



PLANNING COMMISSION MINUTES

October 22, 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 (Absent), Bressler, Deziel (Vice chair), Keith (Chair), O'Malley, Pagee, Riggs

INTRODUCTION OF STAFF – Deanna Chow, Senior Planner; Megan Fisher, Associate Planner; Justin Murphy, Development Services Manager; Thomas Rogers, Associate Planner

A. PUBLIC COMMENTS

There were none.

B. CONSENT

There were no consent items on the agenda.

C. PUBLIC HEARING

1. **Use Permit/Richard S. Onorato/859 Oak Grove Avenue:** Request for a use permit to allow a beauty salon (personal services) to expand into vacant space on the ground floor of an existing commercial building in the C-3 (Central Commercial) zoning district.

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

Questions of Staff: Commissioner Deziel confirmed with Planner Rogers that the use permit was only for a beauty salon and not for a blanket use permit.

Commissioner Pagee said that the plot line on the site/area map as shown on A-O.1 was 113.5 feet and the project scope indicated the length of the building was 113-feet 4-inches. Planner Rogers confirmed that was consistent with the plans. Commissioner Pagee said the staff report indicated there would be no changes to electrical lighting, mechanical equipment or plumbing. She said that there might need to be a new source of water as this use was being changed from office to beauty salon; she asked whether that would occur with the building permit application. Planner Rogers said only to the

extent that any changes needed a building permit. He said staff depended upon the intent stated in the applicant's letter for the scope of work.

Public Comment: Mr. Richard S. Onorato, applicant, said he was applying for a use permit to allow his tenant to use the front office space left vacant by a financial services tenant. He said he had put the space for rent in the newspaper and had received a few calls, most of which were for office uses but one which was for retail. He said however that person never called back. He said that his existing tenant then approached him to use the space. He said that the changes to the site would be mainly cosmetic.

Commissioner Pagee asked about the water source. Mr. Onorato said that this was in the existing hair salon. Commissioner Pagee asked about a connecting door. Mr. Onorato said there was a doorway from both rooms that opened onto a common hallway. Commissioner Pagee said that the electrical needs would change. Mr. Onorato said that his tenant was working with a contractor and he did not know what changes were needed.

Commissioner Deziel confirmed with Mr. Onorato that the right door would be functional and the left door would remain nonfunctional.

Chair Keith closed the public hearing.

Commission Comment: Commissioner O'Malley moved to approve as recommended in the staff report; Commissioner Riggs seconded the motion.

Commissioner Pagee said she hoped that the project would have greater review as she saw potential ingress/egress and plumbing issues. Planner Rogers said if anything was needed that would require a building permit then there would be review, but at this point it did not seem that there was anything intended that would require a building permit. He said that staff would check back with the applicant on the status of the project and any permits possibly needed.

Commission Action: M/S O'Malley/Riggs 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 Studio 61, consisting of two plan sheets, dated received October 4, 2007, and approved by the Planning Commission on October 22, 2007, except as modified by the conditions contained herein, subject to review and approval of the Planning Division.

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

D. REGULAR BUSINESS

1. **Information Update on a Proposal to Rescind Previous Approvals and Pursue New Approvals for General Plan Amendment, Zoning Ordinance Amendment, Rezoning, Planned Development Permit, Major Subdivision, Development Agreement, and Environmental Review to Construct a Mixed-Use Development including 108 Residential Units and 24,925 Square Feet of Commercial Space on a 3.45-Acre (gross acreage) Site Located at 550-580 Oak Grove Avenue and 540-570 Derry Lane.**

Staff Comment: Development Services Manager Murphy said this item was being presented as a purely informational item to allow comparison between the site project approved formerly and this revised proposal. He said the City had received three pieces of correspondence; one that was directly in regard to this item and the other two which seemed to relate to this item. He said one was from Mr. Tony Coon, who asked about noticing for the meeting. He said staff had replied to Mr. Coon as his residence was located more than 700 feet from this project and was not within the notification area, but staff was looking to expand the notification area. He said another was from Ms. Margaret Pettijean and related to noise pollution with development near the train tracks. The third letter was from Mr. Winn Smith and was about quiet zones related to the railroad.

