



MENLO PARK PLANNING COMMISSION MINUTES

Regular Meeting

October 13, 2003

7:00 p.m.

City Council Chambers

801 Laurel Street, Menlo Park, CA 94025

CALL TO ORDER – 7:02 p.m.

ROLL CALL – Bims (arrived at 7:10 p.m.), Fergusson, Fry (Chair), Halleck (Vice-chair), Pagee (arrived at 7:17 p.m.), Sinnott, Soffer

INTRODUCTION OF STAFF – Murphy, Smith

A. PUBLIC COMMENTS

There were none.

B. CONSENT

There were no consent items on the agenda.

C. PUBLIC HEARING

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

Staff Comment: Planner Smith reported that the subject property was located on the corner of Lemon Street and Santa Cruz Avenue with the Santa Cruz Avenue frontage being the front of the property for zoning purposes. He said the applicants are requesting use permit approval to maintain portions of an existing approximately six-foot-five-inch-foot-tall hedge located within the 35-foot triangular area at the corner of the property. He said that the applicants were also requesting use permit approval to replace and expand an existing five-foot, ten-inch-tall wooden fence with a new six-to-six-and-a-half-foot-tall wooden fence along both the Santa Cruz Avenue and Lemon Street frontages of the property. The applicants were also requesting approval to allow the majority of the hedges within the City's right-of-way along the Santa Cruz Avenue frontage of the property to remain at their current height. Planner Smith noted that the hedges exceed the three-foot maximum height limit for hedges within the 35-foot corner triangle, as well as the four-foot maximum height limit for hedges within the front setback. He said a letter from the neighbors at 1060 Lemon Street expressing their support of the project had been received and distributed to the Commissioners.

Chair Fry said that another letter had been distributed to the Commission from several West Menlo Park residents regarding the project. She provided staff with a copy of the letter.

Questions of Staff: Chair Fry asked staff to address the rules of the 35-foot triangle and the newer concept of a safety sight triangle. Planner Smith said that the intent of the regulation to keep everything at three-feet in height within the 35-foot triangle was to ensure that no matter what the corner, the traffic speed, or the configuration of the corner that there would be adequate sight views around that corner for all forms of traffic. He said that when an applicant requests relief from the 35-foot triangle to have heights higher than three feet in that corner, Transportation Division staff analyzes the corner to determine if the corner would be safe with what was being requested. He said that previously Planning Division staff had not codified in the staff report the analysis used by the Transportation Division staff. He said that with this staff report and subsequent reports regarding this issue, Planning Division staff would provide information on how the safety sight triangle was developed by Transportation Division staff.

Chair Fry asked if the methodology had been reviewed by the Transportation Commission and whether other cities' use it. Planner Smith said that the Public Works Director and the Transportation Division Manager have approved this format and other cities use it as well. Chair Fry asked if the concept of the safety sight triangle was an assessment of safety applied to a driver in a car stopped at a stop sign, who needs to look for vehicular cross traffic from the left or right. Planner Smith said that whether the driver was looking left or right depended on the corner. He noted that for some intersections, the Transportation Division staff does a triangle in both directions. In this instance, the complaint was focused on one corner; thus the analysis was based on cross traffic. Chair Fry said that the analysis was done from the perspective of a driver trying to enter from the stop sign. She asked how pedestrian and bicycle traffic were taken into account, noting as an example, a child on a bicycle traveling the wrong way in the bike lane. She said that the safety aspect seemed to be limited to the driver of a vehicle trying to enter the roadway and did not address whether a driver would be able to see other types of traffic.

Planner Smith thanked Chair Fry for calling earlier with those questions and said that staff had done some additional analysis. He said that the safety sight triangle was designed specifically with vehicular traffic in mind. He said that he spoke with the Transportation Division Manager who confirmed that they did not as a rule allow for illegal traffic movement. However, they did do an analysis on this corner for the distance needed to stop a bicycle and whether this might be a safe corner for bicycle traffic as well. He said that the safety sight triangle intersects the bike lane 96-feet from the stop bar. Noting that a bicycle traveling at 15-miles per hour needs 89 feet to stop, he said that the safety sight triangle the Transportation Division established for this corner allowed sufficient stopping distance for a bicyclist.

Chair Fry asked why the 35-foot triangle height measurements were made from the roadway, but for the safety sight triangle the measurements were made from the grade. Planner Murphy said that for this safety sight triangle, Transportation Division staff visited the site and determined that three-feet in height measured from the grade provided adequate clearance. In response to a question from Commissioner Soffer, Planner Murphy said that the analysis performed by the Transportation Division assumed 24-hours of use and took into consideration limited daylight hours. Commissioner Soffer noted that the

analysis however did not take into account non-vehicular activity at intersections. Planner Murphy said that the establishment of the safety sight triangle was based on automobile traffic, but when bicycle traffic traveling at 15-miles per hour from the wrong direction was factored in, these triangles were still adequate. He said that someone running at less than 15-mph would have an even shorter stopping distance than a bicyclist. Responding to Commissioner Soffer's observation about people walking dogs on extended leashes, Planner Smith said that there was a stop bar at this site where people are supposed to stop and this was critical to the establishment of the safety sight triangle.

Chair Fry asked how the stop bar was assumed if there was not one. Planner Smith said that if this property did not have a stop bar, staff would have measured from the Santa Cruz Avenue property line across Lemon Street and established the stop bar at that point with the assumption that the driver would be six feet back from the stop bar. Chair Fry said that there had been correspondence that suggested that this particular stop bar was not located as shown in the plans and was to be moved. Planner Smith said that the stop bar had not been moved and was located as shown on the plans. He explained that early on there had been discussion among Planning and Transportation staff as to whether stop bars could or should be moved, and their ultimate decision was against moving stop bars, and particularly in this instance as Santa Cruz Avenue traffic goes faster and cars take the turns wider so the existing location of the stop bar on Lemon Street prevents vehicles from being clipped by vehicles turning left from Santa Cruz Avenue onto Lemon Street.

Chair Fry asked staff to explain the concept of the public right-of-way and how it varies for different properties. Planner Smith said that the definition of public right-of-way was property that the City owns. He noted on the typical smaller residential streets that the public right-of-way was usually 50 to 60 feet in width; on larger streets such as Santa Cruz Avenue, it was 80 or more feet in width. He said that for El Camino Real, it was more than 200-feet in width. He said that the right-of-way would contain the asphalt of the street, sidewalks and gutters if present, and often dirt and landscaping. He said that sometimes property owners believe that their property extends to the sidewalk when in reality their private property may begin ten or more feet back from the sidewalk. He said that the purpose of the public right-of-way was not just for roadway, but for infrastructure such as sewer and power lines as well as for to allow the City the space to install sidewalks. Chair Fry asked who was responsible for maintenance in the right-of-way. Planner Smith said that street trees are maintained by the City; trees and hedges in the right-of-way planted by the property owner are the responsibility of the property owners to maintain. He noted that the City has the right to remove vegetation from the public right-of-way at any time.

Chair Fry said that there had been new rules regarding fence and hedge heights established by a public process that applied specifically to Santa Cruz Avenue properties. She asked how those rules impacted the applications being considered. Planner Smith said that the regulations regarding Santa Cruz Avenue were applicable to two projects, 1080 Lemon Street and 1990 Oakdell Avenue, that were under consideration at this time. He said that those regulations address fence height, design and articulation. For fence applications for Santa Cruz Avenue properties, staff may approve the projects if they meet those regulations. He said that the two projects being considered tonight exceeded the height limits and neither one was able to achieve the 20-percent articulation. He said that in both instances it was being proposed that the fences would be constructed in the same location as existing fences.

Commissioner Soffer asked whether the City owned the public right-of-way or had an option to control use and activity within it. Planner Murphy said that the City owned the land in the public right-of-ways; in most cases this land was dedicated to the City when the land was originally subdivided. He said that the City owned the land and had control over how the land was used. Commissioner Soffer noted the distinction between public right-of-way and public utility easements in that with the latter, property owners own the property but provide permission to the holder of the easement for ingress and egress. Commissioner Soffer asked how many fence applications had been handled administratively for Santa Cruz Avenue since the new regulations were developed. Planner Smith indicated one to his knowledge and that was for a new house at the corner of Santa Cruz Avenue and Seymour Lane. In response to Commissioner Soffer, Planner Smith said that he could not recall the height of the fence, but that staff had worked with the applicant on adding articulation.

