business, and that Guy's Plumbing supports the fence as is at 1250 Hoover Street.

Chair Fry confirmed with staff that the owners of the residence next to Guy's Plumbing had been notified. Planner Smith said that there had been no response from any of the other residents.

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

Motion carried, 6-0.

Commissioner Soffer indicated that previously he was supportive of the fence as is, but upon further review he did not see that an 11-foot fence provided any benefit for the privacy of the second story of the residence at 1250 Hoover Street. In response to Mr. Lekan's concerns about loss of sunlight, he supported staff's recommendation to compromise at nine-feet.

Commissioner Soffer moved to approve per staff recommendation and Commissioner Sinnott seconded.

Commissioner Fergusson said that at 1250 Hoover Street there was a benefit to having the lattice as both the applicant and parcel 8, Guy's Plumbing, wanted it and it seemed to provide some privacy. She suggested that the issue seemed to be that 1246 Hoover Street blocks AA Lock and Alarm, parcel 10. She suggested that there be no lattice allowed between parcels 21 and 10 and the fence be kept at its current height of eight-feet six-inches; that between parcels 21 and 9; there be allowed a two-foot lattice; and between parcels 22 and 8, there be allowed the four feet of lattice. She said that she would not support the existing motion.

Commissioner Soffer said he wanted to stay with the motion and that in his experience stepped fences do not work visually. Commissioner Fergusson asked if it was a detriment to parcel 10 to make an exception to the regulations. Commissioner Soffer said that he did not view it as a detriment, rather that there were different ways to solve the problem, and he supported staff's recommendation. In response to a question from Chair Fry, Planner Smith said that the existing fence was seven-feet, ten-inches. Chair Fry asked why that exceeded the maximum seven-foot height requirement for fences. Planner Murphy said that the current ordinance for fences measures from the lower of two finished grades. He said that when the property was developed, under the previous ordinance, the height was measured from the Hoover Street side, which had been seven-feet.

Chair Fry said that these applications had come forward in response to a complaint from AA Lock and Alarm. She noted that the business was an integral part of Menlo Park and that it was important to respect their concerns. She said that most of the windows in the residence are high and suggested that plantings, such as a tree, might serve better screening for privacy. Commissioner Halleck said that there would be no way to ensure that plantings were maintained or even kept. He said that he had also considered a stepped fence; however, he thought it would create a fractured look. He said that he supported a consistent nine-foot height, which would allow for more sunlight into the patio behind 1246 Hoover Street and also deter bottle throwing over the fence. He said that latter issue should have been handled through

code enforcement. He said that these kind of issues needed to be resolved before they came to the Planning Commission. Commissioner Soffer called for the question.

Commission Action: M/S Soffer/Sinnott to approve the use permit as recommended by the staff report.

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 the applicant, consisting of three plan sheets dated received December 18, 2002, and approved by the Planning Commission on April 7, 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. The maximum height for the rear fence shall be no more than nine feet.
 - e. The applicant shall submit a complete building permit application within 30 days of the Planning Commission approval of this project, and shall complete the modifications to the fence within 90 days of the Planning Commission approval.

Motion carried, 5-1, with Commissioner Fergusson opposed and Commissioner Pagee not in attendance.

7. **Use Permit/Riccardo & Gladys Crippa/1246 Hoover Street:** Request for a use permit to retain latticework of four feet in height for an overall fence height of 11 feet, 10 inches where a maximum overall height of seven feet is otherwise allowed without a use permit.

Staff Comment: Planner Smith said that this proposal was essentially the same as the previous item.

Public Comment: Mr. Lekan, AA Lock and Alarm, said that the fence should stay at the existing eight-feet, four-inches as that provided plenty of privacy for the applicants' patio. He liked the stepped approach suggested by Commissioner Fergusson. He said that he had offered to talk to the applicants, but that no one ever contacted him.

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

Motion carried, 6-0.

Commissioner Fergusson said that the Commission should deny the use permit as the applicant had made no efforts to work with the neighbors. Assistant City Attorney Siegel said that rather than move to deny the use permit, Commissioner Fergusson should modify the conditions of the use permit. Commissioner Fergusson said that she would move to require the fence at 1246 Hoover Street to be at the existing seven-feet, ten-inches without any lattice and the fence should step up at the property line between parcels 9 and 10. City Attorney Siegel said that the part of the fence at parcel 9 had been approved at nine-feet. Commissioner Halleck said that he would second the motion to remove the lattice and step up the fence so that it increases to nine-feet at parcel 9 as approved. Commissioner Sinnott indicated that the staff's recommendation was fine and that it was unfair that 1246 Hoover Street should have two fence heights. She said that she would not support the motion and did not think it would help the sunlight issue. Commissioner Bims said that the applicant put up a fence in violation of regulations and that code enforcement should require that the fence be removed. Commissioner Halleck called for the question.

