



PLANNING COMMISSION MINUTES

July 16, 2007

7:00 p.m.

City Council Chambers

701 Laurel Street, Menlo Park, CA 94025

CALL TO ORDER – 7:00 p.m.

ROLL CALL – Bims (arrived at 7:19 p.m.), Bressler, Deziel (Vice chair), Keith (Chair), O'Malley (departed at 10:00 p.m.), Pagee, Riggs

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

A. PUBLIC COMMENTS

There were none.

B. CONSENT

There were no items on the consent agenda.

C. REGULAR BUSINESS #1

1. **Use Permit/Danielle Paye/1177 Johnson Street:** Request for a use permit for excavation into a required side yard setback for access to a basement garage and for a detached secondary dwelling unit, associated with construction of a new single-family residence on a standard lot in the R-E (Residential Estate) zoning district.

Staff Comment: Planner Rogers said there were no additions to the written report.

Questions of Staff: Commissioner O'Malley noted there had been five arborists consulted previously by the applicant and neighbors and asked how the findings of the sixth arborist consultant lined up with the other arborists' findings. Planner Rogers said the sixth arborist was an independent consultant hired by the City in response to the conflicting opinions of the arborists consulted by the applicant and neighbors. He said that arborist's conclusions were similar to those of the applicant's arborist and the City Arborist. He said however that the alternative design included in the staff's recommendation relieved neighbors' concerns with the project related to tree protection.

Chair Keith said page three of the staff report indicated that the applicant had dug an exploratory trench near the Oak tree and asked if that had been to a depth of 24-inches. Planner Rogers said he did not know if the depth was measured exactly but seemed the same depth as that of the exploratory trench on the other side which was 24- to 36-inches deep. Chair Keith asked who had done this trench as page D.9 indicated that Main Tree Expert

Company had explored down to 24-inches. Planner Rogers said he was not sure whether the Main Tree Expert Company had done the exploratory trench, but that the consulting arborist, Mr. Walt Fuji, had been with him at the site and had indicated there was no need to dig deeper. Planner Rogers said the trenches had been filled in as it was not advisable to leave roots exposed. Chair Keith said on page three it was stated that the report indicated that roots might be located at a lower depth and asked what report this was referring to. Planner Rogers said that it was the Main Tree Expert Company's report. He said attachment D-9 at the end of the second full paragraph indicated there were roots that might be cut at a lower depth. Chair Keith said this report also indicated there was an exploratory trench dug to 24-inches but it was unclear whether that company did the trenching. She said it was indicated there were larger roots at a lower depth and the recommendation was for fertilizing. Planner Rogers said he spoke with the consulting arborist regarding whether roots that existed deeper than the exploratory trenching were cut if that would impact the trees more than what was normally allowable. He said the arborist's opinion was that this could be mitigated and that the overall health of the tree would not be impacted.

Commissioner Pagee asked about the tree protection zone under the City's Heritage Tree Ordinance. Planner Rogers said this provided that a tree protection plan be used within a radius of ten times the diameter of a tree. He said in practice this occurred through individual arborist reports prepared for the Commission that made recommendations as to construction practices and tree maintenance. Commissioner Pagee said that there was not a definitive depth that had to be considered. Planner Rogers said in this instance the three-dimensional impact was considered and arborists were confident that the impacts would not be significant in this case. Commissioner Pagee asked if there were legal recourse should any of the trees die because of the project excavation. Planner Rogers said if an impact to a Heritage tree could be traced to construction that there could be a Code Enforcement action with resulting actions to mitigate that damage.

Commissioner Deziel said page D-9 indicated that tree numbered 310 had several feet of cover over its root crown; he noted this was very risky for the health of an oak tree and was of as much concern as roots being cut.

Public Comment: Ms. Patricia Jimenez, property owner, said they proposed flipping the design to create amicability with the neighbors. Commissioner Deziel asked which design they preferred. Ms. Jimenez said they preferred the revised design. Commissioner Deziel asked if they could give the Oak trees attention. Ms. Jimenez said they planned to take good care of the trees during construction. Commissioner Deziel asked when the construction would occur as the time of the year was important in terms of Oak trees' health. Ms. Jimenez indicated that the contractor could better address that question.

Mr. John Nelson, Menlo Park, said that he and his wife supported the revised proposal with the inclusion of 4.b related to a pier and beam foundation and with an appropriate tree protection zone established and enforced. (He made a number of comments away from the microphone that had diminished sound quality. In essence he was describing how the original design would have impacted the trees, but which was mitigated by the revised design.)

Ms. Danielle Paye, the project contractor, said with project and building plan approval that she would expect excavation to occur in November and December when the trees were dormant. Commissioner Pagee asked how the drilling for the piers would occur without causing damage

to the trees. Ms. Paye said they would hand excavate the piers to a three-foot depth and then do the drilling for the piers. She said there was flexibility as to the placement of piers so that if a dense root bundle was found the pier could be relocated. Chair Keith asked whether the beam needed to be any greater depth than eight inches and if they would accept the other findings of the Main Tree Expert Company. Ms. Paye indicated that was agreeable.

