



MENLO PARK PLANNING COMMISSION MINUTES

Regular Meeting
June 16, 2003
7:00 p.m.
City Council Chambers
801 Laurel Street, Menlo Park, CA 94025

CALL TO ORDER – 7:00 p.m.

ROLL CALL – Bims, Fry (Chair), Halleck (Vice-chair) (arrived at 7:10 p.m.), Pagee, Sinnott, Soffer present; Fergusson absent

A. INTRODUCTION OF STAFF – Heineck, Murphy, O’Connell, Siegel, Thompson

B. PUBLIC COMMENTS

There were none.

C. CONSENT

- 1. Review of State Department of Alcoholic Beverage Control (ABC) Application for Person-to-Person Transfer of Ownership:** Review of State Department of Alcoholic Beverage Control (ABC) Application for Person-to-Person Transfer of Ownership for Alcoholic Beverage License for David Daon King, Oak City Café and Grill, 1029 El Camino Real.

Assistant City Attorney Siegel recused himself because of a conflict and left the Council Chambers.

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

Make a determination, as per Section 23800(e) of the State Business and Professions Code, pertaining to the granting of an application for a transfer of an Alcoholic Beverage Control license to David Doan King, Oak City Café and Grill, 1029 El Camino Real, that no evidence has been presented that suggests that there are problems associated with alcohol consumption or sales at or in the general vicinity of the business, and that the granting of the application is appropriate.

Motion carried, 5-0, with Commissioners Fergusson and Halleck not in attendance.

D. PUBLIC HEARING

- 1. Use Permit/Willie Beasley/1212 Sevier Avenue:** Request for a use permit to construct a new two-story residence on a vacant lot that is substandard in regard to lot area and lot width.

Staff Comment: Planner O'Connell reported that the applicant was requesting a use permit to construct a new two-story residence on a nonconforming lot.

Questions of Staff: Commissioner Soffer said that he made a site visit. He said that the property to the right of the subject property has a residence in the front and a secondary dwelling unit in the rear, between the two residences there is a parking space for the rear unit. He said that it appeared from the plans for the subject property that the parking space would be blocked. He was concerned that would make that secondary dwelling unit nonconforming. Planner O'Connell said that the neighbor of that property had signed a letter of approval for the proposed project and that the existing detached secondary dwelling unit was probably nonconforming.

Public Comment: Owner and applicant Mr. Willie Beasley, Menlo Park, addressed Commissioner Soffer's comment. He said that the adjacent property has used the vacant lot for parking without permission. Commissioner Soffer indicated that he was concerned that the parking on the adjacent property would be blocked. Mr. Beasley indicated that there was a driveway for use on the adjacent property.

Mr. Beasley said that he was proposing to build a 2,850 square foot home. He said subsequent to his architect submitting the plan that they have been told that the maximum floor area limit (FAL) allowed is 2,800 square feet. He said that his architect is looking at how to reduce the FAL by 50-square feet without affecting the design. He said that the project as proposed meets the criteria of daylight plane. He said that the garage as proposed is 427 square feet where only 400 square feet is required. He indicated that the garage square footage could possibly be reduced. He said that the area adjacent to the stairwell, the entry way, is four-feet by twelve-feet, but that it was not grandiose in scale. He said that the 50 square feet in question would impact the interior of the home, which had been designed to accommodate specific furnishings. He indicated that he would like to keep the 50 square feet in question.

Chair Fry asked what the neighbors, who had signed off on the project, were given to review. Mr. Beasley said that they had received the site plans and the elevations of the two homes adjacent to his property. Chair Fry asked about the scale. Mr. Beasley indicated that it was ¼ inch to one foot. Chair Fry said that it appeared that the scale of the nearby homes was not reflected accurately. She said that the setbacks between the homes look the same even though some are three-feet and some are six feet. She said that the height of the proposed residence appears out-of-scale. Mr. Beasley said that the building height proposed is 26 and a-half feet where 28 feet is allowed. Chair Fry said that the plans seem to show an elevation of 20 feet. She said that her concern was whether the neighbors were adequately aware of the actual size of what was being proposed. Mr. Beasley said that he spoke with each neighbor and tried to the best of his ability to share with them what he was proposing. He said that generally there was not much concern and he acquired six statements stating that there was no opposition to the project. Chair Fry asked if the neighbors to the left were aware that in the winter they would lose all of their sunlight. Mr. Beasley said that the proposed project was within the allowed daylight plane. Chair Fry said that the project setbacks are very narrow and the neighbors' setback is also very narrow. Mr. Beasley said that Planner O'Connell advised him that there was three feet. He said that the home had been originally planned to be 40-feet in width, and it was reduced to 39-feet. He said that his setback is six-feet where five-feet is required. He said that the neighbor to the right has four-and-a half foot setback and his proposed project has five-feet. Chair Fry said that the second story is a sheer wall and asked if he would be willing to move it in, for instance moving the master bedroom in, to allow the neighbors on the right some

sunlight. Mr. Beasley said that when he brought in his preliminary plans he was not told that the Planning Commission had concerns regarding the second-story massing. He had his architect draw up the plan without that knowledge. He said that upon his fee submittal was the first time that he was made aware of the Planning Commission's concerns with two-story sidewalls. He said that at this point it would create a financial hardship for him to have the architect re-draw the plans. Chair Fry confirmed with Mr. Beasley that he would reside in the proposed home.

Commissioner Bims said that the staff report indicated that some of the windows were schematically drawn and did not appear to be operable windows. Mr. Beasley said that the windows would be from the manufacturer Milgard. He noted that the proposed windows would fit the scale of the home, and all would be operable. Mr. Beasley said that the windows on the rear side of the residence would be single-hung Milgard windows. Commissioner Bims asked if the windows were simulated divided light. Mr. Beasley said that they would be dual-paned, clear glass windows. Commissioner Pagee said that there appeared to be a combination of windows, some are double-hung and others sliding glass. She asked if it was Mr. Beasley's intent to combine different window styles. Mr. Beasley said that on the upper floor there would be sliders and on the first floor there would be a combination of sliders and single-hung windows. He said that the windows would be grid windows that would complement each other.

Commissioner Pagee asked if there was a double garage door and if there were windows on the door. Mr. Beasley said that it would be a two-door garage and would be an upgrade from aluminum, but he did not think he would install a door with windows. Commissioner Pagee asked if there would be a fence between the right-side of the property and his property during construction. Mr. Beasley indicated that he would be installing a fence on the entire perimeter of the lot. Commissioner Pagee said that there is a large tree in the back of the house on the left side that provides substantial shade and noted Chair Fry's comment regarding the neighbor's loss of daylight. She asked about mitigating the loss of the neighbor's daylight. Mr. Beasley said that the tree is very overgrown and overshadows both lots, and he intended to meet with the neighbor to see about trimming that tree. Commissioner Pagee confirmed with Mr. Beasley that neither of the two proposed fireplaces were wood burning.

Commissioner Halleck asked if Mr. Beasley had considered lowering the FAL to conform to the maximum of 2,800 square feet. Mr. Beasley said that if the Commission would not allow him to build the residence as proposed, he would lower the FAL. He said that he would like to keep the 50 square feet, which was adjacent to the stair well. He feared that reducing the home by eight inches would severely reduce the area of the kitchen nook and the first floor bedrooms.

Chair Fry asked if he had considered a dormer at the front of the second-floor bedroom over the garage instead of a full-scale wall. Mr. Beasley said that he originally looked at building a one-story house and then struggled with a two-story design that used the lot well and complemented the neighborhood. He said that if his architect could do such a design change without too much cost, he would be willing to add that feature.

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

Motion carried, 6-0, with Commissioner Fergusson not in attendance.

Commission Comment: Commissioner Sinnott said that she supported the project as the neighbors had no opposition to it. She said that she talked with one of the neighbors, whose only concern with the project was regarding the hours of construction.

Commissioner Bims said that since the house was reviewed by the neighbors, and they expressed no objections, he said that he supported the project. He also noted that it appeared that the applicant had received some initial miscommunications regarding the project.

Commissioner Halleck said that his guide for deciding on a project was the neighbors' support. He said that his only concern was with the scale of the plans. He said that the walls are sheer, but that no one has brought objections. He said however that he would like the FAL brought down to 2,800 square feet.