Public Comment: Mr. Joshua Sommer said that he and his wife, Sheila Sebastian, own the 1080 Lemon Street property. He said that he and others tonight were the victims of a single complainant who turned in 33 corner properties, seven of which were being heard tonight. He said that his property was the main focus of the attack. He said that the complainant had never approached him or any other of the property owners with these concerns. He indicated that he and his wife bought their property in 1992 and that the fence and hedges were there at that time. He said that a neighbor, who has lived there 40 years, said that the fence and hedges have been there at least 20 years. He said that last year the City asked him and his wife to abate the hedge in the City's right-of-way on Lemon Street. He said that the loss of the screening provided by that hedge had destroyed their peace, privacy and security. He said that all of their neighbors supported their proposed project and have communicated their support to the Commission.

Ms. Sebastian described the project. She said that the intent was to resolve the safety and visibility issues of the corner while restoring the privacy and security lost by the abatement of the hedge. She said that they wanted to replace the existing fence on Santa Cruz Avenue with a six-foot redwood fence to match the existing fence on Lemon Street. She said that they wanted to add two new sections of fence on the left and right of the property and to add a six-foot section on the right to match the existing side fence. She said that they wanted to add another section of fence on Lemon Street to make up for the loss of the abated hedge and the loss of screening when the remaining hedges were brought down to three-feet in height within the safety sight triangle as determined by the Transportation Division. She said that the fence that runs parallel to the property line on Lemon Street would be 14 feet from the sidewalk. She said that they were requesting that the hedges remain to soften the effect of the fence from passersby. She said that they were seeking to maintain the height of all of the hedges that fall outside the safety sight triangle; within the safety sight triangle, they would bring everything down to three feet in height. She said that the difference between the roadway and grade was only four inches versus the six inches estimated in the staff report. She requested that they receive an extension of 90-days rather than 30-days for the trimming of the bushes as stated in 3.a in the staff recommendation. She said that they needed the additional time to contract with a fence company and complete the project. She concluded saying that they have worked with the Planning Division and Transportation Division on a proposal that would provide greatly enhanced visibility and safety at the corner while restoring to them the security, privacy, noise reduction, contentment and well-being that they enjoyed for 10 years prior to the arrival of the City's letter that shattered the pleasure they took in their property.

In response to Commissioner Soffer, Planner Smith said that a bay window on the front of the house touched the 20-foot front setback line. Commissioner Fergusson questioned the note that indicated that an existing six-foot-three-inch fence would remain. Ms. Sebastian said that the fence changes height at the junction of Santa Cruz Avenue and Lemon Street and goes to six-foot three-inches; she said that the fence was legal, but nonconforming and had been grandfathered. She said that the fence then dropped to six-feet and terminated in the City's right-of-way. Commissioner Fergusson asked if that was within the safety sight triangle. Ms. Sebastian indicated that it was, but they were requesting that it remain. Planner Smith said that as part of the use permit process, the Planning Commission could, as a condition of approval, require that that fence be brought down to three-feet in height.

Commissioner Fergusson asked for a review of the stop bar issue. She said that she recalled in March there was a complaint and a response made. She said that part of the response included drawing the triangle from a projected stop bar at the property line rather than from the existing stop bar. Planner Smith said there had been discussion previously about moving the stop bar and the safety sight triangle, but staff had determined that was not appropriate.

Charles Bourne, Menlo Park, said that he was the original complainant for 1080 Lemon Street, but said he did not turn in the other 32 properties, rather that those properties were named by the property owners of 1080 Lemon Street. He forwarded this complaint originally and was joined by several other property owners who wished to remain anonymous. He said that they urge the Planning Commission to deny the request and to require the 35-foot by 35-foot as stipulated by ordinance. He said that this residence was at one of the most dangerous corners in town. He noted the poor visibility around the corner, the traffic volume and high speeds on Santa Cruz and arterial streets. He said that a recent traffic survey stated that 18,000 vehicles use this corner a day and that 15-percent of those vehicles or about 120 vehicles were going faster than 37-miles per hour. He said that for years the safety sight regulation has required a 35 by 35 foot safety triangle with nothing higher than three feet within it. He challenged the City's finding that the corner was safe with only a four-foot by fourteen-foot safety sight triangle. He said that there were no supporting staff names on documents or expert witnesses to support this assertion. He said that the staff's method of determination was flawed. He said that the drawing prepared by staff was unsigned and not dated with nothing to indicate that the City produced it. He said that there was no Transportation Division staff present to address how this determination was made. He said that the computation with the diagram was flawed; he said that the 85 percentile for the intersection was 36.9-miles per hour and not 30-miles per hour as used. He said that if 36.9-miles per hour were used the triangle would be larger. He said that the computation would not account for a driver on Lemon Street who looked right and seeing no traffic, looked left before pulling into traffic. He said that the extra time needed to react to traffic on the left did not seem to be included in the computation of the safety sight triangle. Mr. Bourne said that several appellants have requested existing heights of shrubbery to provide for noise abatement. He said that it was proven that vegetation did not reduce noise. He said that the applicant was not allowed any vegetation in the City right-of-way except for the heritage oak. He said that any shrubs, small trees and plants currently growing in the City right-of-way should be removed and kept free of vegetation in the future. He said that allowing the property owners to have vegetation in the right-of-way was giving up a public asset for a private benefit without any public benefit being gained in return. He said that when the sidewalks were installed on Santa Cruz Avenue, this vegetation would need to be removed. He said that allowing vegetation in the public right-of-way would set a precedent

for every corner block in the City. He said that approving the request would repeal the ordinance about the safety sight triangle.

Commissioner Halleck asked there was a standard template that staff uses to determine the safety sight triangle. Planner Murphy said that there have case-by-case reviews based on complaints to establish safe clearance at corners. He said that the zoning ordinance established a 35 by 35 foot triangle at corners for safety. He said that the Transportation Division historically has used certain standards to review safety at intersections but which had not been extremely well documented. He said with these reviews tonight that staff had tried to better document that review, but that there was not one document that would fully explain this review to the Commission and public. He said that for each application, there had been a case-by-case review using the same basic methodology for calculating the triangles. He said that the aerial photograph was the best graphic that explained that and that staff could develop a handout for the public based on that graphic. Commissioner Halleck asked if there was confusion about the regulations with the applicants. Planner Smith said that the applicants were not aware of the regulations. He said that prior to the Planning Division's letter to them regarding the violations that they had received several letters over the years from the Transportation Division requesting them to trim their hedges. He said that on those occasions, the property owners immediately complied, for which they received a thank you letter. He said that until the Planning Division's letter they had never been notified that they were in noncompliance with zoning ordinance regulations.

Ms. Toni Stein, Menlo Park, said that she lived a few blocks from the subject property. She said that this property was somewhat different from the other applications tonight. She noted a play park located in the vicinity of this corner. She said that the only location for crossing the street with a crossing button was at Hillview Avenue, one block east of this corner. She said that the area was well used by children and pedestrians and that traffic on Santa Cruz Avenue traffic moves quickly. She said that an analysis of the technical issues and a decision like this should go before a professional engineer for a safety review. She said that for safety there should be traffic lights at Olive Street; she said that without traffic lights, the public needed to be able to rely on the 35-foot by 35-foot corner regulation.

Ms. Mary Linn Coldiron, Menlo Park, said that she supported the project. She said that the intersection was not dangerous. She said that there were not many children who walked through this area as the crosswalk was located elsewhere. She said that she has lived 13 years at her property near the applicants' property. She said that she travels this intersection frequently both by car and on foot and had never witnessed an incident.

Ms. Lyn Denend, Menlo Park, noted her support of the project and said that she lived across the street from the applicants. She said that she and her husband walk their dogs through the intersection twice a day. She said that they have two small children and go to Tinker Park frequently. She said that while Santa Cruz Avenue was becoming an increasingly complicated street to live on, she did not think this corner had an undue amount of danger associated with it. She said that the applicants have worked with Transportation and Planning staff and found compromises that included moving the crosswalk to the other side of the street. She said as a homeowner on Santa Cruz Avenue she hoped that decisions would be made that balanced safety alongside with making Santa Cruz Avenue an appropriate and reasonable place to live. She said that hedges and fences were very important to those who live on that street.

