



## **MENLO PARK PLANNING COMMISSION MINUTES**

**Regular Meeting**

**April 21, 2003**

**7:00 p.m.**

**City Council Chambers**

**801 Laurel Street, Menlo Park, CA 94025**

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### **CALL TO ORDER – 7:00 p.m.**

**ROLL CALL** – Bims, Fergusson, Fry (Chair), Halleck (Vice-chair) (arrived at 7:25 p.m.), Pagee, Sinnott, Soffer

**INTRODUCTION OF STAFF** – Heineck, Murphy, 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.**

This item was continued from the meeting of April 7, 2003.

Commission Action: M/S Fergusson/Bims to approve as presented.

The motion carried, 4-0-2, with Commissioners Sinnott and Pagee abstaining and Commissioner Halleck not yet present.

### **C. PUBLIC HEARINGS**

#### **1. Use Permit/Cortland Bohacek/128 Elm Street and 1961 Menalto Avenue:** Use permit to construct a second residence on an R-2 zoned lot that is substandard in regard to lot width. The property is currently developed with one single-family residence.

*(Note: The public hearing notice for this item included a request for a tentative parcel map. This request will be reviewed separately at a future meeting).*

Director Heineck said that Planner Murphy would not be present for the consideration of items C.1 and C.2 noting he has a conflict of interest in that he owns property near the subject property. She indicated that Planner Murphy would be in attendance for the third item on the Commission's agenda.

Staff Comment: Planner Thompson said that the applicant was requesting a use permit to construct a second residence on a lot in the R-2 zoning district. She said that the lot is a through lot with frontage on both Menalto Avenue and the Elm Street alley and the site is currently developed with one single-story residence that faces Menalto Avenue. She said that the applicant proposes to construct a second, single-story residence in the rear half of the lot, which would face the rear of the property and be accessed by the Elm Street alley. She stated that the project would conform to floor area limit, building coverage, daylight plane and setbacks.

Questions of Staff: Commissioner Fergusson asked if the parcel was being subdivided. Director Heineck said that there was an application pending for a condominium subdivision on the property, that it is currently under review and would come before the Commission at a later time. In response to questions from Commissioner Fergusson, Director Heineck explained that in a condominium subdivision, the lot remains a single parcel although the units can be sold separately. This is different than a townhouse development where the land and units are subdivided and sold separately. In response to questions from Commissioner Soffer, Director Heineck indicated that the minimum width for a street varies by the type of street. She said that there would not be a minimum width requirement for the alley as it is not considered a public street. Chair Fry asked if there were some special provisions for emergency access that the Commission needed to consider. She noted that the alley was not used in its full length and that the next door residence had a driveway from Menalto Avenue to the alley, but the subject property did not. Director Heineck said that the plans were reviewed by all of the departments and no problems with access or emergency access were identified. In response to a question from Commissioner Bims, Director Heineck said that the lot is an existing substandard lot (50-foot width) and under the existing regulations, a substandard lot could be developed subject to the use permit process.

Public Comment: Mr. Cortland Bohacek, applicant, said that he was available for any questions the Commission might have. Commissioner Soffer confirmed with Mr. Bohacek that the extension of utilities to the rear residence was a private construction cost. Chair Fry said on page three of the staff report, there was a statement that there was an agreement for maintenance of the alley, and asked how this development would affect that agreement. Mr. Bohacek said that the agreement runs with the land and would not be impacted by the development. Chair Fry asked if the responsibility would be split between the two owners. Assistant City Attorney Siegel said that this was a private matter and if the subdivision was not approved, the parcel would continue to be owned by one owner and nothing would change. He said that the City could review the language with the owner prior to the subdivision approval process; however, the agreement was binding because it runs with the land. Chair Fry asked why the agreement was not for the entire alleyway. Director Heineck said that the agreement was only for four properties based on a previous Commission action on another project. She said that if development occurred further down the alley, the agreement could be extended to include those parcels. Commissioner Pagee asked if Mr. Bohacek owned the adjacent property. He indicated that he does not. She noted that the parcel was for sale and asked if he knew whether it was being sold as one piece of property or as a condominium subdivision. He said that the property is being sold as a condominium subdivision. She asked if trees were trimmed in the alley to allow for access of fire trucks. He said that he did not know. Commissioner Pagee asked staff if maintenance was only done on one side of the alley. Director Heineck said that alleys are