Commissioner Pagee said that she would not like to live next door to the proposed two-story walls. She said that even though the daylight plane might limit the sidewall to 19-feet 6-inches, it does not require that the wall be moved in, and so there would still be a two-story wall to the right and rear. She said that she would want the FAL reduced to 2,800 square feet. She suggested that during the final design phase the applicant might think about the mass and bulk of the second story and consider elements that could be used to decrease the starkness of three second-story stucco walls.

Commissioner Soffer said that the project would be very nice, but he had a problem with the 2,850 square feet as opposed to the maximum 2,800 square feet maximum. He said that since the lot is vacant that the owner has a lot of control to bring the FAL down. He said that he was disturbed about the impact of the project on the parking for the adjacent rear property. He asked staff about prescriptive easements. Assistant City Attorney Siegel said that history of use and exclusive use might be used by the property owners to try to obtain a prescriptive easement, but that would be a private matter. He said that it was not something the Planning Commission or City Attorney's office would participate in, and if there was a dispute, it would be addressed in civil court.

Commissioner Fry said that she was concerned about the two-story walls and the negative impact on the property to the right. She said that it was unfortunate that the City did not have guidelines that would have helped the applicant. She said that the scale of the plans did not accurately represent the actual size of the residence and the neighbors were basing their support on the plans.

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

It was noted that there was a recommended condition in the staff report for the FAL to be brought down to 2,800 square feet.

1. Make a finding that the project is categorically exempt under Class 3 of the current State CEQA Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the use permit subject to the following conditions:

- a) Development of the project shall be substantially in conformance with the plans prepared by Alain Assemi, dated received by the Planning Division on April 29, 2003, consisting of six plan sheets, and approved by the Planning Commission on June 16, 2003, except as modified by the conditions contained herein.
- b) Prior to building permit issuance, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
- c) Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Transportation Division, and Engineering Division that are directly applicable to the new construction.
- d) Prior to issuance of a demolition permit or building permit, the applicant shall submit a plan for construction safety fences around the periphery of the construction area for review and approval of the Building Division. The Building Official may waive this requirement on a case-by-case basis. The fences shall be installed according to the plan prior to commencing construction.
- e) Prior to building permit issuance, the applicant shall submit revised plans with a maximum FAL of 2,800 square feet. The revised plans shall be subject to Building and Planning staff review and approval.

The motion carried 5-1, with Commissioner Fry voting against and Commissioner Fergusson not in attendance.

2. Minor Subdivision/Cortland Bohacek/128 Elm Street and 1961 Menalto Avenue:
 Minor Subdivision to create two condominium units and a common area on an existing R-2 zoned property.

Planner Murphy recused himself as he owns property within 500-feet of the project property and left the Council Chambers.

Staff Comment: Planner Thompson said that the applicant was requesting approval of a Minor Subdivision on a property located at 128 Elm Street and 1961 Menalto Avenue. She said that the applicant received use permit approval by the Planning Commission on April 21, 2003 to construct a second single-story, single-family residence on the property. She said that there would be no physical change to the property by this request; the action would allow the residences to be sold individually.

Questions of Staff: Commissioner Bims said that there had been a question about the location of a utility pole in the alley, which the applicant needed to resolve with PG&E. He asked if that work had been completed. Director Heineck said that the work had not been completed and the applicant might be able to address the status of that work.

Chair Fry asked for clarification on the review of the project by the Menlo Park Fire Protection District. Director Heineck said that previously the Fire District had reviewed the project but had not yet submitted comments. She said that the Fire District has approved the project with a condition that fire sprinklers be required. Chair Fry noted a statement in the staff report: "The tentative map itself would not result in any physical changes to the lot, however the single-family residence at 1961 Menalto Avenue would require upgrading to meet current building code

standards for condominiums.” Commissioner Fry asked how the City would know that the updates had been installed. Director Heineck said that the applicant would need electrical and other permits, and final inspection of the property would confirm that the upgrades had been installed. She said the final inspection would have to occur before the recording of the subdivision map.

Commissioner Soffer noted that the word “perspective” used two places in condition “g” should be replaced with prospective. Director Heineck acknowledged the change.

Commissioner Bims said that on the previous review there had been discussion that the alley was privately owned and not wide enough to be a street. He said that the public uses the alley. He questioned how the alley could be private when it is used by the public. Assistant City Attorney Siegel said that there was a distinction between public use and publicly owned. He said that the public has the right to use the alley even though it is not a city street. He said that if there were interference with that use, persons might file a private suit indicating that they have the right to use this alley and why. He said that it would not become a public street but would become a street that could be used by the public, which means that it could not become encumbered. Commissioner Bims asked whether the same process would apply to driveways that encroach on two neighbors’ lots. Assistant City Attorney Siegel said that was correct.

Public Comment: The owner and applicant Mr. Cortland Bohacek, Menlo Park, said that the utility pole replacement was going through PG&E’s planning process, and his goal was to have the issue resolved as soon as possible.

Mr. Clem Molony, Menlo Park, said that in general as a neighbor he would like to support the project. He said that he was concerned however about the three parking spaces when code requires four parking spaces. He said that he would like the Planning Commission to consider changing the ordinance that does not allow overnight parking. He said that there are more cars in the modern city than the overnight ordinance allows. He said that the overgrowth in the alley makes it about 10-feet wide and not 15-feet wide. He said that alleys are a general thorn in the sides of those who live in the Willows. He said that people say that it is irresponsible for the City to not maintain public alleyways. He said that when the economy recovers that the City Council and Planning Commission should get the property owners to cut back the growth over the fences and address issues related to drainage.

Chair Fry asked the Assistant City Attorney to address the maintenance agreement and the City’s policy regarding alleyways. Assistant City Attorney said that there is a maintenance agreement between the private property owners and that this alley is not owned by the City. Chair Fry said that it was her understanding that the maintenance agreement for this alley covered only part of the alley. Director Heineck said that the maintenance agreement runs from Elm Street to one property beyond the subject property.

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

Motion carried, 6-0, with Commissioner Fergusson absent.

Commission Comment: Commissioner Pagee said that this project would add a nice secondary dwelling on a R-2 lot and that at least a portion of the alley had been paved. She noted that the maintenance agreement allayed some of the concerns expressed by neighbors. She said that she recently walked the 12 alleys in the area and agreed that they were in poor condition. She said that since the City does not own them, perhaps through the Willows’ newsletter, an appeal

could be made to the property owners to take care of the maintenance. She said that she had been concerned about the accessibility available for fire vehicles, but that the requirement for fire sprinklers alleviated that concern.

Commissioner Pagee moved to approve the project as recommended in the staff report. Commissioner Soffer seconded the motion.

Commission Bims said that he was concerned that there were only three parking spaces where four were required. He asked if there was anything that the Planning Commission could do to suggest that the overgrowth be maintained to a certain degree. Assistant City Attorney Siegel said that there was not anything the City could do unless it joined the maintenance agreement. Director Heineck said that in April the Planning Commission approved the project which included the parking plan. Commissioner Soffer said that if it were just a main house with just a secondary dwelling unit, three spaces would be allowed. Director Heineck said that currently four spaces would be required, but under the proposed draft ordinance amendment for secondary dwelling units, three would be required for the property. She said that in this instance there is an existing residence with one conforming parking space. She said that in many cases, an existing residence with nonconforming parking is acceptable to the Planning Commission and considered as part of the use permit process.

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

1. Make a finding that the project is categorically exempt under Class 15 of the current State CEQA Guidelines.
2. Adopt findings that the tentative parcel map has been reviewed by the Engineering Division and has been found to be technically correct and in compliance with the State Subdivision Map Act and the City's Subdivision Ordinance.
3. Approve the tentative parcel map subject to the following conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by MacLeod and Associates, dated March 28, 2003, consisting one plan sheet and approved by the Planning Commission on June 16, 2003, except as modified by the conditions contained herein.
 - b. Prior to recordation of the final parcel map, all utilities shall be located underground; each unit shall have separate utility connections.
 - c. Prior to the recordation of the final parcel map, the Covenants, Conditions and Restrictions (CC&R's) shall be approved by the City Attorney and the City's Director of Engineering Services.
 - d. All required fees including recreation-in-lieu fee, improvement plan check fee, construction inspection fee, and parcel map fee shall be paid in accordance with City requirements.
 - e. Prior to building permit issuance, the applicant shall submit revised plans that include a complete residential sprinkler system in Unit Two, 128 Elm Street. Additional coverage shall be provided for in the garage, attic space, and in any

combustible overhangs over four feet in width. The plans and installation of the sprinkler system shall be subject to the review and approval by the Menlo Park Fire Protection District and the Building Department.