Chair Keith closed the public hearing.

Commission Comment: Commissioner Riggs said he would move to approve as recommended by staff. Chair Keith asked if Commissioner Riggs would include that the foundation plan should specify that the pier holes be hand dug to a depth of three feet, with adjustments made to their position if roots over three inches in diameter were encountered, and that the grade beam be no deeper than eight inches. Commissioner Riggs accepted those modifications. Commissioner O'Malley seconded the motion.

Commissioner Deziel said he would like something in the condition to verify the best time of the year for trenching to occur where there were trees in proximity. He said that he would like for any tree that might be excavated within five times of the diameter of its base to have an arborist report created with specific measures for tree health preservation to occur such as tree crown excavation.

Commissioner Riggs said the report by Main Tree Expert Company outlined many of the preservation actions and asked if that would suffice with additional allowance for root crown excavation. Commissioner Deziel said that the report did not really look at the overall health preservation of the trees but only at mitigation of impacts from excavation.

Commissioner O'Malley said he thought the Planning Commission was overstepping its boundaries into the realm of another Commission. Chair Keith asked staff about this concern. Planner Rogers said that usually the Commission looked at impacts caused by construction but whether what was being suggested was a precedent was unclear. Commissioner Bressler suggested not over-legislating as it appeared the applicant would do what was necessary to protect the trees. Commissioner Riggs suggested that with all of the different arborist reports that one of the arborists' reports be expanded to cover the current and future health of all impacted trees subject to the approval of staff. Commissioner Deziel indicated also including excavation of the root crown as mentioned previously. Commissioner Riggs said he would include the modification to his motion to have an arborist report expanded to cover the current and future health of all impacted trees, subject to the approval of staff, and for example to include excavation of the tree crown that was buried. Commissioner O'Malley said he would accept that modification.

Commissioner Pagee asked other than stipulated in condition 3.g whether the Environmental Quality Commission had reviewed these plans. Planner Rogers said that it had not.

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

1. Make a finding that the project is categorically exempt under Class 3 of the current 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 Robinson Architects, Inc., consisting of 13 plan sheets, dated received July 9, 2007, and approved by the Planning Commission on July 16, 2007, except as modified by the conditions contained herein.
 - b. Prior to building permit issuance, the applicants shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicants shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
 - d. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
 - e. 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.
 - 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.
4. Approve the use permit subject to the following **project-specific** conditions:

- a. Concurrent with submittal of a complete building permit application, the applicant shall submit revised plans completely flipping the proposed residence in accordance with Attachment C2 (showing the driveway excavation along the left side of the residence), subject to review and approval of the Planning Division.
- b. Concurrent with submittal of a complete building permit application, the applicant shall submit revised plans showing the foundation method along the right (north) side of the residence to be pier-and-grade-beam, subject to review and approval of the Planning and Building Divisions. ***The foundation plan shall specify that the pier holes should be hand dug to a depth of three feet, with adjustments made to their position if roots over three inches in diameter are encountered, and that the grade beam can be no deeper than eight inches.***
- c. Concurrent with submittal of a complete building permit application, the applicant shall submit documentation of the initial deep root fertilization of the trees listed in the supplemental arborist report of May 22, 2007, subject to review and approval of the Planning Division. The fertilization shall be conducted annually for the following five years.
- d. Concurrent with submittal of a complete building permit application, the applicant shall submit a comprehensively revised arborist report that incorporates all applicant-submitted arborist report direction, as well as the item listed below, subject to review and approval of the Planning Division. This comprehensive report shall be used for the enforcement of condition 3g.
 - i. The report shall incorporate additional protection measures for the heritage cedar (tree #3) and heritage redwood (tree #5) located near the left front driveway entrance. The report shall specify that the driveway shall be constructed of pavers, and that all excavation within the tree #3 and tree #5 protection zones shall be conducted by hand-troweling. In addition, the report shall specify that any roots greater than 1.5 inches in diameter within the aforementioned tree protection zones may only be severed after prior inspection by a licensed arborist.
 - ii. The report shall be amended to describe the removal of tree #34.
 - iii. ***The report shall be expanded to address the current and future health of all impacted trees, and shall describe any necessary protection measures, such as removal of materials blocking a tree's root crown.***

Motion carried 7-0.

D. PUBLIC HEARING

1. **Use Permit/Marc Lindsell/5 Elder Court:** Request for a use permit for excavation into a required side yard setback for a lightwell associated with a basement in the R-1-S (Residential Single-Family Suburban) zoning district.

