



MENLO PARK PLANNING COMMISSION MINUTES

Regular Meeting

April 19, 2004

7:00 p.m.

City Council Chambers

801 Laurel Street, Menlo Park, CA 94025

CALL TO ORDER – 7:00 p.m.

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

INTRODUCTION OF STAFF – Cramer, O'Connell, Thompson

A. PUBLIC COMMENTS

There were none.

B. CONSENT

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 a Person to Person Transfer of Ownership for an Alcoholic Beverage License for Bonsai Japanese Restaurant, 1010 El Camino Real, Suite 140.

Commission Action: M/S Fergusson/Bims to approve as recommended in the 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 by Kim Soon Young, 1010 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 businesses, and that the granting of the applications is appropriate.

Motion carried 7-0.

C. PUBLIC HEARING

1. **Use Permit/Arthur R. Martin/1430 Mills Court:** Request for a use permit to construct an addition to an existing single-family residence on a lot that is substandard in regard to lot width and for additions to an existing legal, nonconforming residence to exceed 50 percent of the replacement cost of the structure within a 12-month period.

Staff Comment: Planner Thompson said that the applicant was proposing to remodel and construct an addition to an existing single-story, single-family residence at 1430 Mills Court. She said that the property was substandard in regards to lot width having a width of 60-feet where 65-feet width was required as a minimum. She noted that the existing residence also

had a legal, but nonconforming left side setback of five feet and a right side setback of four feet, ten inches, where a minimum of six feet was required on each side. She said that the proposal needed approval of a use permit for new construction on a substandard lot and because the proposed addition and remodeling would exceed 50 percent of the replacement value of the existing structure.

Public Comment: Mr. Arthur Martin, A.R.M. Design Associates, San Carlos, said that he was the project designer. He said that the project was to expand a cottage and upgrade features and rooms and open the residence to the landscaping. He said that the owners liked the Spanish style of home and he had designed an eclectic Californian Spanish-style home. He said that they had tried to keep the height down and out of the daylight plane. He said that the wrap-around porch helped make the cupola less tall. He said that all of the larger trees on the property would be kept and protected during construction.

Commissioner Sinnott asked Mr. Martin about the proposed window type. Mr. Martin said that they usually used Munsen's on the outside and inside with separator bars in between and that the proposed windows were simulated true divided light. Commissioner Sinnott said it was indicated that the windows would be metal clad and asked if the windows would be metal. Mr. Martin said that the windows would be wood with metal for protection.

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

Motion carried 7-0.

Commission Comment: Commissioner Fry said that she would be pleased to move approval of the proposal. She said that it was a nice design, had been kept to a nice scale and away from the neighbors protecting their privacy and sunlight. Commissioner Pagee said that she would second the motion.

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

1. Make a finding that the project is categorically exempt under Class 1 of the current State CEQA Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the use permit for the addition and remodel subject to the following conditions:
 - a) Development of the project shall be substantially in conformance with the plans prepared by A.R.M. Design Associates, consisting of eight plan sheets, dated revised March 26, 2004 and approved by the Planning Commission on April 19, 2004, except as modified by the conditions contained herein.
 - b) Prior to building permit issuance, the applicants 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 applicants shall comply with all requirements of the Building Division, Transportation Division, and Engineering Division that are directly applicable to the project.
- d) Prior to issuance of a demolition permit or building permit, the applicants 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 applicants shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
- f) Prior to building permit issuance, the applicant shall submit a revised arborist report that includes dimensions of the holly and privet trees measured below the trunk split. The revised report will be subject to review and approval by the Planning Division.
- g) Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance.

Motion carried 7-0.

2. **Use Permit/Cynthia Beeger/1543 Laurel Place:** Request for a use permit to construct a first floor addition to an existing legal, nonconforming residence to exceed 50 percent of the replacement cost of the structure within a 12-month period.

Staff Comment: Planner Cramer said that the applicant was proposing a ground floor addition and an extensive remodel to an existing residence at 1543 Laurel Place. She said that the existing residence had a legal, but nonconforming front setback of 19 feet, two inches where 20 feet was required; right side and left side setbacks of nine feet, six inches and 10 feet, two inches respectively where 10 feet was required and a rear setback of 18 feet where 20 feet was required. She said that the Zoning Ordinance allowed for additions and remodels to existing legal, but nonconforming structures, up to 50 percent of the replacement value without the need for a use permit. She said that since the proposed additions would exceed 50 percent of the replacement value, a use permit was required.

Questions of Staff: Commissioner Fry confirmed with staff that the existing garage was slightly less than the legal size for two cars.

Public Comment: Mr. Daniel Hackett, the applicant, said that nothing had been done to the home since it was first built in 1954. He said that the living room, kitchen and laundry room would be remodeled and the living room would also have a dining area. He said that they were adding an office and a family room.

Commissioner Bims asked if the applicant currently parked two cars in the garage. Mr. Hackett said that they park one car in the garage and one car in the driveway.

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

Motion carried 7-0.

Commission Comment: Commissioner Fergusson said that it was a lovely design on a very challenging lot and moved to approve as recommended by staff. Commissioner Soffer seconded the motion.

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

1. Make a finding that the project is categorically exempt under Class 1 of the current State CEQA Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be 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 Michael Froehlich, consisting of six plan sheets, dated received on February 12, 2004, and approved by the Planning Commission on April 19, 2004, except as modified by the conditions contained herein.
 - b) Prior to building permit issuance, the applicants 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 applicants shall comply with all requirements of the Building Division, Transportation Division, and Engineering Division that are directly applicable to the project.
 - d) Prior to issuance of a demolition permit or building permit, the applicants 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 applicants shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. 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 building plans shall be modified to eliminate the encroachment of the entry area column into the front yard setback. The revised plan shall be subject to Planning Division review and approval.
- g) Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance.

Motion carried 7-0.

- 3. **Use Permit and Architectural Control/Fred Strathdee/531 Pierce Road:** Request for a use permit and architectural control review to allow for the demolition of an existing single-story building and the construction of an addition to an existing church, resulting in no net change in square footage on the site, and a use permit to maintain an existing four foot fence located in the required 35-foot sight visibility triangle where a maximum height of three feet is required.

This item was Agenda Item C.4 on the agenda but was heard before Agenda Item C.3 regarding 1981 Menalto Avenue to allow time for Planner O'Connell to arrive at the meeting.

Staff Comment: Planner Thompson said that the applicant was requesting approval of a use permit to remodel and construct an addition to the existing chapel. She said that the use permit was required to establish the development regulations and operations of the Church. She said that the Church did not currently have a use permit because a use permit was not required at the time the Church was constructed. She said that the Church was considered a legal, nonconforming use. She said that the Zoning Ordinance established that churches shall have a minimum lot size of 20,000 square feet. She said that the subject parcel has 10,655 square feet. She said that since the proposal would result in an alteration greater than 25 percent of the assessed value of the existing structure, the project required use permit approval. She said that also the applicant was requesting use permit approval to maintain an existing four-foot iron fence, a portion of which was located within the 35-foot triangular line-of-sight area where a maximum of three feet was required. She said that staff visited the site on Sunday morning and found the parking lot was full, but that street parking was available.

