



## PLANNING COMMISSION MINUTES

August 13, 2007

7:00 p.m.

City Council Chambers

701 Laurel Street, Menlo Park, CA 94025

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**CALL TO ORDER** – 7:03 p.m.

**ROLL CALL** – Bims, Bressler, Deziel (Vice Chair), Keith (Chair) (Absent). O'Malley (Absent), Pagee (Absent), Riggs

Vice Chair Deziel called the meeting to order.

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

### A. PUBLIC COMMENTS

There were none.

### B. CONSENT

1. **Architectural Control/Roger Hagman/728 Santa Cruz Avenue**: Request for architectural control to remodel the exterior of a commercial building in the C-3 (Central Commercial) zoning district.

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

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 July 16, 2007, consisting of 10 plan sheets and approved by the Planning Commission on August 13, 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 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 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.
4. Approve the architectural control request subject to the following **project specific** conditions of approval:
- a. Prior to or concurrent with a complete building permit application for commercial tenant improvements, the applicant shall submit a trash and recycling storage plan, approved by Allied Waste, for review and approval by the Planning Division and Public Works, and shall obtain applicable building permits for the trash enclosure.

Motion carried 4-0 with Commissioners Keith, O'Malley and Pagee absent.

### C. REGULAR BUSINESS #1

1. **Reconsideration of 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. ***The use permit and architectural control were conditionally approved at the July 16, 2007 meeting.***

Staff Comment: Planner Chow said this item was being requested for reconsideration as the installation of five new parking spaces as approved by the Commission at the July 16, 2007 meeting was since determined to need a variance because of the zoning ordinance's definition of the front yard. She said for the Planning Commission's reconsideration of this item that one Commissioner who voted in the affirmative for the proposed project previously should make a motion to that effect, and a majority of the Commission, by vote, would need to support the motion for the item to be reconsidered. She said that if a majority of the Commission did not support the motion to reconsider that the Commission's action of July 16, 2007 would stand. She said if the Commission supported the reconsideration of the item, the Commission should discuss the item, make a motion, and vote on that motion.

Questions of Staff: Commissioner Bims said one of the proposed substantive changes in the item requested for reconsideration was that the City was not requesting dedication of the frontage property to the City and asked if there were any other substantive changes proposed. Planner Chow said that staff was not requesting the applicant to offer dedication of the frontage property but because of the zoning ordinance definition of front yard, the setbacks had to be taken from the plan line and not the property line, which meant a variance was required for the five new parking spaces that were included in the Commission's approval of July 16, 2007. She said staff was also requesting that the existing diagonal parking spaces along the front curb be reconfigured as parallel spaces. She said these spaces would be on the applicant's property and had not been considered as part of the overall parking count on July 16, 2007. She noted that a variance would not be needed for the reconfiguration.

Vice Chair Deziel asked if there was public comment. There was none.

Commission Comment: Commissioner Riggs moved to approve reconsideration of the item; Commissioner Bims seconded the motion. Commissioner Riggs said that the

variance request was a technical clarification of the five parking stalls previously approved and his interest in reconsidering the decision was to allow for that variance. Commissioner Bims said he thought the item should be reconsidered also because of the safety concerns raised about the existing diagonal parking spaces.

Recognized by Vice Chair Deziel, Mr. Chip Taylor, the Transportation Division Manager, said that parallel parking was usually safer because people had greater visibility when pulling out of those type spaces than from diagonal spaces. He said even with the extra area behind the existing diagonal spaces that vehicles do back up into the bike lane. He said with parallel spaces the area would allow for a maneuver lane for vehicles before entering traffic. He noted that 24,000 vehicles travel along Middlefield Road per day at a posted 30 miles per hour speed limit. He said accident rates tended to be significantly lower on high traffic roadways where there was parallel parking. In response to Vice Chair Deziel, Mr. Taylor said that there was about 11 feet between the tree wells.

Commissioner Riggs said he looked at the site again in respect to this proposal to reconfigure the parking. He said he had to acknowledge the studies related to parallel parking; however, there was sufficient setback for a vehicle to comfortably back out without entering into the bike lane with the current parking configuration. He said that the parallel parking configuration closest to the intersection of Santa Monica Avenue and Middlefield Road concerned him as a car wanting to park in the end space would need to enter into the intersection to then back into the stall. He said vehicles leaving the two end parallel spaces might not enter Middlefield Road traffic but might travel along the roadway to the stop sign causing potential unanticipated traffic at Santa Monica Avenue. He said he was not sure parallel parking would improve parking safety because of the tree locations and the relationship of those spaces to the Santa Monica Avenue intersection with Middlefield Road.

Commission Action: M/S Riggs/Bims to approve reconsideration of Variance, Use Permit, Architectural Control/Hayes Group/250 Middlefield Road.

Motion carried 4-0 with Commissioner Keith not yet in attendance and Commissioners O'Malley and Pagee absent.

Commissioner Bims asked if Commissioner Riggs would accept the parallel parking if the space closest to Santa Monica was eliminated. Commissioner Riggs said that he thought both end spaces would need to be eliminated and the exiting pattern needed to be made obvious for the parking spaces between the trees. He indicated a bulb out might suffice.

Recognized by Vice Chair Deziel, Mr. Taylor said there was a possibility to do a bulb out, but staff would need to study to see how far it should extend and whether it would be curbing or striping.

Commissioner Deziel said he was concerned that an elimination of the parking space at the end would result in an expanse of asphalt that might create a vehicular free for all. He said he recently experienced a close call while walking in that area because there was no sidewalk and a car entering the diagonal parking space did not see him immediately. He said some type of striping was needed to control traffic on that end expanse of asphalt.

Commissioner Bims moved to approve staff's recommendation including findings with a modification to include the addition of a bulb out for traffic control at the intersection of Middlefield Road and Santa Monica Avenue to prevent vehicles exiting parallel parking spaces from crossing over Santa Monica Avenue without first merging with Middlefield Road traffic. Commissioner Riggs said that whether curbing or striping was best for the bulb out should be subject to the review and approval of staff. Commissioner Bims agreed. Recognized by Vice Chair Deziel, Mr. Taylor said it was not possible to say whether curbing would work without further study. Vice Chair Deziel suggested that the design of the bulb out, including the use of striping should be subject to staff's review and approval. Commissioner Bims agreed and Commissioner Riggs seconded the motion.

Commission Action: M/S Bims/Riggs to approve and make the findings for the variance as recommended in the staff report with the following modification.

**DRAFT FINDINGS AND CONDITIONS OF APPROVAL**  
**250 Middlefield Road**  
**August 13, 2007**  
*Showing Changes from July 16, 2007 to*  
*Recommended Conditions for the Proposed Project*

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 existing plan line 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. 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 use permit, variance 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, variance, and architectural control 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. As part of a complete building permit application submittal, the applicant shall submit revised plans to include Best Management Practices (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.

