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MENLO PARK PLANNING COMMISSION MINUTES

Regular Meeting
February 26, 2007
7:00 p.m.

701 Laurel Street, Menlo Park, CA 94025

CALL TO ORDER – 7:00 p.m.

Roll Call – Bims (absent), Deziel, Keith (Chair), O'Malley, Pagee, Riggs, Sinnott (Vice-chair)

INTRODUCTION OF STAFF – Deanna Chow, Senior Planner, Megan Fisher, Associate Planner, Thomas Rogers, Associate Planner

A. PUBLIC COMMENTS

There were none.

B. CONSENT

1. **Sign Review/Barbara Ford for Grays Paint/717 Oak Grove Avenue**: Request for sign approval for a new internally illuminated sign with an illuminated background and a new sign containing the color red. *Continued from the meeting of January 8, 2007 at the request of the applicant.*

The item was pulled from the consent calendar.

Commissioner O'Malley said his previous concerns had been addressed but the sign for "Grays" in the revision did not seem prominent enough. Commissioner Sinnott said she agreed with Commissioner O'Malley and moved to approve as recommended by staff with an additional condition to make the sign for "Grays" more prominent.

Chair Keith said the spacing plan for the letters looked off on the larger sheet but looked fine in the staff report on page A.2. She asked if the applicant was available to clarify.

Mr. Alan Ford said he represented Grays Paint and the Fluorescent Lighting and Signs, the company making the sign. He indicated that all of the lettering would be justified and evenly spaced.

Chair Keith asked about Commissioner O'Malley's comment regarding the sign for "Grays." Mr. Ford said the corporate company Benjamin Moore was trying to establish a consistent sign appearance nationwide and that the graphics were to be in particular ratios. Chair Keith said that color could make "Grays" more prominent. Mr. Ford said the only colors used by Benjamin Moore for the signs were red, blue, yellow and white. He said he could try to get allowance for a darker shade of yellow or gold.

Commissioner Riggs said he believed that cities had the authority to push back against corporate standards and to require what met their standards rather than the companies. He said he thought a yellow would work better, but noted the sign color in the photo looked like manila. He asked if Mr. Ford had a sample of the color yellow that would be used.

Chair Keith said that previously the Commission had indicated the sign should be turned off from 8 p.m. until 7 a.m. but that was too early for a business and it should not be turned off until 10 p.m.

Commissioner O'Malley indicated that the yellow on the building for the sign would satisfy him.

Mr. Ford provided the Commission with color samples.

Chair Keith noted that the Commission had consensus on the use of yellow color 3630-015.

Commissioner Sinnott moved to approve as recommended by staff with an additional condition to use the selected yellow in the signage for Grays. Commissioner O'Malley seconded the motion.

Commissioner Deziel said he thought the error in the square footages in the signage plans should be corrected to prevent problems for neighboring properties in the future. Planner Fisher said the plans would need to be revised to indicate the change in color and the square footage could be corrected as well. She asked whether the yellow was a pantone and Mr. Ford indicated it was not. She requested that if the yellow chosen was a restricted pantone color that the Commission should indicate it was acceptable. Commissioner Pagee recommended that staff review the yellow color with the objective of having the increased intensity of the yellow selected by the Commission to provide the most contrast for the "Grays" portion of the signage. Commissioners Sinnott and O'Malley, as the maker of motion and second, accepted the modifications. Commissioner Pagee called for the vote.

Commissioner Riggs suggested that staff should choose the yellow with the objective of creating contrast. Commissioner Pagee said that essentially her amendment accomplished that. Planner Fisher said that her understanding was to use a yellow close to 33630-015 with the objective of creating contrast to make the "Grays" sign more visible. She said that she also understood if the yellow was one of the restricted ones that the Commission was granting permission to use it. Commissioner Deziel said that he would phrase the amendment regarding color to leave the discretion to staff to select a color that would provide the best contrast such as color -015. Commissioners Sinnott and O'Malley as the makers of the motion and the second said Commissioner Deziel's phrasing was acceptable. Commissioner Pagee withdrew her amendment.

Commission Action: M/S Sinnott/O'Malley to approve with the following modification.

1. Make a finding that the project is categorically exempt under Class 1 of the current State CEQA Guidelines.
2. Make a finding that the signs are appropriate and compatible with the businesses and signage on Oak Grove Avenue, and are consistent with the Design Guidelines for Signs.
3. Approve the sign review subject to the following *standard* condition:

- a. Development of the project shall be substantially in conformance with the plans prepared by Fluoresco Lighting and Signs, consisting of four plan sheets dated received February 9, 2007, and approved by the Planning Commission on February 26, 2007.
- 4. Approve the sign review subject to the following *project specific* condition:
 - a. Prior to building permit issuance, revised plans shall be submitted that specify that a timer switch will turn off the entire sign from 10:00 p.m. to 7:00 a.m. daily, subject to review and approval by the Planning Division.
 - b. ***Prior to building permit issuance, the applicant shall submit revised plans with correct signage square footages and bolder yellow letters for the "Gray's Paint" portion of the sign, subject to review and approval by the Planning Division. The new yellow letters shall have the objective of providing contrast, and color 3630-015 shall provide staff with guidance when reviewing the revised plans.***

<p>C-2 Approved on March 26, 2007 by Planning Commission</p>

C. REGULAR BUSINESS #1

- 2. **Use Permit/William Harris/511 Grace 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 with regard to lot depth in the R-1-S (Single Family Suburban) zoning district, and for excavation into a required side yard setback for a light well associated with a basement. *Continued from the meeting of January 8, 2007.*

Staff Comment: Planner Fisher said photos of the existing backyard landscaping for the subject project, and a spreadsheet prepared by a neighbor, Mr. O'Sullivan, had been distributed to the Commission. She said Mr. O'Sullivan had commented that the five foot reduction of square footage in the revised plans was not sufficient and that both replacement trees should be planted before construction occurred, and if a moratorium on building was required to do that, then it should occur.

Public Comment: Mr. Bill Harris, applicant, said the proposed revised plan was based on the direction they had received from the Commission at the January 8 meeting. He said also included with the revised plan was a tree replacement plan. He said they had shared the revised plans with the neighbors and that a summary of those meetings were included in the packet. He said he wanted to address the petition dated February 16 in which they were accused of cutting down the trees to allow for development. He said that was not true. He noted that the trees had been located along the fence and their presence would not have impacted the development of the house. He said neighbors had not raised the tree removal or the reasons for it during the meetings to go over the plans. He said he thought the petition to be circulated at the "11th hour" was malicious. He noted that he and his family have strong roots in Menlo Park and have a history of community involvement and being environmentally conscious. He said the removal of the trees was a mistake and they were prepared to replace them. He said their latest proposal addresses all of the criteria brought up at the January 8, 2007 meeting.

Commissioner Pagee asked about the width of the light well on the left hand side of the house. Mr. Gary Ahern, Focal Point Design and project architect, said the depth off the wall would be a maximum three foot encroachment. He said the depth of the footing would be around a

maximum three-foot below grade. He said if it was greater than 30-inches then they would need some type of barrier in front of it. Commissioner Pagee asked how far the wall of the garage was off the setback line. Mr. Ahern said the wall would be the same as the bay window which was one-foot nine-inches to two-feet. Commissioner Pagee said the light well then would protrude one-foot three inches into the setback. Mr. Ahern said that was correct using math to measure from the inside face of the light well.

