



## **MENLO PARK PLANNING COMMISSION MINUTES**

**Regular Meeting  
September 11, 2006  
7:00 p.m.  
City Council Chambers  
701 Laurel Street, Menlo Park, CA 94025**

**CALL TO ORDER** – 7:00 p.m.

**ROLL CALL** – Bims (Chair), Deziel, Keith (Vice-chair), O'Malley, Pagee, Riggs, Sinnott

**INTRODUCTION OF STAFF** – Deanna Chow, Senior Planner, Justin Murphy, Development Services Manager, Thomas Rogers, Assistant Planner

### **A. PUBLIC COMMENTS**

There were none.

### **B. CONSENT**

There were no items on the consent calendar.

### **C. REGULAR BUSINESS #1**

1. **Conditional Development Permit Revision/Elizabeth Cullinan/1330 University Drive:**  
Request for a conditional development permit revision to reduce the off-street parking requirement from 122 spaces to 94 spaces, in order to allow for the removal of 33 parking lifts, in an existing 60-unit multi-family residential building in the R-3-X (Apartment - Conditional Development) zoning district.

Commissioner Sinnott recused herself due to a potential conflict of interest as she owns property within 500-feet of the subject property.

Staff Comment: Planner Rogers said staff had no information to add to the written report.

Questions of Commission: Commissioner Keith said she understood that it was not possible to park an SUV on the upper part of the parking lift but wondered if a larger vehicle could be parked on the bottom of the lift and a smaller size vehicle on the top of the lift. Planner Rogers said with the lift up that a larger size vehicle would neither fit in the upper or lower space. He said the lift could be lowered and not be used as a lift and while some larger vehicles could be parked into that space the lift sides created a space smaller than the edges of the parking space and according to the applicants and other residents this was not functional for certain individuals and vehicles.

Chair Bims said the staff report indicated that no additional parking spaces could be provided without architectural control review, but a letter included in the report had noted previous

discussion about possible alternatives including the use of some landscaped area as reserve parking. He asked about the process of architectural control review to mitigate parking. Planner Rogers said that an arrangement to provide additional parking at the surface level would require architectural control review. He said the applicants in their discussion of ways to address the issue had considered architectural control review as one option but ultimately decided that would not address the core issues and cause negative aesthetic impacts.

Public Comment: Ms. Elizabeth Cullinan, Neal Martin and Associates, said they previously came before the Commission on August 14, 2006 to request an amendment to the existing Conditional Development Permit (CDP) to reduce the number of parking spaces at the site from 122 to 94 parking spaces. She said since the continuance that they had consulted with the City Attorney regarding options that would not require an amendment to the existing CDP or architectural review and there were no other options that would allow the reduction of parking spaces legally. She said they obtained a quote of \$4,000 for an engineering study that would potentially not have conclusive findings and would still need to be approved by emergency services companies such as the Fire District. She said they had obtained an opinion from a professional engineering firm that indicated the rear yard area could be used for regular vehicle parking, but not emergency service vehicles. She said the original permit plans for the project seemed to show that the rear yard area had been constructed similarly to the surface parking area which indicated that parking could be supported in this area to the rear. She said the constraints to completing a full engineering study were the residents' opposition to using the rear yard area as a parking area and that the neighbors might be opposed to that as well because of noise impacts after hours. She said a study conducted now could become outdated as to structural and neighborhood parking needs in 10 to 15 years. She said there were future options that might be preferable and more aesthetically pleasing to the City such as a shared parking arrangement between neighboring property owners, contribution to a shuttle and those types of things rather than the elimination of landscaping. She said the video, photographs and complaint log they had provided demonstrated the difficulty and the danger of operating the parking lifts. She said that retrofitting was difficult and this was needed because of market forces (i.e. larger vehicles) and not because of lack of maintenance. She said that there were assurances stated by staff as conditions of approval that should there be future neighborhood parking problems there were alternatives that could be addressed. She requested that the Commission make a recommendation of approval to the Council.

Commissioner O'Malley asked how the parking issues would be brought to the attention of future homebuyers at the site. Ms. Cullinan said they were proposing a "Market Parking Policy," which was a condition of approval that would require full disclosure of future buyers of these condominium units.

Commissioner Riggs said that the action of the Homeowners Association (HOA) Board seemed to imply that the responsibility for maintenance and repair for the parking lifts for property owners who wanted them would fall to those property owners. He asked whether those responsibilities were currently listed in the CC&Rs as belonging to the Homeowners Association. Ms. Cullinan said that was correct.

Mr. Cassius Kirk said he was a property owner at the subject property and was against the proposed amendment. He noted that he had previously sent written comments and would not repeat those comments. He said he thought that Menlo Towers Association had the burden of establishing that it would be in the long-range best interests for Menlo Towers and the City of Menlo Park to lose 33 secure, underground off-street parking spaces, but he did not think that they had done that. He said if the parking lifts were removed, Menlo Towers would be in

noncompliance not only with the original CDP but also with the existing Zoning Ordinance for Menlo Park. He said if the parking lifts were removed there would be no feasible way of providing alternative off-street parking. He said he did not know if it was logistically possible to construct a second underground parking structure under the existing level but if it were it would cost a couple of million dollars and would not be done. He said another alternative would be to convert the terrace on the east side into an aboveground parking lot. He said the units on the east side of the building look out over a terrace, which is the roof of the underground garage. He said he did not think the owners on the east side would allow the terrace to be converted to a parking lot and even if they were in agreement the cost would be very substantial and in the hundreds of thousands of dollars, so that would not be done. He said the parking in the area had become congested because of the amount of in-fill construction that had occurred in the vicinity of the subject property. He said that single-family residences have become three-, four-, and five-unit townhouses. He said Menlo School was also across the street and there was considerable overflow parking from that during the school season. He requested that the Commission recommend denial of the application to the City Council.

Commissioner Deziel asked if Mr. Kirk was interested in keeping the lifts or the parking spaces if there was another alternative. Mr. Kirk said he liked the lifts and having a backup parking space; he said without the lifts there was only one parking space per unit. He said the smallest unit was over 1,500 square feet and the penthouses were over 4,000 square feet. He said the subject property was the only high-rise building in Menlo Park and it seemed anomalous for Menlo Towers to ask to be exempted from the Zoning Ordinance that applied to all comparably-sized condominiums.

Mr. Gregory Rubens, Aaronson, Dickerson, Cohn and Lanzone, said he was the attorney representing Menlo Towers Homeowners Association. He said Commissioner Riggs had asked about responsibility for the lifts and referred to the "Parking Space Market Policy." He said indemnity would be a condition for a lease if a homeowner were to enter into a sublease for parking as part of the policy to maximize the parking in the project. He said neither this policy nor the Commission's action to recommend approval would change the CC&Rs for the project and the responsibilities stated there. He said with a sublease there would be an indemnity provision to protect the Board from liability related to the sublease.

Commissioner Riggs asked if the staff report was in error in its conclusion that property owners would accept a transfer of responsibility for the maintenance of the lifts. Mr. Rubens said that had to be drawn from the "Parking Space Market Policy" as that was the only part of their application that spoke about "indemnity." He said the staff report was correct for a sublease situation, but when it was a general situation of the governance of the project that was not changed by the Commission's action to recommend approval. Commissioner Riggs said the staff report stated that "The Homeowners Association proposes to allow individual residents to retain their lifts in exchange for the assumption of maintenance and liability obligations." He asked whether or not that was a correct statement by staff. Mr. Rubens said it was not completely correct as the application would not change the internal responsibilities. He said the action requested would only relieve the applicant of the lift requirement. He said as part of the conditions of approval that the applicant agreed to develop a "Market Policy" that would help alleviate some of the problems that might come up and to maximize the parking as well as disclose parking issues. Commissioner Riggs said his question related to financial responsibility and liability and asked if it was correct to say that the phrase he read from the staff report did not apply except in a sublet situation. Mr. Rubens said that was correct.