undedicated space and not under the jurisdiction of the City. Commissioner Pagee asked if there were reports provided from the Fire Department. Director Heineck said that Engineering's review of the project had not raised any concerns. She said that review of the subdivision includes review by the Fire District. Commissioner Pagee said that she was concerned about access and emergency access. Director Heineck said that when the adjacent condominium subdivision and second residence were developed, the Fire District had no concerns with the alleyway. Commissioner Pagee asked about the maximum height on an R-2 lot. Director Heineck said that the height is 28-feet, the same as an R-1 lot.

Commissioner Fergusson asked Mr. Bohacek to talk about the quality of the window treatment. He said that the windows are simulated divided light. He said the grid is not snap-in. He said that he used the same windows at 1242-1254 Hoover Street. Commissioner Soffer asked whether the alley was part of the square footage of the lot. Director Heineck said that it was not. Commissioner Sinnott confirmed that the windows were not snap-ins. Mr. Bohacek said that the design echoed what had been developed next door. Chair Fry asked about vehicles during the construction process and staging. Mr. Bohacek said that he had spoken with Anne Hibert who owns the property next door to let her know that they would limit the amount of vehicles; vehicles would be pulled off the street; and they would stay in close touch with the neighbor to prevent obstruction.

Mr. Subramanian Subbian, Menlo Park, said that he vehemently opposes the construction and regrets giving an easement access four years ago. His stated concerns were for the increased traffic in the alley that is only 12-feet wide, additional sewer connections on the sewer line that has been problematic since he has lived there, the increase of crime because the alley has become well-traveled by foot and vehicles and there are no street lights, and safety for his small children because of vehicles traveling too fast in the alleyway. He said that he was misled by another property owner who indicated to him that a construction project under consideration was needed to accommodate that person's growing family. He said that rather than a two bedroom and one bath configuration, the property owner built a three bedroom and two bath configuration including a condominium and then sold the property and moved elsewhere. He said that the property owner had requested that he agree to a four-property grant of easement to accommodate that construction, which he had done hesitantly at that time and since regretted doing. In response to a question from Commissioner Soffer, Mr. Subbian indicated that there were other children in the vicinity but that the apartment units had a lot of turnover so that he could not accurately say how many children there are. Mr. Subbian indicated that because of the problems he was considering selling his property and moving elsewhere.

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

Motion carried, 7-0.

Commissioner Fergusson asked about lighting for the alleyway and posting a "No Outlet" sign. Assistant City Attorney Siegel noted that the City does not own the alley and that the property owners would need to contact PG&E if they were interested in having lights installed in the alleyway. Commissioner Fergusson said that the Commission might require the applicant to install high illumination. Assistant City Attorney Siegel said that Planning would need to review such a matter as a nexus was needed to require mitigation of a

property owner. Director Heineck added that it was not clear that the other property owners would want such lighting and there would need to be a public process. Commissioner Fergusson asked whether a "No Outlet" sign was possible. Director Heineck said that the Commission might consider a possible condition to require the applicant to research the ability to install such a sign. She said that there would need to be review by various City Departments, including Transportation, Fire and Police of that proposal and possibly City Council approval.

Commissioner Halleck said that the project was exempt from CEQA, but questioned whether the increased use of the alley should be considered as a factor. Director Heineck said that was not a factor as the alley is not a street. Commissioner Halleck confirmed with Director Heineck that there were no City easements in the area. Commissioner Halleck asked whether the City were responsible for the sewer in the alley. Assistant City Attorney Siegel said that to his knowledge the City has no responsibility for any of the sewers in Menlo Park and there are sewer districts, such as West Bay Sanitary District, that have jurisdiction with the sewers.

Commissioner Fergusson asked whether the City could claim the alley and maintain it. Assistant City Attorney Siegel indicated that the City has the power of eminent domain, but that adequate compensation would have to be made to the affected property owners. He said that it was not known who owned the alley. He said that research to define property ownership of the alley would be difficult and time-consuming without any guarantee that ownership could be determined. He said that it would require considerable resources and that City Council direction would be necessary.