Commission Action: M/S Fergusson/Halleck to approve the use permit subject to condition that the section of fence between 1246 Hoover Street, parcel 21 as opposed to parcel 9 on El Camino Real be as recommended by the staff report, but the section of parcel 21 as opposed to parcel 10 (AA Lock and Alarm) be the existing height fence with the lattice removed.

Motion failed, 2-3, with Commissioners Bims, Sinnott and Soffer opposing.
Commissioner Page was not in attendance.

Commission Action: M/S Halleck/Sinnott to approve the use permit application as recommended in the staff report.

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 the applicant, consisting of three plan sheets dated received December 18, 2002, and approved by the Planning Commission on April 7, 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. The maximum height for the rear fence shall be no more than nine feet.
 - e. The applicant shall submit a complete building permit application within 30 days of the Planning Commission approval of this project.

Motion carried, 4-2, with Commissioners Bims and Fergusson opposing. Commissioner Pagee was not in attendance.

8. **Use Permit/Duc Dinh/203 El Camino Real:** Request for a use permit to operate a personal service salon in a building that is substandard in regard to parking.

Staff Comment: Planner O'Connell said that the applicant proposed to occupy an existing tenant space at 203 El Camino Real with a tanning, waxing, manicure, pedicure and facial salon. He said that a use permit is required because the building in which the tenant space is located has eight on-site parking spaces and 21 spaces on an adjacent property for a total of 29 spaces, where 36 spaces are required. He directed the Commission's attention to page three of the staff report, and said that in the table on parking, under Charisma, the maximum number of client parking spaces should be 10 not 14, and the total 14 rather than 18.

Public Comment: Mr. Nick Tuttle, Chief Financial Officer for the family corporation that owns the building, questioned the number of parking spaces. He said that there are eight spaces along the building and there are 29 spaces in the adjacent lot, only four of which are allotted to the four tenants of the fourplex also owned by the property owner. He also questioned how the number of spaces in use was determined as there were peak times and down times and the parking use would not be consistent. He said that the Commission should not place restrictions on the business by limiting the number of stations within the space. He said that the letter of opposition regarding parking was from the owners of the property in which The Oasis is located. He said that it is customers of The Oasis that cause parking problems at 203 El Camino Real. He said that they try to work with The Oasis and when they have cause to tow vehicles, they try to give The Oasis a warning. He said that the space had remained vacant two years and they turned away many tenant applications as they wanted a tenant to would serve the space the best.

Commissioner Sinnott asked what he meant about restrictions. Mr. Tuttle said that he thought that condition 3.b should be removed as it was really the operator's expertise that would determine how many stations were needed to have a successful business.

Ms. Ruth Sherman, property owner, related the history of how she had acquired the building and then the adjacent lot to provide parking. She said that the Planning Commission made her give eight of the parking spaces to the owner of the fourplex. Eventually, she bought the fourplex and stipulates by lease that the tenants have only one parking space and she would like to see those other four spaces not labeled for "Tenants Only." She said that the applicant's business was the perfect fit for this location and that the salon would be beautifully done. She said that she did not think it was right that the Commission should stipulate how many stations the tenant might have.

Mr. Duc Dinh, the applicant, said that he has been in the business for five years in Boston. Commissioner Soffer asked how many similar stores there were in Palo Alto and Menlo Park and if the business would be able to compete. Mr. Dinh said that he liked the location, noting that the salon was situated at a traffic light and people would see the sign. He said that his business in Boston was very successful, but he had wanted to come to California to be closer to family. In response to Commissioner Soffer, Mr. Dinh indicated that he did not have an established clientele. Commissioner Fergusson confirmed with the applicant that the application was for five manicure stations, three pedicure stations, a tanning room, a facial and waxing room, and a reception desk. Chair Fry asked if ten was the maximum number of customers he would have at one time. Mr. Dinh said that would be the maximum number of customers in the future, but it would be less now because there are only four employees. Commissioner Soffer asked about parking for the employees. Mr. Dinh said that three of the employees are relatives and would carpool. Chair Fry asked if there would be fewer customers at lunchtime. Mr. Dinh said that it depended on what kind of business was going on; some people choose to use their lunch to get a manicure or pedicure. Commissioner Bims asked when the peak time for business would be. Mr. Dinh said that the salon would be busiest at lunch and after work. Commissioner Fergusson confirmed with staff that there was no way to regulate the number of employees. Chair Fry asked if he would hire additional employees if the number of clients increased to six. Mr. Dinh said that in that case he would hire one or two more employees but that the stations being limited to six would restrict additional clientele.

