



## MENLO PARK PLANNING COMMISSION MINUTES

Regular Meeting

August 28, 2006

7:00 p.m.

City Council Chambers

701 Laurel Street, Menlo Park, CA 94025

**CALL TO ORDER** – 7:01 p.m.

**ROLL CALL** – Bims (Chair), Deziel, Keith (Vice-chair) (arrived 7:05 p.m.), O'Malley, Pagee, Riggs, Sinnott (arrived 7:03 p.m.)

**INTRODUCTION OF STAFF** – Deanna Chow, Senior Planner, Megan Fisher, Assistant Planner, Arlinda Heineck, Community Development Director, Justin Murphy, Development Services Manager

### A. PUBLIC COMMENTS

There were none.

### B. CONSENT

1. **Architectural Control/Kim and Benson Wisckol/174 Buckthorn Way:** Request for approval of architectural control to remodel the front elevation of a townhouse in the R-3 (Apartment) zoning district

Commission Action: Unanimous consent to approve as presented in the staff report.

1. Adopt a finding that the project is categorically exempt under Class 1 of the current State CEQA Guidelines.
2. Adopt 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 orderly growth of the City.
  - c. The development will not impair the desirability of investment or occupation in the neighborhood.
  - d. The development provides adequate parking as required in all applicable City Ordinances and has made adequate provisions for access to such parking.

3. Approve the architectural control request subject to the following standard conditions of approval:
  - a. Development of the project shall be substantially in conformance with the plans prepared by G. Kellogg Crain II, consisting of four plan sheets, dated received by the Planning Division on July 24, 2006, and approved by the Planning Commission on August 28, 2006, except as modified by the conditions contained herein.
  - b. Prior to building permit issuance, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, San Mateo County Health Department, and utility company's regulations that are directly applicable to the project.
  - c. Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
  - d. 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. Landscaping shall properly screen all utility equipment that is installed outside of a building and cannot be placed underground. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
4. Approve the architectural control subject to the following *project-specific* conditions:
  - a. Prior to building permit issuance, the applicant shall submit revised plans that accurately show the existing and proposed third floor plans with no proposed changes along the rear elevation, subject to review and approval by the Building Division.

Motion carried 6-0 with Commissioner Keith absent for the vote.

### C. PUBLIC HEARING

1. **Use Permit/Doug Marks/628 Olive Street:** Request for a use permit for a second story addition and remodeling of an existing single-story, nonconforming residence that would exceed 50 percent of the replacement cost of the existing structure located on a substandard lot in the R-1-S (Single-Family Suburban) zoning district.

Staff Comment: Planner Fisher said it was her understanding that the Commission had received e-mail correspondence from the applicant and neighbor at 630 Olive Street since the publication of the staff report. She said after staff received comments in July from the neighbor at 630 Olive Street that they tried to find compromise between the parties. She said the most current items listed in the e-mail from the neighbor had not previously been known to staff so staff had not been able to make the applicant aware of those items prior to the publication of the staff report.

(Commissioner Keith arrived.)

Public Comment: Ms. Sydney Marks, applicant, requested some time at the end of the public comment to address any issues brought forth by other public comment. She said she and her husband had purchased their home 10 years ago. She said they now had three children, who were sharing one bedroom. She said the goals of the remodel were to expand the space in their home for their expanding family; maintain backyard space; create an unobtrusive addition that would fit with the surrounding neighborhood and fit within existing guidelines; and balance and weigh their needs with existing construction, neighbor input and direction from the City. She said that they engaged their architect in January 2005. She said they had received 19 letters of support from their neighbors and had made consistent efforts to work with the neighbors and staff. She said their neighbors at 630 Olive Street did not support the project and they had tried to work with them on a compromise. She said their design was setback entirely on one side to provide daylight and sunlight access to the neighbor's property.

Mr. Doug Marks, co-applicant, said that the architect was available for questions.

Commissioner Deziel asked whether the applicants would prefer deciduous or evergreen trees should landscape screening be desired. Mr. Marks said they would prefer evergreen trees if a screening plan was needed.

