



MENLO PARK PLANNING COMMISSION MINUTES

Regular Meeting

October 2, 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 – Arlinda Heineck, Director of Community Development, Thomas Rogers, Assistant Planner

A. PUBLIC COMMENTS

There were none.

B. CONSENT

There were no consent items on the agenda.

C. PUBLIC HEARING

- 1. Zoning Ordinance Amendment, Rezoning, Planned Development Permit, Major Subdivision, Development Agreement, and Environmental Review/Sand Hill Property Company/1300 El Camino Real:** Requests for the following: 1) Zoning Ordinance Amendment to allow an increase in the maximum floor area ratio (FAR) from 150 percent to 165 percent, and to allow an increase in the maximum building height from 50 feet to 60 feet for architectural features, elevator and stair towers, screening of mechanical equipment, and chimneys for up to 25 percent of the building roof area, 2) Rezoning the properties from C-4 General Commercial District (Applicable to El Camino Real) to P-D District, 3) Planned Development Permit to establish specific development regulations and architectural designs for the demolition of existing commercial structures and the construction of 134 residential units and approximately 80,000 square feet of commercial space, 4) Major Subdivision to merge existing lots and create commercial and residential condominium units, and 5) Development Agreement to guarantee development rights. The proposal requires the preparation of an Environmental Impact Report.

Item was postponed at the request of the applicant for additional work related to the EIR.

D. REGULAR BUSINESS

- 1. Discussions Related to Planning Commission Action on a Use Permit Revision and Variances/Sam Sinnott/1981 Menalto Avenue:** Consideration of the following items related to Planning Commission action to approve a Use Permit Revision and Variances for the development of a new second residence on an R-2 zoned property located at 1981 Menalto Avenue.

Commissioner Sinnott recused herself due to a potential conflict of interest and left the Council Chambers.

Staff Comment: Planner Rogers said the item was scheduled as requested by the Commission at their September 11, 2006 meeting. He said the purpose of the item was to allow the Commission to clarify its action of August 14, 2006 to issue a use permit revision and variances for 1981 Menalto Avenue. He said the clarification should address whether the supplementary findings presented by Commissioner Deziel should be incorporated into the main motion as opposed to being represented as a supplementary motion. He said staff in its original review of the actions did not include the supplementary findings in the formal action letter sent to the project applicant and property owner on August 17, 2006 and distributed to the Commission, but rather considered the supplementary findings as contextual information that would be available as part of the minutes and addressed in any synopsis of the meeting. He said that staff reviewed the audiotapes of the August 14, 2006 meeting and believes that the discussion did not clearly support either interpretation for one, the supplementary findings to be included in the action itself of the findings or second, as contextual information. He said if the Commission were to indicate that the first interpretation was the action, staff would prepare a revised action letter to be sent to the project applicant and property owner, and would be included in any future discussion of this action. He said if the Commission were to indicate that the second interpretation was the action, the action letter would stand as written. He said the clarification would not delay the project in any way in particular in regard to the City Council hearing of an appeal of the Commission's action. He said the appeal was scheduled for the Council meeting of October 10, 2006. He said as part of the discussion this evening that the Commission may designate a member to make formal remarks on behalf of the Commission when the City Council hears the appeal. He said the Commission might also give guidance on the content of those remarks. He said with all elements of the discussion this evening that the Commission could not reconsider the merits of the project or make any addition to the action of August 14, 2006 that was not supported by the audio record of that meeting. He said that additionally the Commission may not introduce information that was not available at the meeting of August 14, 2006.

Commission Comment: Commissioner Deziel said he had also listened to the audiotapes and it was his clear intent and that of the Commission's he believed to include the second page of the supplementary findings he had prepared as a motion. He said staff had indicated two separate motions, which was fine. He explained that his method of invoking the Roberts Rules of Order's "method of general consent," which was synonymous with the method of unanimous agreement, was to say "if the Commission agrees" as opposed to saying "if there are no objections." He said his intent was for the words "if the Commission agrees" to be his method for invoking the general consent method for the adoption of the supplementary findings as part of the motion. He said he believed the Commission supported that intent, and therefore, it should stand with the record that the second page of the supplementary findings was included in the

Commission's motion. He said he was happy to go along with the way staff structured it as a separate motion carried in parallel if that was helpful to staff.

Director Heineck referred to the excerpt minutes, beginning on page 19, and said that the options of the Commission to clarify their action was to either let it stand as presented in the draft excerpts as two distinct motions or the other option was to take the information that begins midway on page 19 and move, beginning with "1" through "5," to all become part of the second motion under number "2," which was the use permit findings. She said that was one way of actually incorporating the supplementary findings "1 through 5" as part of the justification of the use permit findings.