Mr. Loren Lyall, Menlo Park, said the meeting with neighbors on February 12 addressed trees and the survivability of the replacement trees. He said everyone agreed on the trees being nurtured, but his presence at the meeting did not mean he acquiesced with this project. He said he opposed the project; firstly, because of how the property was originally acquired, which he had commented on previously at the January 8 meeting, and secondly, because of the massive size of the structure on an irregularly shaped nonconforming lot. He said it was stated that the trees were not a factor in the design of the house, yet page B.5 of the staff report for January 8 indicated that one heritage tree would have needed to be removed for the proposed design. He said a major problem of this episode was the way the trees were removed in that the applicants' arborist Mr. McClenahan was not hired to remove the trees rather a company called Rodriguez Tree Service removed those trees and charged only \$500. He said Rodriguez Tree Service would bear the brunt of the fines applied and might even be bankrupted by the size of the fine. He said however the fine was only the cost of doing business for the applicants and would not really impact them. He said he hoped that there would be an 18-month moratorium placed on construction to get things resolved regarding the illegal tree removal.

Mr. John O'Sullivan, Menlo Park, said residents on Grace Drive were disturbed by the actions of Mr. Harris to remove the trees, and their concern was to see restoration of the trees and the environment. He said the trees should be planted before any aboveground construction. He said regarding the mass of the second story that there was direction by the Commission to reduce mass on the right side; he said the revised plan only had a five square foot reduction, which did not really reduce mass.

Mr. Nick Naclerio, Menlo Park, said he had been away, and had just gotten the revised plan and the new tree replacement plan. He said the new plan moved the residence over one and a half feet and moved the second floor in five feet, and that was acceptable. He said although he liked the idea of replacing the two trees with two like trees, this was not practical for him as it would require the sacrifice of his elm tree. He said that the tree replacement proposal as set forth was acceptable. He said he hoped that everything would be done to maintain the health of the replacement trees. He said regarding penalties that he did not know what the Harris' motives were, but he thought the fine on the tree company was warranted and a deterrent to other contractors in the future. He said he thought a moratorium on building was also something the Commission should consider as a deterrent on developers in the future.

Chair Keith asked if Mr. Naclerio was supportive of Mr. McClenahan final report. Mr. Naclerio said he was, but noted there was ambiguity as to when the plantings would occur. Chair Keith asked if he were aware of the posting of a five-year bond to maintain the health of the trees. Mr. Naclerio said he was not. Chair Keith asked staff to explain. Planner Fisher said the bond would cover the cost of the two replacement trees so that if they should fail during the period covered by the bond, the bond money would be used for the purchase, installation and maintenance of two trees. She said the incentive for the applicant was the return of the bond money if the trees were maintained in good health during the period of the bond.

Mr. Ahern, project architect, said in reference to Mr. O'Sullivan's concerns about the placement of the house and reduction of mass on the second story that the Commission had given the applicants direction to move the house over and forward and to reduce the mass on the right side. He said the Commission's direction had been to pull the right side back by three feet, if that worked. He said they in fact found they could move the second story in five feet and proposed to do so. He referred to what he called the "hypocrisy of square foot," noting that members of the public were throwing out comments on the 6,000 square feet size of the proposed house. He said however that the house was 3,600 square feet on the ground view so that even if they eliminated or added 100 square feet on the back of the house there was no impact to the neighbors. He said 3,600 square feet was consistent with sizes of homes in the neighborhood. He said regarding the removal of the trees that Mr. Harris had referred to the May 2001 Heritage Tree Ordinance, which said that a heritage tree was anything over 24-inches, in his decision-making. He said Mr. Harris had not realized the ordinance had been changed. He said fines and a moratorium on building were tools for the City to use with a property owner who was not responsive, whereas his clients, once they were aware of a mistake, stepped forward to remedy. He said the tree experts consulted, including Mr. McClenahan and Valley Crest Nursery, said it would make more sense to plant the trees closer to the end of construction to protect them from construction impact.

Chair Keith closed the public hearing.

Commission Comment: Commissioner Riggs said the Commission had provided direction on tree sizes by caliber, but the plan proposed was based on the height and head sizes of trees, and asked for an explanation. Planner Fisher said through discussions with Mr. McClenahan, who had talked to Valley Crest Nursery, she had learned that a certain sized diameter tree can vary in height and spread. She said at a site visit they considered the spread and height the neighbors were interested in rather than the diameter or box size of a tree. Commissioner Riggs said growers were able to make a tree grow high or wide but the maturity of a tree was best determined by the trunk caliber. He said that was the baseline he felt he could trust.

Recognized by Chair Keith, Mr. Harris, applicant, said in talking to Valley Crest that there were specimen trees and nursery grown trees. He said nursery grown trees did not grow as large as the trees they needed to replace. He said the nursery gauges specimen trees on height, width, and box size in their data base, and that the caliber would only be determined by going out to the lot and measuring it.

Commissioner Deziel asked if all of the trees would be nursery grown. Mr. Harris said that one of the trees would have to be a specimen tree. Commissioner Deziel asked why only one vendor was being consulted. Mr. Harris said they had talked to numerous vendors and all of them had indicated for the size tree that was desired that they would need to work with Valley Crest. Commissioner Deziel said that the tree proposed was only 5-inch caliber. Mr. Harris said that the objective was to replace the screening that had been there and to not have such a large tree that it threatened the health of the elm tree. Commissioner Deziel asked if the standard being used was 20-foot height and 24-foot spread. Mr. Harris said that was the case and that Valley Crest has specimen trees listed at those dimensions. In response to Commissioner Deziel, Mr. Harris said he would go to Valley Crest to make the selection of the tree.

Chair Keith asked about the comment made by Mr. Lyall referring to the previous staff report regarding the expected removal of a tree for development. Planner Fisher said she had made an assumption that an oak tree would need to be removed for construction based on the

arborist's report on page B.21 of the January 8 packet. She said the oak was described as leaning heavily and as she had not seen the tree, her assumption was that it would have to be removed.

Commissioner Sinnott said she was ready to move on the project as the applicant had responded to the neighbors' concerns and there had been tremendous effort made to replace the trees as well as a requirement for a \$5,000 bond to maintain the trees. She said that she did not think a moratorium on building was appropriate and that a two-story home was not inconsistent with the neighborhood. She moved to approve as per the staff recommendation. Commissioner O'Malley seconded the motion.

Commissioner Riggs said the revisions to the plan were responsive to Commission comments in January and the two-story construction was allowable under the City's regulations. He said his remaining issue was the trees as he thought it was clear the Commission wanted the trees replaced in-kind. He said the difficulty of replacing the tree near the elm tree did not preclude the applicant from placing an in-kind tree at another location on the property. He said the difficulty of finding a 10-inch caliber valley oak tree was not the neighbors' problem but that of the applicants. He noted it was difficult but it was possible. He said the diameter of the trunk was an indication of maturity of the tree, particularly the valley oak tree. He suggested perhaps requiring a third tree to make up for the lack of caliber on the tree that would be planted in the front yard.

Commissioner Deziel said he could subscribe to a smaller-caliber specimen tree being better than a 10-inch caliber volunteer tree that had been leaning. He said his concerns were with condition 4.c regarding a four-year maintenance plan; he said he would like a sentence added that the arborist would advise on removal of tree irrigation after establishment of the tree and protection of the tree from adjacent plantings so that other irrigation would not hit the tree at the base. He said he could see a tree failing in seven years because what was not too much water at four years would be too much water in a period of seven years. He said there were also plants unfriendly to oaks. He said regarding penalties applied that the mistake was made by the contractor as they were required to understand the regulations of the City within which they were providing services. He asked if the fines would be levied on the contractor. Planner Fisher said it was proposed to levy the same amount fine on both the contractor and the property owner. She said it was not listed in the conditions. Commissioner Deziel suggested extending the time period for the bond as a tradeoff for a smaller caliber tree.