Mr. Tom Foody, Menlo Park, said that his wife and he were the neighbors at 630 Olive Street. He said for the record they wanted the Marks family to have a second-story addition. He said the side of their house facing the Marks' house included a family room, kitchen, and eating area where he and his family spend the vast majority of their waking hours at home. He said the second story for the Marks shown in the use permit application would have a major impact on their sky views and sunlight. He said that there were multiple designs for the second story that would meet the Marks' program needs and retain a reasonable portion of the sky view. He and his wife distributed a handout that summarized their perspective. He said their most recent proposal included a desire for a design as summarized as line 4 on page 3 of the handout and would involve flipping the bedroom and bathroom. He said alternatively they could live with the Marks' 9/18/05 design if there was a lower floor plate at least on the half facing his home. He said what was submitted with the application was the most undesirable to them. He said if the Commission was to approve that design they would request mitigations that the floor plate facing their home be lower, that there be a juniper hedge for screening and replacement of the fence between the properties.

Mr. Marks said he and his wife appreciated the efforts of the Foody's to try and find a resolution. He said regarding the neighbors' desire to have the bedroom and bathroom flipped on the north side that they did not want to compromise their goals of privacy for their daughters' bedrooms and they desired bathroom #2 located between bedrooms 3 and 4 as they thought that was more logical and practical. He said they had issues with lowering the floor plate on the north as that would change the interior design and would involve steps which were unappealing to them and posed a safety concern. He said their architect did not like the effect of lowering the floor on future interior design needs. He said the total height would be 24-and-a-half feet rather than the 28-feet allowed. He said the Foody's had previously declined their (applicants') offer of landscape screening and that juniper would not be their (applicants') choice. He said that they had previously discussed sharing the cost of the fence replacement with the Foodys. He said he asked Mr. Foody's just that day if he would accept the 9/18/05 design but he would not unless there was a lower floor plate.

Chair Bims closed the public hearing.

Commission Comment: Commissioner Sinnott said that the applicant had put a tremendous amount of effort to reach a compromise and she did not think it would impact the neighbors' view of the sky or daylight. She moved to approve as recommended in the staff report; Commissioner Deziel seconded the motion.

Commissioner Pagee said she agreed about the efforts made but she sympathized with the neighbor as the addition as shown on A.5 appeared to be top-heavy. She said she would like to see some mitigation between the neighbors with landscape screening. Commissioner Sinnott confirmed that the applicants were supportive of landscape screening just not necessarily juniper. She said she would accept the amendment to the motion. Commissioner Pagee said if the existing fence was not reinforced that she would like replacement of the fence required.

Commissioner Deziel said that the Foodys have a wonderful view of the sky from their breakfast nook. He said he considered what the finding of no detriment would mean in this instance. He said that on a 70-foot wide lot there could not be a guarantee that the resident would have an unfettered view of the sky over 40 acres. He said the central purpose of the City's General Plan's intent was to maintain Menlo Park's special character as a residential community and to provide for the change necessary to maintain a vital community. He said part of the special character of Menlo Park was a view of nature and could include trees. He said in this instance the second story was appropriate and it was a matter of landscape screening to restore the view of nature. He said he had some wording for the landscape screening. He felt that the fence should not be required for mitigation and the property owners should be allowed to find a resolution of that matter themselves. Commissioner Sinnott asked if the applicants could comment on the various landscape measures recommended by Commissioner Deziel. Mr. Marks said he would be okay with six 24-inch box trees and would like to work directly with staff on the landscaping. Commissioner Riggs said that six trees would need 150-foot of space to grow and he thought there was a narrow point that was in question. He suggested that maybe only a couple of trees would be needed. Commissioner Deziel said he was thinking more of a hedge than a tree. Commissioner Riggs said that he would prefer a plant that would not wall off the view and he thought two to three trees would be preferable. Commissioner Deziel agreed, but noted the Foodys had a 20-foot hedge on the left side. At the Chair's recognition, Ms. Foodys said she would prefer something less solid than a hedge and would prefer an evergreen plant. She noted that the hedge was on the property when she and her husband purchased it.