- f. Prior to recordation of the final map, the applicant shall obtain a building permit and complete the modifications required by the Building Division for the condominium conversion of Unit One, 1961 Menalto Avenue. The modifications will be subject to review and approval by the Building Division.
- g. The applicant shall notify, in writing, prospective buyers of the two single-family residences of the existing maintenance agreement for the Elm Street Alley providing copies of all letters to prospective buyers and to the Community Development Department.

Motion carried, 6-0, with Commissioner Fergusson absent.

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

Avenue: Request for a use permit to convert an existing single-family residence to a mixed-use building with a medical office and a residential unit, demolish an existing garage, and construct a new carport, and architectural control for the review of the carport and other exterior modifications to the existing building.

Staff Comment: Planner O'Connell said that the application was for a use permit and architectural control in the R-C (Mixed Use) zoning district. He said that there is an existing single-family residence, part of which the applicant wants to use as a chiropractic office and the other part as a resident unit. He said that the proposal includes the demolition of an existing garage and the construction of a new carport and parking in the rear for the chiropractic office. He said that along this portion of Oak Grove Avenue, there is a 16-foot wide plan line that runs across the front of the project site. He said that one of the conditions of approval would be the dedication of eight feet of the plan line to the City. He said that the applicant was present and had a color board.

Questions of Staff: Commissioner Soffer asked about the purpose of the plan line and the requirement for the dedication of eight feet to the City. Assistant City Attorney Siegel said that the purpose of the plan line is to allow the City to implement its future plans. He said that without the plan line, the City would have to use eminent domain or other devices to acquire the land for public purposes, such as fix an intersection. He said that at El Camino Real and Oak Grove Avenue where the First Republic Bank is located, the right hand turn from El Camino Real to Oak Grove Avenue has been widened over the years through use of the plan line. He said that Oak Grove Avenue is wider there than further west on Oak Grove Avenue. He said that by this dedication of land, the City would be able at some point to make changes. Planner O'Connell said that many of the properties along Oak Grove Avenue have dedicated eight feet; he said that through this particular dedication there would be a consistent dedication of land along Oak Grove Avenue.

Commissioner Bims asked whether all of the plan line width requirements could be standardized for future reference for the Commission. Planner Murphy said that would require a comprehensive look at all streets that have plan lines. He said given staff resources and Council priorities, that work would not be a priority, so it is accomplished on a case-by-case basis. Commissioner Bims said that one of the parking spaces was a reserve space and asked how many of the parking spaces could be in reserve. Planner O'Connell said that the

Commission could entertain any number of landscaped-reserve parking spaces. He said that in this instance one parking space in reserve was being requested.

Public Comment: The owner and the applicant Dr. Edward Rubenstein said that he would like to convert the existing three-bedroom residence into an office and one residential unit. He said that the structure was not in good condition, and he wished to improve it and make better use of it. He said that he thought the plan was consistent with the City's goal to keep residential units. He indicated that his architect was in attendance.

At the request of the Commission the architect for the project, Ms. Mallia Jennett, M Designs Architects, showed the color board. Commissioner Pagee said that it appeared that the residence had been painted and asked if that were the color proposed. Ms. Jennett said that the paint was just a touch up and the proposed color would be that shown on the color board, which would be different. Commissioner Pagee asked if the gate to the left on the front elevation would be the entrance to the secondary dwelling unit. Ms. Jennett said that it would be. Commissioner Pagee asked if the patio in the back was for the use of the dwelling unit. Ms. Jennett said that it was, and that it would be enclosed with lattice and greenery for privacy screening.

Commissioner Sinnott asked whether the architect was aware of the encroachment of the porch and the need for a variance. Ms. Jennett said that she was, and said that they had two options. She said that they would rather not pursue a variance. She said that they would look at moving out of the three feet to attach the columns to the façade. Chair Fry confirmed that the covered carport was for the residential unit and asked if there would be a sign to designate it as restricted parking. Ms. Jennett said that a sign could be added if the property owner agreed. Commissioner Sinnott confirmed with Ms. Jennett that they were amenable to upgrading the windows to some form of true divided light.

Planner O'Connell clarified on sheets B-1 and B-2 that the site plan on B-1 accurately shows the location of the patio, but on B-2, the patio design was a previous design. He said that to reserve one landscaped parking area, the patio was redesigned and was adjacent to the fence.

Commissioner Soffer said that the staff report indicated that the plans were submitted on June 9 and asked if they were available for public review. Planner O'Connell said that the plan was not significantly changed and there had been several re-submittals. He said the last re-submittal was made on June 9.

Dr. Rubenstein said that he wanted to acknowledge his neighbor Ms. Genevieve Bettini, who had written a letter of support for the project.

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

Motion carried, 6-0, with Commissioner Fergusson not in attendance.

Commission Action: M/S Halleck/Page to approve the project 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 the following findings, as per Section 16.68.020 of the Zoning Ordinance, regarding architectural control approval:

- a. The general appearance of the structure and the addition is in keeping with the character of the neighborhood.
 - b. The development will not be detrimental to the harmonious and orderly growth of the City.
 - c. The development will not impair the desirability of investment or occupation in the neighborhood.
 - d. The development provides adequate parking as required in all applicable City ordinances and has made adequate provisions for access to such parking.
3. Make a finding, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of a use permit that the proposed use will be compatible with the surrounding land uses and will not be detrimental to the health, safety, morals, comfort, and general welfare of the persons 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.
4. Approve the architectural control review and use permit subject to the following conditions:
- a. Development of the project shall be substantially in conformance with the plans prepared by M Designs Architects, received by the Planning Division on June 9, 2003, consisting of five plan sheets and approved by the Planning Commission on June 16, 2003, except as modified by the conditions contained herein.
 - b. Prior to building permit issuance, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Transportation Division, and Engineering Division that are directly applicable to the new construction.
 - d. Prior to issuance of a demolition permit or building permit, the applicant shall submit a plan for construction safety fences around the periphery of the construction area for review and approval of the Building Division. The Building Official may waive this requirement on a case-by-case basis. The fences shall be installed according to the plan prior to commencing construction.
 - e. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. All utilities shall be placed underground. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.

- f. Prior to building permit issuance, the applicant shall dedicate 8 feet of the Plan Line to the City. The dedication shall be to the satisfaction of the Engineering Division.
- g. Planning staff review and approval shall be required prior to the conversion of the landscape reserve space into a paved parking space.
- h. Prior to building permit issuance, the applicant shall either 1) apply for a variance for the five-foot porch encroachment into the front setback, or 2) submit revised plans that eliminate the encroachment by providing a three-foot-wide covered entrance at the front of the building with supports that are not located in the front setback, the design of which shall emulate as much as possible the front porch design and be subject to staff review and approval.
- i. Prior to building permit issuance, the applicant shall submit revised plans that indicate wood, true divided light or wood, simulated true divided light windows for the two windows on the front façade. The design of the windows shall match as closely as possible the design of the original wood windows of the residence. The remaining windows on the rear and side elevations shall be wood, true divided light or wood, simulated true divided light windows in a design consistent with the windows depicted on the submitted plans. The revised plan shall be subject to Planning staff review and approval.
- j. Prior to building permit issuance, the applicant shall submit a landscape plan prepared, stamped and signed by a licensed landscape architect. The plan shall be reviewed and approved by the applicant's consulting arborist. The plan shall include all pertinent notes, guidelines and details prepared by the applicant's consulting arborist. The landscape plan shall become part of the approved building plans and be available at all times as part of the on-site job plans. The landscape plan shall be subject to Planning staff review and approval. The landscape plan shall include the following:
 - The exact location and size of existing and proposed trees, shrubbery, ground covers and vines;
 - A plant list including common and botanical names of plants, size, and number;
 - An irrigation plan;
 - Location of all buildings, consistent with the building plans, including a roof plan, the exact location of all building footprints and roof overhangs;
 - Location and specific material description of all paved surfaces, patios, walkways, decks and outside stairs;
 - A driveway no greater than 12 feet in width from the front property line to rear of the building. The design of the driveway and parking area shall attempt to minimize the amount of paved surface area;
 - The exact location, specific height, materials and construction details of any fencing, shown on plan and elevation drawings of fencing shall be provided.
- k. All new signage is subject to review and approval by the Planning Division staff.