Questions of Staff: Commissioner Fergusson confirmed with staff that the Transportation Division had visited the site and looked at the four-foot fence and sight safety was not a problem.

Public Comment: Mr. Fred Strathdee, the applicant and architect, San Carlos, said that the purpose of the project was to improve facilities and rearrange them so that they were more useful. He said that the multi-purpose area would be combined with the chapel building and the chapel would be upgraded. He said that the design would provide additional landscaping and better parking.

Commissioner Fry asked whether the chapel would be re-painted and if the fence between the chapel and an apartment building would be replaced perpendicular to Pierce Road. Mr. Strathdee said that the chain link fence at that location would be replaced with a wood fence. He said that the wrought iron railing provided security. He said that the plaster of the chapel would be removed and stucco would be reapplied to the building.

Commissioner Bims asked whether the remodel would lessen or increase the noise level at the site. Mr. Strathdee said that the removal of the stucco would allow for the installation of sound bats which were not there presently, which would positively impact sound.

Commissioner Pagee asked how late in the evening the chapel would be used. Mr. Strathdee said that the latest activity was 6:00 to 7:30 p.m.

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

Motion carried 7-0.

Commission Comment: Commissioner Fry said that the project was attractive and provided a necessary upgrade. She said that it would add function as well as beauty to the neighborhood. She moved to approve as recommended by staff. Commissioner Soffer seconded the motion.

Commissioner Fergusson said that it was a lovely and needed project. She said that the applicant had mentioned the reapplication of stucco and soundproofing. She asked whether it would be appropriate to add those two items as conditions. Commissioner Bims said that the architect had indicated that their plans included sound baffles. He said that he was not prepared to specify how much the sound level should be improved. He said that he was happy with the answer he had received to his question.

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

1. Make a finding that the project is categorically exempt under Class 3 of the current State CEQA Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Make the following findings, as per Section 16.68.020 of the Zoning Ordinance, pertaining to architectural control approval:
 - a) The general appearance of the structure is in keeping with the character of the neighborhood.
 - b) The development will not be detrimental to the harmonious and order 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.
4. Approve the use permit and architectural control revision subject to the following conditions:
- a) Development of the project shall be substantially in conformance with the plans prepared by F.R. Strathdee and Associates, dated received by Planning on March 22, 2004, consisting of five plan sheets, and approved by the Planning Commission on April 5, 2004, except as modified by the conditions contained herein.
 - b) Prior to building permit issuance, the applicants 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 applicants shall comply with all requirements of the Building Division, Transportation Division, and Engineering Division that are directly applicable to the project.
 - d) Prior to issuance of a demolition permit or building permit, the applicants shall submit a plan for construction safety fences around the periphery of the construction area for review and approval of the Building Division. The fences shall be installed according to the plan prior to commencing construction.
 - e) Prior to issuance of a demolition 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.
 - f) Prior to building permit issuance, plans for on-site recycling and garbage facilities shall be submitted for review and approval by the City Environmental Program Coordinator.
 - g) 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 new electric and communication service lines 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.
 - h) Simultaneous with the submittal of a complete building permit application, the applicant shall submit a Grading and Drainage Plan for review and approval of the Engineering Division. The Grading and Drainage Plan shall be approved prior to issuance of a grading, demolition or building permit.

- i) Prior to building permit issuance, the applicant shall submit plans for on-site recycling and garbage facilities. The facilities shall be covered and protected from roof and surface drainage. The plan shall be reviewed and approved by BFI and the Planning Division.
- j) Prior to building permit issuance, the applicant shall submit a plan for off-site frontage improvements along Almanor Avenue and Pierce Road subject to review and approval by the Engineering Division. Off-site improvement could include, but are not limited to, repairs to curb, gutter, sidewalks, driveway aprons, and paving.
- k) The applicant shall have the flexibility to reconfigure the four parking spaces near the right side property line to be at a 90-degree angle or create additional parking located toward the front property line. The revised site and landscape plans shall be subject to review and approval by the Planning Division.
- l) Prior to final inspection, the applicant shall trim and maintain the shrub located along Pierce Road to be a maximum height of three feet.
- m) Amplified sound or music is prohibited on the patio area located in the northeast corner of the property.

Motion carried 7-0.

- 4. **Use Permit/Ryk Lesser/ 1981 Menalto Avenue**: Request for a use permit to construct a new two-story second unit with access from the alley on a property that is zoned R-2 (Low Density Apartment) and is substandard in regard to lot width.

5.

This item was originally C.3 on the agenda. Also it was heard after F.1 Regular Business.

Staff Comment: Planner O'Connell referred to the handout distributed to the Commission for the project. He said that there were several options for the Commission to consider: an Option One, which was to continue for redesign; and Option Two, to approve with conditions to which he noted that condition "o" had been added since the preparation of the staff report. He said that condition "o" was for review by the Transportation Division of the turning radius and access to the uncovered and covered parking spaces. He said that Option Three provided for a finding of denial which was not included in the staff report.

Questions of Staff: Commissioner Soffer asked what prompted the addition of the third option, noting that in other applications that finding was not made. Chair Halleck said that he had spoken with staff several times regarding the options for this project proposal and it was included here because of the potential for lengthy discussion and possible confusion. Planner O'Connell said that additional items had arisen since the printing of the staff report. He said that Mr. Subbiah, Menlo Park, had addressed the Commission at the April 5, 2004 meeting on the issues of the alleyway. Planner O'Connell said that he had phoned Mr. Subbiah and left him a message asking him if the fence issue to fence off the alley was not resolved if that would affect Mr. Subbiah's support of the project. Mr. Subbiah left a voicemail in response that he would not support the project if the fence issue were not resolved. Planner O'Connell said that an e-mail was received from neighbors who would not be able to attend the meeting and wanted their e-mail read into the record and that they opposed the project. Planner O'Connell said that the

three options were developed because of the procedural questions regarding the alley and the amount of opposition to the project.

In response to a question from Planner O'Connell, Chair Halleck said that the e-mail should be read into the public record during public comment. Chair Halleck said that the City Attorney had been invited for this meeting, but was not available. He said that the City Attorney would attend the Commission meeting in May at which the alley issues would be discussed. Planner Cramer said that currently the City's policy was to staff Commission meetings with only planning staff. She said that staff had had numerous discussions with the City Attorney regarding the proposed project and should be able to answer the Commission's questions. Commissioner Soffer said that the Commission did not know the context of those discussions. He said that any information from those discussions would only be given if the Commission had a question on something that had been discussed. Chair Halleck said that if the project could be continued or denied if the Commission did not feel there was enough information provided.