Discussion ensued about a landscape plan. Commissioner Deziel said that the motion as amended was to approve as recommended by staff with an added requirement that the applicants work with the Foodys to develop a landscape plan for staff review.

Commissioner Riggs commented on the recurring issue in a significantly single-story environment when new construction creates a second-story in that there were impacts, but it was allowable under the City's code. He said the Foodys second story was sensitive with low eaves, but that was not necessarily the architectural solution for all residences. He said if a neighborhood wanted to put greater restriction on second-stories that he would encourage them to seek an overlay. He said the subject project was quite considerate.

Commissioner Keith said she concurred with Commissioner Riggs' comments. She said having reviewed the plans and visited the sites and looked from both the applicants' and the neighbors' perspectives that she understood the neighbors' concern. She noted that it was challenging to

have change and to have a second-story next door. She said she was surprised that the neighbors had not supported the 9/18/05 proposal in that the house was moved forward three feet in that one. She said that there have been occasions when there were offers to have landscaping on the neighbors' property but that she had not heard anything from the neighbors regarding that. At the recognition of the Chair, Mr. Foody said regarding the plans for 9/18/05 that they favored that plan over the submitted plan. He said regarding landscape mitigation that they had not specified which side and to the extent that Commissioner Keith thought the landscaping should be on both or either that they were open to that.

Commissioner Keith said she would like to make an amendment to add to the landscape plan amendment to have some type of landscaping on the Foody side as well. Commissioner Deziel said the wording could indicate that the landscaping could be on either property but would be mutually agreed upon. He said that he did not want the neighbor to have the veto power over the applicants' landscape plan. He said he did not think the amendment needed to be changed.

Commission Action: M/S Sinnott/Deziel to approve with the following modification.

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 *standard* conditions:
  - a. Development of the project shall be substantially in conformance with the plans prepared by Robert Medan, consisting of 11 plan sheets, dated received July 6, 2006, and approved by the Planning Commission on August 28, 2006 except as modified by the conditions contained herein.
  - b. Prior to building permit issuance, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
  - c. Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
  - d. 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 utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
  - e. Prior to the building permit issuance, the applicant shall submit a tree protection plan for review and approval by the Building Division.

4. ***Approve the use permit subject to the following “specific” condition:***

- a. ***Prior to building permit issuance, the applicant shall submit a landscape screening plan for review and approval of the Planning Division. The landscape screening plan shall include a minimum of three trees and other plant materials with the intent of screening the view of the second floor addition from the breakfast nook of the house at 630 Olive Street and to screen views from Bedroom #3 into the rear yard of 630 Olive Street. The applicant shall submit documentation demonstrating that the property owners of 630 Olive Street were consulted regarding the species, sizes and locations of proposed plantings.***

Motion carried 7-0.

2. **Use Permit/Peter Whittaker Aylaian/332 Barton Way:** Request for a use permit for a second story addition and remodeling of an existing single-story, nonconforming residence that would exceed 50 percent of the existing square footage and 50 percent of the replacement cost of the existing structure located on a substandard lot in the R-1-U (Single-Family Urban) zoning district.

Staff Comment: Planner Chow indicated that staff had no additional comments on the project.

Public Comment: Mr. Peter Aylaian, applicant and property owner, said that he had been a resident of Menlo Park for about 8 years and in the Willows for about 6 years. He said that he had recently married and had a child, and they would like to expand their home. He said that they had spoken with many neighbors and there was only one neighbor who had concerns.

Mr. Darren Wagoner, project architect, requested an opportunity to respond to public comment. He said the applicants were sensitive to the concerns that second-story additions were for people. He said that they had talked with neighbors about second-story additions they had found successful or not and looked at bulk, mass and scale to find something attractive that would fit with the neighborhood. He said the property owners had looked at doing only a single-story addition, but found it would impact their yard space considerably. He said for the plate height for the proposed second-story was being kept low and was about six foot lower than what would be allowed in the neighborhood. He said they also looked at landscape screening to minimize the impact to neighbors.