Mr. John Cameron, a Menlo Park resident, said that he supported the applicants' project and suggested that the speed limit on Santa Cruz Avenue at this corner should be 25 miles per hour.

Mr. Sommer confirmed with staff that the calculations for the safety sight triangle were based on a speed of 37 miles per hour and with the stop bar as located. Mr. Sommer sought confirmation that it was the complainant who brought the currently 32 other violations forward, not him. Planner Smith said that it was the complainant's second letter that resulted in the code enforcement of the regulations for the other 32 corner properties.

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

Motion carried unanimously, 7-0.

Commission Comment: Commissioner Fergusson asked staff to outline the fence height regulation for the front setback on Santa Cruz Avenue. Planner Smith said that the maximum height of a fence along the front property line and the first two feet of the front setback along Santa Cruz Avenue was four feet. He said that the maximum height of a fence located from two-to-six feet back from the property line along Santa Cruz Avenue was five-feet. He said that the maximum height of a fence located six-to-20 feet back from the property line along Santa Cruz Avenue was six-feet sloping to seven-feet at twenty-feet back.

Commissioner Soffer said that staff was doing a good job fielding the technical questions related to traffic, but that it would have been preferable to have had Transportation Division staff present. Commissioner Sinnott said that staff had done a terrific job with all of the work entailed by these reviews. She said that the compromise was to protect the residents from the traffic right outside their doors and improving the sight triangle. She said that she was very familiar with this corner and suggested that removal of a few hedges in the triangle would improve visibility. She said that she was not aware of major safety issues at this corner. She said that what staff was recommending was a great compromise as it allowed for the preservation of the applicants' privacy and improved the safety. She said that she would suggest that the shrubbery be cleaned up that would be outside the proposed new fence. She said that the shrubbery should be brought down to three-feet in height around the fence and that the six-foot fence should be brought down to three-feet in the corner.

Commissioner Halleck agreed with Commissioner Sinnott's comments. He confirmed with staff that the existing corner six-foot fence was remaining at the request of the applicant. Commissioner Halleck said that the applicants and staff have worked out a safe compromise for public safety and health. He expressed his concern about property owners being confused as to what they can do with their properties, noting the Commission's recent review of the zoning ordinance. He said that there should be a clear graphic that could be used to notify the neighbors on these corner properties of the requirements for those types of properties. He said it was a matter for City Council as to the applicability of the standards for Santa Cruz Avenue. He said that this was a safe compromise, but that he would require the corner fence to come down to three feet in height.

Commissioner Soffer said that he was sorry to see any of these applications before the Commission and that he was disturbed with the sequence of events that brought these matters to the Commission. He said that there were thousands of similar situations in Menlo

Park and that they were only handled by the Commission on a complaint basis. He said that there were two tests for the placement of fences; the first test being what impact it would have on safety and how the placement of the fence impacted the character and amiability of the neighborhood. He said that it concerned him to require the maximum three feet height for the shrubbery but not for the fence.

Commissioner Bims said that there were numerous corner properties on Santa Cruz Avenue that have fences and hedges above the maximum height. He said that he agreed that all of the fences and shrubbery within the safety sight triangle should be a maximum of three feet in height. He said that outside the safety sight triangle there could be more flexibility in height. Commissioner Soffer said that from experience when fences are reduced within the safety sight triangle sometimes that creates a problem with the aesthetics.

Commissioner Fergusson said that the safety sight triangle was the first tier for fences on a corner property. She said that the purpose of the use permit process in these applications was for an individual analysis for which the applicant paid a significant fee. She said that she had difficulty with the analysis and expressed concern that no one had taken responsibility for the drawings. She said that the drawings should be stamped; she asked if that was a liability for the City that the drawings were not stamped. She said that for corner lots, often the technical front of the lot was not the "friendly-face" part of the house. She said that the City has a General Plan policy that the City is a pedestrian-oriented city. She said that the City's fence laws bolster that policy by requiring that the front fence be low. In this application, she noted that the applicant wanted to have high fences on both frontages. She said that property owners need privacy. She said that if they live on a busy street fences and hedges provided a sense of security against traffic traveling around the corner and protection from car headlights at night. Regarding the public right-of-way, she said that the function was public and should not be used for private benefit. She said that she was not in favor of planting tall hedges in the public right-of-way and suggested that might make the City liable. She said that staff's recommendation, 3.b, made it clear that the City has the right to remove shrubbery or fence from the public right-of-way if needed; for instance if sidewalks were to be installed.

Chair Fry noted that she lives on a corner property that does not have a stop sign. She said that traffic volume and speed had increased on Santa Cruz Avenue. She suggested that what might have been more comfortable in the past might not serve as well in the present and future. She said that a frame of reference she uses are corner lots near her property that have received approval for higher walls, fences and hedges. She said that those roads are well used by multi-use traffic. She said that children tend to walk in groups often in the wrong direction; they often do not look before crossing the street and cars often do not look either. She said that a friend's son on his bicycle had been hit by a car that rolled through the stop sign at Hermosa Way and Santa Cruz Avenue. She said that she would tend to be conservative about the line of sight on well-traveled streets and that it was important to balance the needs of safety and privacy for residents whose properties face such busy streets. She said that she had a concern with this application because a much smaller safety sight triangle was being used. She said that she was concerned also about the applicants' need to have privacy, security and an enjoyment of the property. She said that the safety sight triangle should be larger and the heights needed to be kept down to three-foot with that triangle. She said that she agreed the drawings should have a professional stamp. She said that the calculations to determine the safety sight triangle should be developed through a public process to have a mechanism and standard which would have

helped the other applicants before them tonight.

Commissioner Fergusson asked staff about the engineering accountability and liability concerns raised. Planner Murphy said that the person who performed the technical analysis was Mr. Renee Baile, a professional engineer and the City's traffic engineer. He said that Mr. Baile's analysis was reviewed by Mr. Jamal Rahimi, the Transportation Manager and by Mr. Kent Steffens, the Public Works Director. He said that he met with Mr. Baile, Mr. Rahimi, Mr. Steffens, and Mr. Smith the previous week to review these applications, confirm staff's position and review all of this before the staff reports were distributed. Planner Murphy said that someone working for the City was protected under certain liability umbrellas underneath the City as opposed to their professional stamp. He said that City staff including professional engineers was comfortable with this analysis.

Commissioner Pagee said that she drove through the intersection where the subject property was located and that on both sides trimming would be appropriate. She said that she was all right with the safety sight triangle as proposed, but that everything within that safety sight triangle should be three-feet or below in height. She said that if other properties along Santa Cruz Avenue were subject to particular requirements for fences and hedges that this property should be as well.

Commissioner Halleck moved to approve as recommended by staff with an added condition that the existing six-foot three-inch fence that runs from where the new six-foot fence would begin and end would be lowered to conform with the three-foot maximum height requirement. Commissioner Sinnott seconded the motion.

Commissioner Fergusson offered a substitute motion to approve per staff recommendation but to require that the hedges along the Santa Cruz Avenue frontage be removed and the fence along Santa Cruz Avenue moved back two feet. She said that the applicants' were asking the Commission to make a big exception to the zoning regulations for them. She said that there should be give and take; if the City lost some public benefit then the City should receive some public benefit. She said that there was a public benefit from an attractive Santa Cruz Avenue streetscape for which there are design guidelines to bring that into effect. She said that the property does not have a "friendly-face" as the applicants were asking for tall fences along both frontages. Commissioner Fergusson said that the requirement along Santa Cruz Avenue for the height of a fence was four-feet or the fence could be moved back to allow for a six-foot high fence, in which case new landscaping would be required.

Commissioner Soffer confirmed with Commissioner Halleck was recommending that the word fence be added to the condition of 3.a regarding a maximum height of three feet within the safety sight triangle. Chair Fry asked if Commissioner Halleck's motion said anything about the height of the hedges in front of the proposed six-foot fence. Commissioner Halleck said that it did not. Commissioner Soffer said that he understood the motions made. He suggested that Commissioner Halleck might want to consider the time extension that was requested by the applicants. Commissioner Soffer said that the Commission was being confronted with an impossible set of simultaneous equations that they were being asked to solve as they look at multiple applications.

Commissioner Halleck said that he was working within the staff recommendations because of the time that staff and the property owners had spent to develop a compromise and that

the aesthetics of Santa Cruz Avenue was a separate issue. He said that if it was appropriate within the scope of the removal and replacement and recommended location of the fence to add additional mitigation for aesthetics, he would have suspected that he would have seen something in the staff report. He did not think additional mitigation on Santa Cruz Avenue was appropriate.