Commissioner Fry said that the proposal indicated that there would be a fence installed between the front unit and the back unit. She asked if that constituted the beginning of an ability to subdivide the lot. Planner O'Connell said that the lot could not be subdivided as it would have to meet the minimum standards for an R-2 lot. He said that what was common in the R-2 zoning district was for two condominiums that would have either common or dedicated outdoor space. He said with this project's configuration that outdoor space would be dedicated space. Commissioner Fry asked if there were to be a condominium subdivision later for this lot whether there was a way to calculate the percentage of landscaping that would be in each part. Planner O'Connell said that the percentage of landscaping could be calculated for the full parcel. Commissioner Fry asked whether the landscaping included stepping stones and driveways. Planner O'Connell said that it did not. He said that the footprint, including porches in most instances and anything that could be driven on, was subtracted from the total lot size.

Commissioner Fry said that there was a heritage tree and a utility pole in the alley behind the subject property. She said that there was another utility pole further down the alley that she thought was supposed to be removed as a condition of approval for another project the Commission had considered recently. She asked about the status of the utility poles. Planner O'Connell said that the applicants for this project were proposing to leave the utility pole as located. He said that previously the City had required underground utilities for new construction, but currently could not require that because of a court case finding regarding that requirement in another city in California. Planner O'Connell said that most of the heritage trees that might be impacted by construction had been discussed in the arborist's report. Commissioner Fry said that her question was about the heritage tree in the alley that might be affected by paving. Planner O'Connell said that there was a condition that the arborist's report would have to be revised if the paving were increased in width. Commissioner Fry said that utility poles in the alley seemed to constrain access by emergency vehicles and asked what would trigger the relocation of those to allow for better emergency access. Planner O'Connell said that in the past there was a fairly simple engineering condition for an applicant to improve the alley up to the point of entrance into the property to allow for an all-weather surface. He said that previously that condition was for a 12-foot wide paved area. He said that discussion with the Fire District indicated that a 15-foot width was desired, but that the matter was not resolved. Chair Fry suggested the issue of required paved width be included in the consideration of alleys for the May meeting. Chair Fry said regarding the subject property that if the utility pole remained as located it appeared that the wires to the front structure would be interfered with by the proposed rear structure. She asked how that would be handled if that were the case.

Planner O'Connell said that the Engineering Division reviewed such things and if there was interference, they might require underground utilities or the rerouting of the existing above ground utility lines.

Commissioner Sinnott said that it was indicated that there could not be parking in the front or side setbacks. She asked whether the parking at the front of the unit was considered the rear setback. Planner O'Connell said that was correct.

Commissioner Fergusson said she recalled that the Commission's approval for 128 Elm Street on this alley included a condition of approval that the utility pole had to be relocated. Planner Thompson said that there had been a condition that the applicant would work with PG&E to have the pole moved and the pole was on PG&E's list to be moved. Commissioner Fergusson said now the project had been approved that the City no longer had a legal way to insure that that pole was moved. She said because the alley was so narrow that condition had been a critical part of the approval. Planner O'Connell said that there were two issues: the one being the new law that underground utilities could not be required and the other that the applicant for 128 Elm Street wanted the pole to be removed and was still trying to get the power pole removed. He said that if it became apparent from further discussions that the Fire District would require 15-feet of width to access any property along the alley that there would have to be a tolerance of width determined that the Fire District would accept in those instances in which there were existing utility poles. Chair Halleck said that fire sprinklers were required and asked if that would meet the requirements of the Fire District. Planner O'Connell said that it would. He said that if there was not a fence on the property, the Fire District's requirements would be met as long as there was an accessible 50 feet for the water hose to run from the street to the subject property. He said that could be met measuring from the subject property to Walnut Street.

Commissioner Fergusson said that Mr. Subbiah had commented two or three times on his access agreement and asked if one was required for this project. Planner O'Connell said that a maintenance agreement was one of the conditions of approval for this project. Commissioner Fergusson asked if there was a precedent for the City taking a lead in resolving the questions of ownership and maintenance of alleys or in acting as a mediator to obtain a maintenance agreement. Planner O'Connell said that he believed that because of requests made from the property owner of 104 Elm Street that the Council would address the issue, noting that the Council considered a matter at the request of the community or if the matter was on the Council's priority list. He noted that alley issues were not on the Council's priority list.

Commissioner Bims asked whether the City could do anything to police parking in the alley. Planner O'Connell said that he did not know. Commissioner Bims asked if a car was parked in the alley whether there would be space to get past the car with another vehicle. Planner O'Connell said that was highly unlikely because of the vegetation in the alley, but he would expect that the City would get a call for the police to remove the car.

Commissioner Pagee asked how the City could ticket a vehicle in an alley that the City did not own. Planner Cramer said that was a topic that could be added to the upcoming discussion on alleys. She said that she had asked the City Attorney about that issue and it was indicated that there were many reasons why a vehicle might be ticketed. She said the City Attorney had also indicated that this topic was not relevant to the proposed project and would be better considered at the study meeting on alleys. She asked if the Commission would provide her with their lists of issues regarding alleys to begin the preparation of the agenda packet for that study session.

Commissioner Fry said it appeared that a condition of approval for this project was that the applicants would either have to take responsibility for maintenance for the section of alley behind the property or they could persuade other property owners on the alley to enter into a maintenance agreement with them. She asked if no one else were willing to join the applicants in a maintenance agreement who would be responsible for the maintenance. Planner O'Connell said that it would be the applicants' responsibility. Planner Cramer said that the City would limit the area of improvement for the alley to the segment of alley along the subject property and that access would be required from one end or the other of the alley.

Commissioner Fergusson asked whether the residents along the alley owned a portion of the alley. Planner O'Connell said that the County Assessors' records were clear that the property owners did not own a portion of the alleyway. Commissioner Fergusson asked if the applicants were responsible for the alley because their property was adjacent to the alley. Planner O'Connell said that because the applicants wanted access from the alley there was a requirement that the applicant had to show that they would be able to maintain that access.

Chair Fry noted that the base flood elevation for the project site was 31.1 feet and that staff recommended that the structure needed to be raised and would make the finished floor higher. She asked if that meant the side walls would have to be higher. Planner Cramer said that the floor to ceiling heights could be adjusted so that the proposed overall height would not increase. She said that staff could not comment on that without revised plans. She said that she believed the applicant had had a discussion about that requirement with the Building Division. She said that there were alternatives to maintain the currently proposed height of the structure.