Commissioner Pagee said that the City needed additional housing, but that she was concerned that approving this project without some intervention would compound the problems stimulated to some extent by the Commission's approval of a similar project previously. She suggested that the City should step forward and find out who the owners of the alley are and assume responsibility for maintaining the alley and provide safe access for the residents. Director Heineck said that to determine who the property owners are might take more than a year and significant resources would be needed; the City Council would need to direct those uses of resources. Assistant City Attorney Siegel added that for the City to take over the maintenance of the alley would predicate the City taking over the maintenance of all of the similar alleys. He said that there were about 12 such alleys and this action would require City Council approval.

Commissioner Soffer said that he thought the proposed project plan was well-done, but he was concerned that the alley does not appear to support that type of growth. He asked if there had been other communications from residents sharing Mr. Subbiah's concerns. Chair Fry said that the staff report indicated that there had been some phone calls. Commissioner Sinnott asked how the action of denying the project would solve any of the problems indicated by Mr. Subbiah. She said that it would only deny the rights of the property owner. Commissioner Pagee said that there were also the rights of the other property owners in the area to consider. She said that she supports development, but not if it worsens a situation. Commissioner Sinnott said that the project was a good in-fill on a lot and most likely the project would be in the right price range. She asked what questions could be answered by continuance. Commissioner Pagee said that the Commission had set a precedent and incurred a problem that was not obvious when approved. She

suggested that access needed to be looked at more closely. Assistant City Attorney Siegel said that the residents have access through the maintenance agreement. He said that the agreement addresses maintaining the alley and the liability and how disputes regarding maintenance are settled. He said that although there are not legal grant easements, the agreement permits access. Commissioner Bims asked if the persons who hold the maintenance agreement could ever block one end of the alley and limit access. Assistant City Attorney Siegel said he would not specifically be able to answer without looking at the underlying language of the agreement, but he doubted that they would be able to obstruct the alley.

Commissioner Halleck said that it appeared that there was increased use of the alley because of increased development and a change of use and pattern in the commercial area. Director Heineck said that the resident who spoke tonight had indicated that, but he was the only person they had heard from. She said that in general there was increased traffic and some of that was attributable to the success of the commercial area. Commissioner Halleck asked if there is any way for the City to manage the traffic increase and improve safety. Director Heineck said that the best way would be an enforcement effort which would need to go through the Police Department and City Council. She said that there were not any ways to artificially lessen the traffic.

Commissioner Sinnott said that the alley was overgrown on one end and unless cleaned up it did not appear that a car could travel down it. She said that probably does not stop foot traffic but she felt that the aesthetic improvement to the neighborhood would be beneficial in deterring crime and graffiti.

Chair Fry asked if any of the other R-2 lots in this area were to request development whether there would be a maintenance agreement. Director Heineck said that through the use permit process, a maintenance agreement could be required if the need were indicated. Chair Fry asked whether access could be blocked for properties covered by a maintenance agreement. Director Heineck said the alley is not owned by the City and that would be a private matter.

Chair Fry said that some of the Commissioners were concerned about going forward and others about denying the project and asked if there was a motion.

Commissioner Sinnott moved to approve the use permit as recommended by the staff report. The motion died for the lack of a second.

There was discussion about what action the Commission might take and whether there were conditions that might be added. Assistant City Attorney Siegel said that there had been one condition suggested to require the applicant to research the ability to post signage. There was discussion about whether the alley was completely traversable by car and Commissioners Halleck and Sinnott agreed that it was not.

Commissioner Halleck moved to approve as recommended by the staff report with a condition to require the applicant to research the ability to post signage in reference to the alley. Commissioner Bims seconded the motion.

Commissioner Fergusson said that most of the properties on this block of Menalto Avenue could develop their properties as proposed by this project. She said she agreed with Commissioner Pagee that this would compound the problems. She said that she thought that the City needed to get to the bottom of these alley problems and that applying maintenance agreements was a piecemeal solution. She said she would like to have the item continued. She said that although the Commission did not have the authority to direct staff to research the issue, that it could direct the applicant to begin research on the issue.

Commissioner Bims said that the alley was never designed to be a public thoroughfare and that at a minimum there should be signage telling the public that it was not a public thoroughfare, but a private street. He said that he thought the solution was bigger than the application before the Commission and that the residents affected by the alley should collaborate to solve problem.