Commissioner Fergusson said that there were plans for sidewalks along Santa Cruz Avenue and that by requiring the fence to be moved back would allow for mitigation. Chair Fry said that she would second Commissioner Fergusson's motion as it was proposed that the five-foot-ten-inch existing fence be replaced with an even taller fence when the rule called for a four-foot fence. She said that she would prefer that the vegetation there be kept but brought down to three-feet. She said that the triangle needed to be larger than what was being proposed.

Commissioner Halleck said that Commissioner Fergusson's motion was that since the fence was being replaced anyway that it be moved back two feet; that the existing landscaping should be removed and replaced with landscaping that would be more aesthetically pleasing and that would survive. He noted that at the corner triangle there was an existing three-foot hedge next to a raised flowerbed. He said that what Chair Fry seemed to be saying was to have the fence follow that three-foot hedge rather than the fence coming to a point.

The Commissioners reviewed the drawing and what Chair Fry's suggestion regarding the corner was. Commissioner Fergusson summarized that what Chair Fry was proposing was to take the proposed line of the fence and at a point along Lemon Street make a 45 degree angle to meet up with the fence two-feet back. The Commission again reviewed the drawing with the change as proposed. Commissioner Pagee said that if the 35-foot triangle was moved to the corner as opposed to applying it at the property and a line of sight was created at the corner which would be similar to what was being proposed. Chair Fry said that it would be similar if the vegetation was brought down in the safety sight triangle.

Commissioner Fergusson said that what was being proposed was that at the corner of Lemon Street and Santa Cruz Avenue to make it a 22-foot sight triangle. Commissioner Fergusson indicated that she would show what she meant on the plans projected on a screen. She indicated the safety sight triangle and the corner of the property. She said that if the safety sight triangle were shifted that the triangle would cover 22-feet of each property line frontage. She said to draw line 22-feet from both corners and that was a compromise clear zone. Commissioner Soffer asked if that would provide the clearance for line of sight provided by the long edge of the current triangle. Chair Fry said that the sight angle intersects the property line along Santa Cruz Avenue at 14 feet. She indicated that she was comfortable with 14-feet by 14-feet triangle at the property line and that reducing the vegetation to three-feet would clear the sight line. Responding to Chair Fry, Ms. Sebastian said that there was a brick raised bed and if the Santa Cruz Avenue fence was brought in any additional distance those brick raised beds would be exposed.

Commissioner Halleck asked that the question be called.

Commission Fergusson moved that the new fence to be constructed along Santa Cruz Avenue would be moved two feet from the property line with a six-foot height to be permitted to a point 14-feet from the Lemon Street property line which would place it slightly outside of the safety sight triangle. She said that the fence would then turn 135-degrees toward the

proposed fence parallel to Lemon Street. Commissioner Fergusson said that the motion would include that everything outside of the fence within that new triangle at the corner would be limited to three-feet in height. She said that the hedges along Santa Cruz Avenue would need to be removed and the applicants' would work with staff to develop appropriate plantings on the private property and public right-of-way along the Santa Cruz Avenue fence. The applicants should receive six months to implement this revised plan.

Chair Fry said that this then would take out two feet of the applicants' raised brick bed. Commissioner Fergusson indicated that it would.

Commission Action: M/S Fergusson/Fry to require that the new fence to be constructed along Santa Cruz Avenue would be moved two feet from the property line with a six-foot height to be permitted to a point 14-feet from the Lemon Street property line which would place it slightly outside of the safety sight triangle. She said that the fence would then turn 135-degrees toward the proposed fence parallel to Lemon Street. Commissioner Fergusson said that the motion would include that everything outside of the fence within that new triangle at the corner would be limited to three-feet in height. She said that the hedges along Santa Cruz Avenue would need to be removed and the applicants' would work with staff to develop appropriate plantings on the private property and public right-of-way along the Santa Cruz Avenue fence. The applicants would receive six months to implement this revised plan.

Motion failed; 1-5-1, with Commissioners Fergusson in favor and Chair Fry abstaining.

Chair Fry indicated that she abstained as she was concerned about the brick raised bed.

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

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 fences and existing hedges 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. The fence and hedge shall be maintained in accordance with the plans and specifications prepared by the applicants, consisting of three plan sheets dated received September 24, 2003, and approved by the Planning Commission on October 13, 2003, except as modified by the conditions contained herein.
 - b. The hedge shall be maintained in accordance with the sight safety triangle established by the Transportation Division, which has dimensions of approximately 18 feet along the edge of asphalt on Lemon Street,

approximately 100 feet along the edge of asphalt on Santa Cruz Avenue, and a hypotenuse running diagonally to connect the first two lines. All fences and hedges within this sight safety triangle shall be reduced in height to no more than three feet (measured from adjacent grade) within 90 days of the Planning Commission approval of this item, and shall be maintained at this height in perpetuity.

- c. The City reserves the right to remove the fence and vegetation within the City's right-of-way at any time. It is the property owner's responsibility to trim and maintain the hedges located within the City's right-of-way.

Motion carried, 4-2-1, with Commissioners Fergusson and Fry dissenting, and Commissioner Pagee abstaining.

Commissioner Halleck commented that the solutions staff had presented to the Commission were the best information that he had available to make a decision and that was why he presented the motion he had made. He said that staff and the applicants had spent time to bring these applications to the Commission and if there was not a consensus or a belief that this was not a solution than an appeal might be made to take the matter to the City Council. He said that the overriding questions were whether or not these triangles applied or whether these standards were appropriate. He said that he hoped that the Planning Commission had come up with the best solution; and if there were further recommendations and a desire to appeal, he wished the applicants' good luck. Commissioner Soffer said that the 35-foot by 35-foot triangle and three feet height requirement were very clear. Chair Fry said that there were very clear rules for Santa Cruz Avenue and said the challenge was when the Commission was looking at exceptions requested by the applicants and balancing that request with the rules. She wished the applicants well with their project.

- 2. Use Permit/Arna Shefrin/1095 Atkinson Lane:** Request for a use permit to maintain existing non-conforming hedges at heights exceeding the four-foot height limit allowed within the front setback, the three-foot height limit allowed within the 35-foot sight visibility triangle, and the seven-foot height limit allowed elsewhere on the property.

Staff Comment: Planner Smith said that the subject property was located at the corner of Atkinson Lane and Santa Cruz Avenue. He noted that the Atkinson Lane frontage was considered the front of the property for zoning purposes. He said that the applicants were requesting approval of a use permit to maintain an existing eight-foot-tall hedge, a portion of which was located within the 35-foot triangular area at the corner of the property. He said that small portions of this hedge were also within the City's right-of-way within the 35-foot corner triangle area. He said that the applicants were requesting use permit approval to allow existing seven-foot-tall hedges along the left and rear sides of the property to exceed the seven-foot height limit in the future, possibly to as high as 12 feet.

Public Comment: Mr. Harold Shefrin, the applicant, said that he and his wife were requesting a use permit for their hedges. He said that the key issue involved the hedge that runs along Santa Cruz Avenue and crosses the 35-foot triangular area. He said that they were requesting to maintain that hedge at that height. He said that the stop sign and bar were located on the opposite side of Atkinson Lane from the property. He said that the hedge lies outside of the safety sight triangle at the corner of the property. He said that at one point it had intersected the

safety sight triangle and they had cut it back. He said that as far as he knew safety was not an issue with the hedge. He noted that they had received nine letters of support from the neighbors, most of who live on that street and use the intersection on a daily basis. He said that safety was the first issue; he said that a secondary issue was privacy for them as the hedge provided visual privacy and blocked headlights from traffic traveling on Santa Cruz Avenue. He said that if the hedges were cut back that their kitchen, which has a large window, would be very open to traffic on Santa Cruz Avenue. He said that the Commission had mentioned a "friendly-face" for properties. He said that they had recent landscaping done that angled a walkway from Santa Cruz Avenue to Atkinson Lane and landscaping which focused on the entry to the house. He said that at the back of the property there was a brick wall next to their driveway by which were planted roses and other landscaping that provided for the enjoyment of pedestrian traffic. Mr. Shefrin said that their concern about the back hedge was that the neighboring property might be sold and a two-story house might be built and they were concerned about the loss of privacy. He asked if it were possible for that hedge to go up to nine-feet and have a contingency to allow for 12-feet in height should a two-story home be built next door, or after negotiations with staff.