Public Comment: Mr. Ryk Lesser, the applicant and project designer, a resident of Aptos, said that he had been hired by Michelle Harbottle and Hossein Razavi to design a second residence on their R-2 lot. He said that he wanted to comment for the record regarding the inclusion of the porch in the total square footage as it was excluded from FAL by City ordinance. Planner O'Connell said that the porch was not counted toward FAL and was included in the total square footage of the proposed residence. Mr. Lesser said that the property owners had lived at the property for six years and bought the R-2 property with the hope that some day they would develop it. He said that they had looked at various design alternatives to make the most of the limited land behind the existing house and had looked at the neighborhood for characteristics and development patterns. He said that the photographs being distributed to the Commission would support his statements. He said that the neighborhood was eclectic and there was no binding architectural style or use, noting Exhibit 1 showed a variety of uses including a massage business, duplexes, a market and single-family homes. He said that their proposal for the second residence at the rear of the property was not inconsistent with existing structures in the neighborhood and noted Exhibits 3 and 3.A. that showed houses in the neighborhood that have second houses with second floors with access from an alley. He said that the initial design had been too large; the design was now reduced by 10 percent. He said that the design conformed to various codes and regulations except for sprinklers and overall height, which he would address later. He said that they designed a second story to keep as much green area about the house as possible. He said that the walls of the second story were stepped back from the perimeter walls to reduce mass and the resultant percentage for landscaping was 55 percent while the City only required 40 percent landscaping. He said that the City had some concerns with a lack of similarity in appearance between the existing structure and the proposed structure. He said for the proposed residence that they had selected horizontal siding along the base of the structure to broaden the overall visual look. He said that the existing structure had stucco and shingles. He said that they were willing to use shingles instead of siding if that

would be preferred. He said that Exhibit 4 showed the existing house. He said that there was a new home being completed to the east of this property, which was two-story but was situated to the front of Menalto Avenue. He said that this project as proposed was located toward the back of the lot adjacent to the alley. He said that the closest home adjacent to the proposed project was the existing residence on the lot in which the applicants now live. He said that there were really no other immediately adjacent homes and the house would not crowd any existing structures. He addressed the issue of shadow. He said that there were two 40-foot tall with 40-foot crown oak trees; one was adjacent to the subject property and the other was in the alley. He said that the trees threw a much larger canopy over the alley and the adjacent property than any shadow that might be caused by the proposed residence. He said that the only shadow that could be projected by the proposed residence was on the existing residence owned by the applicants. He addressed the issue of height. He said that through a recent discussion with a City Building staff person he realized that he had through error mislabeled some of the adjacent grades. He said that staff and he discussed a solution. He said that the plans showed a raised floor which required an 18-inch crawl space underneath the house. He said that one of the ways to minimize any addition to the height of the house was to replace the raised floor design with a slab on grade floor design. He said that the grade shown for the finished floor was 29.8-inches. It needed to be 31.1-inches to meet the base flood elevation requirement. He said that the easiest way to do that would be to change the floor to slab on grade and raise it four inches. He said that would make the overall height of the house no more than 23.8-feet rather than 23.2-feet. He said that the staff report had indicated the overall height of the house would have to go up two feet. He said that he thought that could be avoided and that 23.8-feet would be significantly smaller than the adjacent two-story residence's height and significantly lower than the permitted height which was 28-feet. He said that the applicants were willing to pave the alley as per staff recommendation. He said that they were willing to sign a maintenance agreement for the paving of the alley from the back of their lot to Walnut Street. He noted that currently there was lot of vegetation and debris in the alley. He said that the proposed project was within all of the parameters of the zoning ordinance and building regulations, except for the additional requirement for fire sprinklers. He said that there were other things that they could do, and would do, to make the project more palatable to the City in regards to placement on the lot. He said that staff noted that the lot seemed congested. He said that they could move the house to the north and swap the setbacks, which would create a larger side yard. He said that they could eliminate the fence between the two properties if that were an issue. He said that in the front paved area in which they were required to provide a second parking space, they could install semi-permeable pavers to lessen the hardscape effect. He said that they were willing to consider any other reasonable request. He urged the Commission to choose "Option Two" and allow the project to proceed.

Commissioner Pagee asked about the cross-hatched areas on sheets A.1 and A.2. Mr. Lesser said that indicated a garage and shed that would be removed. Commissioner Fergusson asked whether they had considered the option to add a second story to the front unit and build a one-story residence in the rear of the property. Mr. Lesser said that was not proposed within the scope of his work and he did not know how cost-effective it would be to retrofit the existing structure.

Commissioner Fergusson asked if the width between the existing residence and the side property lines was sufficient for a driveway. Mr. Lesser said that the distance for one side was eight-feet which was not sufficient and that he had not measured the other distance between the house and property line. He said that they had not considered installing a driveway there.

Planner O'Connell said that if one were facing the house from Menalto Avenue that the left side setback was 10-feet in width and that was the minimum required width for a driveway.

Commissioner Bims said that Mr. Lesser had indicated that the applicants were willing to pave the alleyway from the property line to Walnut Street and asked if the applicants were willing to maintain the vegetation. Mr. Lesser said that he thought a maintenance agreement would entail keeping the alleyway clear of debris and overgrowth. He said that some of the overgrowth was located on other properties but that probably the portion of that overgrowth that came into the alleyway could be maintained. He said that the other end of the alleyway was paved from Elm Street within two properties of the subject property. He said that he understood that the owners of those two lots were considering a similar development to their lots and potentially the alley would be fully paved at some point.

Commissioner Fergusson asked about the construction staging plan and the location of stored materials as the alleyway was somewhat constrained. Mr. Lesser said that the alley would probably have to be the access for construction materials drop-off and that the alley was not accessible to Walnut Street now because of debris. He said that some clearing and grading would need to be done for access. He said that if the alley were used occasionally for trucks to drop off materials that it would not affect anyone's ability to use the alley as it was not accessible in its current condition. He said once that process was done then the paving would be done, as the trucks would damage the paving. Commissioner Fry asked about the construction workers' vehicles. Mr. Lesser said that those trucks should park on Menalto Avenue. He said that if he were writing the construction staging plan he would include a requirement that there would be no parking in the alley.