Mr. Robert Mancuso said that he and his mother had lived for 43 years at the neighboring property on Nova Lane to the rear and cattycornered to the subject property. He said they wanted to make sure that their view of the new residence would be very minimal. He said the overlay was a little deceptive as their garage would not block the second story. He noted that several new homeowners had not put blinds in their home and that he and his mother wanted to protect their privacy. He suggested perhaps some more shrubbery.

Commissioner Keith confirmed the location of trees and shrubs with the neighbor and Commissioner Deziel confirmed that the neighbor's residence was one-story. Commissioner O'Malley said that Mr. Mancuso had been working with the applicants to try to resolve issues and wanted to confirm that Mr. Mancuso no longer thought the proposed second-story addition was an eyesore. Mr. Mancuso said that after speaking to the architect and looking at the photos

provided if the addition was true to that 3-D image that it probably would not be an eyesore. He also expressed concern about flood lights and motion detectors.

Chair Bims closed the public hearing.

Commission Comments: Commissioner Keith moved to approve as recommended in the staff report. She said the applicant seemed to understand the neighbor's concerns and would work with him on lighting issues, would use down lights and provide landscape screening. Commissioner O'Malley seconded the motion.

Commissioner Riggs said the proposal was on a short, narrow, small lot with short setbacks and the proposed addition leaned heavily to the left. He asked if anyone had heard from the property owner on the left. Planner Chow said that staff had received no comments. Commissioner Riggs said that the property appeared to be a rental or the owner might be incapacitated. He said with this addition the property on the left would not get light because of the sheer second-story wall.

Commissioner Pagee asked staff if the daylight plane was measured from the natural grade. Planner Chow said the grade at the sidewall from which the daylight plane was measured was the average grade of the height and the lowest point of the natural grade of the portion of the lot covered by the sidewall. Commissioner Pagee said she noticed that the first floor level was at one-foot ten-and-one-half-inches off the natural grade and the daylight plane on the left hand side of the front elevation was measured 18-feet above that before it went into the 45-degree angle. She said to approve the revised plans the Commission would have to approve the revised daylight plane and it might affect the penetration of the gable on the right hand side. She said that typically in the flood plane area that staff has consistently measured the daylight plane from the natural grade and if it was being measured differently based on another interpretation that staff should have informed the Commission. Planner Chow said the daylight plane differed from the flood plane and there was a provision for existing structures that they might be either 19-feet six-inches above the grade of the side setback line, or 18-feet above the underside of the actual first floor measured at the side wall or 20-feet six-inches above the grade of the sidewall, whichever was lower. She said for the Commission's reference it was Section 16.67.020 of the zoning ordinance.

Commissioner Riggs asked if staff was able to confirm with the architect that the perspective shown on the overlay was in scale as it appeared the neighbors' house would completely obscure the applicants' house. Planner Chow said she had conversations with the architect and in terms of interpreting the visual representation that he had assured her the angles and perspectives were consistent with the view shown on page E.1

Commissioner Riggs said there was a tree between the applicants' residence and 338 Barton Way and that the canopy appeared to be at the 9 or 10-foot level and the top of the tree was at about 25 foot. He assumed that the tree would need to be pruned considerably. Planner Chow said that the tree was shown on page E.1. Commissioner Riggs said on his site visit he had seen a tree that was much closer to Barton Way, halfway between Barton Way and the rear property line. He said that he did not see the tree referenced in the plans and was in the area of the proposed gable.

At the direction of the Chair, Mr. Wagoner, the architect, said he had notes on the trees and as none of them were heritage trees it had not been necessary to show them on the plans. He

said the tree was on the neighbor's property. He said that they anticipated the need to prune the tree to construct the addition. He said the presence of those trees and others on that property however provided screening and currently those trees blocked much of the light to the property on the left of the subject property.

Planner Chow said Commissioner Keith had indicated there would be a landscaping plan, but that currently there was not a condition for a landscaping plan. Commissioner Keith said that she would like a landscaping plan required. Commissioner Deziel said that there was not really a lot of space for landscaping. Commissioner Keith said that there was the opportunity to screen the building with vines and that could be required subject to staff approval. At the direction of the Chair, Mr. Wagoner demonstrated to the Commission where the trees currently screened the neighbor's view from the left side. Commissioner Keith withdrew the amendment.