Commissioner Riggs noted Mr. Naclerio's comment that at the end of five years neither of the trees would be heritage and they would be released from the bond. Commissioner Riggs offered a friendly amendment to the motion on the table to accept the smaller oak in the side of the property and a the 9-inch caliber specimen valley oak tree in the front with an extension of the bond until the trees reached heritage size. He said the arborist should also be clear about the future health of the trees as stated by Commissioner Deziel. Commissioner Riggs said in response to Chair Keith that he was not asking for a third tree.

Recognized by Chair Keith, Mr. Ahern said that the staff report on page 3 stated that there was limited space in the front yard related to canopy and that the arborist was worried about putting a large canopied tree in the front because of the existing dense canopy. Commissioner Riggs said the largest tree in front was a cedar and he was not sure of its future, noting some cities were removing them. He said that he did not want to downsize the replacement oak in front as the neighborhood wanted the replacement trees to be equal to what had been removed. Commissioner Pagee said she thought that a tree with a large spread and small caliber trunk

would suffer more from wind damage. Chair Keith said the architect had been responsive to the Commission's direction and that the remaining issue was the tree replacement. She said the neighbors were upset at how the trees were removed. She said it was the responsibility of the contractor to know the city's regulations. She said that the planting should be more of an in-kind planting. She said she agreed with Commissioner Pagee about the smaller trunk size and larger spread tree being more susceptible to damage from strong winds. She said the bond maintenance period had to be increased. She said the neighbors wanted a moratorium on building, but she was not supportive of that. She said perhaps the Commission could require that the \$5,800 fines be paid by both the contractor and applicant before building was allowed to occur. Commissioner O'Malley said that the contractor might not pay or the company might go out of business and never pay so that would be unfair to the property owner. He said he could see requiring the property owner to pay before construction started but not the contractor. Commissioner Deziel said he thought the fine should only apply to the contractor. Commissioner Sinnott asked if double-fining was being applied. Planner Fisher said there had been a similar situation during proposed developed at St. Patrick's Seminary in which a heritage oak had been removed illegally, and both the seminary and the contractor had been fined. She said regarding the subject proposal that a building permit would not be issued until the applicant had paid the fine.

Chair Keith noted that the maker of the motion and second had not accepted Commissioner Riggs' friendly amendment. Commissioner Sinnott said that staff and the applicant had devoted a lot of work to develop a tree replacement plan, and as she was not an expert on trees it was her inclination to trust staff's recommendation. She said however that other Commissioners were knowledgeable about trees and if Commissioner Riggs thought his change to the motion would make a big difference regarding the trees then she was willing to accept it. Commissioner O'Malley said that what Commissioner Riggs was proposing was a compromise and it was acceptable to him. He noted that a 3,600 square foot house was not excessive for this neighborhood.

Commissioner Deziel said that nursery grown trees were more tolerant of water and perhaps a nursery grown tree might be better in front for that reason. Commissioner Riggs said he liked Commissioner Deziel's recommendation that the arborist address future plantings and irrigation. He said he liked the idea of an arborist's long-term care report and to extend the bond longer than five years. Commissioner Deziel said that his idea only addressed maintenance once the tree was in and did not address selection. Commissioner Riggs recommended the selection of a 9-inch caliber valley oak and the condition of maintenance as described by Commissioner Deziel. Chair Keith said she would like to offer an amendment under 4.d to change the bond period from five to 10 years in both iterations of "five;" and in 4.c to keep documentation of the professional care for one year and add requirement for additional maintenance of the trees for nine years. Commissioner Sinnott said she would like to hear the changes read back.

Planner Fisher said the changes included modifying condition 4.c so that the monitoring program would run nine years beyond the initial professional one-year maintenance plan; modify 4.d to extend length of the bond to 10 years; and modify 4.e to require a 9-inch caliber valley oak to be planted in the location of the removed valley oak tree. Commissioner Deziel asked to add at the end of 4.c a requirement for the arborist to advise on the removal of tree irrigation after tree establishment and the protection of the replacement trees from adjacent planting and irrigation; and that the irrigation for the specific trees would need to be removed before the release of the bond(s). Commissioners Sinnott and O'Malley as the maker of the motion and second accepted these modifications. .

Commission Action: M/S Sinnott/O'Malley to approve with the following modifications.

1. Make a finding that the project is categorically exempt under Class 3 of the current State CEQA Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed 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 eleven plan sheets, dated February 19, 2007, and approved by the Planning Commission on February 26, 2007, except as modified by the conditions contained herein.
 - b. Prior to building permit issuance, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
 - d. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. Landscaping shall properly screen all utility equipment that is installed outside of a building and that cannot be placed underground. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
 - e. Simultaneous with the submittal of a complete building permit application, the applicant shall submit plans indicating that the applicant shall remove and replace any damaged and significantly worn sections of frontage improvements. The 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, demolition or building permit.
4. Approve the use permit subject to the following *project specific* conditions:
 - a. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance. Prior to demolition permit issuance, the applicant shall retain an on-site arborist who shall be designated with the

responsibility and authority to insure that the instructions for tree protection are properly executed throughout the construction of the project.

- b. Following demolition, but prior to building permit issuance, the applicant shall plant the coast live oak replacement tree according to the specifications shown on the landscaping plan, subject to review and approval by the Planning Division and Building Division.
- c. Prior to building permit issuance, the applicant shall provide documentation of a professional maintenance program with a tree planting company for one year of irrigation and fertilization, and a monitoring program with an arborist for the following ~~four~~ **nine** years to ensure the preservation, maintenance and health of the trees. ***The arborist will advise on the timing for removal of in-ground irrigation devices and the planting of any surrounding plants and shrubs for the protection of the trees.***
- d. Prior to building permit issuance, the applicant shall post bonds equal to the prices of the two proposed replacement oak trees and installations with the City Finance Division for ~~five~~ **ten** years to ensure the preservation, maintenance and health of the trees. The ~~five~~**ten**-year time period for each bond will commence once each replacement oak tree is successfully installed. ***Prior to the release of the bond, any remaining in-ground irrigation equipment shall be removed subject to the review and approval of the Planning Division.***
- e. Following construction, but prior to final inspection, ~~the a~~ valley oak replacement tree ***with a 9-inch caliber*** shall be planted ~~according to the specifications~~ ***in the location*** shown on the landscaping plan, subject to review and approval by the Planning Division and Building Division.
- f. Following construction, but prior to final inspection, a 24-inch box Catalina cherry replacement tree shall be planted, along with all other trees, shrubs, and plantings as shown on the landscaping plan, subject to review and approval by the Planning Division and Building Division.

Motion carried 6-0 with Commissioner Bims not in attendance.

D. PUBLIC HEARING

1. **Use Permit and Variance/Jordan S. Gruber/205 Pope Street:** Request for a use permit to construct ground-floor and second-story additions to an existing single-family, single-story residence on a substandard lot in regard to lot width, and for excavation within a required side setback for a light wells associated with a basement in the R-1-U (Single Family Urban) zoning district. The proposed work includes the demolition of an existing detached garage with Pope Street access and the construction of a new detached garage with alley access. In addition, a request for a variance to encroach one foot, nine inches into a required side yard setback.

Staff Comment: Planner Rogers said staff had no additional comments and noted that a materials board was being distributed for the Commission's review.

Public Comment: Mr. Jordan Gruber, project applicant, said he appreciated the thoroughness of the staff report. He said their property was a long, narrow lot that has six heritage trees. He said because of the configuration they had really tried to make the remodel work for both the trees and the neighborhood. He said two-story homes were present on both sides of the street. He said they would have cantilevers on the front to protect trees and would use solar energy and green sustainable building practices as much as they were able. He said numerous neighbors had provided them with letters of strong support.

Mr. John Wolking, Menlo Park, said he was a neighbor and lived across the street. He said he was present to express his support for the project.

Chair Keith closed the public hearing.