- d. 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 subject to review and approval of the Engineering Division.
- e. 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.
- f. As part of a complete building permit submittal, the applicant shall submit revised plans showing the replacement of the diagonal parking adjacent to the curb along Middlefield Road with parallel parking spaces subject to review and approval by the Transportation and Planning Divisions.\
- g. As part of a complete building permit submittal, the applicant shall submit revised plans showing a bulb out at the corner of Middlefield Road and Santa Monica Avenue to prevent exiting vehicles from the parallel parking spaces from crossing into the stop bar on Santa Monica Avenue. The bulb out, which can be striped, a curb or other material, and the design are subject to review and approval of the Transportation Division.**

Motion carried 4-0 with Commissioner Keith not yet in attendance and Commissioners O'Malley and Pagee absent.

#### **D. PUBLIC HEARING**

1. **Use Permit/Mandana Jamshidnejad/578 Olive Street:** Request for a use permit to construct a new two-story, single-family residence on a substandard lot with regard to lot width in the R-1-S (Residential Single-Family Suburban) zoning district.

Staff Comment: Planner Fisher said that an additional letter had been received from Florence Barr, who expressed opposition to the project because it was not the right design for the general area as proposed and expressed concerns with the way neighbor outreach was handled. She said that the staff report omitted a second date that the applicant had scheduled for a meeting with neighbors and should read that these meetings were held March 24 and 28.

Questions of Staff: Commissioner Bims asked if the revised design before the Commission had been circulated to the neighbors. Planner Fisher noted that what was noticed to the neighbors was the same but there were some minor changes to square



footage and elevations that would be needed when the applicant's architect returned from being out of the country. Commissioner Bims confirmed with Planner Fisher that the neighbors had seen the design for the Craftsman-style home that was proposed instead of the Tudor design originally proposed.

Vice Chair Deziel outlined the process and speaker limits for the public hearing.

Public Comment: Ms. Mandana Jamshidnejad, the applicant, said a timeline and record of actions for the project redesign had been included in the Commission's packet. She said she had carbon copied staff on all correspondences, meetings and outreach plans. She said staff had taken an active role to facilitate communication between the neighbors and her. She said in April after substantial changes to the plan they held a neighborhood meeting at which they provided two designs and story poles. She said the feedback received indicated a preference for the second design and they proceeded with their submittal of plans. She said upon that submittal she then received emails from the Coxes, Crowleys and Schlumbergers that they did not approve of either design and their objection was they believed the home was too massive. She then met with staff and it was decided that staff would meet with these three neighbors to see what could be done to make the project amenable to them. She said staff provided her a list of changes on May 15 and changes were made to the plans to comply with those changes. She said staff then met with the three neighbors with the revised plans in late June. She understood from staff that the neighbors were pleased with the plans except for some minor details; thus, she submitted the application to appear before the Commission. She said they had with the assistance of the staff taken action to meet the direction of the Commission to do more neighbor outreach and the compromises they made on the design for the neighbors' sake, included changing the Tudor façade to a Craftsman-style; changing the colors and materials; reducing the second story from 1,500 square feet to 960 square feet, which was not a design preference for them as it separated the master bedroom from children's bedrooms.

Ms. Jamshidnejad read a statement from Mr. Stephen Pogue, the architect in which he noted that up to three weeks prior to the Commission meeting he had been working with Planner Fisher to make additional adjustments to the design including moving the air conditioner condensers and adding landscape screening on the Crowley's side. This was a continuum of the actions the applicant and he had taken over the past six months to satisfy the neighbors. He said Ms. Nancy Cox had suggested in writing that they move the master bedroom to the first floor and move the first floor study to the basement, and that an increase in impervious space might be mitigated by semi-pervious pavers elsewhere. He said Ms. Cox also requested in writing that they move the garage to the Crowley's side and had indicated that had been discussed with both the Crowleys and Planner Fisher. He said both Ms. Cox and the Crowleys were now repudiating the design they requested. He said the proposed design had only 300 square feet additional floor area above ground than Ms. Cox's home. He said in reference to privacy and the second floor that the second floor setback was at the closest point almost 14-feet and the remainder was 21-feet from the Harris/Cox property. He said the windows were designed to protect the neighbors' privacy. He said

Menlo Park Planning Commission

Draft Minutes

Meeting of August 13, 2007

on the other side that the second-story setback was 18-and-a-half-feet from the Crowley's property line and that five of the eight windows they objected to were only small decorative windows onto the stairs. He said over the last six months in response to the neighbors' concerns he had reduced the second floor by over 500 square feet; lowered the roof line almost 4 feet below what was allowed by ordinance; moved the mass of the second floor forward 10-feet or so from its previous location to protect backyard privacy; raised most second floor window sill heights to 56-inches above the floor; lowered the roof pitch; shortened the eaves and lowered the wall plate heights to protect sunlight; and moved the mechanical room away from the exterior wall. He said regarding the continued concern of the neighbors over the protected trees near the project that the design was done meticulously to preserve those trees and they had moved the garage, reconfigured the light wells, added special ground cover around the trees at the neighbors' request, and reduced impervious ground by 1,000 square feet less than what was existing. He said that they had a team of respected arborists who had been consulted for this project. He said that they agreed with all of staff's recommendations except as related to drainage as his professional opinion was the method being recommended would create a swamp in the backyard and threaten the root crowns of the nearby redwoods. He suggested that an engineered drainage plan be required instead and asked that the Commission approve the project as recommended with that one modification related to drainage.

Vice Chair Deziel asked if the architect was requesting that a particular condition of approval be removed. Ms. Jamshidnejad said the project specific conditions required that water be pumped to the streets which the architect thought would impact the trees negatively, and suggested the arborist could better address that question.

Commissioner Bims noted that condition 4.a offered two options to either retain the water onsite or direct it to the public right-of-way. Ms. Jamshidnejad said that the architect Mr. Pogue wanted it clarified that the first option was preferred. Commissioner Bims asked which neighbors had preferred the second design. Ms. Jamshidnejad said that five to eight neighbors came to the applicant's neighbor meeting on May 1, noting it had been noticed to all neighbors within 300-feet, and that two of the attending neighbors indicated their preference for the second option. She said that no opinion was offered by the other neighbors. She said after they moved forward on submitting the redesign that the other three neighbors e-mailed their opposition to Planner Fisher.

Vice Chair Deziel indicated that Ms. Nancy Cox would have 12 minutes to speak as neighbors had contributed their time to her. Upon input from Ms. Cox to have more time for her husband to speak, Vice Chair Deziel asked if anyone wanted to cede their time to Mr. Kevin Harris. Mr. John Inglis and Mrs. Schlumberger ceded their time to Mr. Harris.