Commission Action: M/S Keith/O'Malley to approve as presented 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 *standard* conditions:
  - a. Development of the project shall be substantially in conformance with the plans prepared by Object, consisting of five plan sheets, dated received August 17, 2006, and approved by the Planning Commission on August 28, 2006, 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, Engineering Division, and Transportation Division that are directly applicable to the project.
  - d. 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 utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
  - e. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance. Prior to building permit issuance, the applicant shall submit an arborist report with specific tree protection measures.



4. Approve the use permit subject to the following *project-specific* conditions:
  - a. Prior to building permit issuance, the applicant shall comply with Chapter 12.42 of the Municipal Code pertaining to flood zone requirements.
  - b. Prior to building permit issuance, the applicant shall comply with Chapter 12.50 of the Municipal Code pertaining to woodburning appliances. Any modifications to the design of the chimney to comply with this requirement shall be subject to review and approval of Planning Division staff.

Motion carried 5-2 with Commissioner Pagee and Riggs opposed.

3. **Zoning Ordinance Amendment/Woodside-Atherton Auxiliary for Children/75 Arbor Road:** Request for a Zoning Ordinance amendment for revisions to the operational permit for the Allied Arts Guild, as outlined in the document titled "First Amended Allied Arts Guild Preservation Permit."

Staff Comment: Director Heineck presented the staff recommendation.

Questions of Staff: In response to Commissioner Deziel, Director Heineck clarified that the findings reflect the uniqueness of the Zoning District and its application to the subject property and that the Zoning District requires that any amendment to the permit be required to go through the same review process as an amendment to the Zoning Ordinance. For this reason, staff believes it important that the findings reference the purpose of the amendment.

Public Comment: Jeffrey Kirschenbaum, attorney for the Woodside-Atherton Auxiliary for Children, presented the First Amended Allied Arts Guild Preservation Permit stating that the permit is the result of hard work and compromise between the Auxiliary and a group of neighbors and that each provision has been carefully negotiated, not in isolation but each representing trade offs against one another. He requested that the Commission approve the amended permit in whole and as staff recommended.

Georgia Windhorst, resident of Allied Arts and president of Allied Arts Neighbors, stated that the Allied Arts Neighbors fully support the settlement agreement. She commented that the Auxiliary and neighbors worked hard on a compromise to craft the proposed revisions to the permit and requested that the Commission approve the amended permit.

Chair Bims closed the public hearing by consent of the Commission.

Commission Action: M/S Riggs/Pagee to recommend the following findings and actions to the City Council:

1. Make a finding that the revisions incorporated into the First Amended Allied Arts Guild Preservation Permit fully mitigate any potential environmental impacts to a less than significant level, thereby not requiring any further analysis beyond that contained in the Mitigated Negative Declaration approved by the City Council on March 18, 2003.

2. Make a finding that the First Amended Allied Arts Guild Preservation Permit is consistent with the City's previous actions on the proposal and is a reflection of the commitment and hard work by the Auxiliary and neighbors resulting in continued operations at the Allied Arts Guild in a manner sensitive to the surrounding residential neighborhood.
3. Approve the First Amended Allied Arts Guild Preservation Permit.

Motion carried 7-0.

3. **Use Permit/Frank Hernandez, Ware Malcomb Architecture for Citibank/620 Santa Cruz Avenue:** Request for a use permit to allow a financial establishment to operate in a building located in the C-3 (Central Commercial) zoning district.

Commissioner Riggs recused himself and left the Chambers because of a potential conflict of interest due to work he is doing in the vicinity of the project.

Staff Comment: Development Services Manager Murphy said he had no additional comments.

Public Comment: Mr. Frank Hernandez, Ware Malcomb Architecture, said his client would like to have a presence in Menlo Park and felt this building would provide them the necessary facilities needed.