Commissioner Keith said that the staff report noted a desire that the survey be extended to all of the residents and asked whether that had happened. Mr. Rubens said that the Board President was indicating the survey had been already extended to all of the residents. Commissioner Keith asked about the response. Ms. Kathleen Mehigan, current HOA Board President, said that 22 residents who have lifts want them removed and five or six residents who have lifts do not want them removed. She said that they did not hear from a couple of homeowners and many of those who do not have lifts felt like the lifts should be removed because they are dangerous. Commissioner Keith said she would like to know the total of respondents.

Commissioner Deziel asked about the pool of parking spaces available for lease, if there were only 66 parking stalls underground and the lifts were removed. Mr. Rubens said the survey indicated that there were only 59 vehicles currently in the whole project and there were surplus spaces that could be made available. He said they were also trying in the policy to address a future, general shortfall. He said there were restrictions in the policy as it was not desired to have surface spaces used as a substitute parking space by residents. Commissioner Deziel asked if the applicants were allowed the reduction in the parking number whether the HOA would be able to force the removal of lifts against the will of property owners. Mr. Rubens said that the only reason the Board would want to remove the lift would be if the lift had failed, and that was stated in the disclosure policy. He said lifts had been removed in the past at the request of a property owner because of safety concerns, but at this point because of the existing CDP lifts would have to be replaced. He said the current Board had no plans to remove the lifts and the only statement in the "Market Policy" about the removal of lifts was in the situation that the lift failed.

Commissioner Keith said currently if the lifts were to fail it would be the HOA's responsibility to repair or replace those to which Mr. Rubens agreed. Commissioner Keith said Mr. Rubens' understanding was that the current Board had no intent to remove all of the lifts, but it would be within a future Board's purview to do so. Mr. Rubens said he had written a letter that gave his opinion that the governing documents of the HOA give the authority to govern the lifts and the use of the spaces to the Board of Directors. He said that was the mechanism under which the Board could possibly remove all of the lifts, but there were no plans by this Board to do so. Commissioner Keith asked about the term of a Board member. Ms. Mehigan said the term was a minimum of three years and usually there was a turnover of two members annually. She said that they had extended the survey to all of the homeowners; six respondents indicated that they wanted very much to keep their lifts; 29 said that they had no lift or had the lift removed; 22 said that they had lifts but wanted them removed; and three did not respond. Commissioner Keith asked if the survey had asked those who did not have lifts if they wanted the lifts kept. Ms. Mehigan said it had not.

Chair Bims said there had been discussions regarding the use of parking areas other than the lifts such as the terrace. Ms. Mehigan said that she thought the homeowners would not like that at all mainly because of the noise and the loss of an aesthetically pleasing area.

Ms. Jane Zuker, Menlo Park, said the use of the patio for parking would probably not be desirable as there was currently a large room available for recreation and parties that opened onto the terrace. She said that Mr. Kirk and his attorney, Mr. Knapp, had told her that the HOA had had a fund for the lifts and from 1973 to about 1983 the lifts were maintained by them, but that had since ceased. She said she understood that in another six years the fund would have enough money in it to pay for the repair or replacement of all of the remaining lifts. She said that the lifts were supposed to have been kept up over the years but they had not been, but in six years there would be money to do the maintenance on the lifts. She said that the survey

was given to the homeowners about a week before the first Commission meeting and it only asked whether or not the homeowner had a lift and if they did whether they wanted it. She said that she did not feel the homeowners had been represented by Ms. Cullinan.

Chair Bims closed the public hearing.

Commission Comment: Commissioner Keith questioned the finding of staff for approval as that was based on current demographics and parking needs and those could change. Planner Rogers said that changes in demographics had entered into staff discussion and the mechanism that they added, which was not part of the applicant's original application, was the condition "7.d" that gave the City the right to issue a new CDP revision to address any future parking problem. He said the parking space disclosure statement would provide full knowledge of the parking situation at the site to future buyers of the units. He said that staff's position was driven by the unique conditions present on the subject property and as stated in the staff report. Commissioner Keith asked if those unique conditions were the demographics and number of vehicles owned. Planner Rogers said that was correct but included also the equipment as parking spaces are provided on a mechanical device that did not meet current vehicle dimensions. Commissioner Keith said regarding "7.d" that if staff found there was a lack of parking in the future whether that would require Menlo Towers to reinstall lifts that had been removed. Planner Rogers said that was definitely one of the possibilities and staff had informed the applicants of this possibility.

Commissioner Pagee said it was the height of the cars and not the wheel dimension that was the issue and asked if staff had looked at slab to slab heights, available open space and heights of cars to reach their conclusion. Planner Rogers said that staff had relied on the Hexagon Transportation Study regarding the size of vehicles and the slab-to-slab distance.

Commissioner Riggs said he was trying to keep the proposal in perspective with other denser housing projects the Commission had considered in the last year. He noted the developers of the Linfield Project had asserted that they would be selling to people with fewer cars and fewer residents than would be normally expected in the size residence that they were proposing, yet the developer was held to the parking count by the City. He said in the case of the Derry project and the El Camino project that those developers received a small reduction in parking as those projects have the benefit of being close to the train station. He said he had a problem establishing parking ratio for the subject property based on current usage. He asked if staff had considered those other projects. Development Services Manager Murphy said that the consideration for this project was based on the unique conditions of the site as outlined by Planner Rogers. He said that there were not any projects that could be exactly equated to this proposal but those other projects mentioned by Commissioner Riggs had been considered within the recommendation. Commissioner Riggs asked if the issues for this variance were deferred maintenance and vehicle dimensions. Development Services Manager Murphy clarified that it was not a variance request but an application for a CDP Revision that required a recommendation from the Planning Commission and approval by the City Council. He said regarding deferred maintenance that it was hard to revisit that issue; he said there were other lifts that could potentially replace lifts in the same exact spaces but that was not what the applicant was requesting. He said the Board of the HOA had gone through a certain process to make this request and staff was recommending approval of the request. Commissioner Riggs said that the key issues appeared to be deferred maintenance and vehicle size. Development Services Manager Murphy said those were the key issues.

Commissioner Deziel thanked the applicant for obtaining the scoping for an engineering study. He said that the property had a unique situation, but if the parking number was simply reduced that would stand in the future and would allow a project to have just a little over 1.5 parking spaces with no extra guest parking per unit. He said this unique circumstance merited a unique response. He said possibly if all the units could be deed restricted to senior housing due to the finding that there was less vehicle ownership among seniors, but he did not think that was viable. He said he would like something stronger than what was proposed to bring in extra parking.

Commissioner Keith said she had similar concerns and was concerned with setting a precedent by reducing the parking to almost 1.5 spaces per condo unit.

Chair Bims moved to allow the applicants to have the removal of the lifts on the condition that they come back under architectural control review with landscape reserve for uncovered parking spaces in the rear. Commissioner Keith said that did not sound like a viable solution for many of the homeowners on the east side. Commissioner Deziel said that there would be an impact on the units on the first floor but there was plenty of room to have a landscaping buffer between parking and the recreation room; the structure under the terrace was the same as that under the current deck parking; there were no plantings on the terrace, planters had been capped off and plants were on the balconies of the units; and there was also a yard and a pool beyond that terrace area. He asked if landscape reserve would mean removing the planters and installing a wall now or if that would happen later. Chair Bims said he did not want to design the layout specifically just that removal of the lifts would require the parking to be somewhere else. He said if those spaces were designated through architectural control review as landscape reserve that identified a solution to a parking problem in the event the demographics changed. Commissioner Deziel asked whether parking in landscape reserve could be tapped for parking on demand by staff. Chair Bims asked staff to respond. Planner Rogers said that could vary dependent upon conditions and the Commission could indicate how that would be implemented. Commissioner Deziel said that perhaps there could be a requirement for a public hearing and Commission approval or for staff review. Planner Rogers said there were options.

Commissioner Riggs said he felt the City should have more flexibility than it does to address different parking situations but the Commission had to reflect the Zoning Ordinance in its decisions. He seconded Chair Bims' motion noting that architectural control review was an ample way to allow the applicant to work through staff to identify where parking would be on the terrace. He said he thought condition "7.d" was potentially arguable in the future if the applicant were to indicate that there were no feasible solutions.