The motion carried, 6-0, with Commissioner Fergusson not in attendance.

4. Use Permit and Architectural Control Revisions/Michael Wallau/150 Middlefield Road: Request for revisions to recent use permit and architectural control approvals for an addition to an existing restaurant building and related exterior modifications.

Staff Comment: Planner O'Connell said that the applicant was requesting revisions to an approved use permit and architectural control that includes additional structural alterations and additional floor area to the existing building. He said the desire for the revision was due to the need to expand the rear of the existing restaurant because of more extensive work needed to meet Americans with Disabilities (ADA) requirements.

Commissioner Sinnott said that the firewall looked terrible and asked whether there might have been another option. Planner O'Connell said that at that time of approval the applicant wanted to keep the restaurant as close to the existing configuration as possible. He said that the masonry wall between the gas station and the subject property was not sufficient to meet the current codes. He also noted that the flat roof also triggered the need for a new firewall. Commissioner Sinnott asked whether he could have installed a fire rated roof. Planner O'Connell said that the applicant and architect were present and suggested that the question be posed to them. Commissioner Soffer noted that he had received unfavorable comment about the firewall. Chair Fry said that there was a requirement for public art and asked if that art would go on the firewall. Planner O'Connell said that the applicant had indicated that he would like a mural, but not necessarily on the firewall. He said that the applicant would have to go before the Arts Commission for review of an art project.

Commissioner Pagee said that there are different square footages on the plans versus the staff report. She noted page A-1 and the staff report. Planner O'Connell said that when the new plans were submitted it became clearer what the actual square footage of the restaurant was. He said that the dimensions in the staff report were more accurate.

Commissioner Soffer asked about the purpose of the firewall. Planner O'Connell said that the firewall was for the protection of the adjacent property.

Public Hearing: Owner and applicant Mr. Michael Wallau said that previously there was corrugated plastic roofing over the fence built on asphalt, which was used as an outside dining area. He said that he wanted to put in a foundation and roof so that the dining area was usable during the winter. He said that the firewall was a building code requirement. He said that it had been extremely difficult and expensive to construct. He said that he has a muralist who has done a sketch. He said that he had not expected the remodel to be so much work. He said that after beginning to remove the existing sheetrock, it was discovered that the building was in very bad condition.

Commissioner Soffer asked what triggered the need for the firewall. Planner O'Connell said that was triggered when a restaurant building was within three-feet of the property line. He said that Building Code requires a six-foot separation, three feet on both sides.

Mr. Wallau said that once the overhang and fence were installed he hoped that it would look better.

Commissioner Sinnott asked about the window treatment. Mr. Roger Kohler, the architect, Palo Alto, said that the exterior would be a natural cedar with a light clear transparent stain, the

window frames would be off white, and the trim around the gutters would be green. He passed around a color board. He said that he had some studies showing the exterior from the sidewalk with the fence, and the proposed addition of the rear dining area. He provided additional explanation on the firewall. He said that the windows would be Eagle clad wood with a thermal bar. Commissioner Sinnott asked about glare from the outside. Mr. Kohler said that the windows, although not true divided lights, had interior and exterior grids that would relieve glare.

Chair Fry asked about the color of the wall on the gas station side. Mr. Wallau said that they had steam cleaned it and took out weeds. He said that the gas station owner said that his lease was up in five years and he did not intend to stay. He said that if Chevron were to demolish the site they would remove the wall as well. He showed an example of a mural and said that he was open to having art there.

Commissioner Pagee said that previously she did not support a mural on the firewall. She said that Mr. Wallau's proposed mural would work as it was very natural looking. She said that maybe trees might be planted in front of it.

Commissioner Soffer said that if the gas station were to close, the site might remain vacant for some time. Assistant City Attorney said that it would depend in part on the age of the tanks.

Commissioner Pagee said that item "i" from the first recommendation seemed to be removed. Planner O'Connell said that when the approval went out, condition "i" had been combined with another condition and became condition "h."

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

Motion carried, 6-0, with Commissioner Fergusson not in attendance.

Commission Action: M/S Halleck/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 the following findings, as per Section 16.68.020 of the Zoning Ordinance, regarding architectural control approval:
 - a. The general appearance of the structure and the addition is in keeping with the character of the neighborhood.
 - b. The development will not be detrimental to the harmonious and orderly growth of the City.
 - c. The development will not impair the desirability of investment or occupation in the neighborhood.
 - d. The development provides adequate parking as required in all applicable City ordinances and has made adequate provisions for access to such parking.
3. Make a finding, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of a use permit that the proposed use will be compatible with the

surrounding land uses and will not be detrimental to the health, safety, morals, comfort, and general welfare of the persons 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.

4. Approve the use permit and architectural control revisions for the alterations to the building subject to the following conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Roger Kohler, received on April 24, 2003, consisting of seven plan sheets and approved by the Planning Commission on June 16, 2003, except as modified by the conditions contained herein.
 - b. Prior to building permit issuance, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
 - c. Prior to building permit issuance of the revised plans, the applicant shall comply with all requirements of the Building Division, Transportation Division, and Engineering Division that are directly applicable to the new construction.
 - d. Prior to building permit issuance of the revised plans, 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.
 - e. Prior to final building inspection, the applicant shall install the fence that is proposed to be constructed in public right-of-way to the satisfaction of the Engineering Division and in conformance with the encroachment permit approved by the Engineering Division.
 - f. Prior to building permit issuance of the revised plans, the applicant shall submit plans for on-site recycling and garbage facilities for review and approval by the City Environmental Program Coordinator.

Motion carried 6-0, with Commissioner Fergusson absent.

5. **Plan Line and Right-of-Way Abandonment/City of Menlo Park/500 Willow Road:** Planning Commission review for consistency with the General Plan of a request to abandon a portion of the Willow Road Plan Line and a portion of the Willow Road right-of-way for the length of the Willow Road frontage of the property located at 500 Willow Road. *Please note that the use permit and architectural control applications to redevelop the property have been placed on hold by the applicant. The only item that the Planning Commission will consider is the abandonment application.*

Staff Comment: Planner Murphy said that the request was to abandon a portion of the Willow Road Plan Line and a portion of the Willow Road right-of-way for the length of the Willow Road

frontage of 500 Willow Road. He said that there are three steps to the abandonment process: a resolution of intent, which had been approved by the City Council; the finding of a consistency with the General Plan; and the actual abandonment, which the City Council has scheduled for July. He said that this request was originally submitted with a use permit and architectural control applications to redevelop the site, which had been a gas station. He said those applications are on hold, but the applicant would like to move forward with the abandonment. He said that the item tonight was for the request of the abandonment and the Commission's role was to determine consistency with the General Plan.

Questions of Staff: Commissioner Soffer asked why the use permit and architectural control applications were on hold. Planner Murphy said the applicant was present and would be able to address this issue. Commissioner Halleck confirmed with Assistant City Attorney Siegel that this abandonment would be in conformance with the two-lane road option.

The applicant and gas station owner Mr. Ron Mallia said that the project was on hold as he was dealing with tenant issues. He expected resolution in the next few weeks at which time he planned to move forward with the project.

Chair Fry asked if there was an exchange of money for this abandonment. Planner Murphy said that there would not be. Commissioner Bims said that the widening of Willow Lane to four lanes was not possible but asked if it was possible to expand it to three lanes. Planner Murphy said that he did not think the current right-of-way would accommodate three travel lanes. Mr. Pat Stone, Engineering Division, said that question would be more accurately answered by the Transportation Division. He said that with further study, it may be possible to accommodate more lanes.

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

Motion carried, 6-0, with Commissioner Fergusson not in attendance.