Commissioner Deziel said he understood that the Commission was clarifying its prior action, but would not cause any delay for the project. Director Heineck said that was correct and that it was only to clarify whether or not the action was shown as a single motion with the supplementary findings part of the use permit revision findings or if it was two separate motions with the supplementary findings standing alone and distinct.

Commissioner Deziel said his intent under number "2" regarding use permit findings was language to indicate an attachment with the supplementary findings. He said he was most comfortable with "one" motion.

Director Heineck said that staff was hesitant to attach the supplementary findings as there was the potential over the years for that attachment to get separated or lost as an attachment, or disconnected from the minutes. She said staff believed it was best to have them incorporated into the minutes. She said she thought that the supplementary findings should either stay as they are in the draft excerpts with the inclusion of the phrase "as part of number 2," in the second motion that refers to the supplemental findings, or take the text of the first motion and make it literally part of number 2 under the second motion.

Commissioner Deziel said he thought that if the supplementary findings appeared under number 2 of the main motion with an indent and heading "Supplementary Findings" that would help readers. Chair Bims said he also thought that would be clearer.

Commissioner Riggs indicated that his intention as a voter at the August 14 meeting was that the Commission first confirmed the supplementary findings as listed on excerpt minutes pages 19 and 20 through a vote at which point he thought that became part of the final motion.

Director Heineck said that the Commission's desired action was clear and suggested that one of the Commissioners might want to make a motion to that effect to incorporate the supplementary findings under number 2 in the draft excerpts. She said it would also result in a change to the action letter that was sent to the applicant and a revised letter would be sent that was consistent with the revised draft excerpt minutes. She said in response to Commissioner Deziel that the Commission might want to consider the entire draft excerpts for any other modifications and make a motion to include the proposed modification as discussed and any others needed revisions.

Commissioner Riggs noted on page 17 in the last paragraph in the line beginning "could see a slow building of additional cars and rampant traffic" that "rampant" should be replaced by "resultant." Commissioner Deziel said on page 10 midway through the first paragraph he had listened to the tape and while Commissioner Riggs had said 10 percent on one side and 10 percent on the other side it was really 20 percent on one side and 20 percent on the other or it

should have been 10 feet on one side and 10 feet on the other side. Commissioner Riggs said that fortunately the excerpt minutes reflected 20 feet later on. In response to Commissioner Deziel, Director Heineck said that if it did not reflect the intent the language could be changed in the minutes as they were not literal transcript. Commissioner Keith said that she did not think it was right to change minutes to show what a Commissioner meant to say.

Commissioner Deziel said as reviewed from the audiotape that the last line on page 14 should read “point, but that both of his points ~~had~~ **are** an independent basis **for making these findings;**” page 15, the line beginning with “of beauty **inherent to** the residential character of the area;” page 15, “, whereas if you ~~had~~ paved onto the parking ~~area~~ **lot;**” page 15, in the second line reading “Council restricted the development to one-story unit and this was **an extraordinary situation and;**” page 15, in the prior paragraph in the next to last line ending “with shared driveways **for at most several homes in each direction;**” page 15, in the next paragraph in the fourth line after the acronym “FAL” delete the comma and insert “**and**” “the Council saw this intuitively and ~~he~~ **they....**” page 16, “He noted that he did not want to open up doors for delay because he ~~believed~~ **was concerned with whether or not...**” page 16, the sentence “They will end up interpreting it; **and in such a way that...**” page 17, in the next to last line at the bottom of the page, “but she and Mr. Sinnott had done ~~everything possible~~ **the only thing they can.**” Commissioner Keith noted that the last line on page 17 should be rewritten to read: “He said that if **ever** there ~~was~~ **were** justification.” Commissioner Deziel noted that on page 18 in the second paragraph, six lines from the end of the paragraph, the sentence: “He said the alleys have consistently been used, and the City would have to allow some way for alley access with maintenance agreements.” He said he thought after the word “agreements” there should be inserted “, **allowing access for R2 lots, and mitigation for alley and street interfaces.**”

GH

Commission Action: M/S Deziel/Riggs to approve the excerpt minutes with the text modifications indicated below and to change the summary of action to place the supplementary findings content under finding number 2 under the Commission action for the main motion.