Ms. Nancy Cox, Menlo Park, said her neighborhood was not opposed to second stories if they were sensitively designed to fit the neighborhood. She said the developer for this project was firm that 5,400 square feet was needed to make a profit from the development of the residence. She said however that the developer bought a

substandard lot with abnormally narrow width in a neighborhood of abnormally narrow widths and heritage redwood trees. She said the detriments of a 5,400 square foot design on such a lot were to the heritage trees, to adjacent neighbors' privacy, and to the sunlight and view of the Crowleys. She said that she and her husband had rebuilt their home five years prior as a one-story and that a second story looming over their property and neighbors' properties would impact property values, but their greater concern was the impact of construction on the heritage redwoods on their property and the impact on privacy for their swimming pool. She said the Crowleys would lose the sunlight in the morning through their kitchen and living room windows because of the project. She showed photos of all of the homes within 300-foot radius of the project proposal and indicated the redwoods on her property. She said her home was 2,200 square feet and nowhere near 5,400 square feet as claimed by Mr. Pogue. She indicated the properties of all the neighbors who opposed the project. She showed a two-story on Olive Street whose design she had recommended the developer copy. She showed several projects that were redeveloping as one-story residences. She said the Menlo Park zoning ordinance allowed up to 5,400 square feet on a standard lot as long as there was no detriment to the surrounding properties. She said the lot was substandard and 5,400 square feet was a detriment. She said the basement was a detriment to the canopy of their redwood trees; there were privacy impacts to their backyard and swimming pool from large windows on the second floor and no landscape screening had been offered. She said the project had changed but not enough as it was still too big for the lot and would be detrimental to the neighborhood. She requested that the Commission deny the project.

Mr. Kevin Harris, Menlo Park, said the proposed project was still a massive structure jammed into an inadequate space. He said in earlier meetings in November and February that the Commission had noted that arborists had not measured and located trees accurately. He said that these inaccuracies had not been corrected. He said in the February meeting their arborist had submitted two reports regarding threats to the heritage redwood trees. He said that Commissioner Bims had asked this evening whether the plans sent with the notice were the plans before the Commission tonight. Mr. Harris said they were not the same plans. He noted also that the arborist reports were based on the May design. He said he did not know if the arborists had seen the plans before the Commission this evening. He said that arborists' reports had different numbers for diameter and height of trees and there were discrepancies and inconsistencies about construction fencing and when it would be installed, and what construction methods would be used. He said the plans showed a 19-foot spread from the tree to the house but the arborist showed 23 feet. He said the application should be denied as there had been a careless attention to detail by the applicant and architect. He said Menlo Park was proud of its heritage trees and to cut 25 percent or more of the root structure required a permit yet with the arborists' discrepancies in measurements that the applicant was making a statement that cutting of root structures would be less than 25 percent. He said they were extremely concerned about threats to their heritage trees and this should be the basis of denying the application. He said that Palo Alto required the posting of bonds related to any damage to trees. He said over the

weekend they circulated a petition and there were 23 signatures favoring a bond should the heritage redwood trees be impacted.

Mrs. Joan Inglis, Menlo Park, said one of the biggest concerns was with flooding as that occurs now. She said there would be much paving over the front yard and she was not sure how that would impact drainage. She said there was a tendency to overbuild in this part of Olive Street.

Mrs. Lee Crowley, Menlo Park, said they have been residents on Olive Street since 1988. She said they have come to hearings and written letters regarding their concerns. She said they were present to object to this proposal to squeeze a 5,400 square feet on a substandard lot. She said the design attached to the notice was not specifically what the Commission was looking at tonight. She said the design would cause a loss of morning sunlight for them particularly in the winter months, serenity and privacy everyday as this was the most open side of their property, increased danger caused by moving the driveway closer to Oakdale and had insufficient onsite parking. She said the developer had indicated that they would do a shadow study but they then declined to do so. She said she and her husband have requested reduction of the second story mass since the beginning as their sunlight would be reduced from November through April and that the sheer number of windows created an impact on their privacy. She said the developer had submitted plans twice without consulting the neighbors and twice the Commission had directed the developer to work with the neighbors. She said that March 24, the developer said the neighbors would see plans before they submitted to the Commission and would work with the neighbors. She said that with staff doing neighbor outreach that staff's objectivity about the project was lost. She said the inadequacy of documentation made it hard for them to understand the project; she said the developer has never responded directly to their concerns. She said their concerns have not been addressed; they had not seen the plans submitted to the Commission, and that Planning staff had lost its objectivity about the project. She asked that the Commission deny the project.

Ms. Patricia Hjelm, Menlo Park, said her concern was with the protection of the heritage trees and the proximity of the driveway to the crosswalk on Oakdale. She said she was not opposed to two-stories rather her concern was that such structures be designed sensitively so that they do not impact the neighbors.

Mr. Maurice Schlumberger, Menlo Park, said that the developer had trouble with details such as where the sunlight on Olive Street fell and had indicated they would correct it, but did not and only removed any indication of sunlight direction. He said the developer had indicated that there would be a shadow study but it became apparent that was not going to occur. He said he and the Crowleys looked at existing conditions for sunlight and found that with the new second story proposed there would be no sunlight in the morning between Thanksgiving and Christmas through the Crowleys' kitchen and living room windows. He said for that reason the Commission should deny the project.

Mr. Jim Crowley, Menlo Park, said he and his wife had tried to work with the developer and Planning staff and while progress had been made on minor issues that no progress had been made on the major issue which was the size of the proposed project. He said the applicant had not made any effort to reduce the size and the issue of the size had been raised by many neighbors and Commissioners. He said this was an overly intensive use of this substandard lot and this structure needed to be on a larger lot. He said this massive structure was detrimental to the quality of life and property value. He said it would dominate their view to the east and would blocking sun and sky. He said that eight windows impacted their feeling of privacy. He requested that the Commission deny the project and not allow the project to move forward until the size was addressed.

Ms. Jamshidnejad said related to the comments that the house was massive and oversized that the proposed house aboveground was 3,300 square feet on a 10,700 square foot lot. She said the neighbor's home was 3,000 square feet. She said that the direction from the Commission in February did not include reducing the size of the residence but to work with neighbors on the issue raised regarding the size of the second story. She said they had reduced the second story significantly and she did not understand how a 960 square foot second story was too massive unless the intent had been to prevent building a second story. She said regarding impact to sun and sky that the huge redwood trees blocked sunlight and views from all directions. She said regarding privacy and landscaping that they have repeatedly said they would most willingly work on a landscape plan with neighbors on both sides. She said regarding the substandard lot that she understood that 50 percent of lots in Menlo Park were substandard and zoning ordinances addressed development. She said that if the neighbors did not agree with the zoning ordinance that they could apply for a zoning overlay. She said neighbors saw the plans submitted in late June and that the plans the Commission were reviewing were the same with some very minor changes. She said in reference to tree protection that an arborist was present to answer questions.

Mr. Alex Velacrow, designer for the applicant, said page 2 of Ms. Cox's handout showed the three properties next to each other and the only thing that overlaid the next door house was the garage which is single-story.

Vice Chair Deziel asked if the photo was taken from the subject property looking toward the Crowley's home. Mr. Schlumberger said the photo was taken from the Crowley's kitchen window and shows the existing structures on the subject property on the right side of the "u."

Vice Chair Deziel closed the public hearing.

Commission Comment: Vice Chair Deziel asked the Commission to comment on how well the applicant had responded to the direction given by the Commission.

Commissioner Bims said the issue he brought up at previous Commission hearings was the narrowness of the lot and the intrusion of the light wells into the side setbacks. He said this redesign addressed that issue.