Commissioner Pagee said she had a problem with a HOA that could by a majority vote decide to not maintain lifts currently there. She said she was not sure if the City could require that same amount of maintenance money in the same proportion for lifts go into a fund to be used in the future to put in parking spaces. She said she wanted something that would require the HOA to maintain and/or replace those lifts for those property owners who found it necessary or convenient to have the lifts. Commissioner Riggs suggested adding a requirement with the architectural control review or with the recommendation for the revision that the applicant demonstrate that the parking interest of all the owners is not prejudiced by this action. He said this was to put the burden on the applicant so that Mr. Kirk among others would not lose current parking options. Chair Bims asked if Commissioner Riggs was suggesting a one-to-one replacement so that if a lift was removed that would be replaced with a parking space in the landscape reserve. Commissioner Riggs said he would leave that up to the applicant to come back and demonstrate to the City that Mr. Kirk and others' parking interests were not harmed.

Chair Bims said Commissioner Riggs was saying that homeowners who wanted to keep their lifts were not responsible for the maintenance of the lifts rather that those should be maintained by the HOA. Commissioner Riggs said also that the lifts could not be removed without the homeowners' acquiescence. Commissioner Keith asked whether it could be stated more specifically that homeowners who wanted to keep their lifts would have those maintained and repaired by the HOA. Planner Rogers said it depended upon where Commission was heading with the motion as to whether the CDP amendments could be structured in such a way that they were recommending to the City Council to approve the CDP Revision with these extra things, or if, as he thought he was beginning to hear, the idea of reducing the required number of off-street parking spaces if parking spaces were provided in landscape reserve. He said the idea of reducing the number of off-street parking spaces in the CDP, if going down the architectural control review path, might be better served by recommending a denial to the City Council based upon those factors and suggesting that the applicant take a different path. He said that architectural control review was a different application and could not necessarily be shoehorned into a CDP condition. Chair Bims asked if Planner Rogers was saying that the Commission could not recommend approval with a condition for architectural control review because that was a separate process altogether. Development Services Manager Murphy said the Commission could recommend a revision to the CDP with some architectural control revision for landscape parking if the parking requirement was reduced to a number lower than what was outlined in the current CDP. He said that if the parking was to be replaced one-to-one there would be another application process. He said that if the Commission did not want to reduce the parking requirement to a number lower than what was outlined in the current CDP he would recommend that they recommend denial and list the reasons why.

Commissioner Deziel said they had discussed preserving equity for the property owners who had lifts and wanted to keep them. He said however for a new comprehensive plan that was currently being called landscape reserve that if it had hypothetically 20-some potential spaces then he did not think the one-to-one protection was needed for the people who wanted the lifts. He said Mr. Kirk made an excellent point that the parking number could not just be reduced and that 33 parking spaces could not just be eliminated as that would harm property values for those in the building. He said if 20 parking stalls were added hypothetically to the terrace area and those went into some assignable/unassigned program based on the leasing that was an excellent substitute for 33 stalls. He said that would equate to 111 spaces total with 66 underground, the deck with 25 spaces, and 20 rather than 22 spaces on the terrace area to allow comfortable pedestrian circulation to the pool and yard area. He said he could see recommending a CDP Revision with a condition that prior to removal of the lifts, the applicant would have to get an architectural control review plan that showed the 20 spaces in landscape reserve with an engineering study. Chair Bims said he did not think engineering study would be needed to put the spaces in landscape reserve. Commissioner Deziel asked if the applicant came forward with an architectural control review if there was an expiration date for when they had to apply for a building permit. Planner Rogers said there was no expiration date for architectural control review approvals. Commissioner Deziel said that 20 unassigned stalls were far more valuable than 33 assigned stalls in particular on lifts as those were provided in tandem. He said he could see allowing the applicant to remove all of the lifts and use the maintenance funds to develop 20 new parking spaces in the landscape reserve. Commissioner Riggs asked if there were units that had two deeded spaces. Commissioner Deziel said there were six such units and that those that had lifts were deeded only one space. Commissioner Riggs said in the future logically vehicles would be smaller, but if the majority of the property owners did not want to deal with the lifts then they should have the option to have them removed as long as someone whose dedicated space was a lift and who wanted the lift

received maintenance and repair of the lift by the HOA. He said he wanted the burden to be on the applicant that the minority of owners who wanted to keep the lifts were allowed to do so.

Commissioner Keith said she agreed the property owners should be allowed to keep the lifts and that the lifts would be maintained and repaired by the HOA. She said that everyone seemed to have the same intent to protect people's rights to have the lifts. Commissioner Deziel said that he disagreed as he thought a comprehensive parking plan and the need for parking overshadowed any of the estimated five or six people with residual attachment to the parking lifts. He said the lifts impacted neighboring spaces and were most unattractive. He said that anyone who wanted a second parking stall could get it out of a lease program if there were some 20 parking stalls. He said the maintenance fund for the lifts would probably pay for the construction of the parking stalls.

Chair Bims said that 22 people who responded to the survey indicated they wanted the lifts removed and the homeowners did not want to see uncovered parking in the rear provided as a replacement for the lifts to be removed. He said thus there were 22 people who were willing to see a reduction in their parking. Commissioner Deziel said that there was nothing on the survey regarding parking. Chair Bims said the general feeling they had heard was that the HOA and residents did not want the parking in the terrace thus at some point there was a rationalization by these individuals that they were willing to give up a lift space without the possibility for a replacement elsewhere. He said the landscape reserve spaces would not need then to equal the lift spaces.

Commissioner Pagee called for the vote. Commissioner Keith said she could support the reduction to 111 spaces with 20 spaces in landscape reserve on the eastern terrace if it included some provision to preserve the right for any property owner who did not want the lift removed to keep it with the repair and replacement of those lifts being the responsibility of the HOA. Chair Bims suggested an amendment to the motion for 20 parking spaces in landscape reserve in the eastern terrace area as part of an architectural control review process with the additional requirement that the residents who do not want to have their lifts removed would have the lifts maintained and repaired by the HOA. Commissioner Riggs as the maker of the second accepted the amendment. Commissioner Deziel said that meant the applicant could not remove any of the lifts until they had obtained architectural control review approval. Chair Bims said that was correct. Commissioner Deziel asked about the trigger to remove a parking space from reserve. Chair Bims said the Community Development Director would have to determine that the parking was insufficient as stated in condition "7.d." He said that if staff, the Director, determined that additional parking spaces were required that the landscape reserve plan could be accessed as a mechanism for adding those additional spaces. Commissioner Riggs said that condition "7.d" could be amended to remove the wording about feasibility and location of parking to read the required landscape reserve plan.

Commission Action: M/S Bims/Riggs to recommend to City Council revision of the Conditional Development Permit so that the parking requirement is reduced to 111 parking spaces with the addition of 20 spaces in landscape reserve that would need to be presented under architectural control review before the removal of any lifts which would reduce the number of parking spaces, and that property owners who want to retain the lifts are allowed to do so and that the Menlo Towers HOA is charged with the requirement to maintain and repair those lifts.

Motion carried 6-0-0-1 with Commissioner Sinnott recused and not in attendance.



## D. PUBLIC HEARING

1. **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 18, 2006 prior to the meeting of September 11, 2006.

2. **Variances/Paul and Marcia Bever/699 Central Avenue:** Request for variances to encroach 7 feet 3 inches into the required front yard and to encroach 1 foot 9 inches into the required corner side yard for an addition to a single-story, single-family residence in the R-1-U (Single-Family Urban) zoning district.

Development Services Manager Murphy said that he had a potential conflict of interest as he owns property within 500 feet of the subject property and left the Council Chambers.

Staff Comment: Planner Rogers said the Commission had commented on another agenda item a few weeks prior involving a recommendation for denial of a project for which approval options were not provided within the packet that in response for this item that staff was ready to suggest approval options if a majority of the Commission directed approval of the requested variances.

Commissioner Deziel thanked staff for attending to that detail.