Chair Fry asked Mr. Shefrin whether he was requesting that the hedge be nine-feet now. Mr. Shefrin said that at this time they would probably not go to nine feet, but they wanted the flexibility should the need for increased privacy arise so as not to have to come back to the Commission a second time for approval.

Mr. Charles Bourne, Menlo Park, said that the property had a well-designed and executed landscaping plan and was a well maintained property. He said that there were no traffic concerns and he supported the applicants' request. He said that the property should never have been part of this review process.

Mr. Joshua Sommer, Menlo Park, indicated that he supported Mr. Shefrin's application. He asked whether it was Mr. Bourne who had reported Mr. Shefrin's property. Planner Smith said that it was correct and that it was Mr. Bourne's letter that identified the property. Chair Fry said that it was her understanding that the list of properties came from Mr. Sommers and then Mr. Bourne suggested that those other properties be reviewed. Planner Smith said that was correct and that it was a second piece of correspondence from Mr. Bourne that prompted the review.

Ms. Janet Ronstadt, Menlo Park, said that she has lived across the street from the subject property since 1981. She said that in using the intersection frequently that she had never experienced any visual obstruction because of the applicants' hedges. She said that the Shefrins have added beautiful landscaping. She said that her house fronts Santa Cruz Avenue and she fully understands the need for privacy. She said that she supported the application.

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

Motion carried 7-0.

Commission Comment: Commissioner Fergusson said that she liked the application as the hedge was almost entirely on private property except for a few inches on Santa Cruz Avenue. She said that she also liked it because the house had two "friendly faces." She said that she would support the use permit for the hedge on Santa Cruz Avenue as well as the nine-foot hedges along the rear and back of the property subject to the contingencies the applicant

suggested. Commissioner Halleck said that he was in agreement with Commissioner Fergusson.

Commissioner Sinnott said that she would move to approve as recommended by staff and that she would not want to grant the applicant approval to increase fences to 12 feet. Commissioner Halleck said that the request was for hedges at nine-feet tall with the flexibility to have those hedges grow to 12-feet at the rear and side of the property should a second story be built on the neighboring property. Commissioner Sinnott said as the maker of the motion that was agreeable to her. Commissioner Fergusson asked to clarify the motion as to whether the hedge should be subject to some setback where it comes out to Atkinson Lane and if that was part of staff's recommendation. Planner Smith said that currently the hedges come to points alongside the house about 25-feet from the front of the property. Commissioner Soffer said that he supported staff's recommendation and that he would second the motion if there were no contingencies attached for the higher heights.

Commissioner Fergusson asked what qualified as the existing hedge on the back property line parallel to Atkinson Lane. Planner Smith said that the hedge along that property line runs from the rear corner to an existing wall along the driveway and then another seven-foot high hedge terminates about five-feet from the Santa Cruz Avenue property line. Commissioner Fergusson made a friendly amendment to the motion that the tall hedge along Santa Cruz Avenue in the public right-of-way be trimmed back to the property line. She said that the hedge hangs over the pathway. Commissioner Sinnott asked the applicant if that were a problem. Mr. Atkinson indicated that was agreeable to him.

Chair Fry said that the motion and staff's recommendation were silent on the height of the taxus plants located in the 35-foot triangle. She proposed that those plants be maintained at no more than four feet in height. She said that she was not convinced that there was a need at this time for the hedges to be taller than seven feet. Commissioner Halleck asked the applicant about the taxus. Mr. Shefrin said that the taxus was not a shrub. He said that the landscaper planted the taxus plants in a symmetrical way and that there was a visual issue. He said that the taxus was completely outside of the safety sight triangle. He said that there would be a visual diminishment if the taxus were required to be shorter. He said that the taxus was at eight-feet tall which was also the height of the house eaves. Commissioner Halleck said that he supported leaving the taxus where they were and noted that the landscaping was well done. Chair Fry asked whether there should be a maximum height requirement of seven-feet for those plants. Commissioner Sinnott said that she was not agreeable to including that in the motion. Commissioner Halleck asked if Chair Fry would want the motion to say "maintained according to the plans." Chair Fry said that would be satisfactory. Commissioner Sinnott as the maker of the motion was agreeable to the amendment. Commissioner Halleck seconded the motion.

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

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 hedge 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 for the hedge at the corner of Atkinson Lane and Santa Cruz Avenue and along Santa Cruz Avenue subject to the following condition:
 - a. The hedges shall be maintained in accordance with the plans and specifications prepared by the applicants, consisting of two plan sheets dated received September 18, 2003, and approved by the Planning Commission on October 13, 2003, except as modified by the conditions contained herein.
 - b. The hedge shall be maintained in accordance with the sight safety triangle established by the Transportation Division, which has dimensions of approximately 17 feet along the face of curb on the Atkinson Lane frontage of the property, approximately 111 feet along the face of curb on the Santa Cruz Avenue frontage of the property, and a hypotenuse running diagonally to connect the first two lines. All hedges within this sight safety triangle shall be trimmed to a height of no more than three feet (measured from adjacent grade) within 30 days of the Planning Commission approval of this item, and shall be maintained at this height in perpetuity.
 - c. The City reserves the right to remove the vegetation within the City's right-of-way at any time. It is the property owner's responsibility to trim and maintain the hedges located within the City's right-of-way.
 - d. Within 30 days of the Planning Commission approval of this item, the applicants shall trim the face of the hedge along Santa Cruz Avenue to remove any portion of the hedge from the City's right-of-way.
 - e. The existing hedges along the left and rear property lines are allowed to grow to a height of nine feet. In addition, if a two-story addition or new two-story home is built on an adjacent lot in the future, the hedges along the left and rear property lines may be allowed to grow to up to 12 feet in height, subject to Planning staff review and approval.

The motion carried 7-0.

3. **Use Permit/Shandy and Paul Dunn/1990 Oakdell Drive:** Request for a use permit to maintain a hedge with a height of seven feet in the required front setback where a maximum of four feet is otherwise required and in the required 35-foot sight visibility triangle where a maximum height of three feet is required.

Mr. Paul Dunn addressed the Commission. He said that their property was located at a unique spot at the end of Santa Cruz Avenue at the juncture of Sand Hill Road. He said that the traffic there was like a freeway. He said that they had not been informed at the time they bought the property that there were any concerns with the hedges. He said that there was a seven-foot high masonry pillar at the front of the property. He noted that twice cars had run into their property. He said that to reduce the plantings from nine feet to three feet would kill the plants. He said that they were requesting that the plantings near the masonry pillar be allowed to remain at nine-feet in height and that they be allowed to have six-foot high plantings at the

Oakdell Drive front of the property to prevent headlights shining into their master bedroom and dining room. He said that there were existing fences that were in disrepair. He said that the sidewalk was elevated above their kitchen nook. He said that there was a six-foot fence with about a one-foot elevation from the sidewalk which allowed people to regularly peer into their eating area. He said to the rear of the property there were two fences that intersect in a triangle. He said that they were requesting that one of those fences be six-foot with a two-foot lattice to provide screening from the storage area and funeral activities at the Holy Cross Cemetery. He said that a neighbor had left a comment card that she supported a nine-foot fence between her property and the Dunns' as the Dunns' pool deck looks down into her living area. He said that their property was unique because of its location next to a heavily traveled roadway. He said that the hedges comply with the safety triangle as confirmed by staff.

Chair Fry said that the staff report indicated that the applicant had requested that the rear fence be eight feet in height. She asked if it was the neighbor who requested the nine-foot height. Mr. Dunn indicated that was correct and that the neighbor's letter of support should be with the staff report. Commissioner Sinnott asked the applicant if the staff's recommendation met his needs. Mr. Dunn said that he believed it did. Commissioner Halleck said that in the front, the plantings were nine-feet in height and appeared to intrude into the triangle. Planner Smith said that the plans showed the plantings before they were trimmed. Commissioner Bims asked how tall the street signs were, noting that the street signs for Oakdell Drive and Santa Cruz Avenue were obscured. Planner Smith indicated that he did not know. Mrs. Shandy Dunn said that the street sign was on only one side of the street and the street curved; she said that she would be happy to trim the oleander that partially blocks the sign. She suggested that perhaps a sign might be installed on the other side of the street as the curve of the street also made reading the sign difficult. Mrs. Dunn read her neighbor's, Ms. Elvira Sidhu, comments. Ms. Sidhu stated that her property was located lower than the Dunn's property and that the Dunns look into her garden. She said that she fully supported the Dunn's request to have a nine-foot fence between her property and their property. She said that her privacy and their privacy would be improved. Ms. Sidhu said that her trees needed to be trimmed, which would further impact the privacy and she restated her support for a nine-foot fence.