Commissioner Riggs said the massing has been significantly changed. He said to reduce the second story massing to under 1,000 square feet made a significant difference. He said the architectural style was much more in keeping with the neighborhood. He said the frontage which previously had a masonry forecourt had been changed to be more in keeping with the neighborhood. He said the lot was substandard in terms of width but not area. He said moving the basement setbacks away from the nearest redwood trees significantly reduced the potential impact on those trees and that removing the existing driveway pavement would aid the trees. He said while there would be some root impact that he was not aware that redwoods were unusually impacted by root impact as compared to oak or pine trees. He said some issues, although not the ones noted by the Commission, were not fully resolved such as the privacy of the Cox's pool and the apparent impossibility of good faith relationships between the parties. He said staff had to be commended for the time spent to try to bring the level of exchange to a level where that information was on the table. He said the Commission had a goal of getting a common arborist report and that had not occurred.

Vice Chair Deziel noted that Commissioner Bressler had not been on the Commission when the project had come before the Commission previously but had read the history of the hearings. Commissioner Bressler indicated he would make comments later.

Vice Chair Deziel said that previously the Commission directed the applicant to improve its neighbor outreach. He said that the applicant provided six meetings and the developer had offered multiple opportunities to share the design with the neighbors. He said staff had also pitched in to collect input. He said there was input collected from five to six meetings and responded to by the applicant. He said in his view there was not a significant difference between the plans the neighbors saw in late June and what was before the Commission. He noted a listing of the Commission's direction to the applicant which included removing the rear balcony and increasing the second story setback and that had occurred. He said the applicant had provided information on the foundation of the garage and moved it to protect the oak trees. He said the Commission had given direction to the applicant to get two arborists' reports on the impact of construction on the heritage trees but a common arborist report had not been required. He said the other directions were to move light wells from the setbacks and create a plan to address the neighbors' concerns.

Commissioner Bressler said the neighbors were not pleased with the proposed design on a nonconforming lot. He said there was no need to approve the project and that the neighbors had strong objections to the project; he said he would tend to respect that as the developer was coming in to economically exploit a situation in a design that was not to the neighbors' liking.

Commissioner Bims said in much of the correspondence a concern was expressed relating to J-5. He noted that J-5 was not the applicant and their ability to develop was not was on the table before the Commission. He said staff had concern about setting a

precedent as to enforcing tree protection. He said there was a condition to give an arborist responsibility to insure the trees were protected during construction which went beyond the Heritage Tree Ordinance. He said the lot was substandard only in width and was standard in area. He said the lot coverage and building height were below the maximum. He said the "u" of the neighbor's had to be at minimum 40-feet from the second story. He said that the neighbors' had repeatedly indicated that the house was too big but the City's ordinance allowed that size so he suggested that the neighborhood might do a zoning overlay to keep development smaller.

Commissioner Riggs said he felt affinity for smaller homes but the zoning ordinance provided consistent rules for applicants, and the applicants had worked within those rules. He said the responses to the Commission's direction had been made and the impact of the proposed design was significantly less than what had been originally proposed.

Vice Chair Deziel said he would like to address the detriment indicated by the neighbors. He said he measured detriment by comparing what was proposed to what might be constructed within the limitations of zoning ordinance. He said the law allowed two-stories at 3,700 square feet aboveground with setback rules of 10-feet. He said that because the lot was substandard the project had to come before the Commission to mitigate potential impacts. He said the applicant had mitigated impact by reducing the above ground structure allowed by 400 square feet. He said related to trees that moving the garage was good, reducing impervious surfaces and using more pervious surfaces also mitigated impact. He said regarding privacy to neighbors' rear yards and that there was landscape planned but it could be developed further. He said regarding sunlight in his calculations using 40-feet from the ground below the Crowley's window to the roof plate of the second story that the light would be angled at 23 degrees which was sufficient for a flower to receive sunlight. He said regarding flooding that the City's draining and grading requirements would improve the drainage. He said he felt the applicant had earnestly responded to the Commission's direction with a design that worked. He said he thought the project would improve property values. He said he was supportive of approval with some fine-tuning of the landscaping.

Commissioner Bressler said that although the project might improve property values but the neighbors had the right to defend the integrity of their neighborhood and keep it the way they wanted. He said there was a neighbor who did a second story in a better and acceptable way. He said was bothered that staff became involved and was perceived as an advocate for the project. He said he would not want this project in his neighborhood and he would hope that neighborhood protest would matter to the Commission. He said there was no reason to approve the project.

Vice Chair Deziel said that the City provided for a zoning overlay that allowed neighborhoods to keep development within their neighborhood restricted to preference. Commissioner Bressler said that it was clear what the neighborhood wanted. Vice Chair Deziel noted the project had come forward three times. Commissioner Bressler said that frequency of hearings did not make a project legitimate and desirable.

Menlo Park Planning Commission

Draft Minutes

Meeting of August 13, 2007

Commissioner Bims moved to approve as recommended in the staff report. Commissioner Riggs asked if Commissioner Bims would be amenable to a condition that a not less than 24-inch box tree be planted at the right rear corner of the proposed building. He said there were some windows that would seem to appear to look into the Cox's pool.

Vice Chair Deziel said that a 36-inch box Maple and Amber were proposed in that area. Commissioner Riggs suggested moving a 36-inch box tree five feet project north and that the tree should be located to provide privacy. Vice Chair Deziel suggested saying the size and location should be specified by staff after working with the neighbors with the objective of screening the second story window views from the subject property to the Cox's pool. Commissioner Bims said that was amenable to him. Commissioner Riggs seconded the motion.

Commission Action: M/S Bims/Riggs to approve with the following modification.

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 Stephen Pogue, consisting of 11 plan sheets, dated received August 6, 2007, and approved by the Planning Commission on August 13, 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. Prior to building permit issuance, the applicant shall submit plans indicating that the applicant shall remove and replace any damaged and significantly worn sections of frontage improvements. These revised plans shall be submitted for the review and approval of the Engineering Division.
4. Approve the use permit subject to the following *project specific* conditions:
- a. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a Grading and Drainage Plan. This plan shall remedy the existing drainage pattern, so stormwater is either retained onsite or drains to the public right-of-way. Additionally, the applicant shall provide documentation that the plan was reviewed by the project arborist to ensure that it takes into account the continued health of existing heritage trees. The Grading and Drainage Plan shall be reviewed and approved by the Engineering Division prior to issuance of a grading, demolition or building permit.
  - b. Concurrent with submittal of a complete building permit application, the applicant shall submit a comprehensively revised arborist report that incorporates the tree protection measures from both of the applicant-submitted arborist reports, subject to review and approval of the Planning Division. If the recommended tree protection measures in the two arborist reports differ, then the stricter tree protection measure shall be incorporated.
  - c. 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 ensure that the instructions for tree protection are properly executed throughout the construction of the project. The arborist shall be notified prior to the commencement of construction activities that could potentially impact the trees. The applicant shall provide documentation of a contract with the arborist to the Planning Division prior to demolition.

- d. Simultaneous with the submittal of a complete building permit application, the applicant shall provide a basement shoring plan that requires shoring to occur in any area where a heritage tree could be impacted by excavation. This plan shall be reviewed by the project arborist, and is subject to review and approval by the Planning and Building Divisions.
- e. ***Simultaneous with the submittal of a complete building permit application, the applicant shall provide a revised landscape plan that reflects consultation with the neighbors regarding the size, type, and location of Plants B and D. The intent of adjusting the size, type, and location of the two proposed trees is to screen views of the right side neighbor's rear yard from the proposed second story windows. The plan is subject to review and approval of the Planning Division.***

Motion carried 3-1 with Commissioner Bressler opposed and Commissioners Keith, O'Malley and Pagee absent.