Questions of Staff: Chair Keith asked staff to explain the expanded notification area. Development Services Manager Murphy said page 7 of the staff report indicated the already expanded notification area for the project which currently ranged from Valparaiso Avenue to Middle Avenue to University Avenue to the northern boundary of Laurel Street. He said staff would further expand the notification area east from the northern boundary of Laurel Street to include Pine Street in the future.

Commissioner Deziel asked if the preparation of the EIR Addendum had already begun. Development Services Manager Murphy said that it had. Commissioner Deziel said that the project description for that Addendum was only now being considered for public comment. He asked if the Commission had received the full Derry Project Settlement Agreement. Development Services Manager Murphy said that the Commission had received Section 2, which was the public portion of the Settlement Agreement. Commissioner Deziel asked about the Commission's role this evening as he had the sense this was a pre-negotiated land use, which seemed to curtail his normal examination of a project proposal as a Commissioner. He asked if the City Council approved land use conditions that differed from those stipulated in the Settlement

Agreement, what would that mean to the City and the Applicant? Development Services Manager Murphy said the Agreement was between the Applicant and the leaders of the Referendum to a revised project with certain parameters. He said if the City ultimately approved a project consistent with those parameters then the previous project would have been rescinded, the Referendum effort would be removed, and there would be a project that the City could, and the Applicant could move forward with development. Commissioner Deziel asked if the City approved a project that was different from the settlement parameters what that would mean to the City.

Development Services Manager Murphy said if the project that was approved by the City was substantially different from the project proposed in this Agreement that the City would be in the same position it was when the referendum was first made, which would be the decision whether to rescind the project or put it to a vote, and deal with legal ramifications related to the validity of the Referendum material. He said he did not think the City would want to be in that position. Commissioner Deziel said that there was no ability for any public member to be considered who had objections to this project. He said that the Settlement Agreement stipulated key land use parameters and that all other aspects would be the same as the original proposal, so there was no room for customary Commissioner discretion. Development Services Manager Murphy said the Settlement Agreement identified certain things agreed upon but there were details that needed to be specified and so there was a spectrum of discretion. He said there was no flexibility for any of the key components. Commissioner Deziel asked about the strength of the Settlement Agreement as the people who promoted the petition asked for signatures to put the project on the ballot, but now, rather than placing the projection the ballot, the sponsors were negotiating for interests of what might be only a very small number of people. He asked if staff was asking the Commission to take this project proposal as a given. Development Services Manager Murphy said that the proposal was not a given but there was a framework established by the Settlement Agreement. He said page 3 of Section 2 indicated where there were possibilities for changes. Commissioner Deziel asked if staff was operating on the Settlement Agreement. Development Services Manager Murphy said staff had received an application submittal for a revised project, which staff was processing and part of that included Section 2 of the Settlement Agreement with public consideration. Commissioner Deziel said he felt that that the Commission could assume that the Applicant had revised their project and scope and the Commission was then reviewing this as a normal project revision.

Commissioner O'Malley said the Commission was not privy to the entire Settlement Agreement, and asked why not. Development Services Manager Murphy said that question might be better directed to the Applicant. Commissioner O'Malley said he had similar feelings to Commissioner Deziel's in that while he respected the Menlo Park Tomorrow group, he questioned whether that entity represented the combined will of the majority of residents in Menlo Park. He said he had voted for the previous project which he thought was beneficial to the City. He said that he wanted to look at the project as a new project and not as a project predetermined. Development Services Manager Murphy said the Planning Commission needed to review and make recommendations about the project, but he could not dictate individual views. He said there were aspects

of the Agreement that if they were not part of the approval would have implications for the project.