Ms. Michelle Harbottle, property owner, said that Planner O'Connell had brought up two issues that she would like to address. She said that he mentioned a letter to be read into the record. She asked Planner O'Connell if that letter was from the Quilliams. Planner O'Connell said that it was an e-mail from the Quilliams. Ms. Harbottle said that Planner O'Connell had characterized the e-mail as a statement of opposition to the project. She said that the Quilliams had provided her with a copy of the e-mail and she would not characterize the letter as opposing the project. She said that the e-mail indicated that the Quilliams were supporting the construction of a residence in the rear but had some concerns with the height of a two-story structure. She said that Mr. Subbiah had written that he supported a two-story residence at the rear of the property. She provided the Commission with a written statement. She said that she and Mr. Razavi have lived at the front property for six years as a family. She said that they want to build a rear residence in which to live and that they planned to rent the front residence. She said that there was another letter of support from their new neighbors at 128 Elm Street. She said that the property area was described as the Willows but that Menalto Avenue was its own neighborhood within that larger neighborhood. She said that Menalto Avenue as described by Mr. Lesser was an eclectic neighborhood that included cottages, duplexes, two-story homes and a commercial center. She said that this description of the neighborhood was omitted from the staff report. She said that she found another staff report for 1989 Menalto Avenue and the neighborhood was described as a developed mixture of single-story and two-story residences and contained a variety of architectural styles. She said that a copy of that staff report was attached to her written statement. She said that she and her husband believed that their proposed residence was definitely compatible with the neighborhood. She said that for 1989 Menalto Avenue a second-story home was approved next to two adjacent properties on which there were one-story homes. She said that their proposal was much more modest in scale and scope than that project and should be found to be compatible as well. She said that they believed their project

should be approved as they were helping to maintain the character of the neighborhood by leaving their existing home intact; they were adding to Menlo Park's inventory of housing to make it possible for another family to move to Menlo Park; and that their project would add to the value of the property and the neighborhood. She said that she wished that she could have presented the Commission a neat package with regard to the neighbors, but unfortunately although she tried to meet with all of the neighbors especially the neighbors adjacent to them that one neighbor had a continued objection to the project. She said that in terms of the alley access that most of the neighbors were supportive of their plan to make the alley accessible from Walnut Street. She said regarding the second floor that the neighbors on the alley supported the two-story structure. She said with respect to any issues of the second story and interference with the view of the skyline or trees, she had found through research that there was no legal right to a view in the absence of a city ordinance. She said that as far as she knew the City did not have such an ordinance. She said that she hoped the Planning Commission would objectively focus on the facts presented and not be swayed by emotional appeals. She said that she believed that the proposed project would have a positive impact on the neighborhood. She said that while she empathized with those who did not support the project, when the equities were weighed that the balance tipped heavily toward the granting of "Option Two" and approval of their application. She said this would allow them to fulfill their dream of building their home and someday watching from their porch their children play in the yard. She said that their property was zoned R-2 and the precedents for adding a three bedroom and two-bathroom house at the rear of the property existed at 128 Elm Street and 144 Elm Street. She said that although staff recommended Option One to continue the proposal that this would cause a financial hardship and a delay. She noted that they had submitted two prior redesigns; the first which reduced the square footage by 50 feet and the second which incorporated the suggestions made by Planner O'Connell. She urged the Commission to adopt Option Two. She said that in respect to the parking that the City had issued permits for the garage conversion and hoped the city could locate the permits. She said that they have plans marked "Approved Job Copies" for work done on their home that were stamped by the City's Building Division for permit numbers A20877 and A17807. She said that she went to the County of San Mateo in search of the building permits and found out that they were being taxed on 1,320 square feet of living space which included 250-square feet for the garage conversion. She said the County indicated that the normal procedure was the City forwarded permits to the County and the County determined whether to assess additional charges. She said that if the County was charging them on the conversion that it must be considered permanent. She said that the parking for the existing structure had been in existence since the 1980s and for the last six years the parking had served them adequately. She requested that the Planning Commission allow the parking to remain pursuant to zoning ordinance 16.80.010. She said that she had a copy of the alley maintenance agreement for the four neighbors who lived on the alley, none of whom were the property owners on Central Avenue.

Commissioner Soffer noted that Ms. Harbottle had talked about the zoning and what was permitted by the zoning. He said that it was a discretionary process and not an entitlement process. He said that the Commission considered many factors on every application.

Commission Fry asked about the fence between the two properties and Ms. Harbottle's comment about wanting to have a larger family at some point. Commissioner Fry said that she thought the fence would constrain the rear area. Ms. Harbottle said that she did not recall where the fence had come into play but that conversation with their designer suggested that they ought not to remove the fence. She noted that there was a park nearby for a play area.

Ms. Diane Mavica, Menlo Park, said that it was her home that had been referred to by Ms. Harbottle. She said that the height it was built to was a requirement because of the flood zone. She noted that she lived next door to the proposed project. She said that this was very difficult as the situation was confrontational and she and her husband did not want to make enemies with their neighbors. She said that Ms. Harbottle and Mr. Rasavi had tried to accommodate the neighbors. She said that they had made attempts to talk with her and her husband but because they had just moved into their home and had relatives visiting that their discussions had been limited. She said that their concerns were the same as submitted in their letter of February 28, 2004 to the Planning Division. She said that a few years back the applicants had indicated that they were going to someday build a home on the rear of the property. She said that she never dreamed it would have been a two-story. She said that if she had known that they would have moved rather than rebuild. She noted that their two-story home was built on the front of the lot and that a two-story home on the back lot was unprecedented on their block. She said that their issues were privacy and a reduction of property value. She said that they would prefer if the access to the alley would be from Elm Street as they did not want their section of alley paved. She said that they had oriented their home to look out at the back and not onto the busy Menalto Avenue side. She was concerned that if the alley were completely paved that her home would then front on a busy street. She said regarding the responsibility to maintain the alley that when her husband bought this lot there was a document that stated the lot was 50-feet by 150-feet. She said that when the plot map for the new house was done it showed the lot was 50-feet by 146-feet. She said that indicated that at some point a part of the alley was owned by the property owner. She asked the Commission to consider their position to keep the alley in its natural state and that access to the subject property should be from Elm Street. She apologized for any disappointment that they had afflicted on the applicants.

Mr. Hossein Rasavi, property owner, said that he was concerned with the proposal that they should go a quarter of a mile to provide access from Elm Street when the distance for access from Walnut Street was just 600 feet. He said that the neighbors at 1989 Menalto Avenue had used the alley for debris and materials storage when they improved their home. He said that he was a mortgage broker and had refinanced three homes on that block. He said that he had not seen in any of the title reports that any lot was larger than what it was. He said that if there was a document indicating private property ownership of the alley that he would like to see it. He said that the staff report indicated that there was an awkward positioning of the front door on the porch. He said that the porch had been designed, as a functional porch and that there were photographs of other porches in the area that were the same. He said that porches were meant to be used and not as just a walkway to the house. He said that they had submitted a letter and photographs to show how bad some of the alleys were because of garbage, debris and vegetation. He said that their neighbors the Quilliams had called the City out more than once to have garbage or debris removed from the alley. He said that there did not seem to be a problem for utility vehicles to get to properties along the alley and that there should not be a problem for their parcel with access from Walnut Avenue. He said that the utility pole behind their lot was similar to another behind another lot. He said that those poles have not caused an access problem for utility trucks. He said that the neighbors at 1989 Menalto Avenue had done underground utilities. He said that the neighbors had indicated that part of the alley was owned by them which would suggest that he and his wife also owned the same portion of alley. He said if that were so, then their neighbors should have requested permission to install a utility box behind his and his wife's property. He said that he and his wife like the neighborhood as much as the neighbors did. He said that although they did not have kids yet, he knew families who were happy to live in condominiums without any play area for their children. He said that the

issue of the size of the play area was a personal decision. He said that their lot was zoned R-2 and that two residences on the lot, whether one- or two-story, were legally allowed.