- 2. **Use Permit/Aida Merrill/620 Windsor Drive:** Request for a use permit to construct a new two-story, single-family residence on a substandard lot with regard to lot area and depth in the R-1-S (Residential Single-Family Suburban) zoning district, and for excavation into required rear yard setback for egress associated with a basement.

Staff Comment: Planner Fisher noted that staff had no additional comments.

Public Comment: Mr. Jim Maliski, project architect, said they had designed the home according to the owner's direction. He said there were some comments from the neighbors and they were working with the neighbors.

Mr. Tom Milano, Menlo Park, said he and his wife Paula lived adjacent to the property. He said the applicant and architect had generally been responsive. He said there might be more detail on how the pump outs would be framed. He said that another development had occurred on the other side of his property and when completed the air conditioner and a power generator was located outside his bedroom. He said condition 3.d discussed junction boxes and panels but did not address the air conditioner. He said he wanted specific information in the use permit that would prohibit air conditioning next to his master bedroom. He said the applicant recently changed the plan to make the master bedroom with a hip roof. He said that there would need to be some modification to the chimney. He said previously the chimney had been drawn two feet above the gabled roof but as there was now a hip roof the chimney could be scaled back. He said the applicant would replace one tree with two trees but he did not know if those would provide screening to mitigate impacts to his master bathroom from views from the second story window. He said he did not know if something could be done about the Canary Island pines, but he would at least like to see them pruned.

Vice Chair Deziel closed the public hearing.

Commission Comment: Commissioner Bims said the chimney height should match the hip roof. Vice Chair Deziel said the architect had indicated that it could not be reduced because of some regulation. Planner Chow said that she would have to confirm development regulations for the required height for the chimney with Building Department staff. Commissioner Bims thought that reducing the height of the chimney if possible would improve the aesthetics.

Vice Chair Deziel said there was not anything in the use permit conditions to control where mechanical equipment would be located. Planner Fisher said that it was not but the architect could describe where it would be placed. Mr. Maliski said that the air conditioner condenser would be placed next to the light well near the stairwell on the opposite side of the subject property away from the Milano's property. Vice Chair Deziel confirmed that the location of the mechanical equipment would be reviewed during the Building Plan process. Mr. Maliski said they would reduce the chimney height to whatever would be the minimum requirement. Commissioner Riggs said that traditionally a chimney extended above the roof and he encouraged the architect to stand by the proportions of the design as the chimney would not appear with the same dominance of height in reality as it appeared on elevations. He said he would like to allow the architect to maintain the design. In response to a question from Vice Chair Deziel, Commissioner Riggs said the minimum height for a gas burning fireplace would be no chimney at all.

Vice Chair Deziel moved to approve with an addition to condition 4.a that the location of the two replacement trees screen the view from the second story windows of the subject property to the Milano's master bath and bedroom. Commissioner Riggs seconded the motion.

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

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 Jim Maliksi & Associates, consisting of 11 plan sheets, dated received July 5, 2007, and approved by the Planning Commission on August 13, 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. Prior to building permit issuance, the applicant shall submit plans indicating that the applicant shall remove and replace any damaged and significantly worn sections of frontage improvements. These revised plans shall be submitted for the review and approval of the Engineering Division.
  - f. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a Grading and Drainage Plan for review and approval of the Engineering Division. The Grading and Drainage Plan shall be approved prior to issuance of a grading, 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 a building permit submittal, a landscape plan shall be submitted that identifies the removal of the cherry and ailanthus trees, and includes the species and location of two 24-inch-box replacement trees that could grow to a heritage size. ***The plan shall also include screening by trees of the adjacent master bedroom and bathroom at 640 Windsor Street.*** The plan shall be subject to review and approval by the Planning Division.
- b. Concurrent with a building permit submittal, the applicant shall submit an arborist's recommendation regarding maintenance of the existing heritage-size pine trees in the rear and specific tree protection measures for the liquidambar during construction, subject to review and approval by the City Arborist and Planning Division. Based on the project arborist's recommendations, the applicant shall implement protection measures for the liquidambar accordingly and perform maintenance of the pine trees prior to final building inspection.

Motion carried 4-0 with Commissioners Keith, O'Malley and Pagee not in attendance.

3. **Use Permit/Rick Loretz/1371 Sevier Avenue:** 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 and lot area in the R-1-U (Single-Family Urban) zoning district. ***Continued to the meeting of August 27, 2007, at the request of the applicant.***
4. **Use Permit Revision/Angel and Lynne Sanchez/1058 Ringwood Avenue:** Request for a revision to an existing use permit to construct a second story addition to an existing single-story, single-family nonconforming residence that would exceed 50 percent of the replacement value of the existing structure in a 12-month period in the R-1-U (Single-Family Urban) zoning district. The revision would increase the height of the second story by 18 inches.

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

Questions of Staff: Commissioner Riggs asked if the change in height was the result of a building inspection. Planner Rogers said it was.

Public Comment: Mr. Steve Benzing, the project architect, said he was present to offer an apology and explanation. He said the project was originally designed under the previous use permit. He said the property changed ownership half way through the project. He said the former owner and his original client wanted to remove the vaulted ceiling in what was then a bedroom and later became a dining room. He said the plans did not in exact format show this change so during construction the framers saw the vaulted ceilings and went ahead and built additional 18-inches above the eight-foot plate. He said the Building Department then placed a stop order on the project but the

change was not intentional. He said however they needed to request an increase in height.

Vice Chair Deziel closed the public hearing.

Commission Action: M/S Riggs/Deziel 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 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 revision subject to the following **standard** conditions:
  - a. Development of the project shall be substantially in conformance with the plans prepared by Steve Benzing, Architect, consisting of six plan sheets, dated received June 25, 2007, and approved by the Planning Commission on August 13, 2007, except as modified by the conditions contained herein.
  - b. 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 4-0 with Commissioners Keith, O'Malley and Pagee not in attendance.

5. **Minor Subdivision/Cupertino Development Corp./2199 Clayton Drive:**  
Request for a minor subdivision to create four single-family residential parcels where one parcel currently exists in the R-1-S (Single-Family Suburban) zoning district.

Staff Comment: Planner Rogers said there was one additional letter received after the publication of the staff report from Ms. Shirley Clayton of Campo Bello Lane, who indicated that she could support the project if a seven-foot fence was built or at the least a six-foot fence built entirely around the project. She also indicated she wanted landscape screening to protect her property from privacy impacts; sensitive placement of second story windows to protect her privacy and mitigations to control noise impacts to her property; and construction limited to reasonable hours during the week. He said regarding recommended condition 4.d relating to three apparent easements along a section of proposed lot 4 that if these easements could not be abandoned that any

construction on lot 4 would have to be setback 10-feet from the easement. He said that there were also two public utility easements and construction would be limited to the edge of those easements. He said the footprint and the floor area would be constrained by these easements. He said staff had spoken with the applicant who indicated he understood the footprint limitations on building should it not be possible to abandon the easements. He said that Section 16.58.020 of the zoning ordinance stated that for the purposes of determining minimum lot size and the number of units to be constructed on a particular building site that the Planning Commission had the discretion to include or exclude any portion of the building site occupied by any easement depending on the extent it impairs the use of the property. He said staff did not believe such exclusion of any of the potential remnant private easements or public utility easements was appropriate along lot 4 for the proposed subdivision.