Commission Comment: Commissioner Deziel moved to approve as recommended in the staff report. Commissioner Riggs seconded the motion. He thanked staff for using new formats in the staff report such as shaded nonconformities, asterisks and numbered lots. He said the project overall made a great effort at a cottage look and virtually would keep the existing architecture. He questioned the choice of color. Mr. Gruber said it was hard to imagine the home but they thought the green was what they wanted. Commissioner Riggs said that colors outside and in large areas were much more vibrant and suggested the applicant might be allowed some flexibility in the color choice. Mr. Gruber said he would appreciate the flexibility.

Commissioner Riggs said the front of the property within a flood zone, and questioned allowing a basement. Planner Rogers said that part of the parcel was not in the flood zone, which was where the basement would be located. Chair Keith said she had a similar concern. Mr. Gruber described where the flood in 1998 traveled noting that if the basement had been there at that time it would not have been flooded at all.

Commissioner Deziel commented that he appreciated staff's write up about the alley. He said it appeared that there was a tremendous amount of policy and apparatus to guide development on alleys. He said he appreciated staff's pro-activeness in developing this alley in coordination with another application on the same street through the use of conditions. He said that there was enough policy in place that he did not think a blanket policy on alleys was necessary.

Commissioner Pagee asked if the maintenance agreement would have to occur before construction was finalized. Mr. Rogers said the agreement had to be recorded prior to issuance of the building permit and that it was only required of property owners who were applying for construction permits. Commissioner Pagee requested as staff was developing a consistent policy alley that it be put on the website. Planner Rogers said staff were in the process of developing a consistent policy but there were factors that might make it infeasible to post on the website.

Commission Action: M/S Deziel/Riggs to approve the item as presented in the staff report.

1. Make a finding that the project is categorically exempt under Class 1 of the current CEQA Guidelines.
2. Make the following findings as per Section 16.82.340 of the Zoning Ordinance pertaining to the granting of the variance:
 - a. The uncertainty of the location of the left side property line and the inability to definitively establish the location of this property line absent a comprehensive survey of the entire block, the tapering shape of the subject lot, the nearby presence of several heritage trees, and the private agreement between the 201 and 205 Pope Street properties all create unique constraints to constructing a residence on this property without the approval of the requested variance for a potential left side yard setback encroachment.
 - b. The variance is necessary for the preservation and enjoyment of substantial property rights possessed by other conforming property in the same vicinity, and the variance would not constitute a special privilege of the recipient not enjoyed by neighbors.
 - c. Except for the requested variance, the proposal will conform to all other requirements of the Zoning Ordinance. Granting of the variance will not be materially detrimental to the public health, safety, or welfare, and will not impair an adequate supply of light and air to adjacent property. This is also evidenced by the Fire District's preliminary approval with regard to emergency access.
 - d. The conditions upon which the requested variance is based would not be applicable, generally, to other property within the same zoning classification since the variance is based on unique characteristics of this block of properties, the tapering shape of the subject lot, the nearby presence of several heritage trees, and the private agreement between the 201 and 205 Pope Street properties.
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 and variance subject to the following *standard* conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Michelle Beldin AIA Architect, consisting of nine plan sheets, dated received February 14, 2007, and approved by the Planning Commission on February 26, 2007, except as modified by the conditions contained herein.
 - b. Prior to building permit issuance, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.

- d. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
 - e. Simultaneous with the submittal of a complete building permit application, the applicant shall submit plans indicating that the applicant shall remove and replace any damaged and significantly worn sections of frontage improvements. The 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.
5. Approve the use permit and variance subject to the following *project-specific* conditions:
- a. Simultaneous with the submittal of a complete building permit application, the applicant shall submit an Alley Improvement Plan. The plan shall specify that the surface of the alley adjacent to 205 Pope Street will be improved to provide all-weather access, and shall specify the material to be used. The plan shall also specify that all potholes along this alley will be patched. The plan shall be subject to review and approval of the Planning and Engineering Divisions.
 - b. Prior to final inspection, the applicant shall install the approved all-weather surface on the alley adjacent to 205 Pope Street, subject to review and approval of the Planning Division.
 - c. Prior to final inspection, the applicant shall conduct one of the following four actions with regard to the patching of alley potholes, subject to review and approval of the Planning Division:
 - i. Submit documentation that the patching of alley potholes has been completed by the applicant, along with a copy of the invoice of the cost of this work, for potential future partial reimbursement by the 129 Pope Street applicant.
 - ii. Submit documentation that the patching of alley potholes has already been completed by the 129 Pope Street applicant, and that the 205 Pope Street applicant has reimbursed the 129 Pope Street applicant for 50% of the cost of the pothole patching work.
 - iii. Submit documentation that the 129 and 205 Pope Street applicants have entered into an agreement, and have jointly conducted and paid for the patching of alley potholes.

- iv. Submit documentation that the patching of alley potholes has already been completed by someone not affiliated with either of the 129 or 205 Pope Street projects.
- d. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a draft Access Alley Maintenance Agreement, subject to review and approval of the Planning Division and City Attorney. Prior to issuance of a building permit, the applicant shall submit a receipt of the approved Access Alley Maintenance Agreement's recordation, subject to review and approval of the Planning Division. The Access Alley Maintenance Agreement shall include the following provisions:
 - i. If any other maintenance agreements have already been recorded on this alley, the agreement shall provide for joint sharing of maintenance costs.
 - ii. The property owner shall record an amended agreement to provide for joint sharing of maintenance costs, if any future properties along this alley record such maintenance agreements.
 - iii. "Joint sharing of costs" shall mean that all properties are responsible for an equal share of all maintenance costs for the alley up to the farthest property recording such agreements, unless the property owners are able to reach a private agreement for an alternate cost-sharing scheme.

Motion carried 6-0 with Commissioner Bims not in attendance.

2. **Use Permit/Carl Hesse/129 Pope Street**: 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 with regard to lot width in the R-1-U (Single-Family Urban) zoning district, and for excavation into a required side yard setback for a light well and egress associated with a basement. *Continued to meeting of March 12, 2007 at the request of the applicant.*
3. **Conditional Development Permit Revision/Richard Zlatunich for Safeway/525 El Camino Real**: Request for a conditional development permit revision for an approved grocery store and retail building in the C-4-X (Applicable to El Camino Real, Conditional Development District) zoning district. The revisions include relocation of the cart storage to the exterior of the building as a result of minor modifications to the interior grocery store layout, an expansion of the grocery store front arcade, a reduction of nine off-street parking spaces, and changes to the exterior colors and sign plan.

Staff Comment: Planner Rogers said that two items of correspondence had been received after publication of the staff report. He said the first letter was from Ms. Colleen Anderson, a neighbor to the project site, who did not support a reduction in the parking requirement noting safety concerns and an expectation that there would be overflow parking in the adjacent residential area. He said the second letter was from Mr. Eric Humphris, Menlo Park, who said that the demolition noise was causing his dogs to bark which bothered his neighbor. He requested some remediation of that matter.

Public Comment: Mr. Steve Berndt, Vice President of Real Estate for Safeway, Pleasanton, said that they were seeking minor revisions to the Conditional Development Revision to reflect

evolutionary changes in what and how Safeway presents for its products and services. He said features being added into the store would include a juice bar, an expanded cheese selection, service meat, an expanded floral section and an organic section all of which impacted space inside that was for grocery carts. He said they also thought that perhaps the first view inside the store should not be the carts and rather those should be stored in an enclosed area outside the store. He said Safeway has opened new stores around the country that have wider, more pedestrian-friendly sidewalks in front of their stores. He said they decided to look at doing something along those lines the same at this location. He said an increase of seven feet would provide for an increased sidewalk and an outside eating area. He said they hoped to have the store open by Thanksgiving 2007.