- Page 10, first paragraph, replace “10 percent on one side” with “20 percent on one side” in both instances.
- Page 14, after “points” delete “had,” insert “are.”
- Page 14, after basis, insert “for making these findings.”
- Page 15, after “of beauty” insert “inherent to.”
- Page 15, after “whereas if you” to removed “had” and “area” and insert “lot” before the period.
- Page 15, after the phrase “Council restricted the development to one-story unit and this was” insert “an extraordinary situation and”.
- Page 15, after the phrase “with shared driveways” insert “for at most several homes in each direction.”
- Page 15, after the acronym “FAL” delete the comma and insert “and;” then after “the Council saw this intuitively and” delete “he” and insert “they.”
- Page 16, in the sentence “He noted that he did not want to open up doors for delay because he” delete “believed” and insert “was concerned with whether or not...”
- Page 16, in the sentence “They will end up interpreting it” insert a semicolon and the word “and” and delete “in such a way that...”

- Page 17, in the next to last line on the bottom of the page, “but she and Mr. Sinnott had done” delete “everything possible” and insert the only thing they can.”
- Page 17, last line, “He said that if” insert “ever” “there” delete “was” and insert “were” before “justification.”
- Page 1, 2nd paragraph, after “agreements” insert “, allowing access for R2 lots, and mitigation for alley and street interfaces.”

Motion carried 6-0 with Commissioner Sinnott recused and not in the Council Chambers.

Chair Bims asked for the designation of a Commission representative to present the Commission’s report of its action to the Council. Commissioner Keith suggested Commissioner Deziel. Commissioner Deziel recommended either Chair Bims or Commissioners Riggs. Chair Bims said that he would like to make the report.

Commissioner Riggs said he would like the Chair authorized to refer to any previous discussions or actions made in chambers by the Commission related to the project. He said the Chair could offer background information and would be available for questions from the Council. Chair Bims said he would report on the Commission’s deliberations and decisions.

Commissioner Deziel said he thought it was wrong to hamstring the Commission’s report to the Council to only what was said at the August 14 meeting. He said in the ordinance 16.86.030 ***Planning Commission Action: The Planning Commission upon receipt of the notice of appeal shall prepare a report of the facts pertaining to the decision of the Planning Commission and shall submit such a report to the City Council along with the reasons for the Commission’s actions.*** Commissioner Deziel said the project appeal was raising issues and he thought the Commission should be able to address these issues relating to discussions the Commission has had about those issues. Commissioner Riggs said he would like to know if the Chair could refer to background that was relevant to the decision. He moved to authorize the Commission representative to make the prescribed report and to refer to previous discussions and actions relevant to the decision made on August 14, 2006.

Director Heineck said she had been advised by the City Attorney that the Commission was limited to presenting information that was part of its discussion and consideration on August 14 and anything beyond that acts as a reconsideration of the item which the Commission has no ability to do at this point in time. She suggested that if the Commission adopted Commissioner Riggs’ motion that the Commission might want to include a caveat that Chair Bims have a discussion with the City Attorney whether information to be reported to the Council was appropriate.

Commissioner Keith seconded the motion subject to approval City Attorney William McClure. Commissioner Riggs said he accepted the modification.

Commissioner Deziel said people had referred to cumulative traffic impact which the Commission had done a model on and was found to be insignificant and he had not wanted to waste the Commission’s time mentioning that on August 14. Commissioner Riggs said that people also have referred to an increase in cut-through traffic, which in many instances is not possible because the alleys are not throughways. Commissioner Deziel said regarding comprehensive planning for alleys that he had made a motion for 510 Central Avenue to have a neighborhood consensus on alley use.

Commissioner Keith said she thought that discussions prior to the meeting were fine, but not discussions post the August 14 meeting.

Chair Bims said that any other points not previously discussed could be made under public comment.

Commission Action: M/S Riggs/Keith to authorize the Commission representative to make the prescribed report and to refer to previous discussions and actions relevant to the decision made on August 14, 2006, subject to City Attorney approval.

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

Director Heineck said the Commission could report on its actions taken on August 14 but could not address issues raised in the appeal letter to the City Council that were not part of the Commission's discussion on August 14. Chair Bims said in the Commission's deliberations that they did discuss alleys and maintenance agreements, and other considerations as to one- and two-story units and alley access. He said the Commission looked at alley access for the subject property and its impact on surrounding neighbors and for a maintenance agreement. Commissioner Deziel said equality of access was raised on August 14. Chair Bims said the Commission had noted property rights on August 14.

Adjournment

The meeting adjourned at

Staff Liaison: Justin Murphy, Development Services Manager

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission on 1/8/07.