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

Questions of Staff: Commissioner Pagee noted that the staff report did not address the non-conformity of the existing garage in regard to width. She said that part of the garage floor would be eliminated to allow for excavation and there was potential for change to the garage. She asked whether staff had verified the diameter of the heritage trees impacted by construction. Planner Fisher indicated that staff had visited the site, but relied on the arborist report for tree diameters. Commissioner Pagee noted a project on Olive Street in which there was precedence in a significant difference in tree diameters. She asked about maximum height for a single-story residence. Planner Fisher said 28-foot was the maximum height for both single and two-story residences but there was a difference in how floor area was counted.

Public Comment: Mr. Marc Lindsell, project architect, said he was available for questions. Commissioner Riggs asked if the house would need to have a sprinkler system. Mr. Lindsell said that need had not come up during discussions with Building Department staff, but noted in response to Commissioner Pagee's question that they had not yet spoken with the Fire District.

Commissioner Deziel asked if the existing house would be demolished. Mr. Lindsell said that after discussion with Building Department staff it was determined that they would be able to use piers and remove the slab in the garage, which would keep the garage walls and roof intact. In response to a question from Commissioner Riggs, Mr. Lindsell said the house was raised and the garage was the only slab on grade.

Commissioner Deziel asked why the building coverage did not increase with the light wells. Planner Fisher said that light wells were considered similarly to paved surfaces such as driveways and usually something that contributed to building coverage had a roof.

Commissioner Pagee asked about the water heater and heating system. Mr. Lindsell said the water heater was in the garage and the heating system was in the attic. He said they would install radiant heat in the basement. Commissioner Pagee asked about the depth of the light well with the window one-foot, eight-inches off the floor. Mr. Lindsell said the window was at one-foot, eight-inches and there was another eight-inches depth with flashing for drainage. He said the sump pumps were in the front patio area. Commissioner Pagee asked about the location of the sewage ejector pump. Mr. Lindsell said that would be located inside the house for the below level bathroom.

Commissioner Pagee said the home was five bedrooms and asked whether there was adequate parking should there be five drivers in residence. Mr. Bob McDonald, property owner, said that one bedroom was currently a combination office and guest room and would become just an office, and that the basement would serve as the guest room. He said their garage and driveway currently held four cars and he thought the parking was more than sufficient.

Chair Keith closed the public hearing.

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

1. Make a finding that the project is categorically exempt under Class 1 of the current State CEQA Guidelines.

2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the use permit subject to the following **standard** conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by S.E.A. Construction, Inc., consisting of eleven plan sheets, dated received June 29, 2007, and approved by the Planning Commission on July 16, 2007, except as modified by the conditions contained herein.
 - b. Prior to building permit issuance, the applicants shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicants shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
 - d. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
 - e. 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.
 - g. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance. Prior to the building permit issuance, the applicant shall implement the tree protection plan and technique recommendations in the Arborist Report for all applicable heritage trees.

Motion carried 7-0.

2. **Use Permit/Sprint PCS/300 Constitution Drive**: Request for renewal of a use permit for one existing wireless telecommunications antenna module with three panels on

Building 104 and an associated equipment shelter in a fenced area adjoining Building 104 in the M-2 (General Industrial) zoning district.

Staff Comment: Planner Fisher said that removal of the non-permitted generator was listed in the conditions.

Questions of Staff: Chair Keith asked about the 10-year expiration of the use permit. Planner Rogers said that previously a five year limit had been applied to these types of applications, but with more recent applications, a 10-year limit had been applied as that seemed more compatible with technology changes.

Commissioner Riggs asked if Sprint wanted to change an antenna whether they would have to come back for a use permit. Planner Fisher indicated that they would.

At Chair Keith's request, Planner Fisher provided a coverage map.

Public Comment: Ms. Michelle Swanson, Omni Design group, on behalf of Sprint USA, said that SB 1627 approved at the beginning of the year had stated that if a time limit was to be applied that typically it would be 10 years, but did not required stipulation of a time limit.

Commissioner Deziel said that originally the Commission had set a time limit to encourage companies to improve their service, but noted that had not really improved coverage. Ms. Swanson said that the increase in capacity and users was a continual challenge for the industry.

Commission Action: M/S Riggs/Bims to approve the item as recommended in the staff report without the 10-year time limit.

1. Make a finding that the project is categorically exempt under Class 1 of the current State CEQA Guidelines.
2. Make necessary findings, pursuant to 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 safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of the proposed use, and will not be detrimental to property and improvements in the neighborhood or general welfare of the City. *(Due to the Federal Communications Commission (FCC) preemption over local law regarding concerns over health where the proposed facility meets FCC requirements, staff has eliminated the standard finding for "health" with respect to the subject use permit.)*
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 Omni Design Group, Inc., dated June 7, 2007 consisting of five plan sheets and approved by the Planning Commission on July 16, 2007, except as modified by the conditions contained herein and the recommended mitigation measures described in the RF report.