Chair Fry indicated that she had spoken with Mrs. Dunn when she visited the property. She asked Mrs. Dunn to confirm that she was comfortable trimming the one oleander that was planted in the setback, but which had grown forward horizontally. Mrs. Dunn said that they would trim it. Mrs. Dunn said that the front of the house was really open. She asked if at the corner of Oakdell Avenue and Santa Cruz Avenue there could be nine-foot plantings to provide privacy from the headlights and fast moving traffic. Commissioner Halleck noted that he has ridden on his bicycle in this area and that it was dangerous. He asked whether the plantings were on the plan or if they were in the area of the brick wall. Mrs. Dunn said that the plan showed the juniper hedge, which was three-feet in height, and the first tree from the corner of Santa Cruz Avenue. She said that between that tree and the corner of Santa Cruz Avenue, they would like some higher hedges. She said either they would plant behind the juniper or take out some of the juniper. She said that shrubs there would not block their front door or the front of their house but would provide protection for the dining room. She said that also there was a bay window in the kitchen and that when standing there, lights from the oncoming traffic shone in the room. She said that those plantings would also help relieve that impact.

Commissioner Pagee said that the ground on Santa Cruz Avenue was uneven. She asked whether the proposed eight-foot tall fence could be measured from the sidewalk so as to get an even surface. Planner Smith said that it could at the Planning Commission's discretion.

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

Motion carried 7-0.

Commission Comment: Commissioner Fergusson confirmed with staff the plantings in the public right-of-way might be required to be removed or the City could remove it at anytime. Commissioner Fergusson said that overall the plan was well done. She asked if the applicant would consider moving the proposed eight-foot fence parallel to Santa Cruz Avenue into the property two feet. She said that would protect them from the possible event that the City might remove the oleanders. Commissioner Fergusson confirmed with staff that the oleander was in the public right-of-way. She suggested to the Dunns that they might want to consider modifications that would move plantings out of the public right-of-way.

Chair Fry noted that the item needed to be continued as there were elements of the proposal that were not noticed to neighbors. Planner Smith said that the proposal had been placed on the November 3, 2003 agenda.

Commissioners Halleck and Sinnott said that they fully supported the proposal.

Commission Action: M/S Pagee/Halleck to continue the project to the meeting of November 3, 2003 to allow for adequate re-noticing of the entire project.

Motion carried 7-0.

Planner Smith reported to the Commission that the applicants for 440 Claire Place have requested to be continued to a future meeting date.

4. **Use Permit/Deborah Rau/1794 Oakdell Drive:** Request for a use permit to maintain a hedge with a height of seven feet in the required front setback where a maximum of four feet is otherwise required and in the required 35-foot sight visibility triangle where a maximum height of three feet is required.

Staff Comment: Planner Smith said that the property was located at the corner of Evergreen Street and Oakdell Avenue. He said that the front of the property was on the Evergreen Street side. He said that the applicant was requesting approval of a use permit to maintain portions of an existing seven to seven and a half foot hedge located within the 35-foot triangular area at the corner of the property as well as within the 20-foot front setback. He said that none of the hedge was in the City's right-of-way.

Questions of Staff: Chair Fry said that she did not see a stop bar. She said that a large tree trunk seemed to be in the safety sight triangle. She asked how the safety sight triangle was established without a stop bar. Planner Smith said that the Transportation Division extended the property line along Oakdell Avenue across Evergreen Street, which established the stop bar. He said that the safety sight triangle was measured six feet back from that imaginary stop bar. Chair Fry said that there was a tree with a large trunk that seemed to be in the sight safety triangle and asked how that was taken into consideration when the sight safety triangle was established. Planner Smith said that trees were exempt from the fence and hedge height regulations, in particular for the corner 35-foot triangle regulations. He said that Transportation

staff person Mr. Baile visited the site and gave his opinion that even with the tree there that the sight safety triangle was adequate.

Public Hearing: Property owner Ms. Deborah Rau, Menlo Park, said that she has lived in Menlo Park for 15 years and bought this property six years ago because she was in the process of adopting a child and wanted to be close to Oak Knoll School. She said that the hedges have been there for at least twenty years as witnessed by her neighbor who has lived there for 40 years as well as by Mr. Bill McClure, who was the previous owner of the property. She said that she was asking to keep the hedges that have been there for 20 years. She said that there was no safety issue as reviewed by the City and that the house was well maintained. She said that the house is an Eichler and the glass faces both Evergreen Street and Oakdell Avenue. She said that the hedges provide protection for a yard for her kindergartner to play in and privacy for their home.

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

Motion carried 7-0.

Commission Comment: Commissioner Pagee said that she found the corner to be neat and clean. She said that when a car travels into Oakdell Avenue from Evergreen Street that attention was required and that one had to look both ways. She said that Oakdell Avenue was a thoroughfare. She said that the proposal was outside the safety sight triangle. Commissioner Fergusson said that the applicant paid to have an analysis done of the safety sight triangle, which determined that the applicants' hedge was not within it. She noted that the placement of the bedroom on the corner made the home unique regarding how to present a friendly face. She said that to lower the hedges to do that would allow the headlights from cars on Grace Lane to shine directly into the bedroom. She moved to approve as recommended in the staff report. Commissioner Sinnott seconded the motion. Commissioner Sinnott said that the home needed protection and she thought that the plan was well done. Chair Fry said that she would prefer that the corner be cut back more but would not require that. Planner Murphy asked whether there was acceptance of the condition that the approval was subject to the attached plans. Chair Fry thanked Planner Murphy for catching that requirement.

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

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 hedge 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 condition:
 - a. The hedge shall be maintained in accordance with the plans and specifications prepared by the applicant, consisting of two plan sheets dated

received September 15, 2003, and approved by the Planning Commission on October 13, 2003, except as modified by the conditions contained herein.

- b. The hedge shall be maintained in accordance with the sight safety triangle established by the Transportation Division, which has dimensions of approximately 8 feet along the face of curb on the Evergreen Street frontage of the property, 40 feet along the face of curb on the Oakdell Drive frontage of the property, and a hypotenuse running diagonally to connect the first two lines. All hedges within this sight safety triangle shall be trimmed to a height of no more than three feet (measured from adjacent grade) within 30 days of the Planning Commission approval of this item, and shall be maintained at this height in perpetuity.

Motion carried 7-0.

5. **Use Permit/ Alex Woo/501 Fanita Way:** Request for a use permit to maintain an existing non-conforming hedge at heights exceeding the four-foot height limit allowed within the front setback, the three-foot height limit allowed within the 35-foot sight visibility triangle, and the seven-foot height limit allowed elsewhere on the property.

Staff Comment: Planner Smith said that the subject property was located at the corner of Fanita Way and Oakdell Drive. He said that the Oakdell Drive frontage was considered the front of the property. He said that the applicant was requesting approval of a use permit to maintain portions of an existing 10-to-15-foot-tall hedge located within the 35-foot triangular area at the corner of the property as well as within the 20-foot front setback. He noted that none of the hedges were within the public right-of-way.

Planner Murphy asked whether the Commission would want to continue past 11:30 p.m. The Commission's consensus was to go later than 11:30 p.m. if needed.

Public Hearing: Property owner Mr. Alex Woo, Menlo Park, said that he was applying to retain his hedge that extends from Fanita Way to the Oakdell Drive side of the house. He said that part of the hedge was within the 35-foot triangle at three feet in height and part of it was in the four-foot setback region. He said that there was a heritage oak that overhangs the four-foot region. He said that the actual right-of-way was nine to ten feet away from the property. He said that his neighbors have said that the hedges have been there for 40 years. He said that the view prescribed by traffic regulations at four feet high and back six feet. He said that his hedge provided a filtered view and were not a safety concern. He said that there were not any complaints from the neighbors and there had been no accidents at the corner to knowledge. Commissioner Fergusson asked why the hedge was 10 to 15 feet high. Mr. Woo said that the plant seems to grow to that height and that it was that height when he moved into the property.