Commissioner Soffer said that one solution would be a development project designed without alley use and referred to such a project on Santa Cruz Avenue at Fremont Street. Commissioner Sinnott said that would mean much more paving and felt that the proposed project was a nicer design because each unit had a nice yard.

Commissioner Halleck noted that the change in this proposed use was not cumulative in impact on the alley and that future projects would need to be reviewed as to cumulative effect.

Commissioner Soffer called for the question.

Commission Action: M/S Halleck/Bims to approve as recommended by the staff report with an additional condition regarding the signage, 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 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 Frank Auf der Maur Jr., Architect, dated January 6, 2002, consisting of three plan sheets and approved by the Planning Commission on April 21, 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. If required by State or Federal regulations, or by the Building Division, construction safety fences shall be installed around the periphery of the construction area. A plan for safety fences necessary during the construction shall be submitted to and approved by the Building Division staff prior to issuance of a building permit.
- e. A utility plan, showing the exact location of all meters that are being installed outside the building and provisions being made to screen such equipment from view, shall be submitted to and approved by the Planning and Building Division staff prior to issuance of a building permit.
- 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 applicable heritage trees for review and approval to the Planning Division. The plan should include the recommendations identified in the Arborist Report.
- g. Prior to final building inspection and at the written request of the applicant, the Transportation Division shall determine the appropriateness and feasibility of a sign located in or near the Elm Street Alley indicating that the alley does not provide a vehicular outlet. If it is determined to be appropriate, the applicant shall either install the sign at the direction of the Transportation Division or pay the full cost for the City to install the sign.

Motion carried, 4-1-2, with Commissioner Fergusson opposed and Commissioners Pagee and Soffer abstaining.

**2. Use Permit/Elizabeth Hawkins/103 Gilbert Street:** Request for a use permit to allow massage use at an existing spa facility.

Commissioner Fergusson recused herself from the Council Chambers for the consideration of this item as she has a conflict of interest in that she owns property within 500-feet of the subject property.

Staff Comment: Planner Smith reported that the applicant's proposal was to add massage use to the existing day spa located at 103 Gilbert Street. He said that massage is considered a special use and subject to the review and approval of a use permit by the Planning Commission.

There were no questions of staff or public comment.

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

Motion carried, 6-0. Commissioner Fergusson was recused because of a conflict of interest.

Commissioner Halleck confirmed that massage was being done prior to this request and asked how the massage use came to staff's attention. Planner Smith said that it was not a complaint, but was brought to staff's attention by a City employee. Commissioner Halleck asked why the applicant added massage when it was not part of the original permit and whether there had been complaints from the neighborhood. Ms. Hawkins, the applicant, said that she had discussed the massage use with Elizabeth Fambrini of Code Enforcement. She said that each of her employees had background checks and that she thought "body therapies" included the massage. She said that she had not had any complaints from the neighborhood and in fact has received good feedback. She indicated that she has 80-percent retention rate on their clientele.

Commissioner Pagee said that driving by the business she had noticed that the parking lot is not overflowing into the residential streets and that it looks very well kept. Ms. Hawkins said that many of her employees live within a seven-mile radius and bike, run or walk to work.

Commission Action: M/S Halleck/Soffer to approve as recommended in the staff report.

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 injurious or detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the use permit revision request to allow massage use subject to the conditions of approval included in the previous use permit approvals at this site.

Motion carried, 6-0. Commissioner Fergusson was recused due to a conflict of interest.

- 3. Variance/Doug and Laurie Bauer/225 Marmona Drive:** Request for a variance to allow a maximum lot coverage of 37 percent where 35 percent is otherwise required in association with the construction of single-story additions to an existing single-family residence.

Commissioner Fergusson and Planner Murphy joined the meeting.

Staff Comment: Planner Thompson said that the applicant was requesting a variance to exceed allowable building coverage to make additions to three areas of their residence. The additions would increase the building coverage on this site to 37 percent where a maximum of 35 percent is allowed.

Public Comment: Mr. Doug Bauer introduced his wife Laurie and said that they had lived at the property since 1987 and have thought about remodeling for some time. They said that they thought this was a good compromise between maintaining the character of the neighborhood and their remodeling project.



Commissioner Action: M/S Soffer/Pagee to close the public hearing.

Motion carried, 7-0.