Commissioner Sinnott suggested moving the item regarding Nativity School prior to 699 Central Avenue.

Ms. Marcia Bever, the applicant for 699 Central Avenue, requested that the item remain on the agenda as it was because she needed to get her young children to bed and a number of neighbors were present who wanted to voice support.

Commissioner Riggs suggested moving the Nativity School item to immediately after 699 Central Avenue for which there was agreement.

Questions of Staff: Commissioner Keith said the staff report on page four indicated that the encroachment could negatively impact the visibility at the corner and asked for more detail. Planner Rogers said there was a specific regulation regarding visibility on a corner property by which a triangle was drawn and any fences within that triangle were required to be three feet in height. He said there were no similar restrictions for structures but the same reasoning applied. He said the corner of the house would encroach approximately 12 feet into the sight triangle. He said the Transportation Manager had indicated that it would not be his preference to allow structures to encroach into the sight triangle. He said with the current curb lines any impact was lessened, but the City could conduct right-of-way improvements in the future bringing that street intersection closer to the structure. In response to Commissioner Keith, Planner Rogers said that there have been instances recently wherein the City has widened a road in which property owners have occupied stretches of public right-of-way with fences or other improvements that created difficulties to the City in pursuing long-term objectives to reclaim that public right-of-way. He said that this occurred with the improvements along Hamilton Avenue.

Public Comment: Ms. Bever, the applicant, noted that some of her neighbors had left but had written comments. Chair Bims suggested those be given to staff. Ms. Bever said they were seeking an additional seven feet of building space. She said their home was a two-bedroom, one bath, 1200 square foot residence and their hope was to add 400 square foot of living space. She said the plans provided were the best option to provide an additional bedroom and bathroom. She said the defined best as ease of construction and a probable timeline; preserving the overall look and character of the home and the neighborhood; a common sense approach; dealing with a combination of restraints including large heritage oak on the property with an overhang over 60 percent of their roof, located in the flood plane and the current home's placement on the lot and the existing floor plan. She said staff had offered several building options, but she and her husband and 31 of their neighbors found staff's options to be objectionable and lacking in practical application. She said a partial second story over the garage which would require jacking the entire house up six inches and either replacing or reinforcing the foundation would also place the bedroom and bathroom the farthest distance away from the existing bedrooms would look unnatural and awkward in relation to her home and the neighbors' homes. She said the neighbors had responded to this particular option with a resounding "no." She said completely changing out the floor plan, converting the living room to the bedroom, the garage into a living room, and then constructing an entirely new garage seemed a huge project for lack of accommodation of seven feet, plus the option would reduce all of the sunlight into the yard and kitchen. She said the Building Department had told her a year prior that just finishing out their garage was not something that could easily, if ever be done because of issues related to walls and foundation. She said that she was told that a building permit could not be issued for the garage. She said the issue of corner visibility was inconsequential and their small addition would not interfere with current sight lines. She said that currently there was an existing four-foot fence and a large eight foot pittosporum tree on the corner property, and that cars come into view as they pass through their property line and past the eight foot pittosporum tree at which point their addition if built would not be in the way. She said the construction would mean the corner would be safer as they would remove and/or relocate the pittosporum tree. She said since 1993 there had only been one fender bender at the relevant intersection. She said that she had provided letters of support from 31 neighbors and there were other neighbors who were in attendance to voice their support. She asked that the Commission approve the request for variance.

Commissioner Sinnott said that the applicant wanted to preserve the yard certainly but there was a possibility to add a master bedroom to the other side of the kitchen. Ms. Bever said that they had asked the architect to look at that and several Commissioners had done a site visit. She said that would make the access to the backyard through the master bedroom.

Mr. Ken Bayne, Menlo Park, said his property that he had owned for 16 years was one door away from the applicants. He said he was interested in preserving the quality and character of the neighborhood as well as property rights. He said he fully supported building restrictions and limitations to maintain the quality and character of a neighborhood but that those rules should not be applied rigidly to every situation. He indicated that sometimes the better option required the issuance of a variance. He said the applicants' option would far better preserve the quality and character of the neighborhood than options recommended by staff. He said he was not concerned about safety on O'Keefe and he doubted that the street would ever be widened. He urged the Commission to approve the variance request.

Ms. Leslie Fine, Menlo Park, said she agreed with the Mr. Bayne's comments. She said other construction in the neighborhood recently had included several second-story additions as well

as homes being demolished and two-story homes built that did not preserve the character of the Willows. She said the applicants were proposing an incremental change that preserved the backyard and it was the most sensible option.

Chair Bims called Margaret Keller. Ms. Bever, the applicant, said that Ms. Keller, Menlo Park, was not in attendance, but Ms. Keller had wanted to add to the letter she had written previously that she rides her bike to work at USGS and walks her dog frequently and that the visibility at the applicants' corner was not a problem at all. Ms. Bever noted that on one side of O'Keefe the residents were bordered by a high-density neighborhood and her neighborhood was low density. She said that her neighborhood got a lot of pass-through traffic from the high-density neighborhood. She said the chances that her neighbors would ever let the street be widened so that high-density traffic could travel even faster down O'Keefe was minimal.

Ms. Sarah Miller, Menlo Park, said the proposal was a very practical and an elegant solution. She said she was a little puzzled with some of staff's recommendations and wondered when they proposed moving the living room to the garage if they had considered the fireplace.

Mr. Eric Sabelman, Menlo Park, said he has lived in the neighborhood since 1979 and had previously written a letter of support. He said his letter had not addressed the sight line at the corner. He said he thought it was a stretch to state that the addition to the house would cause an impediment to visibility at the intersection.

Chair Bims closed the public hearing.

Commission Comment: Commissioner Sinnott said she had to make the findings for a variance before she could approve it. She said looking at the plot map that the subject lot matched all of the others surrounding it. She said for the Commission to approve the variance just because it had neighbor support contained a lack of fairness as there were a number of people who had not chosen to go outside the rules. She said that in the law there had to be a hardship to grant a variance. She moved to deny the project. Commissioner Deziel seconded the motion. He said that staff notified the applicant they needed to make four separate findings in order for the variance to be granted. He said the applicant wrote a letter of their thoughts for the verification of the findings. After noting a large number who spoke in support of the project, he said granting a variance was not a popularity contest. He said the fact that there was no hardship came from the fact that a 400 square foot addition could be made at the single-story without discretionary review by simply placing the addition within the setbacks. He said that an architect could rework the space. He said the hardship cited by the applicants was that it would be expensive to try another approach because the lot was in the flood zone. He said in Section 16.82.340 (b) (1) of the zoning ordinance that the hardship finding could not be based on financial difficulties. He said he could not make the finding for the hardship. He said the second standard for a variance was such if there was a hardship that the relief desired to be granted was necessary so that the property owners could use their property as other conforming properties were allowed to use their property. He said if the applicants' lot was clipped at the corner and that created an adversity in the way the setback worked and required a 35-foot setback rather than a 20-foot setback then there was a hardship and a finding could be made for both of the first two standards for a variance. He said that there was not such a hardship with this property.

Commissioner O'Malley said if he supported the applicants' explanation of how their variance request met the four findings that he could vote to support the project. Commissioner Deziel said the standards were specified in the zoning ordinance. Commissioner O'Malley said he

visited the site and ignoring the four findings he found that the plan proposed by the applicants was far superior to anything staff was recommending as an option. He said the contention that the addition would impact visibility was substance-less. Commissioner Deziel said that if the corner house was allowed to extend forward seven feet that it would shadow the next two to three properties. Commissioner O'Malley said he would disagree.

Commissioner Riggs said as Commissioners Deziel and Sinnott pointed out that the Commission was required to make four findings for variance as established by law. He said while this project proposal made the most economic sense, most sense of continuous use of the house and the backyard, and construction simplicity that the Commission was not allowed to consider simplicity or logic of architectural design. He said if an applicant had to work within the lot without variances in a space that they did not really want to use that it could cost double or triple but that was the law. He said it was uncomfortable for him to say but he had to support the motion. He said that it was possible to revise a garage to living space and it was just a matter of revising the footing.