Commission Action: M/S Halleck/Pagee to recommend approval of the abandonment and a finding of consistency with the General Plan as recommended in the staff report.

1. Make a finding that the proposed plan line and right-of-way abandonment is Categorically Exempt under Class 5 of the current State CEQA Guidelines.
2. Adopt Resolution No. 2003-1 recommending to the City Council that a portion of the Willow Road plan line and right-of-way, for the length of the Willow Road frontage of the property located at 500 Willow Road, be abandoned.

The motion carried 6-0, with Commissioner Fergusson absent.

- 6. Access Easement Abandonment/City of Menlo Park/1135 and 1160 Deanna Drive:** Planning Commission review for consistency with the General Plan of a proposal to abandon a portion of an existing Access Easement between Deanna Drive and Monte Rosa Drive along the properties located at 1135 and 1160 Deanna Drive.

Staff Comment: Planner Murphy presented the staff report. He noted that this was an abandonment of an access easement as opposed to an abandonment of a right-of-way or plan line. He said that the proposal was not for development and that the Commission was being

asked to review the proposal for consistency with the General Plan and to make a recommendation to the City Council.

Questions of Staff: Chair Fry noted that the access easement is paved. She asked whether the Deanna Drive property owners would be allowed to landscape the area, if the easement was abandoned by the City. Assistant City Attorney Siegel said that the property owners would be able to landscape to the extent that it would not interfere with the other existing easements. He said that generally only a minor level of landscaping can occur as access to public utilities cannot be impaired. Chair Fry asked whether the property owners were aware of the restrictions on landscaping in that area. Assistant City Attorney Siegel said that the restrictions of recorded easements are shown on title reports for properties; also that these property owners might work with City and public utilities' staff to determine what level of landscaping might be done.

Chair Fry noted that the Menlo Park Fire Protection District had written a letter about the abandonment of the access easement. She asked for clarification as to what the letter was requiring. Engineering Division staff person Stone said engineering staff understood the Fire District letter to say that if a new subdivision were to be built in the area of the subject properties, the Fire District would require access from two different directions. He said for the current subdivision, the Fire District's access to 1135 and 1160 Deanna Drive is through Deanna Court only. He said that if the access easement were abandoned, gates would be installed at each end. The gates would have locks for the City to use for access to its public utilities as well as for the 1135 and 1160 Deanna Drive property owners' use. He indicated that the Fire District could have a lock as well to allow them access, which was what he thought the intent of the letter was.

Commissioner Pagee said that it appeared the abandonment of the access easement would allow for the removal of the fences on each side of the easement and that area would be absorbed by the property owners for their benefit and maintenance. She asked if the property owners realized that any landscaping done in the area might be destroyed should work on the utilities' located in that area be needed. Engineering Division staff person Stone said that the property owners' primary reason for requesting the abandonment of the access easement was that they might enjoy the use of all of their property, including that which is taken up by the access and public utility easements. He said that City staff had indicated to the property owners that they could plant some landscape materials in the easement area as long as those materials did not restrict access to the utilities, for instance, that planting of trees would not be allowed.

Commissioner Pagee said that the survey plat seemed to indicate that most of the access for utilities was required in a 15-foot easement and a 35-foot easement at the back of 1135 Deanna Drive and that possibly access for utilities was not needed at 1160 Deanna Drive. Engineering Division staff person Stone said that in the instance the City needed to repair the utilities shown at 1135 Deanna Drive, it was possible that the City might need to position a backhoe right alongside the utility; thus, the backhoe would be positioned on 1160 Deanna Drive.

Commissioner Pagee asked whether the property owners, if they needed the security for small children or pets, might be able to install some kind of sectional fence that was easily removed for access. Engineering Division staff person Stone said that any kind of fencing would require concrete footing which construction might penetrate utility lines. He indicated that the City prefers to not have any kind of structure below or above public utility easements. Commissioner Pagee asked for an example of a similar abandonment within the City. Engineering Services Director Niño said that it appeared from the survey plat that it a fence might possibly be located

along the property line of 1160 Deanna Drive, but further research would be needed. In reply to Commissioner Pagee's question, Director Niño indicated that there had been an abandonment of an access easement along Hamilton Avenue. Commissioner Pagee asked about fences in that area. He said that two fences were placed at the end of Ivy Drive in Belle Haven to provide access for the sanitary district.

Chair Fry asked whether the access for fire and public utilities would still exist if the property owners were able to make enhancements to the area for their benefit. Assistant City Attorney Siegel indicated that the proposal was to abandon the easement for fire access. He said that the current easement permits the Fire District to access the area at anytime. He said that if there were a fire or other emergency, the Fire District would continue to use all means available to access the site. Chair Fry indicated that she was concerned about adequate access for the Fire District. Director Niño noted that landscaping restrictions prohibited the planting of trees and that there would be nothing allowed as landscaping that could prevent the Fire District from accessing the site.

Public Hearing: Irwin Derman, applicant, indicated that he and his family have lived at the property for thirty years. He stated that until five years ago, the City had always maintained the access easement. He said the City stopped maintaining the easement. He said he was concerned about liability. He said that boys had built a skateboard ramp on the easement. Although the ramp was eventually discovered and taken down. He said that a neighbor broke her arm using the access easement. He said the paving needs repair and that has not occurred. He said that recently one of the seven trees, which line the access easement, split in half and fell on his property. He had his landscaping contractor look at the other trees; the contractor said that all of the trees were top heavy and indicated that all of the trees needed to be trimmed. He said that for the past five years since the City stopped maintaining the access easement he has weeded and raked the area. He expressed his concern with doing the maintenance work and bearing the liability for the access easement. He said that he and the other applicant wanted to minimize their risks by putting up fences at each end of the access easement even though that would disadvantage them and their neighbors.

Jill Wegenstein, Menlo Park resident, said that she and other nearby residents were very unhappy that the access easement might be blocked off from use. She said that she uses the easement to walk to work and that children who attend school nearby also walk to school that way. She asked if the City would maintain the road and keep it available to the neighborhood for use. She said that she would be willing to get a list of signatures from the neighbors who want to keep the use of the access easement, but who were unable to attend the meeting.

Todd Oliver, Menlo Park resident, said that the access road is an integral part of the residents' lives. He said that he has four children and they use the access road to go to school; the family uses it to walk to church and to the park. He asked about the use of a prescriptive easement to keep the access road, as it has been there for thirty years. In response to Mr. Oliver's question, Chair Fry indicated that the Assistant City Attorney should respond. Assistant City Attorney Siegel said that the use of the access easement by the public has been by permission. He indicated that would most likely prevent any adverse or prescriptive easement that neighbors might bring up and that there has been nothing hostile or adverse with that use by permission. He said that the City owns the access right, and it was acquired originally to allow for fire access. The proposed abandonment would curtail access. He noted that the Commission was the recommending body and the Council would make the final decision in the matter. Mr. Oliver said that the entire neighborhood uses the access road and he thinks that over time the right of

public access was given. He said that the problem for the property owners who are proposing the abandonment is the maintenance, which the City stopped doing.

Commissioner Pagee said that the access easement is on the 1135 and 1160 Deanna Drive properties and that the City does not actually own the property. Assistant City Attorney Siegel said that the City has the right to use the property for access. Commissioner Pagee said that the City is not obligated to maintain the access easement. Commissioner Pagee asked if there could be an assessment on the affected properties to pay for maintenance. Assistant City Attorney Siegel said that the establishment of an assessment district was possible; but under Proposition 218, he thought the area would need to be larger than just Deanna Court. Commissioner Pagee said that on the previous agenda item regarding an abandonment of right-of-way along Willow Road, the Commission recommended giving that property back to the developer. She asked if the City could take over this property and then maintain it. Assistant City Attorney Siegel said that eminent domain or adverse condemnation was a possibility.

Commissioner Halleck asked why the City stopped maintaining the access road. Director Niño said he did not know why the decision was made to not maintain it. Commissioner Halleck asked the applicant about the maintenance of the access easement. Mr. Derman said that up until five years ago, the City kept the trees trimmed, the area raked and the road in good repair. He said that the trees need maintenance, the cost of which was a burden he did not want to bear. Mr. Derman said that they do not necessarily want to block off the access easement, but they do not want to have to do the maintenance. He said that their intent in requesting the abandonment was not to expand their landscaping or to get property, but to get rid of the eyesore and the liability.