Commissioner Deziel said condition 3.f called for a \$4.00 in-lieu fee if the front space was empty. He said his concerns were that this would not allow for normal tenant turn-over in the space and there was not an escalator for the fee. He suggested that the fee could escalate for inflation and that there would be a certain amount of allowance for vacancy, say 120 days every three years, to allow for turnover of tenants.

Mr. Hernandez said that was acceptable.

Chair Bims closed the public hearing.

Commission Action: Commissioner Keith moved to approve as recommended in the staff report. Commissioner Pagee seconded the motion. Commissioner Keith said she agreed with Commissioner Deziel about the need for a factor for increase the in-lieu fee.

Commissioner Deziel moved to amend the motion to change condition 3.f to escalate the in-lieu fee annually based on the Consumer Price Index (CPI) and to allow for normal turnover to exclude from the in-lieu calculation the first 120 days of vacancy provided that the exclusion was not used more than once every three years. The motion died for the lack of a second.

Commissioners Keith, Pagee and Sinnott indicated that they were comfortable with the annual increase based on the CPI, but the language excluding application of the fee for some portion of vacancy.

Commissioner Keith said that she would amend her motion to change condition 3.f to escalate the in-lieu fee annually based on the Consumer Price Index. Commissioner Pagee agreed.

Commission Action: M/S Keith/Pagee to approve with the following modification.

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 uses 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 uses, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the use permit to operate a full service bank located in a building at 620 Santa Cruz Avenue, subject to the following conditions:
  - a. The use of the site shall be substantially in conformance with the plans prepared by Ware Malcomb, consisting of four plan sheets, dated received August 14, 2006, and approved by the Planning Commission on August 28, 2006, except as modified by the conditions contained herein.
  - b. The effective date of this Use Permit shall commence with the effective date of the Citibank lease, or sublease if applicable, of the tenant space. At the time of the effective date, this Use Permit would supercede the Use Permit for Alain Pinel Realtors.
  - c. The 650 square feet fronting Santa Cruz Avenue, defined as the "Existing Menlo Cafe," shall be utilized for retail purposes only throughout the term of the Use Permit.
  - d. The Use Permit shall only be valid so long as the front space is utilized or marketed for retail purposes.
  - e. In the event that the front space is not utilized or marketed for retail purposes for a continuous period of six (6) months, the Use Permit shall be subject to revocation.
  - f. During any time that the front space is not open for business and operating as a retail use, the property owner shall pay to the City an in-lieu fee, ***pro-rated for such vacancy period. The fee for the first year (base year) shall be*** of four dollars (\$4.00) per square foot per year, ~~pro-rated for such vacancy period.~~ ***The fee for each year thereafter shall be adjusted annually according to the percentage change in the All Urban Consumer Price Index (CPI) for the San Francisco-Oakland-San Jose area.***
  - g. While the Use Permit is in effect, the applicant or property owner shall pay a fee (plus a yearly Business License fee) to the City in lieu of sales tax for the ground floor area occupied by the applicant. The fee for the first year (base year) shall be \$2.0645 per square foot. The fee for each year thereafter shall be adjusted annually according to the percentage change in the All Urban Consumer Price Index (CPI) for the San Francisco-Oakland-San Jose area.
  - h. The retail tenant shall be allowed to utilize the exterior area along the Santa Cruz Avenue frontage, including the recessed area, for outdoor seating associated with a café or restaurant use, providing that the use does not interfere with customer access to entrances or services of the full service bank.

Motion carried 6-0-0-1 with Commissioner Riggs recused and not in the room due to a potential conflict of interest.

4. **Use Permit Revision/Jim Calhoun/771 Hamilton Avenue:** Request for a revision of a previously approved use permit to allow for a pre-existing woodworking business that includes outside storage to continue to operate in the M-1 (Light Industrial) zoning district.

Chair Bims recused himself because of a potential conflict of interest as he owns property in the area of the subject property.

Staff Comment: Development Services Manager Murphy said that staff had no additional comments.