Questions of Staff: Vice Chair Deziel said the ordinance on subdivisions seemed to indicate that the Commission would need to grant a subdivision unless it could make findings to deny. Planner Rogers said to deny the proposed subdivision that the Planning Commission would need to make specific findings identifying conditions or requirements of the State law or the City's ordinance that had not been satisfied.

Commissioner Bims said the Commission needed to consider the adequacy of utilities in the area. He asked if staff had done an examination of the sewer lines and electrical and other utilities to ensure they were of adequate capacity to handle four more homes. Planner Rogers said that review had been done by PG&E, West Bay Sanitary District, and AT&T. He said each agency had sent a "will serve" letter. He said West Bay Sanitary District specifically suggested some drainage improvements and given tentative approval of the project, and had indicated their ability to serve this subdivision. Commissioner Bims asked whether the street would have to be dug up as that would cause disruption to surrounding neighbors, and whether utilities could be upgraded as they are. Planner Rogers said West Bay had not indicated that level of specificity as to what would be required. He said that would be under West Bay's purview rather than the Planning Commission. He said he did not think the need to upgrade utilities would constitute a basis for denial however.

Public Comment: Mr. Keith Coker, said he represented Cupertino Development Corporation, and that his company had built homes in the Menlo/Atherton area over the past 11 years. He said he first met with staff 10 months ago on the proposed subdivision. He said he and his company have communicated with neighbors about the proposal and tried to keep them informed as the project moved through the system. He said in March they met with neighbors who responded directly to their letter. In April a lot line adjustment was done. He said on August 4 he walked the entire neighborhood and talked to neighbors, provided them with a copy of the subdivision map or left letters with the map inviting neighbors to call him if they wanted to meet. He said on August 7 he met with five neighbors. He said that Cupertino Development agreed to construct a seven-foot fence on the side where the adjacent property has redwood trees (Rose Avenue) and that the seven-foot fence would be continued around the Campo Bello side as requested. He said there was a request from a resident on Campo Bello to

Menlo Park Planning Commission

Draft Minutes

Meeting of August 13, 2007

remove a eucalyptus tree but that was not yet shown on the plan. He said they would do drainage improvements, had met with the Fire District and all homes would be fire-rated; and met with West Bay who indicated the sewer capacity was adequate.

Ms. Shirley Clayton, Menlo Park, said she wanted to discourage homes in this neighborhood that would overwhelm the surrounding homes. She said she would encourage tall trees that would provide screening and that the houses not impact privacy or make a noise impact.

Mr. Stephen Sowiski, Menlo Park, said he had a question of process. He said he recently became aware of the issue that everyone on the street has something in their deed related to ingress/egress and whether those rights still existed or were abandoned. He said if the easement was not abandoned that the plans would have to be worked considerably.

Mr. William Johnson, Menlo Park, said he and his wife had lived on Clayton Drive for over 30 years and it was very quiet considering its closeness to the Alameda and Santa Cruz Avenue. He said there were 17 houses all of which built on 12,000 square foot lots or greater. He said there were three bulb cul-de-sacs and no flag lots. He said the proposed subdivision would introduce two parcels less than 12,000 square feet and would introduce flag lots for the first time. He said that these would not be an improvement to the area but would degrade the area from its present condition. He said he had concern with management of the project if it was approved and construction began as a recent remodel on their street created a lot of disruption for everyone for a year and a half. He said that there was heavy clay in the area and the soil did not percolate well and any drainage plan should address the soil type. He said he would really like to see a development with three houses and a bulb type cul-de-sac rather than what was being proposed.

Ms. Karen Walsh, Menlo Park, said that she and her husband had just recently moved into their property, which was directly adjacent to the proposed lot 4. She said they were not against development but their understanding when they purchased the property was that the development would only build one house at a time but she had found out from Mr. Coker that all four homes would be built at once, which she found that daunting. She said Clayton Drive was an extremely narrow street and that construction vehicles might block emergency access and she thought that was a real concern. She said the right-of-way that was in dispute was directly outside of her bedroom window. She requested that their privacy be considered in the design of the home for lot 4.

Ms. Janice Galbraith, Menlo Park, said that Planner Rogers was aware of the drainage issues that she and her neighbor consistently experienced. She said the drainage problem on Clayton Drive that has caused flooding in her neighbor's house on two separate occasions. She said she had brought this to staff's attention repeatedly and that water needed to be run down Clayton Street to Alameda to drain in a culvert there.



She said her yard was wet for three-quarters of the year. She said the four proposed homes would negatively impact the drainage.

Mr. Harold Tennant, Menlo Park, said he also wanted to discuss some of the drainage issues. He said he noticed in the staff report that there were State and City requirements that have special criteria for the drainage such that all of the storm water is to be treated onsite and the post-project flows would not increase the existing flows. He said according to the plan the drainage included surface swales, pipes, and bubble structures but he had not seen details as to what happened when the bubble boxes overflowed. He said already a lot of water ends up going through a couple of lots, particularly Ms. Galbraith's. He said all of the Clayton Drive residents could testify that the soil does not percolate well. He said the staff report did not indicate if percolation tests had been done. He said that if the drainage design was counting on the surface percolating that some testing had to occur to verify that would work. He said the design did not show how connections were made from the site drainage facilities to the City's storm system. He said there was a bubblebox shown at the north corner of lot 4; he said when that box overflowed it would either flood 2198's front yard or down to 2182, the Galbraith's property. He said the drainage needed a detailed examination now before any of the easements or space requirements were developed.

Ms. Melanie Austin, Menlo Park, said the drainage issue was a big issue. She said the coverage was going from 13 to 15 percent to 50 percent of the property, and until the acquisition of 4,000 square feet the site had not been sufficient on which to build four homes. She said there were statements in the report she disagreed with as there would be a reduction of lot size and a significant change to the character of the neighborhood. She estimated traffic would increase by 50 percent which was a lot for a small street. She said that she could not see how the drainage could be kept from increasing. She said the Commission had an opportunity to require more investigation.

Ms. Jane Johnson, Menlo Park, said she wanted to emphasize that the residents' quality of life would be drastically impacted by large houses on smaller lots. She said having a bulb access into the project site was needed to provide for a turnaround for vehicular access. She said the end of the access was 30-feet not 20-feet and that could be enlarged to create a bulb for emergency vehicle turnaround for protection of the neighborhood. She said she would prefer three residences rather than four residences.

Mr. Tim Jenks, Menlo Park, said Clayton Drive was a pleasant enclave to live. He said the proposal was inappropriate for the neighborhood. He said the applicant had indicated the homes were similar in size those in the area but the lots were considerably reduced in size than the existing lots. He said he thought this would cause a reduction in value of the homes on Clayton Drive. He said that the area acquired in April should be kept as a no-build area. He said the original property had never had a structure on it. He urged the Commission to deny the application.