Commission Comment: Commissioner Pagee said that she thought this was a very nice addition that would enhance the neighborhood; she liked that the door was moved to the front of the house.

Commission Action: M/S Pagee/Halleck to approve as recommended by the staff report.

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 existing floor plan creates a constraint to building an addition on this property without the approval of the requested variance.
  - 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 variance, 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 Mark T. Harrington consisting of seven plan sheets dated February 24, 2003, and approved by the Planning Commission on April 21, 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 Douglass Fir and Camphor heritage trees on the subject property for review and approval by the Planning Division staff.
- g. 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 21, 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 37% at 225 Marmona Drive.

Motion carried, 7-0.

- 2. Variance and Use Permit/Ann Sison/204 Princeton Road:** Request for variances to allow a front setback of 18 feet, 4 inches where 20 feet is otherwise required, to allow a corner side setback of 9 feet, 10 inches where 12 feet is otherwise required, to allow a garage door setback of 10 feet where 20 feet is otherwise required, and to locate the two required parking spaces in the required corner side setback; and a request for a use permit to construct a fence with a height of six feet in the required front setback and the City's right-of-way where a maximum of four feet is otherwise required and to locate the fence in the required sight visibility triangle where a maximum height of three feet is otherwise required.

This item was continued to the May 5, 2003 Commission meeting prior to this meeting.

#### **D. REGULAR BUSINESS**

- 1. Sign Review/James Ulcickas/888 El Camino Real:** Request for sign approval for two commercial signs containing exposed tube neon lighting and the color red.

Staff Comment: Planner Smith said the applicant was requesting approval of two new signs at 888 El Camino Real for a new restaurant. He said that both signs include exposed tube neon, which is listed as a discouraged sign element in the Design Guidelines for Signs. Therefore, both signs require Planning Commission review of a sign permit.

Questions of Staff: Commissioner Halleck asked if the signs were up. Planner Smith said the signs are up without the exposed tube neon lighting. Commissioner Soffer asked about the neon lighting at the BBC. Planner Smith said that there were a number of neon light signs in Menlo Park for which there had been no permit applications. Commissioner Pagee asked when the neon lights were on during the day. Planner Smith suggested that that might be a better question of the applicant.

The applicant was not in attendance.

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

Motion carried, 7-0.

Commissioner Soffer said that he likes the sign, the fish design and the red is minimal. Commissioner Fergusson said that she thought the restaurant was very nicely done, and the signs were acceptable.

Commissioner Soffer moved to approve per staff's recommendation. Commissioner Sinnott seconded the motion.

Commissioner Sinnott asked for clarification if staff's recommendation was to remove the red from the sign. Planner Smith said that staff's recommendation in condition d was to remove the sign.

Commissioner Soffer withdrew his motion.

Commission Action: M/S Soffer/Sinnott to approve as recommended in the staff report with the elimination of condition d.

1. Make a finding that the project is categorically exempt under Class 3 of the current State CEQA Guidelines.
2. Make a finding that the board sign above the front entrance is appropriate and compatible with the downtown, and is consistent with the Design Guidelines for Signs.
3. Approve the board sign above the front entrance and the window sign subject to the following conditions:
  - a. Development of the project shall be substantially in conformance with the plans prepared by Corporate Designs, consisting of three plan sheets dated revised February 20, 2003, and two plan sheets dated received March 28, 2003, and approved by the Planning Commission on April 21, 2003.

- b. 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.
- c. Within 30 days of the Planning Commission approval of this item, the applicant shall submit a complete application for any required building permits for the board sign above the front entrance. This building permit application shall be submitted for the review and approval of the Building Division.

Motion carried, 7-0.

## **2. Motion to rescind 1246 Hoover Street Use Permit approval.**

Chair Fry said that this was her request. She said that she rethought this approval and that she thought later that the fence should have been kept at its existing height without the lattice. Assistant City Attorney Siegel said that there is a procedure that allows for a request to rescind a motion if the person has not yet relied on the action or if the person had appealed. He said that the action for this item was not final until tomorrow and there was no appeal to date. If the Commission chose to rescind the approval, the application would have to come back to the Commission for a public hearing and reconsideration.

Commissioners Soffer, Halleck and Fergusson indicated that they would like to stay with the approval.