Mr. Berndt said that the demolition work had been difficult for nearby residents. He thanked them for their patience and apologized for any frustrations they experience in communicating with general contractors and Safeway line managers. He said they have hired a liaison person to work directly with the neighbors.

Mr. Berndt said their amendment also proposed to change the exterior colors of the store. He said there were certain colors they wanted to retain but they wanted to introduce other colors that branded Safeway. He said they would also like to have a reverse white channel sign instead of a red neon sign. He said they were proposing to increase the signage square footage from 475 to 502 square feet, a five percent increase. He said they would like to add a sign for the pharmacy sign and update the Safeway logo to the current one. He said the cost of adding pedestrian space and enclosure for the carts was the loss of nine parking spaces. He said that there would be 370 spaces, which equated to 4.83 spaces per 1,000 square feet. He said nationwide a ratio of 4.5 spaces per 1,000 square feet was considered optimal and 4 spaces per 1,000 square feet was considered usual. He said 370 spaces would comfortably accommodate their employees' and customers' cars.

Commissioner Deziel asked if the enhanced paving was pervious. Mr. Berndt said that it was not but the landscape area would remain. Commissioner Deziel asked if the drainage was self-contained. Mr. Berndt said not entirely but a good portion of it would be contained onsite.

Commissioner Deziel said he was pleased to see another foot of sidewalk along El Camino Real but was concerned with two trees planted that interrupted the width of the sidewalk and made it feel like a slalom course. Mr. Berndt said that during construction previously unidentified underground utilities under the Caltrans right-of-way were found that caused the relocation of the trees. Commissioner Deziel said that it would have been preferable to relocate the trees to another green area and keep the even dimension of the sidewalk. Mr. Berndt said that was their original preference, however, support of the City's tree project along El Camino Real was encouraged.

Chair Keith asked about the barrier between the cars driving in the lot and the outdoor seating. Mr. Berndt said that it would be the same landscape plan with three feet of shrubbery. He said they looked at a small wall but it would require a footing which would have impacted the driveway width which they did not want to do. Chair Keith requested that the shrubs be planted close together to create more of a barrier. Mr. Berndt agreed indicating that the shrubbery had to be a type that flourished in parking lot environments and also be planted compactly enough to discourage people from walking through them. Chair Keith asked about the overhang for the outside seating. Mr. Berndt said that it was about two feet and would protect some seating and other seating would not be covered. He said they thought about pulling back the tables but that seemed to impact travel paths such that they would not meet ADA requirements.

Commissioner Riggs said having an area for coffee and juice would mean litter and he challenged Safeway to keep their commitment to a litter-free environment. Mr. Berndt said that was a challenge in outside eating places. He said that the juice bar would be staffed by Safeway employees. Commissioner Riggs asked for a commitment to keep the area clean. Mr. Berndt said he would accept the challenge.

Commissioner O'Malley said he had problems with the location of the restrooms, noting that the store was also a restaurant too. He said the sandwiches, coffee, and juice areas were in the front and the restrooms were to the rear. Mr. Berndt said that they had a similar store in another location and put signage at the front of the stores to guide people to the rear of the stores for the restrooms. Mr. Berndt said they recognize that people expect to have nice clean bathrooms in grocery stores.

Commissioner Pagee said the Commission has requested guardrails for outside eating areas at some locations and asked if that was possible in the planter strips. She said that some of the people driving into the site might not be the best drivers and she was not sure the hedges would slow the cars down enough if they accelerated too fast. She also asked about the number of employees and how they monitored employees parking on Middle Avenue. Mr. Berndt said there were about 150 employees and there would be 80 employees present at any one time. He said it would be a store management policy to communicate to the employees where they were allowed to park. Commissioner Pagee asked who would monitor this in the future. Mr. Berndt said that it would be the store manager. Commissioner Pagee asked on the color boards shown to them whether the two buildings to the left indicated the new color scheme and signage. Mr. Zlatunich, project architect, noted that there would be a reverse channel neon sign for the pharmacy, the use of the new Safeway logo, a white Safeway sign rather than red, the Starbucks sign would remain the same, and the Jamba Juice logo would be on the tower. . He said the big entry features would continue to be Russian white. He said the changes included the various beiges and browns, noting that the roof colors added some nice motion to the building.

Commissioner Pagee asked about the timbers and finish materials. Mr. Zlatunich said they would use heavy white timbers of actual wood, actual wooden boards in the underside of the arcade, and stucco with a hand-trowel look.

Commissioner Deziel asked staff if the sign program was in the CDP and whether the applicant would need to reapply to the City Council in the future should there be sign changes desired. Planner Rogers said if they wanted to increase the sign area that would need to go before the City Council. He said for other changes that staff would review as to whether the proposed changes were substantially in conformance or not with the CDP.

Chair Keith asked about using solar energy. Mr. Brandt said that they were using skylights but would not be using photovoltaic units. Chair Keith asked if they would consider the use of photovoltaic units. Mr. Brandt said that two year prior they had considered using them but could not get confirmation of allotment from the state. Chair Keith noted that was two years prior and asked if they would reconsider. Mr. Brandt said that the plans were approved, costs calculated, and that was too big of a change at this point in the process.

Ms. Jackie Copple, Menlo Park, said she lives behind the Safeway and that parking reduction concerned her. She said all-day parking on her street had increased since the beginning of the

construction project, especially in the last three weeks. She said one of her neighbors talked to one of the car owners who parked there during the day. She said the neighbor later saw the same person at Safeway working as a cashier. She said they had talked to Safeway recently and the number of parked cars had decreased since then. She questioned how the parking would be monitored after the store was built. She said she works as a realtor and knows that long-term parking on the street devalues property. She said there was an agreement during the construction phase that a \$100 fine for parking in the residential area would be imposed on contractors and Safeway employees with the money being donated to a charity. She said she objected to the loss of the parking spaces and its impact to create increased parking on her street. She said the Menlo Park Zoning Ordinance required six parking spaces per 1,000 square feet. She said she would like some program to control the residential parking.

Chair Keith confirmed with staff that there were six landscape reserve spaces.

Ms. Elizabeth Hauck, Menlo Park, said the hire of a project manager by Safeway to deal specifically with the neighbors and intercede on behalf of them with the contractors and Safeway personnel meant there had been a failure already. She said that if the situation was not improved with the parking that she expected many more neighbors to be at the City Council meeting. She said she wanted to support the project and hoped the changes proposed by Safeway would fit within the project as originally proposed.

Ms. Margaret Fruth, Menlo Park, said that the new project was quantitatively larger than the old store and with the introduction of new stores that the parking could not be compared with the old store. She said she would like to see enforcement of no parking on Kenwood Drive. She said she would like a consistency of parking and with everything else being proposed since the original permit was approved.

Chair Keith closed the public hearing.

Commissioner Pagee moved to recommend approval to the City Council per the staff report to include the change in signage and colors, and to add a condition for a safety railing at the hedge in front of the outside eating space. Chair Keith said she would have preferred to see a wall rather than a hedge, but she understood the rationale of the applicant. Commissioner Deziel suggested checking with the applicant. Mr. Berndt said that it was a good idea and he thought a railing placed internally and integrated with the shrubbery would work best. He said they could work with that.

Chair Keith asked if Mr. Brandt wanted to address the parking. Mr. Berndt said that the project manager was working with employees and contractors now to control the parking. He said that ultimately the reconfiguration of the site would push the Safeway further away from the Kenwood neighborhood while now it was the closest store to Kenwood. He said he hoped there would not be a long-term problem and he wanted to make a proclamation that they would work with employees to adhere to the parking policy.

Commissioner Sinnott seconded Commissioner Pagee's motion.