Ms. Maureen Digom, Sausalito, said that she was a landscape designer and had been working with Mr. Woo and his wife. She said that the height of the hedge was important to screen the overhead power lines .

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

Motion carried 7-0.

Commission Comment: Chair Fry said that she would be more comfortable if the area from the corner to the hedge were maintained at three feet in height. Commissioner Fergusson said that the face of the house on Fanita Way was beautiful. She said that some of the hedge does hang into the City's right-of-way as noted on page 3 of the staff report. She said that she would want that part of the hedge trimmed back to the property line. Mr. Woo said that it did not affect the safety triangle and that was why he had not trimmed it.

Commissioner Halleck moved and Commissioner Soffer seconded to approve the project as recommended in the staff report. Chair Fry asked for a friendly amendment to require that the area from the corner of Oakdell Avenue to the hedge be maintained at three feet. Commissioners Halleck and Soffer indicated acceptance of the friendly amendment. Commissioner Fergusson asked if they would accept another friendly amendment to require that the right-of-way be kept clear. Commissioner Halleck accepted the friendly amendment. Commissioner Bims said that the applicant's proposal was for a use permit to maintain the hedge in the 35-foot corner triangle, but staff's recommendation proposed that the hedge be maintained to a three-foot height in the safety sight triangle but did not address the 10-15-foot high hedge. Planner Smith said that similar to the last project that the motion should note that the approval was subject to the plans.

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

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 modified hedge 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 condition:
 - a. The hedge shall be maintained in accordance with the plans and specifications prepared by the applicant, consisting of two plan sheets dated received August 4, 2003, and approved by the Planning Commission on October 13, 2003, except as modified by the conditions contained herein.
 - b. The hedge shall be maintained in accordance with the sight safety triangle established by the Transportation Division, which has dimensions of 42 feet in length along the existing edge of the asphalt roadway on the Oakdell Drive frontage, 19 feet in length along the existing edge of the asphalt roadway on the Fanita Way frontage, and a hypotenuse running diagonally to connect the first two lines. All hedges within this sight safety triangle shall be trimmed to a height of no more than three feet (measured from adjacent grade) within 30 days of the Planning Commission approval of this item, and shall be maintained at this height in perpetuity.
 - c. Within 30 days of the Planning Commission approval of this item, the applicant shall trim the face of his hedges along both the Oakdell Drive and

Fanita Way frontages of his property so that no portion of these hedges are located within the City's right-of-way.

Motion carried 7-0.

6. **Use Permit/ Charlotte Cameron/440 Claire Place**: Request for a use permit to maintain existing non-conforming hedges at heights exceeding the four-foot height limit allowed within the front setback, the three-foot height limit allowed within the 35-foot sight visibility triangle, and the seven-foot height limit allowed elsewhere on the property.

Consideration of the item was continued at the request of the applicant prior to the item being heard at the meeting due to the late hour.

7. **Use Permit/Rosanne Strucinski/155 Yale Road**: Request for a use permit to maintain hedges along the Yale Road and Cambridge Avenue frontages of the property at a height of eight feet where a maximum of four feet is allowed within the front setback, a maximum of three feet is allowed within the 35-foot sight visibility triangle at the corner of the property, and a maximum of seven feet is allowed elsewhere on the property.

Staff Comment: Planner Smith said that the subject property was located at the corner of Yale Road and Cambridge Avenue. He said that the Yale Road frontage was considered the front of the property. He said that the applicant was requesting approval of a use permit to maintain portions of an existing 10-foot-tall hedge at a height of between seven and seven and a half feet both within the 35-foot triangular area of the property as well as within the required 20-foot front setback. He said that the applicant was also requesting approval of a use permit to allow the majority of the hedges within the City's right-of-way along the Yale Road and Cambridge Avenue frontages to exceed these same height limits. He said that the applicant had submitted a packet of photographs and letters of support from her neighbors, which he distributed to the Commissioners.

Public Hearing: The property owner Ms. Rosanne Strucinski, Menlo Park, said that she and her husband had lived at the property since 1967. She said that the residence was built in the 1920's. She said that in April 2003 she received a letter regarding hedge height violations. She said that the 20-foot front setback required would cut into her house. She said that that she contacted the City upon the receipt of the letter and met with Mr. Baile at the property. She said that Mr. Baile specified how she could accomplish a safe corner at the property. She said that she immediately complied with his suggestions and that he recently told her that she had more than followed his suggestions. She said when she met with Planner Smith that he suggested that she apply for a use permit to allow her to keep the rest of her shrubbery at a height to ensure her serenity, the privacy of her garden and the feeling of security in her house. She said that she was requesting approval to keep the hedge height because of the safety, aesthetics and the personal hardship both financial and psychological if the shrubbery were required to be cut back as stated in the ordinance. She said regarding safety that she had made changes as suggested by the Transportation Division. She said that clearing the shrubs on both corners had provided for four-way visibility for all vehicular and pedestrian traffic. She said that there was a stop sign on the Yale Road corner and a speed limit of 25 miles per hour on Cambridge Avenue. She and her neighbors do not recall any accidents on the corner in the 36 years that she has lived there. She said that hedges and fences as high as hers are common in the

neighborhood and contribute to the aesthetics of lush landscaping for which the homes in her area were well known and appreciated. She said that changing the border would decrease its appeal in value. She said that the hedges screen her activities in the house and garden from passersby and noted that her house was closer to the street than others. She said that Cambridge Avenue was a busy street and that the hedges screened the street sounds even though that was not scientifically proven. She said that her neighbors support the keeping of her hedges at the current height. She said that she was alone and on a fixed income. She said that already she has had expenses associated with this request. She said that she also was told that she needed plans, which were an additional expense. She said that she photographed elevations with a line showing where seven feet would be. She said that a landscaper had advised her that it would be an expensive procedure to cut the hedge down to three-feet or to ultimately be removed. She said that therefore she had deferred any additional expense for trimming until the Commission's ruling. She said that cutting the hedges would impact the privacy, serenity and sense of security that she now has with an enclosed corner lots. She asked the Commission to look at her photographs and noted that the first photograph showed the friendly face of her home. She showed other photographs, which demonstrated the seven-foot height and the ambience of the neighborhood. She said that one corner in the area had trees up to the corner that were more dense than her hedges. She expressed concern with the process and suggested perhaps mediation might have been a better resolution.

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

Motion carried 7-0.

Commission Comment: Commissioner Pagee said that she would support staff's recommendation, but that she would like the hedges trimmed to seven feet, which she thought would make the hedges denser. Commissioner Sinnott seconded the motion. Commissioner Fergusson said that she had been seeking consistency in her decision making but that this project made that difficult. She said that driving on Yale Road and trying to determine the safety sight triangle, she said that she had difficulty seeing. She suggested that there needed to be a four-way stop as traffic travels quickly on Cambridge Avenue. She offered two friendly amendments. She said on the Cambridge Avenue side that part of the hedge was in the right-of-way. She said that the base of the hedge was on private property but that the hedge needed to be trimmed to bring it out of the public right-of-way. She said that the applicant had been a contributing member of the Menlo Park for almost 40 years, but that she would like some limit to the height of the hedges on Yale Road, for instance a restriction that it was approved in height as long as the applicant lived there. Commissioner Sinnott said that she would not accept those friendly amendments and called for the question.

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

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 hedge 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 condition:

- a. The hedge shall be maintained in accordance with the plans and specifications prepared by the applicant, consisting of one plan sheet dated received September 24, 2003, and approved by the Planning Commission on October 13, 2003, except as modified by the conditions contained herein.
- b. The hedge shall be maintained in accordance with the sight safety triangle established by the Transportation Division, which has dimensions of approximately six feet along the edge of asphalt on the Yale Road frontage, 22 feet along the edge of asphalt on the Cambridge Avenue frontage, and a hypotenuse running diagonally to connect the first two lines. All hedges within this sight safety triangle shall be trimmed to a height of no more than three feet within 30 days of the Planning Commission approval of this item, and shall be maintained at this height in perpetuity.
- c. Within 30 days of the Planning Commission approval of this item, the remaining hedges on the Yale Road and Cambridge Avenue frontages of the property shall be trimmed to a height not exceeding seven feet, and maintained at no more than this height in perpetuity.
- d. The City reserves the right to remove the fence and vegetation within the City's right-of-way at any time. It is the property owner's responsibility to trim and maintain the hedges located within the City's right-of-way.