- b. The applicant shall comply with all County, State, and Federal 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 that are directly applicable to the new construction.
4. Approve the use permit subject to the following **project specific** conditions of approval:
- a. The applicant shall install six-foot fencing with slats around the equipment area, subject to review and approval by the Planning Division.
 - b. The applicant shall remove the non-permitted emergency generator from the site within two weeks of this approval, and upon doing so, shall notify the Planning Division to arrange an inspection. The applicant may replace the non-permitted generator with a gas-powered generator, or may apply for a hazardous materials use permit for a diesel-powered generator, following the removal of the non-permitted emergency generator currently onsite.

Motion carried 7-0.

3. **Variance, Use Permit, Architectural Control/Hayes Group/250 Middlefield Road:**
Request for a variance, use permit and architectural control for installation of five new parking spaces located within the front setback, for establishing the total number of parking stalls per the use-based guidelines rather than the zoning district requirements, and for exterior building modifications and site improvements, including changes to the width of the driveway entrance along Middlefield Road, new windows, doors, balcony railing on the existing building, and new enclosures for trash and mechanical equipment for an existing building located in the C-1 (Administrative and Professional District, Restrictive) zoning district.

Staff Comment: Planner Chow said the property manager of the neighboring property had expressed concern with the proposed location of the mechanical equipment and thought it should be located in the rear. She said also that the proposed window replacement would not be vinyl clad but aluminum with painted powder coat finish.

Questions of Staff: Commissioner Riggs asked why two parking spaces were being eliminated near the corner. Planner Chow noted page B.4 showed two diagonal spaces on the corner near Middlefield Road and Santa Monica Avenue proposed for removal at the request of the Transportation Division manager for safety reasons. She said staff was requesting frontage improvements and the diagonal parking spaces would be replaced with parallel spaces. Commissioner Riggs asked if this would occur concurrent with the building permit or in the future. Planner Chow said this was conditioned under 6.c and 6.d and required the applicant to make an offer of dedication and application. She said that the building permit and offer to dedicate processes could be concurrent.

Commissioner Deziel confirmed that the completion of the frontage improvements was not required before building occupancy could occur. He said he was unclear where the striping would be for the parallel parking. Planner Chow said on page B.4 there was shown an existing curb that would remain. Commissioner Deziel asked whether the applicant could make the sidewalk wider than five feet. Planner Chow said that would need to be at review

and approval of the Public Works Department. Commissioner Deziel asked for clarification on 6.d regarding the striping for the parking space. Planner Chow said the wording could read...."parallel parking shall also be striped along the existing curb" and strike out "property frontage."

Commissioner Pagee said the parking would be decreased along the front of Middlefield Road with parallel parking along the building frontage. Planner Chow said that parking in the front would be decreased but the applicant was increasing parking onsite. Commissioner Pagee asked if there could be an additional parking space on the corner if it was parallel. Planner Chow said that would have to be reviewed by Transportation and Public Works.

Chair Keith asked about the identified tenant. Planner Chow said that it was a venture investment firm. Chair Keith asked about the requirement for street frontage improvements and an offer to dedicate 24-feet to the City. Planner Chow said Middlefield Road had been 100-foot wide with the plan line set in 1950s but the width was 76-feet with another 24-foot in front of this property. She said related to frontage improvements that the City was only requesting the connectivity of a sidewalk at this time. Chair Keith confirmed the location and required number of ADA parking spaces for the project with staff.

Commissioner Riggs said the offer to dedicate was the issue on this project. He said there has been a historic intention to have a 100-foot wide Middlefield Road but he was not sure it was needed. He said he did not see the need of an extra northbound lane on Middlefield Road. He said that what he saw was a loss of needed parking. He said he did not see the need for frontage improvements. He asked why an applicant who wanted to update their property was being required to do street frontage improvements. Planner Chow said the applicant seemed willing to go forward with the offer to dedicate and that this was an opportunity for the City to have some flexibility with future improvements.

Commissioner Pagee asked about the City's general plan for this area. She asked why oaks had been replanted in the location where there would be parking. Planner Chow said the oaks would remain. Commissioner Pagee said that if there had been an overall plan for the area that perhaps it would have made more sense to not replace the removed oaks. She asked about the overall plan and desire for this area and how the project tied into this plan. Planner Chow said there was not an overall plan and this dedication was to allow for flexibility for future design needs, and to have a sidewalk installed in front of the property for now. Commissioner Pagee said that the overall goal might not be feasible. She noted a fairly new building on Santa Margarita and Middlefield Road that had not been required to participate in land dedication and frontage improvements. Planner Chow said she would have to talk to Transportation and Public Works about an overall plan but she did not think there was one rather these requirements were to allow for flexibility in the future. .

Commissioner Bressler said that he thought the proposal was fine and that the applicant would want to be able to proceed.