Ms. Jennifer Dahmus, Menlo Park, said that she lived in the home directly across the alley from the subject property. She said that she had reviewed the staff report and had some additional concerns to add to those presented in the staff report. She said that she would support Option One for a continuation so that more detailed information could be collected so that the Planning Commission could make the best decision for all involved. She said that the scale and location of the proposed residential unit was not compatible with the Willows neighborhood and the location presented privacy concerns to their property. She said that the applicants' efforts to reach out to the neighbors were appreciated. She said however that in the Willows there was no precedent for a two-story home with sole access from the alley. She said that a two-story unit at the front of the property would be compatible with the character, scale and development patterns of the Willows. She said that the only two-story unit off an alley had driveway access from Menalto Avenue. She said that there was very limited precedence for rear units in the Willows. She said that there were only two homes and they were both single-story. She said that this unit in its placement and having sole access off of the alley was incompatible with the current development patterns in the Willows. She said that her concerns regarding privacy stemmed from the placement of a two-story residence at the rear of the property and from the resultant traffic that would generate in the alley. She indicated a photograph of their property which had been circulated to the Commission that demonstrated how the view from her backyard would be substantially obstructed and the sunlight blocked with the construction of a two-story structure at the rear of the subject property.

Commissioner Soffer asked Ms. Dahmus to mark where her property was in relationship to the subject property.

Ms. Dahmus said that she was not categorically opposed to a two-story and that the two-story at 1989 Menalto Avenue did not compromise the privacy of adjacent neighbors. She said that currently the alley was only lightly used by pedestrians. She said that although the potential increase in traffic might not be significant, still there would probably at least two cars entering and leaving the alley several times a day. She said that she was expecting and that she and her husband did not want to worry about their children playing in the backyard and being exposed to car exhaust. She said regarding these concerns and what was outlined in the staff report, that there were five issues that needed to be addressed prior to moving forward on a decision for the project. She said that a preliminary grading, drainage and paving plan for the proposed improvements to the alley was needed as well as a revised arborist report based on that plan. She said that one of the heritage trees, number six in the staff report, was on their property and that they were concerned with the use of asphalt in the alley and how that would impact the tree. She said that the arborist's report was based on the use of decomposed granite in the alley, which would allow air to the tree's root structure. Ms. Dahmus said that that there should be an accurate representation of the proposed finished floor and building height in relationship to the existing and finished grades. She said that the use of story poles might help everyone understand the height of the proposed structure. She said that as a rough proxy that the fence, as shown in the photograph, on her property was six feet and the structure was proposed at almost 24-feet in height. Ms. Dahmus said that additionally there should be a construction staging plan, a shadow casting study to assess the impact on surrounding properties, and lastly a resolution as to the ownership of the alleys. She said that they were concerned with the compatibility of a two-story structure at the rear of the parcel with the neighborhood, and privacy. She said that there were too many unresolved issues at this stage

for the Commission to make a fair and well-educated decision. She said that they supported continuance.

Commissioner Soffer said that the fence on Ms. Dahmus' property was closed with no gate and would not present a safety issue for children. Ms. Dahmus said that they had discussed replacing the fence and installing a gate. Commissioner Fry determined that Ms. Dahmus' property was R-1-U.

Recognized by Chair Halleck, Mr. Rasavi said that Ms. Dahmus kept referring to "we" and that her husband was Justin Murphy, Principal Planner for the City of Menlo Park. He said that the photograph she took was directly of his property and that it should have been taken slightly to the left as it did not show the two-story house and any of the foliage. He said that the tree she was concerned about had moved to the alley when she and her husband fenced their property behind the tree. He said that the distance between their home and his proposed project was 55-feet and adequate. He said that Mr. O'Connell had suggested decomposed granite for the alley, but that was changed to asphalt in the staff report that was mailed.

Planner O'Connell read the Quilliams' statement as requested by them into the record.

We live directly next to 1981 Menalto Avenue and we have lived here for 14 years. We have a beautiful backyard with trees and plants that our 1st and 5th Grade daughters use for playing and we use to relax after work and on weekends. We do not oppose a single level unit on the back of 1981 Menalto Avenue. If a two level unit is built, we are concerned about the height of the structure and want to ensure that it does not significantly block our view of the surrounding trees and sky. We feel that a tall two-story addition to the back yard of 1981 Menalto (similar to the height of 1989 Menalto) would compromise the natural and serene neighborhood feeling that we have now and which is why we chose to live in Menlo Park.

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

Motion carried 7-0.

Commission Comments: Commissioner Sinnott said that her main concern was that the backyard as proposed was cramped and not livable. She said that she was not as concerned about the two-story residence as there were other two-story homes in the area. She said that the parcel was zoned R-2 and the applicants had a right to develop their property. She said that she thought the project could have been designed better to provide more usable yard space and that she would want the parking to be conforming. She suggested that the fence proposed between the existing and new residences be removed to create more common space. She said that she supported "Option One" to continue and that staff had made good suggestions for issues that had been raised.

Commissioner Bims said that though the proposed project was in a R-2 zoning which allowed for a second residence and for it to be two-story, he was concerned that the lot was only 50-feet in width and the zoning ordinance required a minimum of 65-feet in width. He said that the width made it impossible to access the rear property from Menalto Avenue. He said that the only access possible was from the alley and that there were some major unresolved alley issues. He said that potentially the alley could be entirely paved, which would increase traffic significantly and that this proposal would be one step closer to a fully paved alley. He said that

parking problems in the alley could arise and it was unclear whether the City could enforce those problems. He said that he liked what the architect had said about swapping the left and right side setback dimensions to create more open space. He said that he would prefer Option One.

Commissioner Pagee said that the City of Menlo Park did not have a definition of what was allowed or not allowed on alleys. She said that before the Commission moved ahead that she would like more clarification on alleys. She said that she would support Option One until the Commission had more information, but that she would encourage the applicants to access the rear unit from Menalto Avenue, which would allow them to have a yard behind their home. She said that she would prefer that the rear unit be one-story and the front residence be two-story to allow for open space for both residences and to provide privacy for all of the R-2 lots on the block. She said that this proposal would set a precedent and that the existing most recently developed houses in R-2 were single-story. She said that although those developments were crowded that they had been done nicely and did not invade the privacy of the R-1 lots across the alley. She said that she would prefer Option One for a redesign to provide for more yard for both units and options to build the two-story residence in the front of the property and provide access from Menalto Avenue.