Commission Action: M/S Sinnott/Deziel to deny the request for variance.

Motion carried 5-2 with Commissioners O'Malley and Keith opposed.

Items D.3 and D.4 were heard after item D.5.

3. **Use Permit/David Hettig/514 Pope Street:** Request for a use permit to demolish an existing single-story, single-family residence and detached accessory building, and construct a new two-story, single-family residence on a substandard lot with regard to lot width and lot area in the R-1-U (Single-Family Urban) zoning district.

Staff Comment: Planner Rogers said that he had no additional comments.

Questions of Staff: Commissioner Pagee asked about proposed tree removal. Planner Rogers said that there was no proposed removal of the heritage trees; there was one proposed removal of a non-heritage tree.

Public Comment: Mr. David Hettig, property owner and the applicant, said he was happy to answer any questions. Commissioner Keith asked about the front door on the side of the residence. Mr. Chris Volkamer, Volkamer Architects, said the layout in the design was based on the idea of keeping and using the large backyard, thus they placed the front door on the side. Commissioner Pagee said that she had some concerns with the location of the entry door including security and safety and possible noise impacts to the neighboring residence from people entering and leaving the subject property. Mr. Hettig said they planned to have good lighting and a well-defined path in the entry area. He said also that there was about a 20-foot between their home and their neighbors in which there would also be fencing and landscaping. Commissioner Pagee said that lighting on the second floor landing might overflow into the neighbors causing impact. She asked how that would be handled. Mr. Hettig said that there was even more setback for the second story and that the oak tree would block much of the light from the stairway tower.

Chair Bims closed the public hearing.

Commission Action: M/S Keith/Pagee 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. 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 Volkamer Architecture, consisting of 18 plan sheets, dated received August 31, 2006, and approved by the Planning Commission on September 11, 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. Prior to building permit issuance, the applicant shall submit plans indicating that the applicant shall remove and replace any damaged and significantly worn sections of frontage improvements. These revised plans shall be submitted for the review and approval of the Engineering Division.
  - f. 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 or building permit.
  - g. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance. Prior to the building permit issuance, the applicant shall implement the tree protection plan and technique recommendations in the Arborist Report for all applicable heritage trees.

Motion carried 7-0.

4. **Use Permit/Gary Ahern/1056 Cascade Court:** Request for a use permit to construct a lower story addition to an existing single-story, single-family nonconforming residence that would exceed 50 percent of the replacement value of the existing structure in a 12-month period in the R-1-S (Single Family Suburban) zoning district.

Staff Comment: Planner Rogers said he had no additional comments.

Questions of Staff: Commissioner Pagee said she was concerned with how soil and debris would be removed from the lot because of the tree protection needs. Planner Rogers said that the arborist recommendations would be enforced.

Commission Comment: Mr. William Beasley, property owner, said they were seeking more space for their family. He said because of the slope to the backyard they thought their architect's design was a good solution that accomplished that with minimal disruption. In response to Commissioner Pagee, Mr. Beasley said that they would not do anything to destabilize the hill or harm the trees. He said the architect could provide a more informative response. Mr. Gary Ahern, Focal Point Designs, said that tree protection fencing would be put in place and inspected by the City inspectors prior to the actual issuance of the building permit. He said tree protection fencing remained part of the ongoing inspection and if the fencing appeared to be damaged or pushed around the inspectors would question and possibly stop work on the project. Commissioner Pagee asked how the dirt would be hauled out from under the canopy of the trees. Mr. Ahern said they would have to lift the house some anyway and dig underneath so perhaps it would be as simple as hauling the dirt out to the front of the house.

Chair Bims closed the public hearing.

Commission Action: M/S Keith/Pagee 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 *standard* conditions:
  - a. Development of the project shall be substantially in conformance with the plans prepared by Focal Point Design, consisting of seven plan sheets, dated received September 5, 2006, and approved by the Planning Commission on September 11, 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.

Motion carried 7-0.

5. **Use Permit and Architectural Control/Roman Catholic Archbishop of San Francisco/1250 Laurel Street:** Request for a use permit and architectural control to demolish the existing multi-use building and kindergarten and construct a new multi-use building of approximately 14,016 square feet and a new kindergarten of approximately 1,321 square feet at Nativity School. The project also involves modifications to the playgrounds, outdoor dining patio, on-site parking and circulation, the removal of ten heritage trees, and a revision to the use permit for the annual carnival to reflect the modified site plan.

Staff Comment: Planner Chow noted that the project consisted of an expansion of an existing school facility with the intent to make improvements to accommodate current programs and needs of the students and school. She said that the existing kindergarten and gymnasium would be rebuilt and enlarged for a net new square footage of 9, 821 square feet. She added that the proposed project would include reconfiguration of the parking lots with 19 new parking spaces, the removal of nine heritage trees, new landscaping and play area, and a revision to the existing use permit for the annual carnival to reflect changes to the site plan. She said that the applicant did not intend to change the scope or operations of the event.

Planner Chow said that staff wanted to make a few corrections and clarifications. She said that the existing square footage was 33,718 square feet and not 18,135 as was mistakenly listed on the data sheet in the staff report. She said also for purposes of this report that Laurel Street runs in the north and south direction, which was different than the true north shown on the plans.

Planner Chow said staff had distributed revised draft conditions of approval for the Commission's reference. She said that condition 4.k had been modified to allow the applicant up to 30 days to demolish the existing multi-purpose room once the occupancy permit was issued as the applicant wanted to maintain the hot lunch program at the school with disruptions. She said condition 4.l was added as the applicant would like to install a fence to provide an enclosed space for the students. She said the new fencing would be in lieu of closing the gates to the parking lot along Oak Grove Avenue during school hours. She said the location and design of the fence would be subject to review by the Planning Division.

Commissioner Deziel asked about the fencing design. Referred by staff, Chair Bims recognized Mr. Bill Gutsell, project architect. Mr. Gutsell said the fence could be extended behind the trash enclosure and to the building inside the drop off area. He said when the children are dropped off they were within the fence and in a secure area away from traffic. Commissioner Deziel asked if this was a request for change made by the City or proposed by the applicant. Planner Chow said that there was discussion in the staff report that there needed to be a gate open during school hours. The applicant was concerned with keeping the gate open and derived an alternative plan that would meet the City's and the applicant's needs. Commissioner Deziel said that drive-by traffic would then be closer to the children. Planner Chow said that the applicant could address their intent and there was a revised condition to look at the site plan.

Planner Chow said the next item with a change was condition 5.b in which staff attempted to identify the different types of activities that would occur onsite to help address concerns raised by neighbors regarding the expansion and allowing various uses. She said there were certain identified uses provided by the applicant and a re-occurring event, the annual Christmas tree sales. She said that the applicant had also indicated there might be one-time special events each year such as this year's Nativity's 50<sup>th</sup> anniversary event. She said there was an

allowance for five special events other than reoccurring events per year. She said that if there were other events that would re-occur then the applicant would need to request a revision to the use permit for those to be identified.

Commissioner Riggs asked whether the five events were meant to include the back-to-school dinner/night or was it additional. Planner Chow said the five events would be additional to those listed in the conditions of approval.

Planner Chow said condition 6.f contained a typographical error and should indicate 5 to 11 p.m. and not to 10 p.m. She said condition 6.k was added specifically to clarify that the noise ordinance exception was specifically for the carnival and no other special event.

Chair Bims asked about condition 6.d and what would trigger the need for the applicant to return to the Planning Commission for revisions to the permit. Planner Chow said she thought it would be complaint driven and the Community Development Director would determine whether the use permit should return to the Commission for revision.