Commissioner Bims said there was no plan for redevelopment of Middlefield Road and he did not see a need for an extra lane going northbound.

Public Comment: Mr. John Hanna, Hanna and Venetti, Palo Alto, land use attorney, said he was representing 250 Middlefield Associates. He said that the requirement for the offer to

dedicate and the street frontage improvements were at odds with the City's zoning ordinance and the U. S. Constitution. He said the City's ordinance establishes a plan line for the purpose of preventing buildings from being built within the potential right-of-way. He said there was nothing in the ordinance requiring a dedication of land for basic site improvements. He said the variance request was a condition created by requiring the dedication of land. He said the applicant had assumed they had no choice about the dedication of land. He said their main concern was with delay to the project. He said that a similar condition for a sidewalk for a project at Willow Place had tied up their building permit for months. He said that with this project there was a tenant ready to make improvements for its use but the property owner had to first get the improvements to the building exterior and site done. He said the applicant was being asked to give up 5,000 square feet of land worth conservatively \$300,000 to \$500,000. He said that with giving up that square footage that any future expansion of the building would be diminished by 12,000 square feet. He said the applicant was being asked to give up a lot to make simple improvements to the project site. He said there was no nexus for the land dedication as there would be no change in the use nor was the building size increasing. He said the applicant was willing to offer to dedicate if in exchange the building permit and lot line merger applications could be fast tracked. He said however to require street frontage improvements be made by the applicant on land it was being requested to dedicate to the City was excessive.

Commissioner Deziel said the Commission might suggest removal of the condition of an offer to dedicate but staff might need to do further review which might lead to a continuation. He said there was nothing he was aware of that the Commission could do to put the applications on fast track.

Commissioner Riggs said he was concerned about getting the applicant's hopes up about any fast track as the Commission was not tasked with anything to do with the processes of the Planning or other City Departments.

Chair Keith asked staff when the applicant would get the building permit if the project was approved. Planner Chow said typically when an applicant applies for a building permit that it takes about four weeks for comments from staff to the applicant and responses to the staff from the applicants, and then another two weeks for building plans comments. She said a number of departments would review the plans concurrently. Chair Keith asked if there was some way to speed up the process. Planner Chow said that the Council had not indicated any such process for fast tracking of building permit applications.

Mr. Charlie King, one of the property owners of 250 Middlefield Associates, asked when the Commission might again consider the project if it was continued. Chair Keith indicated that possibly at the next Commission meeting. In response to a question from Chair Keith, Mr. King said their perception was that they had to offer the dedication to keep the project moving forward.

Planner Chow indicated that if the Commission did not want to approve the conditions for the dedication that she would recommend continuance. Chair Keith asked when the next Commission meeting would be. Planner Chow said that the item could probably be noticed and considered at the August 13 meeting.

Mr. King asked if they could still submit their application for a building permit even if the planning process was not completed. Planner Chow said that they could but with the risk that a change in the planning process could affect the building plans.

Commissioner Riggs said he thought the Commission should structure comments to avoid delay for the applicant. He suggested doing the architectural control review.

Mr. Ted Hayes, Hayes Architect, Redwood City, said he was the architect for the project. He said the plan concept was to re-tenant the building with a high-end venture firm and make simple changes to the building for improved appearance, take care of deferred maintenance, beautify the site with relocation of the trash enclosure and landscaping, and create ADA parking in front of the buildings. He said regarding condition 6.g that referred to an existing walnut tree and pepper tree that they would replace those trees because of their poor health as noted in the arborist report. He said that if the right-of-way dedication moved forward there was a conflict in the requirement of street frontage improvements under condition 6.d and the indication on page three of the staff report that only a five-foot sidewalk and landscaping behind the property line would be required.

Commissioner Pagee said the neighbor had commented on the location of the HVAC equipment as it would be moved out of the building. Mr. Hayes said that the system had been a chiller/boiler combo with large vents coming out of the building. He said they intended to use an efficient split system with low decibel ratings that was horizontally compact and enclosed in concrete block. He said that the combined decibel of all of the condensers operating at the same time would be 69 db, which at the property line would be 51 db. He said Casa Mills was easily 100 feet away and at that distant the decibel would be 40 db. He said there were four units outside and one inside for the computer room.

Chair Keith closed the public hearing.

Commission Comment: Commissioner Bressler said he liked the proposal as they would maintain the current architecture and it was low impact. He suggested in the interest of the project's process that there should be few changes made by the Commission to the recommendation.

Commissioner Bims said that it was a nice design and he could make the findings to approve, but he had reservations about condition 6.d as proposed in not knowing whether the City had an overall plan for the area. He thought also that it made sense to have some type of quid pro quo but that it did not seem like an equitable transfer with the applicant required to improve land it would give to the City.