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

Motion carried unanimously, 6-0. Commissioner Fergusson was not in attendance.

Commissioner Halleck said that he wanted to recommend that the Commission recommend that the City Council not abandon the easement and that the City look into another way to resolve this conflict of not having the site maintained. Commissioner Sinnott seconded the motion.

Commissioner Halleck said he thought that the City needed to look at other ways to maintain the easement for public use as the access road appears to provide a benefit to public health, safety and welfare. He encouraged the residents to appear before the City Council when the Council takes up the matter. He said that it sounds like all of the residents would like to have the access easement open, but to not have the liability and the responsibility to maintain it. He said that the City needed to maintain it, even though it would incur cost. He said that he thought that the benefit to the community appeared to be worth that cost.

Commissioner Soffer said that there were issues that the Commission could not resolve, noting the property owners' liability concerns or whether the City was able to take over the maintenance. He said that the Commission could not obligate the City to maintain the access easement and that was a question for the Council. He encouraged the applicants to get their neighbors together, come up with a plan and be present when the Council considered the item.

Commissioner Bims said that this is an easement that has been used as an alley and that it is wide enough to become a street, if desired. He indicated that the City should take over maintenance of the access easement; however, if the City did not want to do that for financial reasons, he suggested that a maintenance agreement might possibly be created.

Commissioner Pagee said that she hoped that the City would seriously consider taking over the maintenance of the access easement as it provides a benefit to the neighborhood and its safety.

Chair Fry thanked the residents for bringing their concerns to the Commission's attention and for the applicants clarifying why they were asking for abandonment. She said that she hoped that the neighbors would come together, not only to continue access, but to possibly create an assessment district so that the financial burden of maintenance would be shared. She said that if there was that willingness, it would be important to express that to the Council.

Commission Action: M/S Halleck/Sinnott to not recommend approval of the abandonment and encourage the exploration of alternative means of maintaining the access easement.

Motion carried unanimously, 6-0, with Commissioner Fergusson not in attendance.

- 7. Architectural Control and Mitigated Negative Declaration/City of Menlo Park/Menlo Park Civic Center Complex:** Request for architectural control review of the proposed reconstruction of the Aquatics Center located at 501 and 601 Laurel Street, including a lobby and locker room facility shared with the existing gymnasium and an equipment building totaling approximately 7,000 square feet, and construction of an accessory building of approximately 700 square feet to accommodate restroom, storage, and concession uses in Burgess Park. The proposal also requires the review of a Mitigated Negative Declaration prepared for the comprehensive Burgess Park Recreational Facility Improvements, including the aforementioned projects that require architectural control plus additional improvements to Burgess Park, the closure of Mielke Drive to through traffic, and potential future improvements to the Gym and Gymnastics Center and the Community Recreation Center. All of the buildings and facilities in question are located at the Menlo Park Civic Center Complex bounded by Laurel Street, Burgess Drive, Alma Street, and Ravenswood Avenue.

Staff Comment: Planner Murphy noted that the Planning Commission would be acting as the recommending body for both the architectural control and the Mitigated Negative Declaration. He indicated that normally the Planning Commission may act on an architectural control project such as this for the Aquatics Center; however, the environmental document also includes review of additional improvements to Burgess Park and potential future improvements to the Gym and Gymnastics Center and the Community Recreation Center that are not fully planned at this time. Thus the City Council will be the acting body on the environmental document. Additionally, the recommendation of approval of the environmental document is necessary before the Planning Commission may act to recommend approval on the architectural control for the Aquatics Center. The City Council would act on the complete agenda item.

Art Morimoto, Supervising Engineer and Project Manager for the City's Burgess Park and Aquatic Center Projects, introduced Brian Fletcher of Callander Associates, who would provide an overview of the Burgess Park Master Plan; Clarence Mamuyac of ELS Architecture and Urban Design, who would provide details of the Burgess Aquatic Center Project; Ruben Nino, Director of Engineering Services and Rene Baile, Transportation Engineer.

Mr. Fletcher, Callander Associates Landscape Architects, noted that in 1998 a needs assessment was conducted utilizing community input to address the needs and conditions of

the existing park and recreation facilities throughout the City. The information gathered was used in 1999 for development of a Master Plan that described numerous improvements to be made. The Master Plan provided support for Measure "T," which was approved by the voters in 2001. The passage of the measure allowed for the selection of consultant teams and design development. The needs assessment identified improvements for Burgess Park, namely preservation of the park setting; improving the field conditions, including surface, drainage and irrigation; tennis court upgrades; improving circulation throughout the park site; signage; lighting; storm drainage; parking lot upgrades; and the closure of Mielke Drive.

Mr. Fletcher displayed diagrams of the Burgess Park site and indicated that he would be concentrating on the park improvements. He showed the schematic plan that was conceptually approved by Council. He noted that the parking on Laurel Street would expand into the site formerly occupied by the theater once it is demolished. The removal of Mielke Drive would allow for the expansion of the playing field and the adult baseball field would be relocated. He noted that the reconfiguration of the parking lot at Laurel Street and Burgess Drive would continue to maintain a consistent buffer planting along Laurel Street and keep existing mature Oak trees. The tennis courts would be resurfaced and re-fenced. He stated that parking on Alma Street would allow for double stack parking; there would be a new basketball half-court as well as a skate park facility adjacent to the basketball half court. The development of those two facilities would be made possible by the closure of Mielke Drive. He noted that the relocation of the softball field within the interior of the park allowed for shared circulation between this field and the existing Little League field. He stated that another feature was the centralized restroom, storage, and concession stand building. The number and size of playing fields has been maintained and improvements will include new turf, irrigation and drainage upgrades, and pedestrian circulation. He noted that the total parking is increased by 23 stalls.

Mr. Clarence Mamuyac, ELS Architects, noted that the design for the Aquatics Center was developed with staff and project stakeholders. He showed the current pool facility and parking lot. He noted that the Center would have two entrances; one from Laurel Street and one from the park side, both to have increased visibility. He suggested that the City might save money by doing the lobby and small office portion of the Gymnasium slated for Phase 2 as part of Phase 1. He noted that all of the existing landscape, the berm, and the trees would be kept. There would be a pool equipment building, which would be hidden by existing landscaping and a "beefier" berm that would keep neighbors' visual access to the park as it is currently. The new swimming facilities would include three separate swimming pools.

Questions of Staff: Commissioner Bims asked about the angle of the roof and water runoff. Mr. Mamuyac said that the design eliminates runoff. In response to Chair Fry, Mr. Mamuyac indicated that the pool deck area would be lowered so that the entry way and the pool deck would be on the same elevation. Regarding increased excavation, he noted that the expense of the increased excavation was less than the costs for stairs and ramps as previously designed. Commissioner Sinnott stated her concern that a 50-meter state of the art pool was not part of the design and the smaller size pool being proposed might be underutilized as it would not meet the needs of the swimming community. Project Manager Morimoto said that there had been extensive public outreach. While there was some support for a 50-meter pool, general community support was for the proposed configuration. In response to Commissioner Soffer, Project Manager Morimoto said that the steering committee included the Menlo Atherton Solo Swim Team Coach, three separate types of users, Commissioner Soffer, and City staff. The ultimate decision to not do a 50-meter pool was made by the Council based on the recommendation of the Parks and Recreation Commission. In response to Commissioner Sinnott, Project Manager Morimoto said that money and land were issues in considering a 50-

meter pool, but also the public's desire to have separate pools that allow for temperature control to support the wide range of users.

In response to Chair Fry, Mr. Mamuyac confirmed that the design includes handicapped access to each of the pools; a lap pool deep enough for the use of racing blocks; and a trellis that would cover the entire bleacher area. Chair Fry asked for a comparison of the number of existing to proposed parking spaces for Laurel Street. She stated that her concern was with traffic flow to get back to El Camino Real or west Menlo Park. Commissioner Pagee noted that currently parents do a u-turn on Laurel Street after dropping their children off at the Gymnasium and expressed concern that parents would continue to do so with the future center. Mr. Mamuyac suggested preventing u-turns. Chair Fry indicated that would not help the logistics for the drivers and she sees this as a real issue for the users. Project Manager Morimoto indicated that there would be 171 parking spaces in the proposed Administrative parking lot as compared to the current 155 parking spaces in the existing Administrative parking lot and along Mielke Drive. Chair Fry noted that at Burgess and Alma the parking is 63 spaces and would decrease to 38 spaces. Project Manager Morimoto said some of the users who now park on Mielke would park on Alma because of the park use. Mr. Fletcher, Callander Associates, indicated that the total parking between the two lots would increase the 171 spaces to 209 spaces. He also pointed out the location of the proposed sidewalks within Burgess Park at Chair Fry's request.