Public Comment: Monsignor Steven Otellini said he was the Pastor of Nativity Church and in that capacity representing the Roman Catholic Archbishop of San Francisco, who owns Nativity School. He thanked the Commissioners for visiting the site. He said they were asking for the replacement of a multi-purpose building on their campus, a kindergarten classroom and various site improvements. He said Nativity School has been in existence since 1956 and was originally intended for grades 1 through 8. He said in 1960 the Father Ford Hall was purchased from Dibble Army Hospital and moved to the site. He said it was purchased for \$1.00 and had not appreciated in value. He said in 1972 a modular classroom was constructed for the kindergarten, which extended the educational institution to K, rather than 1, through 8. He said in 1975, a Library Science and Reading modular buildings were constructed and in 1991, a modular Computer Lab and Extended Care building were constructed. He said the current enrollment was 290 students. He said the absolute capacity would be 315 students and could not be exceeded given the Archdiocese's standards for the number of students in each classroom. He said the Father Ford Hall was used as their multi-purpose building, but it was too small to hold the entire student body for an assembly nor could it be used for indoor volleyball and basketball practices. He said currently the school spends \$18,000 annually to rent court facilities for their home games. He said the Hall also contains a kitchen that provides the hot lunch program for the school. He said the kindergarten classroom did not meet State requirements for the size of a kindergarten classroom. He said in 2003 he was appointed as the Pastor of Nativity Church and at that time requested a general needs assessment of all of the structures on the property. He said the School developed a "Wish List" that was shared with parents and multiple constituencies as well as with the only contiguous neighbor whose property is in Atherton. He said that the loop road from Oak Grove to Laurel was not something that neighbor supported. He said moving the student drop off on Oak Grove Avenue to Laurel Street was also opposed by neighbors. He said they then revised the plans without a loop road and the drop off from Oak Grove Avenue. He said in 2005 they prioritized all of the school's needs and identified what they could do financially. He said the estimated cost for the project is \$7,000,000.

Commissioner Pagee asked about the hours for athletic practice. Mr. Russ Castle, Athletics Director, indicated practices would conclude by 9 p.m. seven days a week.



Commissioner Deziel addressed condition 5.a regarding the limit for 315 students and asked whether it should be identified as enrolled students. Planner Chow and Monsignor Otellini said that was accurate.

Commissioner Keith asked about the five additional special events. Monsignor Otellini said the events would be non-repeating such as the 50<sup>th</sup> anniversary in October, teacher retirements, and special anniversaries. Commissioner Keith asked about timeframe maximums for such events. Monsignor Otellini said he thought most events would not continue past 10 p.m. Commissioner Keith confirmed with him that a condition regarding that would be acceptable.

Commissioner Riggs noted traffic issues related to other schools in the area and asked about the visitor population for games. Monsignor Otellini noted that games would be on the weekend. Mr. Russ Castle, Athletics Director, said that there would be one game played at a time with two teams, seven or eight children and their parents. He said potentially there would be a 15 to 20 minutes overlap between games and potentially could have 20 to 40 vehicles during that overlap.

Mr. Bill Gutsell, Keller and Daseking Architects, Menlo Park, said his firm had well-founded experience with architectural design for public and private schools. He said the proposed plan would serve the students and community as well as greatly enhance the appearance of the site. He said there a considerable number of right-of-way improvements to the benefit of the community including a sidewalk down Oak Grove Avenue, curb and gutter improvements, and the addition of a right-turn lane only into the site as suggested by the Transportation Division. He said that they were seeking the Commission's unanimous approval of the project. He said that Nativity has been a good neighbor and had solicited opinions of their neighbors during the project development and tried to address those concerns. He said the staff report contained his response to concerns; he noted that if there were additional concerns raised this evening, he would like to respond to those as well. He said regarding the plan development process that there had been a very preliminary plan of a gymnasium presented with the needs assessment study. He said his firm picked up from where the needs assessment left off and they looked at about 16 schemes. He said the gymnasium originally was sited to the center of the property but that had not taken into consideration parking or tree removal. He said the current proposal would require the removal of much fewer trees. He said all of the 16 schemes had been presented to staff for their review. He said design features they needed to look at included security, adequate turf areas, adequate staff and parent parking, the drop off loop, and minimal tree removal. He said they met with the neighbors on December 15, 2005 and those neighbors were not supportive of the drop off from Laurel Street. He said there were concerns regarding the play structure and that much of that sound was made by the equipment and those features had been replaced. He said the 12 trees to be removed would be replaced by 44 trees. He said there would be street trees on both Laurel Street and Oak Grove Avenue. He said they would replace fire hydrants as well.

Mr. Roger Wick, Menlo Park, said there was a State requirement of less than 10,000 of net increase of square footage for a project that could occur without environmental review. He said in this instance that the net increase was 10,525 square feet. He said the floor area for the hall was 3,649 square feet and the 4,391 square feet counted was the gross outside dimension. He said the proposed gym was stated in square footage of the floor area only. He said there were modular storage units in the setbacks that were being counted as square footage. He said he thought that the square footage should be measured in the floor area only. He noted that on page B.22 there were nine, 36-inch box trees designated, but the conditions indicated all should be 24-inch boxes. He requested that air conditioners be used during games in the gym and the

windows not be opened to mitigate noise impact. He requested that the air conditioners be the low-noise models. He said part of the use permit and the noise exception was for the school to do as much noise abatement as possible for the carnival such as putting the music inside. He suggested upgrading the transformer to supply power for the carnival to eliminate the need for generators. He said there was a note to cleanup during the carnivals and he would like another note to leave the area as clean as it was found. He said enforcement of the cleanup was an issue.

Commissioner Riggs suggested a time limit on comments. Chair Bims asked speakers to limit their comments to three minutes.

Mr. Kevin Gaffey, Menlo Park, Chaplain at Vallambrosa Center, 250 Oak Grove Avenue, said the Center was the nearest neighbor to the site improvements. He said they were in favor of the plan and that the improvements would greatly enhance the site and add benefit to the community.

Mr. Steve Castillo, Menlo Park, said his concern was with the traffic engendered by the additional events. He said that there would be considerably more traffic and he was concerned that parking was only being increased from 29 to 48 spaces. He said the applicant intended to remove 12 heritage oak trees which he felt conflicted with the City's branding as "Tree City USA."

Mr. John Conway, Menlo Park, said the project was imperative for the future of Nativity School as currently it was not competitive with other schools in the area. He said regarding Mr. Wick's concerns regarding the generator that the noise limits on the generator used were set by the State of California and OSHA. He said regarding cleanup and trash that the Carnival Committee hires Vietnam Vets, who do an excellent job keeping the school grounds and carnival area clean. He said they report Monday morning and cleanup the remaining trash in a half day. He urged the Commission to approve the project.

Mr. Brian Hamilton said he and his wife Kathleen live in Atherton and adjacent to Nativity. He said they wanted to go on record that they supported the project. He said however they felt strongly that the entrance and exit should remain on Oak Grove Avenue. He said the entrance currently has an area where cars pull over for the drop. He said that putting in a sidewalk and right-turn lane was great but the right-turn lane should be as long as possible to keep cars off of Oak Grove Avenue. He said he would like that the replacement trees be heritage trees. He said there would be new lighting for the gymnasium which could be intrusive to all neighboring buildings. He said the limit of 10 p.m. for all events was acceptable. He said he disagreed with the architect about the play structure as it was the children and not the equipment that caused the intense noise. He said their request would be for the play area to be moved away from the adjacent homes that are very close to the site. He said currently the Convent provided a noise buffer. He noted that there had not been any discussion about what would be done to abate noise and visual impacts when the Convent was torn down and the portables were removed. He said he and other neighbors would like to see this addressed.

Ms. Mary Pat Kelly, Menlo Park, said she was concerned with the traffic on Oak Grove Avenue. She said she thought if the traffic came into the site from Oak Grove Avenue that the exiting traffic should come out on Laurel Street. She said that there also needed to be a right-turn only out of the site. She asked the architect to describe the ingress/egress to the property.

Mr. Gutgsell said that the right-turn lane was about 175-feet in length and showed there were three stacking lanes for drop off of children. He said the drop off takes about 10 to 15 minutes in the morning. He said that additional lanes and parking were to improve the queuing of cars.

Commissioner Keith said neighbors had concerns with impacts to parking on Oak Grove Avenue because of activities in the gym, and asked Mr. Gutgsell if he wanted to address parking behind the gymnasium. Mr. Gutgsell said there were 46 spaces behind the gymnasium and there were a total of 86 stalls on the site. Commissioner Keith asked if cars leaving the site could go right or left. Mr. Gutgsell said that was the current situation, which they would like to maintain.