Commissioner Pagee said this was a very nice project and an improvement to the site; she asked that consideration be made to include a shower facility and bike racks to encourage the use of bicycles as transportations, but not as a condition of approval. She said she agreed with the comments on quid pro quo but noted the Commission did not have the ability to create a fast track for the applicant. She said she supported moving the project forward.

Commissioner Deziel said there was no issue with the design, but with the dedication. He said that if the first sentence of condition 6.d was eliminated that condition 6.d would become a scope of work independent of the dedication to convert parking spaces from diagonal to

parallel. He suggested the Commission provide enough flexibility to allow the project to move forward and then work out the dedication issue with the City without coming back to the Commission.

Chair Keith said it seemed the applicant felt they had offer the land for dedication to the City to get their project approved. She said for the applicant to give the land to the City and then the City to require the applicant to make the improvements to that land was excessive.

Commissioner Bressler asked if it was possible to break out the requirement for making the improvements from the rest of the project approvals.

Recognized by Chair Keith, Planner Chow said she would recommend continuance to allow for further review of the application by all of the involved City departments.

Chair Keith asked if the applicant could submit the building permit application concurrent with the planning review process. Planner Chow said they could but if the planning review changed something that would have to be added to the building permit.

Commissioner O'Malley asked if there was not a dedication of land whether the building and front parking lot could remain as was proposed. Planner Chow said there would be five additional parking spaces as proposed. Commissioner O'Malley asked what would be preferred by the applicant. Commissioner Bims said that the applicant had indicated they had a tenant lined up so if the project was continued the continuance would need to be fast tracked so the applicant could keep their tenant.

Commissioner Deziel said there were three applications: one for architectural control that the Commission could approve; and the second for the use permit. He said if the applicant did not dedicate land and made the parking spaces on front parallel spaces that they would have more than 70 stalls and would not need a use permit. Planner Chow said that the diagonal parking stalls were included in the parking count already. Commissioner Deziel said that the applicant would do 70 stalls with five spaces in front, and four new ones in the back which was 70 stalls, and with additional two parallel stalls in front there would be 72 parking stalls. He asked what the requirement for the use permit was. He said whether it was needed or not they could approve the use permit on that basis and that completely separated the dedication and variance from the approval. He suggested removing condition 6.c. Planner Chow suggested that the Commission might move ahead with architectural control review but keep the use permit and dedication as a bundle. Planner Chow said the parking spaces in front changing from diagonal to parallel could not be counted.

Commissioner Riggs asked if parking was not subtracted as part of the required dedication whether the project scope would be installation of windows, changing out the mechanical equipment, minor exterior upgrade, and landscaping and addition of ADA parking. Planner Chow said if parking was in front and dedication occurred that a variance would be required because the parking would be in the setback. Commissioner Riggs said that without the dedication the proposal would be architectural control. He said this area should not lose parking. He said that a car was able to back out of the existing diagonal stalls without entering the proposed bicycle lane or roadway. He said he questioned the requirement for dedication and had not heard the justification for its requirement. He said the project deserved approval without conditions 3, 6.c and 6.d. He said when and if there was a need of

the 5,000 square feet being asked of the applicant now in the future that the City would have the opportunity to make an offer to purchase at that time. He said if the project was approved without conditions 3, 6.c. and 6.d. that the City Attorney within a week could make the argument to any of the Commissioners who voted for approval as to why the dedication was required and the Commissioner could request a reconsideration of the project at the next Commission meeting.

Commissioner Bims said he liked the idea of separating out the architectural control from the variance and dedication. He said to continue the latter would require striking out references to variance and use permit and request a continuation for the other elements to August 13. Commissioner Riggs asked whether the architectural control could be approved with conditions 3, 6.c and 6.d. Commissioner Bims moved to approve the architectural control and make findings 1 and 2; skip over 3 and 4; make findings under 5 without reference to variance and use permit and skip over condition 6. Commissioner Riggs noted that condition 6 had other issues related to it. Commissioner Deziel seconded the motion with the modification to eliminate 6.c, 6.d, and 6.g, which was amenable to Commissioner Bims.

Planner Chow asked if the motion was to approve the architectural control and use permit. Commissioner Deziel thought the use permit should be included. Planner Chow said that architectural control approval would allow the applicant to apply for a building permit. She said the use permit was for the application of use based parking guidelines.

Mr. King asked if parking was driving the requirement for the use permit. Planner Chow said zoning district C.1 has no permitted uses but when the project building was built originally it was given general office use designation. She said that a general office to general office use did not require a use permit. She said the use permit was for parking because of the modifications which would occur with the dedication of the plan line. Chair Keith confirmed with Planner Chow that an office use required one parking space per 300 square feet.

Commissioner Bressler said he was concerned that the applicants would not be served well by changes being suggested, which might undermine the efforts of staff. He said the project should be approved as presented.