Mr. Raj Schleck, Menlo Park, said his property was behind the subject property. He wanted to go on record that he agreed with all comments thus made. He said one of

Menlo Park Planning Commission

Draft Minutes

Meeting of August 13, 2007

the desirable features of his home was the quiet and privacy of the rear yard, which he wanted to continue. He said he agreed that a three-home development would be better than a four-better development. He urged the Commission to deny the current plan.

Ms. Linda Bondi, Menlo Park, said her concerns were with construction management and during what hours construction would occur. She said that with current development on the street that trucks arrived at 7:00 a.m. with materials; construction workers left debris on the street; and traffic was congested. She said also the trucks had damaged the road surface.

Mr. Rod Berry, Menlo Park, said one of the attractions of Menlo Park was nice large lots with well-designed homes. He said he thought four homes were excessive for the lot area. He requested as part of the approval of the subdivision that the neighbors be allowed to address the design of the homes. He said that he would like to see specific setbacks applied of 46-feet for a one-story and 60-foot for a two-story.

Vice Chair Deziel closed the public hearing.

Commission Comment: Vice Chair Deziel asked Planner Rogers to address the easement at the end of Clayton Drive. Planner Rogers said in review of the title report for the 2198 and 2199 Clayton properties it became apparent that there were easements that still remained on 2198 that could have been transferred to 2199 when the lot line adjustment was done. He said the public utility easements belonged to PG&E and West Bay. He said the title report recorded document was fairly cryptic for a lay person to read and did not indicate in plain language that everyone in the subdivision has the right to use the easement. He said that the easement might have previously been abandoned. He said that if any access easement was on that piece of land and could not be abandoned that construction of a residence on lot 4 would be constrained by setbacks from that easement. Vice Chair Deziel asked if the easement was not abandoned would the lot be legal and meet the subdivision requirements. Planner Rogers said in staff's opinion that it would but the Planning Commission had the discretion to include or exclude any easement for the purpose of determining minimum lot size and the number of units to be built. He said regarding this particular stretch of land that he was aware the carport for the 2198 lot did appear to cross over into the 40-foot by 100-foot section. Vice Chair Deziel asked if 2198 used part of this easement for access. Planner Rogers said he believed it had until the Commission's approval of the remodel which made a detached garage.

Commissioner Riggs asked if the implication of the carport removal was that in effect the easement had been abandoned to 2198. Planner Rogers said he would not say that in legal terms but the question was whether this stretch of land in preceding years has been used for general access but from his observation that had not seemed to be the case.

Commissioner Bims asked for clarification on Section 16.58.020 as it seemed to say that the Planning Commission has the discretion to include or exclude any portion of the

Menlo Park Planning Commission

Draft Minutes

Meeting of August 13, 2007

26

building site occupied by an easement in the determination of minimum lot size and the number of units. He said if the area was excluded this seemed it would reduce the number of units and affect the minimum lot size. He asked whether as proposed lot 4 could be used. Planner Rogers said that if 4,000 square feet was excluded that would make the lot size for lot 4 much less than the minimum required. He said that the City Attorney had not been available for consultation prior to the meeting.

Vice Chair Deziel said the zoning ordinance also indicated that the Commission could exclude the easement depending upon the extent to which it impairs the use of the property, and asked for clarification as it suggested a standard that should be used. Planner Rogers said there was some guidance for the Commission as to when to use and when not to use discretion. He said the easement as proposed impairs the use of the property. He said staff believed that as long as the height and building setbacks were observed that at the easement would not impact the use of the property. He said that even if someone had the right to use the easement for access that there was nowhere to go as Clayton Drive was a dead-end.

Commissioner Bressler asked about the neighborhood doing a zoning overlay after the subdivision was approved but before any houses were built. He asked if the overlay said the lot sizes had to be bigger than what was proposed for the subdivision what would happen. Planner Rogers said there were certain vested rights with City actions so that he did not think the subdivision would be changed. He said once building permits were applied for that the lots would be determined to be substandard and use permits would be needed.

#### Proposed subdivision in conformance with City's General Plan

Vice Chair Deziel asked about lot sizes and width requirements. Planner Rogers said that the RES has a minimum 15,000 square feet with provision for a subdivision that no lot would be less than 11,000 square feet, but the average lot size should not be less than 15,000. He said there was a 100 feet width and 100 feet depth requirement.

Vice Chair Deziel said that RS-1 designation would be appropriate as many of the lots on Clayton Drive were less than 100-feet in width.

Vice Chair Deziel said there did not seem to be any conflict with the General Plan.

#### Is the site of the subdivision physically suitable for the proposed type or density of the development?

Vice Chair Deziel said this seemed to give the Commission flexibility about the density but asked what provided that flexibility. Planner Rogers said if there something particularly unique about the site or topography that would give the Commission the opportunity to impose conditions.

Vice Chair Deziel asked about the standard for the drainage plan. Planner Rogers said that it would require all storm water would need to be treated onsite and that the project could not create more drainage. He said that conditions of approval had to be met for the project to move forward.

Vice Chair Deziel asked about the process for this neighborhood to solve their existing drainage problems. Planner Rogers said this would be the Public Works purview and concerns should be addressed to the Director of that Department.

Commissioner Bims said a drainage and grading plan would be approved after the subdivision was approved. He asked whether the Commission needed to see this plan prior to subdivision approval. Planner Rogers said that those plans had to be reviewed before the subdivision map was approved for recordation. He said that condition 3.g had to be met prior to building permit issuance and 3.l was a condition that would run with the land. He said 3.i included the requirement related to pre- and post-project flows. In response to Commissioner Bims, Planner Rogers said that existing flows would not need to be retained on site but any incremental increase would.

Commissioner Bims asked if the Commission could require that any flow from the site be routed to a drainage system. Planner Rogers said he was not sure the Commission could address that. He said the proposed frontage improvements would use valley gutter but there was not a connection to the Alameda. He said further investigation with the engineering division would be needed.

Vice Chair Deziel said the Commission was looking at physical suitability. He said that the easement area might be designed as a cul-de-sac in exchange for getting rid of the public access easement. He said he thought making all of the 4,000 square feet unusable was unreasonable. Vice Chair Deziel asked the applicant if they had looked at a scenario where they consolidated all of their access at perhaps the head of Clayton Drive. Mr. Coker said that they had but it did not serve the lots. He said he had his civil engineer present, who could address questions about drainage.

Mr. Tony Ponterio, AP Construction Engineers, said in this phase for preliminary approval of the tentative map there were clear requirements for what needed to be shown. He said the City has a considerable requirement for drainage for lots and drainage has to be mitigated onsite. He said with clay and lack of percolation that excess storm water had to be retained onsite. He said this would be held through peak storm and afterwards it would release to the bubble boxes. He said they proposed improvements to the frontage of the neighbors' properties so that water would not drain onto those properties. He said they would alleviate any excess storm created by the new development and that they would make the overall drainage better. He said there could be dissipaters that moved the water from the valley gutters to the drain. Vice Chair Deziel said there was a ridge at the Alameda. Mr. Ponterio said there were two different things in that there was an existing problem with the drainage and there was the new development. He said they would have to work with the City related to the City's right-of-way and he did not know to what extent their street frontage improvements would address existing drainage problems.