Commissioner Soffer asked about the omission of traffic counts for Linfield Drive and Sherwood Way in the Traffic Studies, page F-17 of the Mitigated Negative Declaration. He also noted that Waverly Street was not shown at all. He asked about a comment on page F-23 regarding the corner of Laurel Drive and Willow Road that states the intersection is "un-signalized." Transportation Engineer Baile said that the traffic study did not include Sherwood Way and Linfield Drive, but included collector and arterial streets. He indicated that "un-signalized" is the accepted term for an intersection at which there is no traffic light and that the exclusion of Waverly Street was an omission on his part.

Commissioner Pagee, referring to the display of the skate park, softball field and Little League field, said her concern was with fly balls going into the skate park. Mr. Fletcher indicated that the backstop for the softball field would be 30-feet tall and extended slightly to prevent trajectories. He indicated that they propose the use of evergreen trees as a shield rather than total fencing, which minimizes the feel of an open park. Commissioner Pagee asked about the orientation of the playing fields and the safety for children. Mr. Fletcher indicated that north/south orientation is considered the safest and the proposed orientation would be slightly off this orientation. The existing play fields are also slightly off this orientation.

Commissioner Halleck asked who developed the traffic checklist for transportation and hazards. Project Manager Morimoto indicated that the work was done in-house. Commissioner Halleck asked about the reduction of parking and what standards for parking use on the site were used. Project Manager Morimoto stated that for the field use the parking was assumed to be the same, as the uses are primarily unchanged. For the pool use, staff spoke with Community Services staff and asked for a projected increase in use compared with numbers from the General Standards ITE rates for traffic generation. Commissioner Halleck asked if the total parking increase for the pool and gymnasium use was accommodated for on that side of the park site. Project Manager Morimoto indicated that the projected usage for the Gymnasium was not yet identifiable and that the expansion of space proposed would not necessarily equate to increased use. Commissioner Halleck asked whether there is sufficient parking capacity on site and if not, was there a potential for a public health and safety hazard. Project Manager Morimoto said it is proposed to improve circulation in the Administration parking lot by having a

separate exit and entrance. Commissioner Halleck indicated that he did not see that in the Plan presented tonight. Mr. Fletcher showed the proposed entrance and exit. Commissioner Halleck asked about a drop-off site. Mr. Mamuyac said the new parking lot that would occupy the former site of the theater in Phase 2 has a walkway that connects from the parking lot to the gymnasium and pool. Commissioner Halleck questioned whether that would be convenient for drop-offs. He expressed his concern that Laurel Drive would continue to be used as a drop-off site at a point where cars are expected to be exiting and entering the parking lot. He said that there appeared to be room for only three cars to queue there. He asked if staff had identified the total of queue parking needed and whether mitigation for safety had been considered. Project Manager Morimoto indicated that there had been no consideration of a queue line and no attempt to improve illegal u-turns. Commissioner Halleck questioned safety for the ball field and the trajectory from the backstop. Mr. Fletcher noted that there is a 300-foot outfield on the adult field and a 200-foot outfield on the Little League field. Commissioner Halleck asked for the distance from the backstop to the second entry walkway to the Gymnasium. Mr. Fletcher indicated about 325-feet and that mitigation in the planting of large trees was being proposed. Commissioner Halleck asked staff if there is any mitigation required for protection of that entryway from flying balls in the CEQA document. Project Manager Morimoto indicated that they had not considered that as an added safety hazard as the existing location of the fields are actually a shorter distance from the entryway. Project Manager Morimoto indicated that there would not be increased use of the ball fields. Chair Fry noted that within one Little League season there had been at least two windshields cracked along Burgess Drive. Commissioner Halleck asked if there are incidents of ball damage. Assistant City Attorney Siegel indicated that he was not aware of any such claims. Commissioner Halleck referred to Figure 6, F-17 of the Mitigated Negative Declaration and asked if it would be revised to include Waverly Street and any traffic counts on Waverly Street. He asked if projections were done of the ITE use of the ball fields. Transportation Engineer Baile indicated that the projections were done on the Aquatics Center, Gymnasium, skate park and amphitheater. Commissioner Halleck said that there was anticipated traffic on local streets which he assumed were collector streets and he asked whether any mitigation measures had been required to keep traffic at a lower speed and a lower count. Transportation Engineer Baile indicated there were two types of analysis done for the traffic study. One was for the level of service analysis and impact on signalized and unsignalized intersections and the other analysis was on the traffic impact guidelines. The analysis presumed that the access for the gym and pool were on Laurel Street and for the skate park was on Alma Street. He indicated that incidental different routes on other local streets currently have mitigation in the form of speed bumps and tables. Commissioner Halleck asked whether there would be mitigations for drop-off and traffic flow. Transportation Engineer Baile indicated that staff would look at potential mitigation for drop-off. In response to Commissioner Soffer, Transportation Engineer Baile indicated that the traffic counts were done in the spring of 2002. Transportation Engineer Baile said that he would need to research the traffic counts for the local streets and see how current they are. Assistant City Attorney Siegel indicated that the City Council would need to direct staff to do additional traffic count studies.

In response to Chair Fry, Project Manager Morimoto indicated that the proposed Gymnasium was an increase of 8,500 square feet. Mr. Mamuyac said that the drop-off and queuing was addressed in the Master Plan and part of the response was to remove the separate gymnasium entryway and to encourage the use of the parking lot for a drop-off. He indicated that there is an area left open for cuing in the parking lot. Chair Fry questioned whether the increased size of the Gymnasium would increase use and if so was allowance made for additional parking. Project Manager Morimoto indicated that through discussions with Community Services staff, it was determined that the use of the gymnasium would not increase proportionally with increased

space. He indicated that they are allocating a reserved 26 spaces along the landscaped area for future potential need. He said that the increase in the pool size is 5,500 square feet.

Commissioner Pagee asked about the removal of solar panels and installation of solar panels. Mr. Mamuyac indicated that the existing panels are non-functional and that the proposed solar panels would use new technology that would significantly reduce energy requirements. Commissioner Pagee confirmed that there would be no holding tanks.

In response to Chair Fry, Project Manager Morimoto indicated that the Mitigated Negative Declaration was sent to the Menlo Park Fire District and no response was received regarding the closing of Mielke Drive. Commissioner Halleck asked whether Figure 6 would be updated as it showed Mielke Drive crossing Laurel Street. Project Manager Morimoto indicated that it would be revised.

Chair Fry said that they were being asked to consider architectural control for the Aquatic Center building and the concession stand building and a Mitigated Negative Declaration. Assistant City Attorney Siegel noted that the Council had given direction that the plans are to be developed with the pool configuration as presented for three pools rather than for a 50-meter pool.

Chair Fry asked about garbage and recycling collection within the Aquatics Centers. Mr. Mamuyac indicated those elements would be included in the specifications.

Commissioner Halleck moved to recommend architectural control approval to the City Council per staff recommendation. Commissioner Soffer seconded.

Planner Murphy suggested that the Commission might want to consider the entire recommendation including the Mitigated Negative Declaration for recommendation of approval.

Commissioner Halleck said that the Mitigated Negative Declaration states that there is substantial evidence that the project will not have a significant impact on the environment regarding traffic. He indicated that there are not enough mitigation measures to account for a less than significant impact. He believes there is a significant impact to public health, safety and welfare regarding: 1) the need for identifying and meeting standards for parking for recreational uses and for parking adjacent to where the increase in recreational use occurs; 2) needed updates and corrections to the traffic counts and analysis to address local street impacts including traffic counts on local streets and mitigation measures for those impacts; 3) the need for analysis of the impact of the increase in public and recreational use of the expanded gymnasium and pool on traffic and traffic movements such as drop-off and legal and safe turn-arounds; 4) the need to provide for a physically safe drop-off zone, without the need for illegal u-turns or forcing traffic into adjacent neighborhoods; 5) the need to provide mitigation for safe public use of paths and the pool/gym entryway adjacent to ball fields, especially protection from fly balls; and 6) the need to identify the locations at which traffic is entering local neighborhoods, analysis of the percent of increase in traffic, and implementation of mitigation measures as necessary.