Commissioner Deziel said the applicant had indicated they were interested in a downstream meeting if that meant they would not have to give up the land. He said perhaps they could clarify if the applicant would be happy with separating out the architectural control with continuation of 6.c and 6.d or whether to eliminate 6.c. and 6.d. Commissioner Bims said that if 6.c and 6.d were deleted that the decision could be appealed and then it would go to the Council whereas a continuance would allow the City an opportunity to explain the justification of the request. Chair Keith said they were trying to grant architectural control so that the applicant could apply for a building permit and that the other issues could be continued to August 13 for the City to explain its reasoning for the dedication of land.

Recognized by the Chair, Mr. King said they would like architectural control and use permit approval and a continuance on the issue of the right-of-way which would be conditions 6.c and 6.d, and elimination of condition 6.g related to the walnut and pepper trees.

Commissioner Riggs asked if it was even possible to continue sections of the conditions. He said he thought the Commission should move forward on its majority decision which would

allow the City to respond and any of the Commissioners who voted for approval could request a reconsideration of the project if the City provided an argument as to the need for the dedication.

Commissioner Riggs moved a substitute motion to approve the project as to architectural control and the use permit and eliminate 6.c, 6.d and 6.g and references to variance. Commissioner Deziel seconded the motion.

Commissioner Riggs said that any of the Commissioners who approved the motion could request to bring back the proposal for reconsideration.

Motion carried 5-2 with Commissioners Bressler and Keith not in support.

Commission Action: M/S Riggs/Deziel to approve Use Permit and Architectural Control with the following modifications.

1. Make a finding that the project is categorically exempt under Class 1 of the current State CEQA Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
- ~~3. Make the following findings as per Section 16.82.340 of the Zoning Ordinance pertaining to the granting of variances:~~
 - ~~a. The 24-foot offer of dedication and the location of the existing building design create a constraint to design conforming parking stalls, including ADA parking stalls, in close proximity to the front of the building without approval of the requested variances.~~
 - ~~b. The proposed variance is necessary for the preservation and enjoyment of substantial property rights possessed by other conforming properties 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 existing building would conform to all other requirements of the Zoning Ordinance after the land dedication. Granting of the variances 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 since the structures will provide adequate on-site parking, and meet the floor area ratio, height, and building coverage requirements per the C-1 zoning district.~~
 - ~~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 the configuration of the property and existing structure.~~

4. 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.
5. Approve the ~~variance~~, use permit and architectural control requests subject to the following conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Hayes Group Architects, dated received July 11, 2006, consisting of 13 plan sheets and approved by the Planning Commission on July 16, 2006 except as modified by the conditions contained herein.
 - b. Prior to building permit issuance, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility company's regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
 - d. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
 - e. 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.
 - f. 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 from Urban Tree Management dated May 5, 2007 for all applicable heritage trees.

6. Approve the use permit subject to the following **project specific** conditions:
- a. Administrative and Professional Office uses (except medical office) are the only permitted uses within the building. All other uses would require a revision to the Use Permit for the parking reduction.
 - b. Concurrent with the submittal of a complete building permit application, the applicant shall submit a complete application for a lot merger of parcels one and two as identified on the title report for the site at 250 Middlefield Road. The application is subject to review and approval of the Engineering Division, and shall be recorded prior to building permit issuance.
 - c. ~~Prior to building permit issuance, the owner shall offer to dedicate to the City the area of land designated within the City's plan line along the Middlefield Road property frontage. This area, which is approximately 24 feet wide by 201.95 feet in length, is to be used as right-of-way at the sole discretion of the City. The applicant shall submit a grant deed, legal description, plat, closure calculations and a title report. The City Council shall review the offer of dedication.~~
 - d. ~~Within 60 days upon acceptance of the plan line area by the City Council, the owner shall apply for the necessary permits for the Middlefield Road frontage improvements. A complete application shall include Middlefield Road frontage improvement plans, including curb, gutter, a five foot sidewalk adjacent to the curb, and a landscaped area behind the sidewalk to include a combination of trees and low lying grasses and/or shrubs. Parallel parking shall also be striped along the property frontage with stalls each measuring eight feet wide by 18 feet in length with an additional four feet of length to maneuver. The improvements are subject to review and approval of the Engineering, Transportation and Planning Divisions, and installation of such improvements shall occur within 180 days of permit approval and shall be the owner's responsibility.~~
 - e. As part of a complete building permit application submittal, the applicant shall submit revised plans to include BMP measures to treat and reduce stormwater runoff to the maximum extent practicable. The plans shall be subject to review and approval of the Engineering Division prior to building permit issuance.
 - f. As part of a complete building permit application submittal, the applicant shall submit plans showing a new valley gutter and parking strip along the property frontage on Santa Monica Avenue prior to building permit issuance.
 - g. ~~As part of a complete building permit application submittal, the applicant shall submit a revised arborist report to include techniques and measures to improve the condition of the 12-inch walnut tree and 24-inch pepper tree located along the property line on Santa Monica Avenue, and such measures need to be implemented accordingly. The report is subject to review and approval of the Planning Division.~~

- h. As part of a complete building permit application submittal, the applicant shall submit a detailed landscape and irrigation plan prepared by a licensed landscape architect subject to review and approval of the Planning Division. The landscaping plan shall comply with the Water Efficient Landscape Ordinance (Chapter 12.44) and shall provide details of the proposed sculptures and water features. The landscaping shall be installed prior to final building inspection.