Commissioner Riggs asked about the parking lot lighting. Mr. Gutgsell said that they had not looked at the specific lighting they would use at the site, but they would keep lighting levels down and respect neighbors. He said that most schools do not light their properties at night. Commissioner Riggs asked whether natural ventilation would be used in the gym. Mr. Gutgsell said that one of the speakers had requested that the windows be kept shut during games, but they wanted to have the capacity for natural ventilation in the gym.

Commissioner Riggs addressed Planner Chow regarding the length of the right-turn lane and the possibility of left-turn traffic and asked whether Transportation Division had looked at these two issues. Planner Chow said the Transportation Division had reviewed the proposed project, the site circulation, and accessibility. She said the Division had directed the applicant to add a right-turn lane which was recommended at 175-feet in length.

Mr. Tom Naylor, Menlo Park, said that he was a graduate of Nativity School; his children had attended Nativity School, and he currently provides part-time maintenance and painting at the school. He said that Nativity was one of the first schools to install fire sprinklers. He said drop offs occurred in about 20 minutes and usually involved about 120 cars. He said that there were one-third less trees on campus now than in the past because trees have fallen over the years. He asked the Commission to approve the project.

Ms. Shirley Conley, Menlo Park, said while a right turn lane would improve traffic for someone making a right from Pine Street in the morning that at the same time there were about 30 vehicles coming from El Camino trying to make a left into the site. She said she really wanted the project to succeed and asked that the applicants remember that there are residences across the street that might be impacted visually when buildings are constructed.

Mr. Tom Hamilton, Menlo Park, said that they had supported several additions to public schools over the recent years. He said he trusted that the City would support the Nativity School's improvement.

A retired postman said he had driven a delivery truck in the area for many years and that there was enough room on the roads for all of the different uses.

Commission Action: M/S Deziel/Riggs to continue the meeting until midnight.

Motion carried 6-1 with Commissioner Sinnott opposed.

Mr. Daryl Hoffman, Menlo Park, said he strongly believed the project should move forward and that Nativity had been a good neighbor. He said that they appreciated Nativity's efforts to adjust

the traffic circulation to mitigate traffic on Oak Grove Avenue. He asked that the Commission look at screening for sound and lights.

Ms. Marie Moran, Menlo Park, said currently her view from her residence was of trees at Nativity School. She said that in rainy weather the children had to remain in their classrooms and that the teachers and the children needed space indoors during inclement weather. She said she and her homeowners' association hoped the parking situation and the access from the parking areas onto Oak Grove Avenue could be addressed so that it would not pose the problem it currently does.

Ms. Kathleen Hamilton, Atherton, said the proposal was a great project. She said her problem was the audible sound from the play structure. She asked that it be moved as the sound would intensify from siblings using the play structure when sports games and other events were occurring.

Ms. Fran Dehn, Chamber of Commerce, said that Menlo Park residents support education. She said that this project was very similar to what was being supported by the endorsement of Measure U and asked the Commission to approve it.

Chair Bims closed the public hearing.

Commission Comment: Commissioner Sinnott said she would move to approve as recommended by staff. She said she liked the improvement in the fencing and the landscaping; there was a valid need for the gymnasium; the parking would be increased and the circulation would be improved; and there was sensitivity to sound and lighting concerns. She said some of the issues raised would not be aggravated by the project. She encouraged residents to go to the Transportation Division regarding their traffic concerns. Commissioner Deziel seconded the motion.

Commissioner Keith asked that under condition 5.b a requirement be added for all events to end by 10 p.m. Commissioner Deziel said that he did not want that added as private schools were important to Menlo Park and they were always in fundraising mode. He said the school needed flexibility in the use of the interior of the building. Commissioner Keith said Monsignor Otellini had indicated the time was acceptable.

Commission Action: M/S Keith/Pagee to amend the motion to modify condition 5.b to include a requirement that all special events end by 10 p.m.

Commissioner Riggs said he would like to clarify that the new facility would not be used for third party events (rental) and the outdoor lighting would need to be reviewed and approved by staff. Commissioner Keith said that she would not support the restriction on rental.

Monsignor Otellini said that the liability was such that the facilities could not be rented to outside agencies.

Commissioner Riggs asked that the outdoor lighting be added as a condition for review and approval. There was consensus that the lighting review and language to 6.d to indicate the Community Development Director would be informed of problems related to the site's use was acceptable by all to be added to the original motion without a motion to amend.

Motion on the motion to amend to limit all events to 10 p.m. under condition 5.b carried 5-2 with Commissioners Deziel and O'Malley opposed.

Chair Bims restated that the motion was to approve as recommended by staff with the modifications that outdoor lighting would be reviewed and approved by staff, clarification to language in 6.d, addition of 10 p.m. limit under condition 5.b., and clarification in text of enrolled 315 students.

Commission Action: M/S Sinnott/Deziel to recommend with the following modifications.

1. Adopt a finding that the project is categorically exempt under Class 1 of the current State CEQA Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. 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.
4. Approve the architectural control and use permit revision subject to the following *construction-related* conditions:
  - a. Development of the project shall be substantially in conformance with the plans prepared by Keller and Daseking Architects, consisting of 22 plan sheets, dated received September 6, 2006, and approved by the Planning Commission on September 11, 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. Prior to building permit issuance, the applicant shall submit plans indicating that the applicant shall remove and replace any damaged and significantly worn sections of frontage improvements. These revised plans shall be submitted for the review and approval of the Engineering Division.
  - f. 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 or building permit.
  - g. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance. Prior to the building permit issuance, the applicant shall implement the tree protection plan and technique recommendations in the Arborist Report for all applicable heritage trees.
  - h. Prior to building permit issuance, the applicant shall submit plans showing proper signage and striping for one-way circulation in both parking lots.
  - i. Prior to building permit issuance, the applicant shall work with Planning staff and the City Arborist to determine the appropriate street trees along Laurel Street and Oak Grove Avenue in front of the subject site. A revised comprehensive landscape plan shall be submitted to the Planning Division for review and approval.
  - j. Prior to building permit issuance, the landscaping plan shall comply with the Water Efficient Landscape Ordinance (Chapter 12.44) subject to the review and approval of the Planning Division. The applicant shall install and maintain landscaping in the parkstrip and within the campus per the approved plans.
  - k. ~~Prior to occupancy of the gymnasium building~~ **Within 30 days of issuance of the occupancy permit or the gymnasium building**, the applicant shall remove the existing Father Ford Hall.
  - l. Prior to building permit issuance, the applicant shall submit revised plans showing the location of the wrought iron fence, consistent with the new perimeter fencing, to be installed from the fencing along Oak Grove Avenue, around the trash enclosure towards the front entry area near the gym, in an effort to provide a secured area for the students. The parking lot along Oak Grove shall not restrict access, parking or circulation during school hours.***
  - m. Prior to building permit issuance, the applicant shall submit a lighting plan and photometric study, of existing and proposed lighting. The plan shall include the location and the proposed type of lighting fixtures. The plans are subject to review and approval of the Planning Division.***
5. Approve the use permit revision subject to the following *ongoing, project-specific* conditions:

- a. The maximum allowable **enrolled** student population on site shall be 315 students.
  - b. All student instruction and regular school activities shall continue to be limited to the hours between 7:45 a.m. and 3:15 p.m. on Mondays through Fridays. The following school activities are allowed to occur outside of these hours and days:
    - Before and after school extended care (7:00 a.m. drop-off; 5:45 p.m. pick-up)
    - Volleyball practice (September – November)
    - Basketball practice (December – February)
    - Volleyball games (four Saturdays **and/or Sundays** during September through November)
    - Basketball games (four Saturdays **and/or Sundays** during January through February)
    - Summer Camp (June through August, typically an average of 80 children/day from 7:00 a.m. to 5:00 p.m.)
    - Back to School Dinner (once per year)
    - Back to School Night (once per year)
    - Italian Catholic Federation dinners (four to six per year)
    - **Annual Christmas tree lot**
    - **Up to five additional one-time special time events each year, which shall end by 10:00 p.m.**
  - c. The applicant shall continue to communicate in writing the circulation plan for pick-up and drop-off to parents. The applicant shall require that drop-off and pick-up of passengers occur only in the designated loading and unloading zones, as specified on the plans dated received September 6, 2006. Compliance with this item shall be to the satisfaction of the Transportation Division.
  - d. The applicant shall modify or remove the ~~two~~ gates at the driveway entrances and exits to the site if the Transportation Division determines that the operation and/or location of the gates affects the traffic operation of ~~either Oak Grove Avenue or Laurel Street~~. The modification or removal of the gates is subject to review and approval by the Planning Division and the Transportation Division.
6. Approve the use permit revision subject to the following *project-specific* conditions related to the annual Carnival:
- a. Development of the Spring Carnival shall be substantially in conformance with the site plan prepared by Keller and Daseking Architects, consisting of 1 sheet (DD-2.4), dated received September 6, 2006, and approved by the Planning Commission on September 11, 2006, except as modified by the conditions contained herein.
  - b. All applicable City Codes, Building Division, Fire District, and Police Department requirements shall be complied with.
  - c. Cleanup will be the responsibility of the applicant.
  - d. If any problems arise in the future, **they will be brought to the attention of the Community Development Director.** ‡ The Planning Commission may attach conditions to the Use Permit at a later date, and the Use Permit is subject to revocation if there is a failure to adhere to **the** conditions.

- e. The applicant shall notify the Community Development Department and Police Department of specific dates each year, at least a month prior to holding the event.
- f. The Spring Carnival occurs annually during the last weekend of school typically in June. The hours of operation for the annual Carnival shall be limited to the following hours:
  - Friday, 5:00 p.m. to 10:00 p.m.
  - Saturday, noon to 11:00 p.m.
  - Sunday, noon to 7:00 p.m.
- g. Vendors and equipment may arrive as early as Monday before the Friday start date of the Carnival.
- h. The ride vendors will cease patron activities at 7:00 p.m., and breakdown operations must cease at, or before, 10:00 p.m. the Sunday night of the carnival. Remaining breakdown shall be allowed to continue on Monday beginning at 8:00 a.m.
- i. The public address system shall not be directed towards the adjacent residences for sound transmittal. Announcements using the public address system shall cease at, or before, 10:00 p.m. on Friday and Saturday nights of the annual Carnival, but activities can occur until 11:00 p.m. In an emergency situation or if requested by the Menlo Park Police Department, the public address system may be used on a case-by-case basis.
- j. The applicant shall provide trash patrol at least once each day during the Carnival. The clean-up effort shall occur around the perimeter of the site and should extend down Pine Street to Ravenswood Avenue and along Laurel Street to Ravenswood Avenue.
- k. Per Planning Commission approval on April 4, 2000, the annual Carnival is allowed to exceed the Noise Ordinance limits. ***Unless otherwise permitted, the Annual Carnival is the only event that is allowed to exceed the Noise Ordinance limits.***

Motion carried 7-0.

- 6. **Use Permit and Architectural Control/R. Rapp & Company/64 Willow Road:** Request for a use permit and architectural control to alter and expand an existing two story office building from 26,190 square feet to 32,247 square feet and to make associated exterior modifications to the building, landscaping, and parking lot. The proposed project also requests a parking reduction from 5 spaces per 1,000 square feet to 3.3 spaces per 1,000 square feet for the proposed general office use.

Staff Comment: Planner Chow said staff had no additional comments.

Questions of Staff: Commissioner Deziel said he was concerned about the proposed fencing along Willow Road and that it might provide hiding places in the evening for individuals who might cause crime to pedestrians in the area or other criminal acts. .

Public Comment: Mr. Ken Hayes, Hayes Group Architects, said the existing site is at the corner of Willow Road and Willow Place. He said they were working with staff and Public Works on



creative ways to mitigate storm water runoff from the property. He said the owner wanted to renovate the building, increase the floor area by adding to the existing footprint, reconfigure the parking to create new landscaping and building opportunities, incorporate sustainable quality lasting materials and systems, use architecture that fit within the surrounding area, and attract a new, high-quality, low-impact, long-lease office tenant. He said they were looking primarily at venture capital firms. He said the architectural goals were to create a sense of place and arrival, respond to the site and the environmental forces, promote interaction between the building's interior and the landscaping, promote sustainable quality lasting materials and reference contemporary architectural vocabularies. He described and showed visual images of the proposed architectural details.

Commissioner Deziel expressed concern that the gate and fencing might be breached at night. Mr. R. Rapp, property owner, said he owned a similar project at 70 Willow Road and that security had not been needed. He said however if security issues arose with the subject project that he would provide security.

Chair Bims closed the public hearing.

Commission Action: M/S Keith/Pagee 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. 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. 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.
4. Approve the use permit request subject to the following conditions:
  - a. Development of the project shall be substantially in conformance with the plans prepared by Hayes Group Architects, dated received September 7, 2006, consisting of 19 plan sheets and approved by the Planning Commission on September 11, 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 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. 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 building permit issuance, the applicant shall submit plans indicating that the applicant shall remove and replace any damaged and significantly worn sections of frontage improvements. These revised plans shall be submitted for the review and approval of the Engineering Division.
  - f. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a Grading and Drainage Plan, including an up-to-date hydrology report, for review and approval of the Engineering Division. The Grading and Drainage Plan shall be approved prior to issuance of a grading or building permit.
5. Approve the use permit subject to the following *project specific* conditions:
- a. Administrative and Professional Office uses (except medical office) are the only permitted uses within the building. All other uses would require a revision to the Use Permit for the parking reduction.
  - b. Prior to building permit issuance, the applicant shall submit a revised arborist report identifying a tree protection plan and identify if any of the trees subject to pruning would require removal of more than 25% of the tree's canopy. A separate Heritage Tree permit is required for such pruning. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance. The applicant shall implement the tree protection plan and technique recommendations in the Arborist Report for all applicable heritage trees for review and approval by the Planning and Building Divisions.
  - c. Prior to building permit issuance, the applicant shall work with the City Arborist to determine the appropriate species and size for any proposed street replacements along Willow Road. The determination shall be incorporated into the project landscape plan.

- d. Prior to building permit issuance, the applicant shall submit a detailed landscape and irrigation plan prepared by a licensed landscape architect subject to review and approval of the City Arborist and the Planning Division. The landscaping plan shall comply with the Water Efficient Landscape Ordinance (Chapter 12.44) and shall provide details of the proposed sculptures and water features. The landscaping shall be installed prior to final building inspection.
- e. Prior to building permit issuance, the applicant shall pay the Middlefield Traffic Impact Fee of \$483.93 per average daily trip of the net increase in gross floor area. At 6,057 square feet, the fee would be \$32,423.31.

Motion carried 7-0.

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

Item was continued to the meeting of September 18, 2006 prior to tonight's meeting.

## **E. REGULAR BUSINESS #2**

1. **Consideration of minutes from the July 31, 2006, Planning Commission meeting.**

Commission Action: Consensus was to approve as submitted, with Commissioner Deziel abstaining.

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

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

Chair Bims noted that there was an appeal of 1981 Menalto Avenue to the City Council. He said that there seemed to be some confusion about the Commission's findings for the item and he suggested agendizing whether to make a Commission report to the City Council regarding the item. Commissioner Deziel said that the action minutes did not reflect the Commission's action accurately. He requested a transcript of the item for the next meeting. Planner Chow indicated that excerpt minutes would be made available at the next meeting.

Commission Action: M/S Deziel/Riggs to agendize an item to discuss whether to prepare a Commission report for the City Council's hearing of an appeal for 1981 Menalto Avenue and for a transcript of the item to be provided.

Motion carried 7-0.

## **ADJOURNMENT**

The meeting adjourned at 11:50 p.m.

Staff Liaison: Justin Murphy, Development Services Manager

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission on 12/11/06.