Motion carried 6-0-1, with Commission Fergusson abstaining.

- 8. Use Permit/Kina Lamblin/66 Yale Road:** Request for a use permit to maintain a fence along the right side property line at a height of eight feet, four inches and to maintain hedges at a height of ten feet where a maximum of seven feet is allowed.

Staff Comment: Planner Smith said that the property was located in the R-1-U zoning district. He said that the applicant was requesting a use permit to maintain an eight-foot, four-inch-tall fence on the right side of the property. He said that vines have grown up the property owners' side of the fence extending the height an additional three to six inches. He said that the fence exceeds the seven-foot height limit. He said that the applicant was also requesting approval of a use permit to maintain an existing 10-foot tall cypress hedge that runs along the majority of the rear and left side property lines, a portion of the right side property line, and also extends across a portion of the front garden of the property. He said that the cypress hedge also exceeds the seven-foot maximum height limit. He said that a letter was submitted by the neighbors to the rear of the property that they thought an equitable solution would be for the vines to be trimmed to the six-foot four-inch level of the fence, but that they were concerned that this would become an enforcement issue for the City. He said that the staff report describes the additional two feet of fence as a lattice but that actually it was a beam that goes across the top of the fence which runs the length and there was an opening between the fence and the beam that has been covered with vines.

Questions of Staff: Commissioner Sinnott confirmed that the neighbors to the rear were agreeable to the vines remaining as long as they were kept trimmed to the six-four-inch height

and did not obstruct the growth of their trees. Commissioner Fergusson confirmed that the issue was the cypress hedge all around the property and the height of the fence with the beam.

Public Hearing: The property owner Mr. David Mandelbrot, Menlo Park, introduced his wife Ms. Kina Lamblin. He said that they have lived at the property for four years. He said that the application was to keep a hedge and fence at the rear of the property that had been there since they bought the property. He said that both his house and the neighbor's house were built about one foot above the ground and thus a seven-foot fence was not adequately high enough to provide privacy. He said that he agreed with the staff's recommendation that more height was needed to provide privacy. He said that however that the removal of the vine would decrease the height. He said the trees that the neighbor was planting would not grow that quickly and that there would not be a similar level of privacy afforded by them. He said that they tried to solve the problem with their neighbor amicably. He said that they offered to extend the vine the length of the fence. He said that they offered to split the difference with the neighbor to have larger trees planted. He said that the neighbors refused both offers. He said that the neighbor was afraid that the vine would obstruct the growth of trees that would be planted. He said that the Commissioner who made a site visit saw that the vines would not in any way obstruct the growth of trees on the other side of the fence. He asked that they be allowed to maintain the fence and the vine and allow them and their neighbors to enjoy their continued privacy.

Commissioner Sinnott said that the neighbor had indicated that the vine was nubby when trimmed. She said that she looked at the vine and it looked good. She asked what the neighbor's actual concern was. Ms. Lamblin said when the neighbor built his home the past summer that he asked her to not trim the vine on his side of the fence. She said that it became overgrown and then he asked her to trim it. She said that the vine looked woody for a while. Commissioner Sinnott said that it was green and was not woody. Ms. Lamblin said that their gardener trims the vine every two weeks now; he uses a ladder with a special tool that trims on both sides of the fence. Commissioner Sinnott asked if an arborist had said that the vines are choking the growth of his trees. Ms. Lamblin said that an arborist had not said that. She said that the trees next door were cypress and the vine was a very thin potato vine. Chair Fry asked how tall the cypress trees would grow. Ms. Lamblin said that there were larger varieties of cypress, but that the variety on her property and the neighbors grows to about 10-feet and then they need to be trimmed.

Commissioner Soffer said that he did not have a problem with the request for the rear fence and hedge for privacy, but he was concerned with the first twenty foot in the setback where the shrubbery was above four feet in the adjacent property. Ms. Lamlin said that the hedge to the left was the neighbor's. She said that on their side were a lemon tree, a sapling magnolia, and an olive tree. Commissioner Soffer asked if they would keep their shrubbery there under four-feet. He said that he thought he would like that to be a condition. Ms. Lamlin said that would not be a problem. Chair Fry asked if there was a fence there. Ms. Lamlin said that the fence did not extend to the curb. Ms. Lamlin said that she was not sure who owned the fence between the driveways. Planner Murphy said that the area of the driveway was not part of the notification that was sent out to the neighbors.

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

Motion carried 7-0.

Commission Comment: Commissioner Halleck moved as recommended in the staff report. Commissioner Sinnott said that the staff's recommendation would require that the vine be cut back to six-foot four-inches. She said that the vine looked good as it was and she would like to amend the motion to allow the vine to remain as existing. Commissioner Halleck agreed to that change and Commissioner Sinnott seconded the motion as amended. Commissioner Fergusson said that she agreed and that if the neighbor was patient that his trees would grow and he would get the effect he wanted. She said that the cypress trees on the neighboring property were planted between the fence and a wall along the side of the pool which she said may block sun to the trees. Chair Fry said she was concerned with the cypress hedge all around the property as it was an evergreen and she was concerned about it blocking sunlight to other properties. She asked if they would stay at 10-feet and questioned that height as seven-foot was the requirement. Commissioner Halleck said that they could grow beyond 10-feet but that they would need to be trimmed to 10-feet. He asked if Chair Fry wanted to add a condition to keep the hedges at 10-feet. Chair Fry said that the 10-foot height bothered her. Ms. Lamlin said that the two neighbors on either side liked the 10-foot hedge very much. Commissioner Halleck said that there were no complaints about the 10-foot tall hedge. Commissioner Fergusson asked in clarification of the motion whether condition "b" was being eliminated. Chair Fry said that the vine should stay as existing and be regularly trimmed. Commissioner Halleck suggested that staff word the condition appropriately.

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

1. Make a finding that the project is categorically exempt under Class 1 of the current State CEQA Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the fence and hedge 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 condition:
 - a. The fence and hedge shall be maintained in accordance with the plans and specifications prepared by the applicants, consisting of two plan sheets dated received May 27, 2003, and approved by the Planning Commission on October 13, 2003, except as modified by the conditions contained herein.
 - b. The vines growing on the 66 Yale Road side of the eight-foot, four-inch-tall portion of fence shall be trimmed and maintained in the state in which they existed at the time of the Planning Commission approval, such that the vines do not extend more than six inches above the eight-foot, four-inch-tall portion of the fence or more than six inches over onto the 934 Creek Drive side of the fence. The vine shall be maintained to this standard in perpetuity.
 - c. The applicant shall submit a complete building permit application for the fence within 30 days of the Planning Commission approval of this project, and

shall complete any necessary modifications to the fence within 90 days of the Planning Commission approval.

Motion carried 7-0.

D. REGULAR BUSINESS

There was none.

E. COMMISSION BUSINESS, REPORTS, AND ANNOUNCEMENTS

- Commissioner Fergusson inquired about the correspondence from Pollock Financial Group regarding 321 Middlefield Road that was distributed in the Commissioner's packets. Staff explained the developer's interest in the property and why they were no longer going to purchase this property. Chair Fry explained that she had been copied on this letter and that she thought all of the Commissioners should receive this piece of correspondence.
- Chair Fry said that she spoke with the City Manager about complaints about the Planning Commission that have arisen through the residential review ordinance deliberations. She said that many of the properties cited as examples pre-date many, if not all, of the current Commission members. She asked that any concerns about the Commission or Commissioners be raised to the City Manager and/or Chair in order to address them properly.
- Commissioner Fergusson complimented staff on the new location maps, which show property lines and provide a better context of a projects' location.
- Commissioner Fry said that fences and hedges on corner properties was a difficult topic and these applications were handled well under the circumstances, but thought there may be an opportunity to better document the requirements in the future and communicate those requirements to affected property owners to make things safer and streamline the process.
- Staff reported on the status of two upcoming appeals to the Council on October 28, 2003 for 849-851 Cambridge Avenue and 1923, 1927, and 1929 Menalto Avenue.

ADJOURNMENT

The meeting adjourned at 11:45 p.m.

Staff Liaison: Justin Murphy, Principal Planner

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission on April 19, 2004.