Commissioner Soffer indicated that comments made by Commissioner Halleck were legitimate; however, he felt that the project should be moved forward. Commissioner Halleck said that he would recommend to the Council approval of the findings, the Mitigated Negative Declaration and the architectural control, but that he would like his comments regarding the Mitigated Negative Declaration forwarded to the Council.

In response to Chair Fry, Assistant City Attorney Siegel indicated that the Commission could recommend approval or not of the Mitigated Negative Declaration, and with or without comments. Planner Murphy indicated that if the Commission did not recommend approval of the Mitigated Negative Declaration, this action would impact approval of the architectural control and findings. Chair Fry briefly polled the Commissioners. Commissioner Sinnott indicated that she would abstain due to the choice of three pools to be designed rather than one 50-meter pool. Commissioners Bims, Halleck, Soffer and Pagee indicated that they would vote to recommend to the Council to approve the Mitigated Negative Declaration with the specific comments made by Commissioner Halleck.

Commission Action: M/S Bims/Halleck to recommend to the Council adoption of a finding related to environmental review with specific comments on the Mitigated Negative Declaration as follows.

RECOMMENDATION that the City Council

1. Adopt the following findings relative to the environmental review of the proposal.
 - a. A Mitigated Negative Declaration was prepared and circulated for public review pursuant to the current State CEQA Guidelines;
 - b. The Planning Commission has considered the Mitigated Negative Declaration prepared for the proposal and any comments received during the public review period; and
 - c. Based on the Environmental Initial Study, the Commission has specific comments on the Mitigated Negative Declaration:
 - i. Identify standards of recreational use and account for parking adjacent to where recreational use increases result;
 - ii. Update and correct traffic counts and analysis to address local street impacts including traffic counts on local streets and mitigation measures for those impacts;
 - iii. Account for the impact of the increase in public and recreational use of the expanded gymnasium and pool on traffic and traffic movements such as drop-off and legal and safe turn-arounds;
 - iv. Provide for a physically safe drop-off zone, without the need for illegal u-turns or forcing traffic into adjacent neighborhoods;
 - v. Provide mitigation for safe public use of paths and the pool/gym entryway adjacent to ball fields, especially protection from fly balls; and
 - vi. Identify the locations at which traffic is entering local neighborhoods, account for the percent of increase in traffic, and implement mitigation measures as necessary.
2. Approve the Mitigated Negative Declaration.

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

Commission Action: M/S Soffer/Halleck to recommend approval to the City Council of the architectural control as recommended in the staff report:

Recommendation to the City Council:

3. Adopt findings, as per Section 16.68.020 of the Zoning Ordinance, regarding architectural control approval:
 - a. The general appearance and scale of the development is in keeping with the character of the existing development in the neighborhood;
 - b. The development will not be detrimental to the harmonious and orderly growth of the City;
 - c. The development will not impair the desirability of investment or occupation in the neighborhood; and
 - d. The development provides adequate parking as required in all applicable City ordinances, and has made adequate provisions for access to such parking.
4. Approve the architectural control request for the Aquatics Center, Gymnastics Center, mechanical and equipment storage room, restroom and concession stand subject to the following conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by ELS Architecture and Urban Design, consisting of five plan sheets dated May 19, 2003, and one plan sheet dated May 21, 2003, and approved by the Planning Commission on June 16, 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 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 project.
 - 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 construction shall be submitted to and approved by the Building Division staff prior to issuance of a building permit.
 - e. Prior to demolition permit issuance, the applicant shall submit a plan for the control of dust throughout the duration of the project. This plan shall list specific measures, including but not limited to routine watering of the site. The plan shall also specifically address how dust would be controlled during weekends and other off-work periods. Finally, the plan shall also include a contact name and phone number to receive and address any complaints. This plan shall be subject to the review and approval of the Planning Division.
 - f. Prior to issuance of a building permit, a utility plan showing the exact location of all meters, transformers, junction boxes, relay boxes, back-flow prevention devices, etc., 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 Building Division.

- g. Prior to building permit issuance, the applicant shall submit a detailed lighting plan and photometric study for the review and approval of Planning Division staff. The lighting plan shall also indicate the type and style of light fixtures to be used, and these fixtures shall be subject to the review and approval of the Planning Division.
- h. Prior to building permit issuance, the applicant shall submit a detailed plan showing the location of all exterior mechanical equipment, including but not limited to air conditioning equipment. This plan shall attempt to minimize the noise and aesthetic impacts of such equipment, and shall be submitted for the review and approval of the Planning Division.
- i. The applicant shall submit detailed construction parking and staging plans prior to building permit issuance for the review and approval of the Engineering and Transportation Divisions.
- j. Prior to issuance of building permits, plans for on-site recycling and garbage facilities shall be submitted for review and approval by the City Environmental Program Coordinator and the Engineering Division.
- k. Prior to issuance of a demolition permit, the applicant shall adhere to all regulatory requirements for the safe handling and removal of asbestos and lead from the site, and the applicant shall comply with all regulations set forth in the Asbestos and Lead Survey Report (included as part of the Mitigated Negative Declaration) prepared for this project. Such compliance shall also include compliance with the regulations of the following agencies, as applicable: the United States Environmental Protection Agency (EPA), the California Division of Occupational Safety and Health (Cal-OSHA), the California Department of Toxic Substance Control (DTSC), and the Bay Area Air Quality Management District (BAAQMD). Compliance with all of these regulations shall be according to the review and approval of the Building Division.
- l. Prior to issuance of a demolition permit, and again prior to issuance of a building permit, the applicant shall comply with the requirements of Chapter 12.48 (Salvaging and Recycling of Construction and Demolition Debris) of the City of Menlo Park Municipal Code.
- m. Activities and operations on the project site shall comply with the regulations of the City of Menlo Park Noise Ordinance. These activities and operations shall include, but not be limited to, use of the swimming pools facilities, and operation of any mechanical equipment on the site, including air conditioning equipment.
- n. Prior to the trimming or removal of any heritage trees, the applicant shall apply for and obtain a Heritage Tree Removal permit for any heritage trees proposed for removal.
- o. Prior to building permit issuance for the Aquatics Center, and prior to beginning construction on Burgess Park, the applicant shall submit a revised tree protection plan identifying the roles and responsibilities of the project arborist, and incorporating the protection plan into the final construction drawings for the project. The tree protection plan shall be subject to review and approval by the City Arborist. Tree replacement shall

be made on a two-to-one ratio. The transplanting of existing heritage trees shall be evaluated and addressed in the plans.

- p. Prior to building permit issuance, the applicant shall submit a landscape plan for the review and approval of the Planning Division.
- q. Prior to building permit issuance, the applicant shall submit revised plans that replace the stucco walls for the restroom/concession stand with vertical wood planks to match the vertical plank features commonly found on the Civic Center campus. These revised plans shall be submitted for the review and approval of the Planning and Building Divisions.

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

E. REGULAR BUSINESS

1. **2003-2004 Capital Improvement Program/General Plan Consistency:**
Consideration of consistency of the 2002-2003 Capital Improvement Program with the General Plan.

Commissioner Halleck said that he had reviewed the items and that they appeared consistent with the General Plan.

Commission Action: M/S Halleck/Soffer to recommend adoption of a finding of consistency with the General Plan as recommended in the staff report.

Adopt a finding that the Planning Commission has reviewed the 2003-2004 Capital Improvement Program and found it to be in conformance with the City's General Plan.

Motion carried, 6-0, with Commissioner Fergusson absent.

F. COMMISSION BUSINESS

There was none.

ADJOURNMENT

The meeting adjourned at 11:30 p.m.

Staff Liaison: Justin Murphy, Principal Planner

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission on March 8, 2004.