Commissioner Riggs said that there was resistance to the parking previously but because the project was so nice they had let it go. He said now there was increased building square footage and a loss of parking. He asked if the previous parking ratio included underground parking. Planner Rogers said for the construction project the parking included all aboveground and below ground parking. Com Riggs said whether the rounded up ratio of five per 1,000 was for

the Safeway and the entire retail area. Planner Rogers said the 4.83 spaces per 1,000 square feet applied to the Safeway and retail services building. Commissioner Riggs said that if an employee decided not to park onsite that he expected they would park on Kenwood. He said he did not think a two block walk would deter a person. He said that Safeway had indicated their employees were protected by a union and that they could not force them to park in the lot. Mr. Berndt said that he could not promise 100 percent compliance from employees for parking at the site, but Safeway and its store manager could certainly make it store policy. He said generally employees when educated about the policy and the rational cooperate willingly. He said because they were a large employer they had turnover and the trick was getting the new employees educated. He said he was thinking about a policy similar to the paper currently being distributed on Kenwood regarding construction parking. He said perhaps he could leave something like that with the neighborhood that they could use in the future to remind Safeway of their commitment to keep their employees' cars off the residential street. Commissioner Riggs said that it would be up to the neighbors to complain; Mr. Berndt said that was correct. Chair Keith asked if this paper was something Mr. Berndt could write up before the project went to City Council. He indicated he could. He said regarding the 4.83 spaces per 1,000 square feet that all of the spaces were very park-able, which made them confident the parking would work. He said the spaces are the universal 8 x 6.

Commissioner O'Malley said it puzzled him why people would park behind the Safeway building when there was adequate parking onsite. Mr. Berndt said what had been communicated to them from the neighbors was that these were "nice" cars that people did not want to park on a lot because of the possibility of dings.

Commissioner Riggs said that a year ago the colors were vibrant and interesting within a corporate context but the new colors were a study in beige. He said that beige was very uniform and he did not see it fitting with Menlo Park. He said he liked the sign changes but missed the El Camino tower having color. He asked if the other Commissioners wanted to hold on to the colors originally presented. Commissioner Sinnott said she had preferred the more vibrant colors on the right but she was flexible. There was unanimous consensus by the Commission that the new colors on the left were boring. Commissioner Pagee said she thought the building on the left was already dated. Mr. Berndt said he had been happy with the original colors. He said the architecture was pulling from the historical context of Allied Arts and Stanford.

Commissioner Deziel asked if the color selection was bound by the CDP. Planner Rogers said that the differences between the two proposals were substantially different. Commissioner Deziel asked if in 10 years when Safeway realized their error in the color choices whether they could re-paint the building. Planner Rogers said if the Commission's intent was to give the applicant the flexibility to use the original color scheme, the Commission could recommend that. Commissioner Riggs suggested saying that the original color scheme was desired. Commissioner Pagee, maker of the motion, said that was acceptable; and Commissioner Sinnott, the maker of the second, agreed with keeping the sign changes as previously discussed.

Commissioner Deziel said he really wanted the sidewalk issue addressed and to encourage the removal of the two small trees that cause the problem. He said it would be simple to remove the grate and the tree. He suggested just moving this recommendation on the CDP revision along to the City Council but after that vote to make a recommendation that the trees be removed and the sidewalk evened out.

Commission Action: M/S Pagee/Sinnott to recommend approval to the City Council per the staff report except for changes to the exterior color with the following modifications.

1. Make a finding that the project is categorically exempt under Class 1 of the current CEQA Guidelines.
2. Make findings, as per Section 16.82.090 of the Zoning Ordinance pertaining to the granting of conditional development permits, that the proposed project 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 project, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the city.
3. Approve the conditional development permit revision.

**525 El Camino Real
Draft Conditional Development Permit
February 26, 2007**

I. GENERAL INFORMATION

- A. Applicant: Safeway, Inc. ("Ground Lessee")
- B. Nature of Project: Rezoning the project site, construction of a 65,017-square-foot main structure (anchor store) and a semi-attached 11,500-square-foot building (retail building) for a total of 76,517 square feet, with related site improvements including driveways and landscaping.
- C. Property Location: 525 and 625 El Camino Real
- D. Assessor's Parcel Number: 071-332-130 and 071-332-110
- E. Area of Property: 251,343 square feet
- F. Present Zoning: C-4-X (General Commercial, Applicable to El Camino Real - X Conditional Development District)

II. DEVELOPMENT STANDARDS

- A. Floor Area Ratio (FAR) shall not exceed 35 percent of the project site.
- B. Lot coverage shall not exceed 33 percent of the lot area.
- C. Minimum landscaping shall be 10 percent of the lot area.
- D. The maximum amount of pavement shall not exceed 57 percent of the lot area.
- E. Building height shall not exceed 30 feet from the average natural grade, except for architectural features which shall not exceed 40 feet.

F. Building setbacks and parking shall be in accordance with the approved plans. Parking shall be provided at a ratio of 4.83 spaces per 1,000 square feet of gross floor area.

G. The on-site circulation shall be installed according to the approved plans.

III. USES

The project site includes a 65,017-square-foot main structure (anchor store) and a semi-attached 11,500-square-foot building (retail building) that will contain one or more tenant lease spaces.

A. Anchor store

Permitted uses for the anchor store operating 24 hours per day shall be those uses generally associated with the operation of a grocery store and shall include:

- Grocery store;
- Bakery;
- Coffee/Juice bar;
- Delicatessen;
- Pharmacy;
- Sale of beer, wine and distilled spirits;
- Banking
- Outdoor sales as represented on the project plans; and
- Outdoor seating as represented on the project plans.

Administratively permitted uses for the anchor store:

- Outdoor sales; and
- Outdoor seating.

B. Retail building

Permitted uses for the retail building operating during the hours of 6 a.m. and 11 p.m. shall include:

- Retail stores;
- Food service establishments occupying not more than 5,000 square feet in aggregate;
- Personal services;
- Financial establishments;
- Office uses limited to those serving the general public, such as travel agencies, real estate offices, and insurance offices; and;
- The total of all financial establishments and offices shall not exceed 5,000 square feet.

Administratively permitted uses for the retail building:

- Outdoor sales; and
- Outdoor seating.

IV. SIGNS

- A. The Conditional Development Permit establishes a master sign program for the site with a maximum allowed sign area of 502 square feet. All signage must be located entirely within the project site and be consistent with the approved master sign program as represented in the project plans.

V. TERMS OF THE PERMIT

- A. The Conditional Development Permit shall expire two years from the date of approval if the applicant does not submit a complete building permit application within that time.
- B. A public hearing by the Planning Commission and City Council would be required prior to issuance of a permit for revisions to the development plan which involve changes in land use, expansion or intensification of development or a relaxation in the standards of development. Staff may approve revisions to the approved plans that would not affect the safety or privacy of neighboring properties or have potential negative environmental impacts. Staff may refer any request for revisions to the plans to the Planning Commission for architectural control approval. A public hearing could be called regarding such changes if deemed necessary by the Planning Commission.
- C. This permit may be amended by a majority vote of the City Council. Application for amendment shall be made by at least one of the property owners or "Ground Lessee", in writing, to the Planning Commission. The Planning Commission shall then forward its recommendation to the City Council for action.
- D. At the expiration (October 31, 2058) or earlier termination of the "Sub-Ground Lease and Ground Lease" between Safeway Inc. as "Tenant" and The Christensen Fund as "Landlord" this permit will terminate and all buildings on both parcels that are the subject of this permit shall be removed or modified so that the development on each parcel complies with all development regulations for the C-4 El Camino Real Zoning District, unless (i) a single owner acquires fee title to both parcels that are the subject of this permit and said parcels are merged into one parcel, (ii) the Sub-Ground Lease and Ground Lease is extended, renewed or replaced with a single ground lessee for both parcels that are the subject of this permit, or (iii) the then property owners of the two parcels record a new covenant agreeing that both parcels are bound by and restricted in accordance with the terms and provisions of this permit and that any new development of any parcel is limited by the development on both parcels. If one of those conditions is satisfied, this permit will be extended for so long as both parcels are subject to control by a single entity or party, or the owners of the two parcels agree that both parcels are bound by and restricted in accordance with the terms and provisions of this permit.
- E. The Community Development Director shall review any complaints received by the City regarding the new Safeway development. The Community Development Director or his/her designee shall work with Safeway and the neighbors to try to resolve such complaints, when possible. The Community Development Director shall have the discretion to bring complaints to the Planning Commission for review.