Menlo Park Planning Commission

Draft Minutes

Meeting of August 13, 2007

Commissioner Riggs said that the HDPD pipe Mr. Ponterio mentioned was not shown on the drainage plan. Mr. Ponterio said that the plans would be further developed as the subdivision progressed. Commissioner Riggs asked how the bubble boxes would work. Mr. Ponterio said water would only be released when it reached the top of the pipe. Commissioner Riggs asked what the remaining water would do. Mr. Ponterio said that it would go to the bubble box and that perhaps a pump would also be needed. He said the design had to be developed further.

Commissioner Bressler said there was a disconnect between what the Commission was being asked to analyze and the detail to which the plans needed to get to for the Commission to make that analysis. He said there was not a way to deal with the neighbors' concerns. He said he would be more comfortable if the easement issue was resolved and the drainage plan more detailed.

Recognized by the Chair, Mr. Sowiski said there had been comments about the easement that the remodel of the one property had effectively abandoned the easement and that the dead-end on Clayton Drive precluded the usability of the easement. He said that there were rights attached to easements and could not be abandoned without process.

Recognized by the Chair, Mr. Coker said that if there were only three lots allowed that the houses would be much bigger than what was proposed and with those size lots there would be no need to come for a use permit.

Vice Chair Deziel said the largest problem for the neighborhood was the existing drainage. He said that the Commission had now heard that the easement rights might be used to control the design of this development. He suggested that if the developer received what he proposed and was relieved of the easements that he then lay down the 200 feet of gutter to get the storm water to the Alameda. He said that if the developer did not get relief of the access easement then the existing problem would continue as is. He moved to approve with those conditions.

Commissioner Bressler said he did not see how that motion could be made as it was unknown what the disposition of the easement would be. He said the offer made to improve the drainage in front of neighbors' parcels was something that had to be put in writing.

Commissioner Bims said there were a lot of unknowns and they needed feedback from the City Attorney. He said also there was not a clear solution to the drainage problem.

Commissioner Riggs said regarding physical suitability and environmental damage the question was whether this project would further impact the neighborhood. He said the hydrology report was not completed so it was not clear what the drainage solution would be until this went through the building permit application. He said regarding the easement situation that barring the Commission exerting its right to exclude that area from the development and limiting units to three rather than four that the homes would

be larger than what was proposed. He suggested codifying the offer of additional second story setback; introducing construction management plans; locating air conditioner units suitably; and conditions for landscaping trees. He said the Commission was not in a position to judge the drainage requirements as that was the purview of other agencies.

Vice Chair Deziel said he disagreed that the Commission was not in a position to resolve the drainage issue. He said certainly the drainage would be solved in the building plan process as to project impacts but that the Commission could require that the developer solve the existing drainage problem. He said the State had found that the bar could not be moved on developers if their subdivision proposal met all of the requirements of the zoning ordinance. He said the Commission could require the developer solve the drainage problem on one side of the street.

Commissioner Bressler said that there needed to be legal input from the City Attorney on the easement and the drainage plan could not be solved tonight.

Planner Rogers said attaching unique conditions to a subdivision application was different from adding such conditions to a use permit. He said the applicant could agree to those conditions but the Commission could not apply unilaterally. He said that the drainage could not be determined without review of the Engineering Division. Vice Chair Deziel said that the applicant would need to volunteer to solve the drainage and to indicate a condition to allow for a solution of the existing drainage. Planner Rogers suggested that a continuance might be more appropriate.

Commissioner Riggs moved to continue the application for the applicant and neighbors to resolve the easement issue and a response sufficient to satisfy the Commission that the drainage situation could be adequately resolved.

Commissioner Bims asked if Commissioner Riggs wanted the applicant to bring back a drainage and grading plan worked out with the neighbors. Commissioner Riggs said not necessarily but at least some narrative of agreement that the applicant would resolve the drainage and the project would be suitable to the land and not environmentally damaging. Commissioner Bims said it would be good for the public to get something that showed them what the mitigating plan would be. Commissioner Riggs said that he thought all of the Commissioners would like to see the drainage issue resolved convincingly. Vice Chair Deziel said he did not think the neighbors would agree to resolve the easement. Commissioner Riggs said he stood corrected but that the Commission needed more information on the easement.

Vice Chair Deziel restated his motion and his belief that the easement resolution could be tied to an improvement to the drainage problem for the neighborhood.

Commissioner Bims said that it was not apparent whether the easement rights existed still; he said the Commission needed more information. He said that the Commission could not apply a condition at this point that would solve the existing drainage.

Commissioner Deziel's motion died for lack of a second.

Commissioner Riggs restated his motion to continue the item for further information on the easement and a representation from the developer as to how drainage would be handled. Commissioner Bressler seconded the motion.

Planner Rogers said that the hydrology report dovetailed with the requirements of a drainage and grading plan and asked if the Commission would want to see that prior to receiving additional information.

Commissioner Deziel asked for an amendment to have the applicant bring back two plans; one to address incremental runoff caused by the project and the other to address the existing drainage problem. Commissioner Riggs said that this had to be an offer by the applicant and it was clear yet what would be suitable and whether it would be environmentally damaging.

Commission Action: M/S Riggs/Bressler to continue the item to a future meeting to allow the applicant to provide additional information and clarification regarding the ingress/egress easement that is potentially still located on the proposed Lot 4, as well as a more detailed response regarding the drainage (hydrology) issues.

Motion carried 4-0 with Commissioners Keith, O'Malley and Pagee absent.

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

### **1. Consideration of minutes from the June 4, 2007, Planning Commission meeting.**

Commission Action: M/S Unanimous consent to approve the minutes as modified.

- Page 3, 1<sup>st</sup> paragraph, 1<sup>st</sup> line, Replace the word "at" with the word "had."
- Page 11, 4<sup>th</sup> paragraph, 11<sup>th</sup> line, Replace the word "two" with the word "all" and add the words "during the evening commute" to the end of the sentence.
- Page 12, 1<sup>st</sup> paragraph, 12<sup>th</sup> line, Add in the words "Streamlining Draft" after the word "City's."
- Page 12, 1<sup>st</sup> paragraph, 15<sup>th</sup> line, Add in the words "of hotel" after the word "feet."

Motion carried 4-0 with Commissioners Keith, O'Malley and Pagee absent.

### **2. Consideration of minutes from the June 18, 2007, Planning Commission meeting.**

Commission Action: M/S Unanimous consent to approve the minutes as modified.

- Page 8, 6<sup>th</sup> paragraph, 10<sup>th</sup> line, Add the words “sand and gravel” after the word “all.”
- Page 27, 1<sup>st</sup> line, Add the sentence “Planner Chow said she would be providing information to Commissioner Deziel.” after the first full sentence.

Motion carried 4-0 with Commissioners Keith, O'Malley and Pagee absent.

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

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**

Meeting adjourned at 12:17 a.m.

Staff Liaison: Deanna Chow, Senior Planner

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission on September 10, 2007.