Chair Halleck said that he liked the Craftsman-type design for the proposed home; that there were not many windows on the sides of the proposed two-story residence; and that one parking space had been pulled off the alley. He said that in general the alley was not an issue for him for this project. He said that there were alley issues that needed to be resolved outside of this project such as thru-traffic and maintenance agreements, but that people coming together to resolve these issues was not part of this project. He said that he did not think the generation of traffic resulting from the project was of significance. He said that he had concerns with parking and the use of the alley. He said that as the rear residence would be the primary residence there would be occasions when guests would park there. He said that he had concerns with the proposed access to the rear unit. He said that there had to be a better integration of both units and living spaces between them as the general use of these parcels was not as intensely developed as multi-unit parcels. He said that there was a conflict between the areas zoned R-1 and R-2 along the alley. He said he had difficulties with how congested the proposed design was.

Commissioner Fergusson said that two of the neighbors' letters indicated that a fence should be placed either across the middle or end of the alley and asked if the City Attorney had addressed that matter. Planner O'Connell said that the City Attorney had and the Commission could not require a fence in the alley as it was private property. Commissioner Fergusson said that the Hilbert and Subbiah letters indicated that they were opposed to the project unless there was a fence in the alley. Planner O'Connell said that he spoke with Ms. Hilbert and that she would not be opposed to the project if the fence did not go up; he said that Mr. Subbiah would be opposed to the project if the fence were not put up unless access to the proposed rear unit was from Menalto Avenue. Commissioner Fergusson said that she had an issue with the alley as there was a fundamental disconnect between the R-2 zoning and the infrastructure that could support it. She said that there were no engineering standards for the alley. She said that she would have never approved the 128 Elm Street project if she had realized that there was not a legal requirement for the utility pole to be removed. She said that there was a question of whether there was a 12- or 15-foot width requirement for the Fire District. She said that there was uncertainty about the ownership of the alley and enforcement rights in the alley. She said there was a crime problem including an armed robbery at the La Hacienda Market and there was a

question as to whether this alley was used for the get away. She said that these issues with the alley had to be resolved before there could be approval of development in the rear of the R-2 properties. Commissioner Fergusson said that there was also the issue of neighborhood compatibility and this proposal was outside of that development pattern. She said that there was one other two-story in the rear of the R-2 on this block and that it was an old structure and was a tear down. She said that the Commission's decision should not be based on its existence as it was there before the area was annexed to Menlo Park. She said that there were the issues of privacy and livability. She said that the Commission looks to the north when considering a two-story structure as that was where the shadow would fall. She said that no shadow study had been done and the Commission had heard that the property to the north of the proposed project would suffer a loss of value because of the project. She said that there was obviously a privacy impact to two or three properties. She said that given the weight of all these issues that she preferred to deny the project.

Commissioner Soffer said that his concern with Option One was that the redesign would not resolve the problems. He said that he thought that either the zoning was wrong for the area or that the house was too much of a house for too small of a space as noted by Commissioner Sinnott. He said that he would support Option One with hesitation.

Chair Halleck asked Commissioner Soffer if Option One did not permit a two-story house on the rear of the property if that would be acceptable. Commissioner Soffer said that would be preferable. He said that an option for a lot like the subject property would be to demolish the existing house and build a larger house with a good size yard and keep it as a single-family lot. He said alternatively that the driveway could come in from Menalto Avenue and that two structures could be located along that driveway. Chair Halleck asked if access was possible from Menalto Avenue whether a two-story would be appropriate. Commissioner Soffer said that it would be, but he was looking for consistency. He said that there was a problem putting a two-story in the back of a small lot.

Commissioner Fry said that it was unfortunate that there was not a policy, standards or guidelines regarding alleys and the interface between R-1 and R-2 zoning. She said that she looked at the project through a combination of safety, privacy, sunlight, livability, and compatibility concerns. She said that there were enough questions raised and enough things not right with the design such as grading plan and impact on heritage trees that concerned her. She said that the utility poles raised safety concerns. She said for privacy issues that the Commission would normally look at mitigating impacts. She said that she was leaning toward Option One, but would want a landscaping plan or provision that provided screening for neighbors with vegetation that was mutually agreeable. She said that there was the question of sunlight; she said that story poles or a shadow study would be helpful. She noted that the impact might be more on the property across the alley. She said that she would prefer to have the mass of the structure moved forward on the property. She said that she also was concerned about the livability of the lot. She said that under Option One that she would want complete plans as suggested such as a grading plan and an additional review by the arborist based on that plan. She said that she hoped that the driveways would be paved with semi-permeable materials and that landscaping screening and construction staging plans would be required. She said that much effort had been expended for the plans but that they did not seem to work for such a narrow lot.

Chair Halleck said that there seemed to be overriding support of Option One. He asked if there was a desire to have a condition that a two-story residence would only be allowed at the front of

the parcel or that a second-story residence might be allowed at the rear of the parcel if there was access from Menalto Avenue. Commissioner Soffer said that he would like to see what redesign the applicants would do.

Chair Halleck made a motion for approval of Option One to include all of staff's recommendations as well as the Commission's recommendations for a grading plan, semi-permeable surface, construction staging plan, landscape screening to address view and privacy, and that there be no two-story residence on the rear of the property. Commissioner Pagee seconded the motion.

Commissioner Fergusson said she thought that the most expeditious thing for the applicants would be for the Commission to deny the project and let the applicants appeal to the Council, which hopefully would resolve the alley issues.

Commissioner Bims said that he originally supported Option One, but because of Commissioner Soffer's comments, he was now concerned whether any of the issues would be resolved through a redesign. He said that access from Menalto Avenue was not possible and why put the applicant through the extra work of Option One.

Commissioner Pagee said that under Option Three that the Council could approve the project without taking into consideration any of the issues regarding the alley, privacy and the design. She said that the applicants could also appeal a continuation.

Chair Halleck said that he was trying to tighten Option One so that a two-story was not possible in the rear. Commissioner Soffer said that he was concerned with the design not being right and said that perhaps it was best for the project to come back after redesign.

Commissioner Fry said that if there was a two-story structure that there should be a shadow study. She said that a structure this size made the rear unit the primary residence and she would prefer a cottage-type unit in the back.

Commissioner Fergusson said that it was expensive for the applicant to go through another design reiteration and suggested that if Option One was approved whether there could be a study session plans. Planner O'Connell said that was possible and that the applicants would be submitting revised plans to incorporate what was discussed this evening. Commissioner Fergusson suggested that the study session could be more conceptual in nature so the applicants would not need to go to the expense of a full submittal.

Commissioner Halleck called for the question.

Commission Action: M/S Halleck/Pagee to approve Option One to continue the application for redesign with direction to include all of staff's recommendations as well as the Commission's recommendations for a grading plan, semi-permeable surface, construction staging plan, landscape screening to address view and privacy, and that there be no two-story residence on the rear of the property.

Motion carried 4-3, with Commissioners Bims, Fergusson and Sinnott voting in opposition.