VI. STANDARD CONDITIONS

- A. Development of the project shall be substantially in conformance with the following plans submitted by SGPA Architecture and Planning, dated received by the Planning Division on January 23, 2007, consisting of 26 plan sheets and approved by the City Council on March 13, 2007, except as modified by the conditions contained herein:
- B. Prior to building permit issuance, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
- C. Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the new construction.
- 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 utilities shall be placed underground. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
- E. 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 plans shall be prepared by a Civil Engineer registered in California and shall be included in the project plans submitted for building permit applications. The Grading and Drainage Plan shall be approved prior to issuance of a building permit.
- F. The applicant is required to enter into a "Stormwater Treatment Measures Operation and Maintenance (O & M) Agreement" with the City. With the executed agreement, the "Ground Lessee" is responsible for the operation and maintenance of stormwater treatment measures for the project. The applicant is required to provide access permission to the extent allowable by law for representatives of the City, local vector control district, and Regional Water Quality Control Board staff strictly for the purpose of O & M verification for the specific stormwater treatment system for the project.
- G. The applicant shall comply with the Best Management Practices (BMP) requirements in order to ensure project compliance with the National Pollutant Discharge Elimination System (NPDES) permit. The applicant will adhere to City standards for the collection and disposal of on-site water run-off and for the protection of storm water quality during construction. The project will be subject to the review and approval of the Engineering Division.
- H. Prior to building permit issuance, the applicant shall submit a plan for construction safety fences around the site for review and approval of the Building Division. The fences shall be installed according to the plan prior to commencing construction.

- I. Prior to grading or building permit issuance, the applicant shall submit a plan for the control of dust for the duration of the project. The plan shall list specific measures, including but not limited to routine watering of the site. The plan shall also specifically address how dust would be controlled during weekends and other off-work periods. Finally, the plan shall include a contact name and phone number to receive and address any complaints. This plan shall be submitted for the review and approval of the Planning Division.
- J. Prior to building permit issuance, the applicant shall submit a detailed landscape and irrigation plan for review and approval of the Planning Division and Department of Public Works. The plan shall comply with the Water Efficient Landscaping Ordinance (Municipal Code Chapter 12.44). Landscape shall be installed prior to final building inspection.
- K. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance. Prior to building permit issuance, the applicant shall implement the tree protection plan and technique recommendations in the Arborist Report for all applicable heritage trees.
- L. Prior to building permit issuance, the applicant shall comply with the requirements of Chapter 12.48 (Salvaging and Recycling of Construction and Demolition Debris) of the City of Menlo Park Municipal Code.

VII. PROJECT SPECIFIC CONDITIONS

- M. Any deviation from the approved construction phasing plan and related construction related policies contained in the approved plans shall be subject to review and approval of the Building Division. The applicant must notify the adjacent property owners of the proposed changes at the time of application to the Building Division.
- N. Prior to building permit issuance, the applicant shall submit a letter prepared by an acoustical consultant confirming that the project plans comply with the following recommendations of Wilson, Ihrig & Associates, Inc., contained in the "Noise Control Recommendations" section of the report dated August 6, 2004 for the review and approval of the Building Division:
 - Landscape: A wall of minimum height 2 feet should be provided along the edge of the parking lot adjacent to El Camino Real to maintain the existing noise reduction currently afforded by the hedge now located there. Alternately, a dense hedge may be provided as now exists in the planting area, so that the height of the hedge is a minimum of two feet above the El Camino Real crowns.
 - Rooftop AC Units: The AC units that would be located on the roofs of the proposed commercial shops should be selected so that their octave band power levels are comparable to or less than the sound power levels assumed in Table 3 [of subject report]. Sound power levels for specific roof-top equipment should be reviewed by an acoustical engineer prior to selection.

- Submittals: Submittals of mechanical equipment specifications, including octave band sound power levels, should be reviewed prior to purchasing and installation to check consistency with predictions.
- O. All materials and colors shall be as depicted in the approved plans and colors and materials board, **as approved in 2005**. The applicant shall take special care to maintain the lower four feet of all building walls and surfaces that are subject to wear and tear of customers and shopping carts. The applicant shall maintain these areas at all times and take any ongoing means necessary to ensure the attractiveness of the elevations.
 - P. Prior to building permit issuance, the applicant shall submit detailed plans for the provision of on-site recycling and garbage receptacles throughout the project site for review and approval of Planning Division and the Environmental Program Coordinator. The appearance of any recycling facilities not contained within the structures shall be compatible with the architecture of the building.
 - Q. Prior to building permit issuance, the applicant shall submit plans for implementing the 20/20 recycling programs for review and approval of the Planning Division and the Environmental Program Coordinator.
 - R. Prior to building permit issuance, the applicant shall record a Covenant with the San Mateo County Recorder's office, in form and substance approved by the City Attorney, restricting the development of both parcels in accordance with the terms and provisions of this Conditional Development Permit, and agreeing to remove or modify the buildings located on the two parcels so that the development on each individual parcel complies with all development regulations for the C-4 El Camino zoning District upon the expiration of the Sub-Ground Lease and Ground Lease unless one of the conditions of Condition V. D. of this permit allow the extension of the permit.
 - S. Prior to building permit issuance, the applicant shall cause the stairs and the access door at the rear of the Masonic Lodge located at 651 Roble Avenue to be removed/relocated so that it is not exiting onto the 525 and 625 El Camino Real property, or the applicant shall provide an emergency exit plan on the 525 and 625 El Camino Real property for persons who have exited the Masonic Lodge building as it presently exists, subject to the review and approval of the Building Division.
 - T. Prior to occupancy of the new Safeway store, the applicant shall implement Transportation Demand Management Measures subject to review and approval of the Transportation Division. The Transportation Demand Management Measures shall include measures such as providing bicycle racks, offering subsidies to employees that use transit or bike/walk to work, creating a commuter assistance center, conducting employee surveys of transit use, and providing on-site banking for a total trip reduction of 60 trips.

- U. The applicant shall apply for all necessary approvals of Caltrans and applicable transit agencies for modifications in the public right-of-way along El Camino Real, including the relocation of bus stops. If the applicant is unable to obtain approval of the left turn pocket in a timely fashion with a reasonable set of conditions of approval from Caltrans, with reasonableness determined the applicant in consultation with the Public Works Director, the applicant may choose to not pursue the construction of the left turn pocket.
- V. Prior to building permit issuance, the applicant shall submit a sidewalk plan for the El Camino Real frontage subject to review and approval of the Engineering and Planning Divisions. The plan shall identify areas for all anticipated obstacles and shall maintain a paved walking lane of a minimum of four feet.
- W. To minimize noise during construction, Menlo Park noise ordinances will be adhered to. Adjacent property owners and specified neighborhood representatives will have a 24-hour phone access to a project representative for reporting problems.
- X. If the trees between the Safeway building and adjacent Kenwood/Roble properties show signs of distress within five years after construction, and if the City arborist finds that this was caused by the construction, Safeway will remove these trees and plant new trees of a species recommended by the arborist.
- Y. Prior to building permit issuance, the applicant shall submit detailed plans of the arcade that include high quality ceiling materials, preferably stained wood, and high quality pendant light fixtures.
- Z. ***Prior to building permit issuance, the applicant shall submit plans for a fence, guardrail or similar protective barrier within the landscaping between the grocery store outdoor seating and the main drive aisle, subject to review and approval of the Planning Division. The fence, guardrail or similar barrier shall be approximately "bumper height," and shall have the objective of enhancing safety for the occupants of the outdoor seating.***

Recommended for Approval by the
Menlo Park Planning Commission on
February 26, 2007

Approved by the

Arlinda Heineck, Community
Development Director

Silvia M. Vonderlinden, City Clerk

Motion carried 6-0 with Commissioner Bims not in attendance.