Public Comment: Commissioner Deziel asked about the difficulties encountered with the original use permit requirements. Mr. Jim Calhoun, applicant, said that regarding the mutual access agreement there was a shrinking of it to allow a variance into it to allow for the setback that was required. He said when this was proposed to him by staff it sounded like a simple process, but in fact it had been very difficult. He said he had done the building design, surveying and the permits, which already had cost \$30,000 for a 1,100 square foot space. He said to do the mutual access agreement he found out that there was an \$1,100 application fee to the City Council; the need to have legal papers drawn up for the agreement and legal description and to have another boundary survey done that would cost about \$2,000. He said the building of the structure itself would only cost him \$15,000. He decided that at this point he only wanted the use permit so that he could operate his business. He said there was a letter from Mt. Olive endorsing his request. .

Vice Chair Keith closed the public hearing.

Commission Action: M/S Riggs/Pagee to approve as presented 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 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 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 CRJ Associates, Inc. dated received by the Planning Division on April 4, 2002, consisting of three plan sheets, and approved by the Planning Commission on August 19, 2002, except as modified by the conditions contained herein.

- b. The Use Permit revision excludes the construction of the additions shown on the plans approved on August 19, 2002 and includes revisions to landscaping and placement of a temporary office trailer near the left front corner of the building as shown on plans consisting of two sheets dated received on June 29, 2006.
- c. Within 60 days of Planning Commission approval of the Use Permit revision, the applicant shall submit a complete application for a building permit for the temporary office trailer currently located at the front of the property for review and approval of the Planning and Building Divisions.
- d. The temporary office trailer shall be removed from the site within five (5) years of Planning Commission approval of the Use Permit revision.

Motion carried 6-0-0-1 with Chair Bims recused and not in the room due to a potential conflict of interest.

- 5. **Use Permit/Grace S. Chizar/1201 University Drive:** Request for a use permit to demolish an existing single-story, single-family residence and construct a new two-story, single-family residence on a substandard lot in regard to lot size and width in the R-1-U (Single-Family Urban) zoning district.

This item was continued to the meeting of September 11, 2006 prior to the August 28<sup>th</sup> meeting.

- 6. **Zoning Ordinance Amendment Review/City of Menlo Park:** One-year review of Zoning Ordinance Amendments Relative to Single-Family Residential Developments.

This item was continued to the next regular meeting of September 11, 2006 prior to the August 28<sup>th</sup> meeting.

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

- 1. **Consideration of minutes from the June 26, 2006, Planning Commission meeting.**

Commission Action: Commission consensus to approve the minutes as modified:

- Page 11, second paragraph, second sentence: Replace the word “though” with “thought.”
- Page 11, fifth paragraph, last sentence: Delete the comma after the word “used” and insert a comma after the word “then,” and add the words “became effective” before the word “ordinance.”
- Page 19, second paragraph, third sentence: Replace the word “impossible” with “improbable.”

- 2. **Consideration of transcripts from the July 24, 2006, Planning Commission meeting.**  
**Hard copies available upon request.**

Commission Action: Commission consensus to approve the transcripts as modified with Commissioner Pagee abstaining.

- Page 64, line 14: Delete the word “this.”

- Page 66, line 23: Insert "vine" after "figus."
- Page 64, line 24: Replace "mock" with "mop."
- Page 97, line 20: Replace "NLSC" with "ECR."
- Page 98, line 4: Replace "NLSC" with "ECR."
- Page 102, line 14: Replace "and move" with "in lieu."
- Page 114, line 13: Replace "82" with "A.2" and "83" with "A.3."
- Page 128, line 14: Replace "play" with "plan."
- Page 134, line 9: Replace "DAZIEL" with "DEZIEL" and in the entire transcript.
- Page 136, line 13: Insert "Lorelei" after the word "the."
- Page 144, line 2: Replace "Bob's" with "I was" and replace "move" with "call."
- Page 149, line 22: Replace "leave" with "need."

## **E. COMMISSION BUSINESS, REPORTS, AND ANNOUNCEMENTS**

- **Review of upcoming planning items on the City Council agenda.**

Development Services Manager Murphy provided a review of the upcoming planning items on the City Council agenda.

## **ADJOURNMENT**

The meeting adjourned at 9:08 p.m.

Staff Liaison: Justin Murphy, Development Services Manager

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission on November 27, 2006.