Commissioner Soffer asked why Commissioner Sinnott voted against the motion. Commissioner Sinnott said that she did not want the applicants' option to have a two-story residence removed.

Commissioner Soffer asked if the applicants were to redesign the project with a one-story in the rear whether it could just come back before the Commission, but if the applicants wanted to keep a two-story residence in the rear, whether there could be a study session.

In response to a question from Chair Halleck, Planner O'Connell said that the Commission could rescind the motion just approved. Chair Halleck said that it would make sense to have a study session for a conceptual consideration of a second-story residence. Commissioners Sinnott and Soffer agreed.

Chair Halleck moved, and Commissioner Soffer seconded, to rescind the previous motion. Commissioner Fry said that she did not understand why the motion had to be rescinded. She said that her understanding was that a design, whether for a two-story residence or another creative design, would be brought to the Commission for consideration and that those drawings would be conceptual rather than detailed. Chair Halleck said that the motion was being rescinded to remove the limitation to a one-story residence at the rear of the property. Commissioner Pagee said that last year when the Commission had discussed secondary dwelling units in backyards that those units were limited to one-story because of the potential impacts. Commissioner Soffer said that the dimensions of this lot were very similar to those of an R-1 lot; he noted that there was a size limitation of 600-square feet on secondary dwelling units as well.

Commission Action: M/S Halleck/Soffer to rescind the last motion made by the Commission.

Motion carried 4-3, with Commissioners Fry, Fergusson and Pagee voting in opposition.

Chair Halleck moved, and Commissioner Sinnott seconded, to continue the project for redesign to include a two-story design possibility and to include requirements as stated in the first motion for a grading plan, semi-permeable surface, construction staging plan, landscape screening to address view and privacy, as well as to allow for the possibility that the applicants could come back to the Planning Commission for a study session with conceptual designs.

Commissioner Pagee said that she would like to make a friendly amendment that even if there was a possibility for a two-story residence that the motion contain the option for a one-story residence in the rear. Chair Halleck and Commissioner Sinnott agreed to that friendly amendment.

Commission Action: M/S Halleck/Sinnott to continue the application for redesign with direction to include the considerations presented in "Option One" of the staff report recommendation and the following items in bold and italics.

Option One: Continue the proposal for redesign.

Continued the item to a future meeting date and provided the applicant with specific direction for redesign, including:

- Provide better integration of the rear unit with careful attention to providing both units with adequate outdoor living areas.
- Provide a site plan that shows integration in landscape for the whole parcel.
- Consider ways to reduce the perception that the proposed rear unit is cramped in the rear of the lot.
- Explore options for providing conforming parking for both units.
- Work with neighbors to resolve the issues related to the use of the alley.
- Apply for a heritage tree removal permit.
- Consider revising the design of the rear unit to better integrate it with the design of the front unit.
- If the front porch is retained, revise the design to make it more substantial and revise the location of the front door.
- Revise the plans to accurately locate the base flood elevation, lowest adjacent grade and finished floor elevation. In addition, the plans should show the revised building height.
- Preparation of preliminary grading and drainage plan for the alley.
- Alternatives to limit the amount of impervious surfaces, including the alley.
- Preparation of a construction staging plan to address storage of construction materials and parking of construction and workers' vehicles.
- Landscape screening to address issues of privacy and views from adjacent properties to the sides and rear (as part of the recommended landscape plan).

The applicant shall prepare and present conceptual plans that incorporate the recommended changes to the proposal to the Planning Commission at a future study meeting. The conceptual plans should include preparation of alternative designs, including, but not limited to, a one-story residential unit.

Motion carried 4-3, with Commissioners Bims, Fergusson and Pagee voting in opposition.

C. STUDY SESSION

1. **Use Permit and Architectural Control/Kenneth Namimatsu for HKN, II, LLC/8 Homewood Place:** Request for a use permit and architectural control to convert an existing 21,139-square-foot office building from general office use to medical office use in the C-1 (Administrative and Professional, Restrictive) zoning district.

Commission Discussion: Commissioners expressed general support for the proposed medical office use of the existing building based on the applicant's description of the rising demand for new medical offices and the poor economic viability of alternative uses, such as housing. Commissioners provided individual comments to the applicant on the proposed project. Comments covered the following topics:

- Concern about the number of development projects proposed in the Linfield/Middlefield area, including the proposed housing project at 110 and 175 Linfield and potential project at 321 Middlefield Road (Allstate Building) to convert from general office to medical office, and the need to take a broader look at a plan for the commercial and residential uses in the neighborhood;

- Need for additional information regarding the impact of the project on traffic in the neighborhood and the overall increase of traffic in the area throughout the day;
- Need for adequate parking to support the proposed use and not to create additional impacts on parking for the adjacent uses, including residential uses and the United States Geological Survey (USGS).
- Interest in considering alternatives for changes to the cul-de-sac of Homewood Place that will not negatively impact the USGS;
- Consideration of the opportunity to reduce the width of Linfield Avenue as projects are being proposed;
- Consideration of potential impacts of commercial use adjacent to new and existing residential uses; and
- Need for the applicant to conduct additional outreach to the neighborhood.

E. REGULAR BUSINESS

1. **Consideration of the minutes of the September 22, 2003 Planning Commission meeting.**
2. **Consideration of the minutes of the October 18, 2003 Planning Commission meeting.**

Commission Action: M/S Fry/Sinnott to approve the minutes of the September 22 and October 18, 2003 minutes as submitted.

Motion carried 6-0-1 with Commissioner Fergusson abstaining.

F. COMMISSION BUSINESS, REPORTS, AND ANNOUNCEMENTS

This item was heard previous to C.4, 1981 Menalto Avenue.

1. Review of upcoming City Council Agenda pertaining to planning projects.

Planner Cramer said that the City Council would review the 940 Cotton Street project on April 20, 2004 and the appeal by the neighbor as to the determination about the trees. She said that the final approval of the Saga Lane abandonment would also be heard by the Council at the same meeting. She said that on April 27, the Council would consider a change to the City's policy regarding transfers of ABC licenses as part of the efforts for commercial streamlining. She said that staff was recommending that the review of person-to-person transfers, currently reviewed by the Planning Commission, be done administratively by the Chief of Police. In response to Commissioner Fergusson, Planner Cramer said that neighbors were not noticed regarding the transfers. She said that she would look into the circumstances regarding the transfer of ABC license for the Hacienda Market.

Planner Cramer said that there had been an appeal on the 700 Santa Cruz Avenue project which was tentatively scheduled to be heard by the Council on May 11, 2004. She said that May 24 had been identified as a study meeting date to discuss alley issues and that the City Attorney would attend that meeting.

ADJOURNMENT

The meeting adjourned at 11:15 p.m.

Staff Liaison: Tracy Cramer, Senior Planner

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission on August 23, 2004.