Chair Fry moved to rescind the 1246 Hoover Street Use Permit approval. Motion failed for lack of a second.

## **E. STUDY MEETING**

- 1. Use Permit, Architectural Control, Zoning Ordinance Amendment, and Negative Declaration/John Conway/1200 El Camino Real:** Request for a Zoning Ordinance Amendment to allow for the reconstruction of existing, nonconforming service stations in the C-4 El Camino Real zoning district, and use permit and architectural control approval for the demolition of the existing station facilities and the construction of a new snack shop/auto service building, pump islands, and pump island canopy at 1200 El Camino Real. The proposal also requires review and approval of a Negative Declaration.

Staff Comment: Planner Smith presented the staff report. The applicant proposes to redevelop the existing Chevron Service Station at 1200 El Camino Real. All aboveground structures, except for the existing monument sign, would be demolished, with a reconstruction and expansion of the canopy and pump islands, the existing snack shop and auto service bays. The project site is located in the C-4 zoning district, for which service stations are not listed as either a permitted or conditional use. Under the existing Zoning Ordinance regulations, the City cannot approve the proposed reconstruction of the site. Thus, the applicant is proposing a Zoning Ordinance Amendment that would modify the chapter of the Zoning Ordinance regulating non-conforming uses and structures to allow for the demolition and reconstruction of service stations and related incidental facilities subject to approval of a use permit. The proposed amendment would also allow existing non-

conforming parking and landscaping conditions to continue to exist if approved by the use permit. As such an amendment requires the approval of the City Council, the applicant asked that the Planning Commission study the proposal.

The applicant has also submitted an application for a use permit and architectural control review for the construction of the new canopy, pump islands, snack shop, and auto service bays. Finally, the applicant is proposing to install new signage on the site to replace the signage that would be torn down during the demolition phase of the project. The sign includes the Chevron corporate logo, which contains the color red. As the color is discouraged by the Design Guidelines for Signs, the applicant has also submitted a request for approval of a sign review application by the Planning Commission and is scheduled to be heard at the regular May 5, 2003 meeting. Planner Smith noted that since the publication of this agenda's materials, staff received a letter of approval for the proposed sign color and canopy height from Howard Crittendon, owner of 1275 El Camino Real. Also, this evening, the applicant brought color renderings of the project design for the Commissioners use.

Questions of Staff: Commissioner Fergusson suggested that another option would be to change the definition of C-4 to allow for future service stations. Staff indicated that this was not desirable in light of the environmental review concerns involved in service station operations. Commissioner Soffer asked if there were other non-conforming uses in the C-4 zoning district and mentioned the palm-reading business. Staff indicated that such use is conforming within the C-4 zoning district. Commissioner Pagee questioned whether it was technically correct to call the property a demolition as the underground tanks would remain. Staff indicated that the extent of the reconstruction could not be considered as either a remodel or alteration. In response to a question from Commissioner Fergusson, the applicant John Conway indicated the service station hours are currently 7 a.m. to 10 p.m.

Public Comment: Mr. Conway, the applicant, indicated that the proposed project is the result of a State mandate that by the end of 2003 the service station must be upgraded to meet current environmental regulations. This would require the replacement of the pumps and the addition of secondary containment with spill buckets under the pumps. Since the work is necessary, he felt it was an opportune time to replace the existing facility built in 1948, which is suffering some construction faultiness. He also noted it would benefit the public as the station is very busy and a third bay expansion would increase their level of service.

Mr. Muthana Ibrahim, Designers Collective, noted that they plan to replace the canopy and pump islands; eliminate one driveway closest to the intersection at Oak Grove Avenue and El Camino Real; eliminate both driveways on Oak Grove Avenue, and have just one driveway to serve the site. They are proposing a stucco building with overhangs and pilasters, and wraparound stone vermeer base, and a third service bay with overhead doors of aluminum and glass.

Mr. Conway noted that the accessibility to the pump islands would be significantly improved by the redesign and expansion.

In reply to Commissioner Halleck's question, Mr. Ibrahim noted that there would be a one-foot height increase to the canopy, which would meet code requirements.