Ms. Sherman pointed out that the building would have lights on until 11:00 p.m. when the restaurant closes. She said that the building is attractively lit and the windows would be open to the salon. She said that she believed that the Commission would find that this building would be an asset and that Stanford Park Hotel would be happy for these services to be so close.

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

Motion carried, 6-0.

Commission Comment: Commissioner Sinnott said that she would like to move to approve the use. She said that Ms. Sherman had worked to find the best use for the space. She said that she would like to delete the first sentence of 3.b restricting them to six stations. She said the space would restrict the use. Commissioner Halleck seconded the motion.

Commissioner Soffer said that he would like the condition 3.b to remain as is as the area is hard-pressed for parking. Commissioner Fergusson said that the difficulty with this area is that a lot of the businesses peak at lunchtime and after work. She said that she considers the parking supply to be 33 spaces based on the property owners' restriction of tenants to one space. She said that she thinks there will be foot traffic. She said that the area is the gateway to Menlo Park and that what was being proposed would be very attractive. She would support approval but with inclusion of the first sentence in condition in 3.b. Commissioner Bims said that there is a built-in limit on how many spaces would actually fit within the facility and would cap how large the business would grow. He did not want to artificially cap their growth. He said that if they outgrew the space they would seek a larger space. He supported the motion. Chair Fry said that issues with parking within this building's tenants would be an impetus for the property owner to resolve the issues. Chair Fry said that a compromise would be to review the permit in a year or so. Commissioner Halleck said that he supported removal of the first sentence in 3.b as he felt parking would be self-mitigating.

Commission Action: M/S Sinnott/Halleck to approve the application as recommended in the staff report with a modification to condition b to eliminate the restriction on the number of manicure and pedicure stations as indicated.

1. Adopt 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 request subject to the following conditions of approval.
 - a. Development of the project shall be substantially in conformance with the plans prepared by the Ruth Sherman, dated received by the Planning Division on February 11, 2003, consisting of three plan sheets and approved by the Planning Commission on April 7, 2003, except as modified by the conditions contained herein.
 - b. Any change in the interior layout of the building that may result in the potential for additional employees and customers shall be subject to review and approval by the Planning Division staff.
 - c. Prior to occupancy, the applicant shall comply with all County, State, and Federal regulations that are directly applicable to the project.

- d. Prior to occupancy, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
- e. Prior to occupancy, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
- f. Prior to the issuance of building permits or the installation of any signs or awnings, the applicant shall submit plans for review and approval of the Planning Division. Also prior to building permit issuance, the signage for the parking lot at 612 Cambridge Avenue shall be revised to include the provision for parking in the lot for Poised and Charisma.

Motion carried, 6-0.

7. Use Permit and Architectural Control/Edward Rubinstein/846 Oak Grove:

Request for a use permit to convert a portion of an existing single-family residence to a medical office use while maintaining a smaller residential unit in building and architectural control to construct a new carport and other exterior modifications to the existing building.

This item was continued to the meeting of April 21, 2003 prior to the April 7, 2003 meeting.

D. COMMISSION BUSINESS

1. Election of Planning Commission Vice-Chair for the Remaining 2003 Calendar Year

Commissioner Fergusson nominated Commissioner Halleck for Vice-Chair. Commissioner Sinnott seconded the nomination. Commissioner Soffer nominated Commissioner Fergusson. Commissioner Bims seconded the nomination.

Commission Action: M/S Fergusson/Sinnott to nominate Commissioner Halleck for Vice-Chair.

Motion carried, 6-0.

In other Commission business, Chair Fry reported on various matters concerning the Council and proposed revised Zoning Ordinance.

ADJOURNMENT

The meeting adjourned at 10:20 p.m.

Staff Liaison: Justin Murphy, Principal Planner
Prepared by: Brenda Bennett, Recording Secretary
Approved by Planning Commission on February 9, 2004.