Public Comment: Mr. Jim Pollard, O'Brien Group, said they were submitting a project application and the Commission had the discretion to recommend approval, conditional approval, or denial. He said a project at the site had been approved the past year, which had then been referended. He said the Referendum sponsors, the applicant, and he and his company asked the Council to delay action on the Referendum while those same parties attempted to work out a negotiated settlement. He said they did that and subsequently his group agreed to postpone filing a lawsuit contesting the validity of the ballot petition and Menlo Park Tomorrow agreed to postpone approaching the Council to either rescind the previous project approval or hold a ballot election on it. He said if the current application was approved then the old project proposal would evaporate and this project would proceed. He said if that did not occur then the proposal was null and void and the Agreement participants would return to their previous stances.

Mr. Morris Brown, Menlo Park, the contact person for Menlo Park Tomorrow, said the Commission approved the project last year 7-0 and then the City Council approved it 4-1. He said Menlo Park Tomorrow obtained over 2,500 certified signatures for a petition for a Referendum. He said the main issue was that the proposed General Plan Amendment of that project had been too broad as it would have covered the whole block from Oak Grove Avenue to Glenwood Avenue, and that anything within that zone might be zoned to a much higher density. He said because of that approval a proposed 1300 El Camino Real project at the former Cadillac dealership site was originally designed at a higher density, but with this Agreement that developer has since reduced the project density, which seemed to comply with the existing General Plan, and would not require a General Plan Amendment. He said the main objection to the Derry Project was the size and density as it would have 50-foot high structures and 50-units per acre for which there was little public benefit. He said there were normally two options for a Council after a successful referendum and that was to rescind approval of the project or put it on the ballot for an election. He said a third option developed to see if a compromise could be negotiated and this was found to be a legal option. He said they conducted negotiations to reach a compromise with the developer that would satisfy the referendum objectives and leave the developer with a viable project. He said on April 6, 2007 they reached a legal settlement agreement. He said the changes related to height and density in that the buildings would be three-, not four-stories, and maximum 40-foot high rather than 50-foot high, and the public benefit was \$2,000,000 for the City, which use they had not attempted to legislate. He said other changes included more commercial space, an expanded and desirable public plaza, improved parking, and a reduction of the overall density reduced to meet the upper levels of the City's zoning for this area. He said the Referendum group fully supported the proposed project presented to the Commission. He emphasized that the project would have to proceed through a development agreement. He stated that no compensation or money had been paid to Menlo Park Tomorrow or any party of the group, nor would that occur at anytime in the future.

Mr. Pollard restated that the Settlement Agreement had no provisions for compensation or reimbursement to Menlo Park Tomorrow or any individual associated with that group.

Commissioner Bressler asked if the City got a better deal because citizens were involved in the negotiation. Mr. Pollard said the previous project had a number of benefits for the City and this one did as well.

Commissioner O'Malley asked why the Commissioners could not see the entire Settlement Agreement. Mr. Pollard said that he understood in all types of negotiations it was common that the parties agreed to keep negotiations confidential at the outset and at the end decide which portion of the agreement would be made public. He said City Attorney McClure had been instrumental in facilitating the negotiations and was entirely familiar with the document. He said O'Brien Homes would have no problem with the City Attorney reconfirming that there was not compensation or reimbursement of any kind in the Settlement Agreement.

Mr. Jim Pollard reviewed the major changes between the previously approved project and the revised proposal. He said the residential density was reduced 20 percent from 135 condominiums to 108 with a corresponding reduction in Below Market Rate (BMR) units from 21 to 16. He said all of the four-story elements had been reduced to three-stories and the maximum height reduced from 50 to 40 feet max. He said this eliminated four condominiums on the third floor on the main commercial building. He said that the elimination of condominiums from the central portion of the residential area increased courtyard area. He said the commercial public plaza had been increased to 100 feet into the community and added 2,400 square foot ground floor retail with the intent of restaurant uses. He said they eliminated architectural details of bridges between the commercial and residential areas as the expanded public plaza made those details unnecessary. He said the main commercial building would have setbacks on the second and third stories. He said O'Brien Homes voluntarily proposed a \$2,000,000 supplemental public benefit contribution to the City and restructured the rezoning and general plan amendment so these would not affect the 1300 ECR property development. He said they also propose adding a 10-foot pedestrian easement in the rear portion of the property. He said they also agreed to entitle this project through a development agreement.