Commissioner Pagee asked about the exit onto Derry Lane as the potential grade separation proceeds for the railroad crossing and what constraints that would place on fuel delivery. Mr. Conway noted that he has been attending the grade separation meetings and it appears that the work is going to close Oak Grove Avenue at El Camino Real. Regarding fuel delivery, there will be access either from El Camino Real or Oak Grove Avenue. Mr. Conway indicated that the business would be able to handle closure of Derry Lane.

Responding to a question from Commissioner Fergusson, Mr. Conway indicated that the business might be expanded to 24-hour service in the future.

In response to Commissioner Bims, Planner Smith indicated that currently there are five total service stations in this El Camino area. Commissioner Bims asked if the C-4 zoning district was specifically created to prevent the reconstruction of service stations once demolished. Planner Murphy indicated that some research might be needed, as there were two C-4 zoning districts created as he recalls in the 1970s and that there were previously more service stations along El Camino Real. Mr. Conway named five to six service stations along El Camino Real that no longer exist.

In response to Commissioner Soffer, Mr. Conway said that he has owned the site since 1968 and owns just one service station.

Commissioner Bims asked whether changing the Zoning Ordinance would encourage the construction of more service stations along El Camino Real. Planner Smith indicated that the amendment was worded to only allow the five existing service stations to reconstruct on their sites. Commissioner Bims noted his understanding of the amendment but wondered if the Zoning Ordinance was changed to allow conditional use of service stations would that create a situation that there would be an increase of service stations. Planner Smith indicated that if service stations were made a conditional use again that would create the potential for more service stations. Each application would have to come before the Planning Commission for a use permit and architectural control review.

Commissioner Halleck expressed his concern that a checkbox under the Hazardous Materials section of the Negative Declaration was checked with "no significant findings" and asked about mitigation for potential environmental impact. Mr. Conway noted that the existing tanks are double-walled fiber glass installed in 1986; the tanks would be pumped out and existing lines purged before installation of the new pumps, secondary containment, spill buckets and new lines occurred, all of which would happen under County inspection. In response to Commissioner Halleck, Planner Murphy noted that the Negative Declaration for the project was circulated on April 17, 2003 and that a public hearing to receive comments on the environmental document would be held. Commissioner Halleck confirmed with Planner Murphy that he might direct other environmental questions to Director Arlinda Heinick.

In response to questions from Commissioner Soffer, Mr. Conway indicated that the County would analyze soil samples during the construction project. Mr. Conway also stated that the project's completion is expected to be three months.

Commissioner Fergusson indicated her approval of the concept of the Zoning Ordinance Amendment and the proposal as designed. She noted that it appears the site would be better utilized than it is presently. In response to her questions, Planner Murphy noted that the proposed language for the amendment could be found in Attachment D. He noted that through the use permit process, the applicant can request that existing levels of parking and landscaping be retained. Commissioner Fergusson commented that the Zoning Ordinance had accomplished a reduction in the number of service stations but that she felt a certain level of service was needed at this time to serve the citizens of West Menlo Park.

Commissioner Bims indicated his support of the plan and the proposed amendment; he suggested that there be further consideration of a long-term vision as to the public's need of service stations in the area.

Commissioner Pagee concurred and indicated that it is important for current business owners to be able to renovate their businesses along the commercial corridor. She expressed her appreciation to Mr. Conway for choosing to upgrade beyond the mandatory State requirements. She expressed her hope that the railroad crossing would enhance the business. She asked that her support of the project be forwarded to the City Council.

Chair Fry addressed the question of parking and suggested that if there is an intensification of use with existing parking that there might be a need for validation of long term use of parking at a future review. She expressed her support of the project.

Commissioner Sinnott offered her general support for the project and indicated that parking may be an issue.

In response to a question from Commissioner Fergusson, Planner Murphy noted that any comments or questions of the Commissioners regarding the Zoning Ordinance Amendment, the Negative Declaration, the use permit application and the architectural control review may be directed to staff or the applicant. Comments received within the preparation time of the May 5, 2003 public hearing agenda item could be included in the staff report; comments received prior to the meeting could be reported at the meeting; and Commissioners may comment during the public hearing.

## **F. COMMISSION BUSINESS**

- Commissioners identified some potential sign violations for staff to research and discussed topics for consideration at its meeting of April 28, 2003.

## **ADJOURNMENT**

The meeting adjourned at 9:45 p.m.

Staff Liaison: Justin Murphy, Principal Planner

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission on February 9, 2004.