Motion carried 5-0 with Commissioners Bressler and Keith abstaining.

Commissioner O'Malley left the meeting.

E. REGULAR BUSINESS #2

1. **Architectural Control/Bill Hagman/1010 Doyle Street**: Request for approval of architectural control to remodel the exterior of a commercial building in the C-3 (Central Commercial) zoning district.

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

Public Comment: Mr. Bill Hagman, project architect, asked if the Commission had any questions.

Commissioner Deziel said the dark color on the end would be very "un-green" as it would absorb heat. Mr. Hagman said that the retail people liked the warm colors. Commissioner Riggs asked if flexibility could be given to the applicant to allow for a toning down of the color if needed. Planner Fisher said that the Commission could allow for some flexibility on the color.

Commissioner Riggs asked if the applicant had talked with the Building Department as to whether elevator access would be needed to the second story. Mr. Hagman said they had met with the Building Department and it appeared at least at this point that an elevator would not be required.

Commission Action: M/S Pagee/Riggs to approve as recommended in the staff report 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. Approve the architectural control request subject to the following ***standard*** conditions of approval:
- a. Development of the project shall be substantially in conformance with the plans prepared by The Hagman Group, dated received June 1, 2007, consisting of nine plan sheets and approved by the Planning Commission on July 16, 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 company 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 demolition permit or building permit, the applicants shall submit a plan for construction safety fences around the periphery of the construction area for review and approval by 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.
4. Approve the architectural control request subject to the following ***project specific*** conditions of approval:
- a. Concurrent with building permit submittal, the applicant shall apply for a revocable encroachment permit for the foam beam and awnings, subject to review and approval by the Public Works Department. Prior to building permit issuance, the applicant shall obtain the revocable encroachment permit.
 - b. Prior to building permit issuance, the applicant shall record a deed restriction that requires the windows to be upgraded to comply with the Building Code at the time that if the adjacent parcel (071-286-050) is developed. The deed restriction shall be subject to review and approval by the Building and Planning Divisions.

- c. The applicant shall have the flexibility to change the proposed color of the parapet paint to a lighter shade of yellow or cream, if desired. This change would be subject to review and approval by the Planning Division.*

Motion carried 6-0 with Commissioner O'Malley no longer in attendance.

2. Consideration of minutes from the May 7, 2007 Planning Commission meeting.

Commission Action: M/S Riggs/Keith to approve the minutes as modified.

- Page 8, 4th paragraph, 1st line, Replace the word "trellis" with the word "awning."

Motion carried 5-0 with Commissioner Bims abstaining and Commissioner O'Malley no longer in attendance.

3. Consideration of minutes from the May 21, 2007 Planning Commission meeting.

Commission Action: Consensus to approve the minutes as modified.

- Page 3, 4th paragraph, 1st line, Replace the word "Pagee" with the word "Keith."
- Page 8, 4th to last line, remove repeated phrase "to add some portables."
- Page 16, 2nd paragraph, 5th line, Add the sentence "The applicant stated the blowers turn on and off and not all four blowers are used at the same time."
- Page 17, 10th paragraph, 9th line, Add the word "not" after the word "to."

Consensus of 6-0 to approve with Commissioner O'Malley no longer in attendance.

4. Consideration of excerpts from the June 18, 2007 Planning Commission meeting regarding 75 Willow Road.

Commission Action: Consensus to approve the minutes as modified.

- Page 4, 3rd paragraph, 4th line, Add the words "even if empty" after the word "sand."
- Page 15, change vote from "5-2" to "5-0 with Commissioners Bressler and Deziel recused."

Consensus of 6-0 to approve with Commissioner O'Malley no longer in attendance.

F. COMMISSION BUSINESS, REPORTS, AND ANNOUNCEMENTS

Chair Keith requested that in the City Attorney be present for proposals such as the dedication item heard earlier to answer the Commission's questions. The other Commissioners agreed.

Chair Keith noted for the record that Commissioner Deziel had been chosen by the Commission to serve on the South Bay Salt Pond Restoration Committee.

Commissioner Deziel presented a short report on his attendance at a South Bay Salt Pond Restoration Committee meeting.

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

Planner Chow provided the Commission with a review of upcoming planning items on the City Council agenda.

ADJOURNMENT

The meeting adjourned at 10:45 p.m.

Staff Liaison: Deanna Chow, Senior Planner

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission on August 27, 2007.