Commission Action: Unanimous Commission consensus to recommend to staff and the applicant to revisit their decision to plant two trees in the new sidewalk along El Camino Real and remove the trees while maintaining the same amount of trees so as to not duplicate the narrow pedestrian passage that currently exists in front of the Stanford Park Hotel.

E. REGULAR BUSINESS #2

1. **Architectural Control and Sign Review/Jeffrey's Hamburgers/888 El Camino Real:**
Request for architectural control to remodel the exterior of a commercial building and for sign review of new signs containing the color red for property located in the C-4 (ECR) (General Commercial - Applicable to El Camino Real) zoning district.

Staff Comment: Planner Fisher said staff had no additional comments. She noted that a color board and an example of the LED tubing had been distributed for the Commission to review.

Questions of Staff: Chair Keith said there were many different styles on the color board. Planner Fisher said those were painted channel metal letters with neon tubing with the metal channel. Commissioner Pagee asked about signage relating to the exit as this would be a new restaurant. Planner Fisher said that additional signage was not proposed but the Commission could add that requirement.

Public Comment: Mr. Andrew Young, project architect, Menlo Park, said that his firm Young and Borlick had been approached by the owner of Jeffrey's Hamburger in San Mateo to create another Jeffrey's at the project site. He said he was excited about keeping a City landmark and making it more attractive, noting it was currently wedged between two larger buildings. He said that the owner was wed to their logo, but they were willing to make the neon white if that was preferable.

Commissioner Deziel asked staff for clarification on what change in the signage that staff was requesting. Planner Fisher said staff was suggesting that the background channel be another color than red as the neon was red.

Chair Keith asked if there was a photograph of the San Mateo Jeffrey's. Mr. Young said he did not, but noted the red channel background was for the day time and red neon was for the night time.

Commissioner Riggs said he visited Jeffrey's on Sunday and that they had been limited in their signage there. He said there was a visibility problem with the sign in the Menlo Park location. Commissioner Deziel said he thought the signage in San Mateo was very attractive.

Commissioner Sinnott moved to approve as recommended in the staff report. Commissioner Pagee seconded and said she liked the liveliness of the sign.

Commissioner Riggs asked if there was any concern about the LED strip along the parapet. Commissioners Sinnott and Pagee agreed to amend the motion to require the LED sign be white.

Mr. Serge Karanov, the owner of Jeffrey's Hamburgers, said that their success had been created by their customers' word-of-mouth advertising.

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

1. Make a finding that the project is categorically exempt under Class 1 of the current 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 a finding that the signs are appropriate and compatible with the businesses and signage on El Camino Real, and are consistent with the Design Guidelines for Signs.
4. Approve the architectural control and sign review request subject to the following *standard* conditions of approval:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Young and Borlik, consisting of nine plan sheets, and Design Solutions, consisting of two plan sheets, dated received February 20, 2007 and approved by the Planning Commission on February 26, 2007, except as modified by the conditions contained herein.
 - b. The applicant shall comply with all West Bay Sanitary District, Menlo Park Fire Protection District, and utility companies regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
 - d. Prior to issuance of a building permit, the applicants shall submit a plan for construction safety fences around the periphery of the construction area for review and approval of the Building Division. The fences shall be installed according to the plan prior to commencing construction.
 - e. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. Landscaping shall properly screen all utility equipment that is installed outside of a building and that cannot be placed underground. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
5. Approve the architectural control and sign review request subject to the following *project specific* conditions of approval:

- a. Prior to building permit issuance, the applicant shall apply for an encroachment permit for the metal eave, subject to review and approval by the Public Works Department.
- b. Prior to building permit issuance, the plan shall be revised to show the "Hamburgers" channel letters and the LED lighting on the eaves in a ~~non-restricted signage color~~ **in white**. These revisions shall be subject to review and approval by the Planning Division.

Motion carried 6-0 with Commissioner Bims not in attendance.

Chair Keith noted the Commission's consensus to not continue past 11:30 p.m.

2. **Sign Review/Ace Hardware/700 Santa Cruz Avenue**: Request for sign approval for a new sign containing the color red.

Staff Comment: Planner Fisher said she had no additional comments but noted that the applicant was out of the country and unavailable for comment.

Questions of Staff: Commissioner O'Malley said staff was recommending to have a two-foot ACE sign rather than a three-and-a-half-foot ACE sign and wondered if the owner had objections. Planner Fisher said she spoke with the sign maker and found that ACE has both sizes. She said the owner was concerned about the two-foot size so her suggestion was for the item to be continued to finalize that recommendation.

The Commission's consensus was the proposed sign was too large and they discussed alternative sizing of the lettering. They requested seeing two plans with two different size letterings. Planner Fisher said she would check with the sign maker for alternative sizes. She said because there would be two plans to consider that the item would be continued as regular business.

Planner Fisher asked the Commission to comment on the "Hardware" portion of the signage. The Commission's consensus was they agreed with staff's recommendation on the "Hardware" signage. Chair Keith asked if there should be a time set for the sign to be turned off. Planner Fisher said that was specific to the Grays' application because of its proximity to residential properties. Commissioner Deziel asked if the applicant would address the size of the white band on the building. Planner Fisher said she would advise the applicant.

Commission Action: Unanimous Commission consensus to continue to allow the applicant to be present. The Planning Commission provided staff with the following direction for modifications:

Provide two different revised sets of plans with the "CE" of "Ace Hardware" at 18 inches and 24 inches tall, and include dimensions on the street elevation sheet. Revise the plans so the "Hardware" portion of the sign does not turn red at night.

3. **Consideration of Minutes from the December 11, 2006, Planning Commission Meeting.**

- Page 3, 2nd paragraph, Replace the words "for a" with "if there was."

4. **Consideration of Minutes from the January 22, 2007, Planning Commission Meeting.** *This set of minutes contains excerpts for 1906 El Camino Real.*

Commission Action: Unanimous Commission consensus to approve the minutes with the following modifications.

- Page 3, last paragraph, 1st sentence: after the word "CEQA" reverse the order of the words "findings exemption" so it reads "CEQA exemption findings."
- Page 10, 1st paragraph, 1st line; change "4,100" to "41."
- Page 10, 6th paragraph, last sentence: After the word "project" change the word "and" to "an" and insert the word "conforming."
- Page 11, 3rd paragraph: Change the word "user" to "use."

F. COMMISSION BUSINESS, REPORTS, AND ANNOUNCEMENTS

1. Review of upcoming planning items on the City Council agenda.

Planner Chow briefly updated the Commission about upcoming planning items on the City Council agenda.

2. Potential session with Planning Commission to have a presentation from Build-It-Green.

Commission Action: Unanimous Commission consensus to add the item to the agenda for the regular meeting of March 26, 2007.

ADJOURNMENT

The meeting adjourned at 10:55 p.m.

Staff Liaison: Deanna Chow, Senior Planner

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission April 9, 2007.