Mr. Rob Steinberg, project architect, Steinberg Architects, said their goals were to create a site that was welcoming, authentic and compatible with the urban setting. He said the proposed plan was very similar to the previous iteration with an open village layout and courtyards to allow light and views. He said the single-loaded buildings in the rear were oriented to look away from the railroad tracks. He said the four significant changes included the public plaza, which would increase in length about 50 feet; the residential courtyards would now open into the community and were increased from 24 feet to 40 feet, and increased setbacks along Oak Grove Avenue for the commercial building, and the decrease in density and height. He said that the level of quality of materials would remain as previously proposed. He said they would use the highest quality of materials and were following the best principles of smart growth.

Commissioner O'Malley said the condominiums seemed to have kitchen entrances and asked if that was commonly done in more modern condominiums. Mr. Steinberg said with double-loaded corridor buildings the intent was to have the entrance into a space with an open large feeling that would lead the eye to the view outside and the natural light. He said this type of layout design was commonly done and expected in the marketplace.

Commissioner Pagee asked about ingress/egress from Oak Grove Avenue onto Derry Lane noting that it currently was a traffic bottleneck. She asked if that had been reviewed by the Transportation Department. Mr. Pollard said the entry off Oak Grove is right in and right out only. He said the left turn movements eastbound onto Derry Lane have been reviewed by the City, which ultimately approved the traffic circulation plan.

Commissioner Pagee said she liked the layouts of the units and that there would be storage areas below for the residential occupants. She asked how the development was impacted by the railroad studies, in particular the entrance and exit from the site, if the railroad was elevated. Mr. Pollard said there were areas around the parking garage that were marked storage and storage facilities along the perimeter of the parking garage. These would be floor to ceiling height, 5-foot by 8-foot in size, and secure. He said if the railroad tracks were elevated 10-feet and Oak Grove Avenue lowered 10-feet that Garwood Way and Merrill would remain connected to Oak Grove and would be similarly depressed. He said retaining walls would be developed around the frontage; they would lose the pedestrian connection across Oak Grove but would maintain vehicular connection. He said if Oak Grove went down 20-feet and the railroad bed stayed at grade that Garwood Way and Merrill would disconnect from Oak Grove, rather there would be a bridge over Oak Grove for both vehicular and pedestrian traffic. Commissioner Pagee asked how raising the tracks would impact the project. Mr. Pollard said they have reserved a 15-foot landscape reserve around the east boundary of the property. He said the railroad would build a retaining wall between the railroad and the units. He said there were six alternatives but they evaluated the two preferred alternatives. Commissioner Pagee asked about bringing LEED qualities into the project and adding to a green environment through materials, access to light, and possibly solar panels. Mr. Pollard said they believed the design was very green and they were proposing split system heat pumps with individual A/C conditioners on the roof. He said some other developments they were building used elements from the California Build It Green Program. He said they had not reached a conclusion as to whether they would take similar steps with this project.

Chair Keith asked about the tile work on the left tower as she thought it looked strange. Mr. Pollard said they would take that under consideration. Chair Keith asked if the same type of windows would be used as previously proposed. Mr. Pollard said they were planning to use the same windows. He said the colors/materials board was the same as previously submitted and would use the exact same materials and finishes as previously submitted. Chair Keith said she was glad that the stucco would be applied with a hand trowel. She requested that they consider at least doing the same amount of

green building they were doing in their other developments. She asked about the retaining wall to be built by the railroad noting that the Commission in its previous consideration of the project had wanted the wall stepped down as it approached Oak Grove Avenue. Mr. Pollard said the wall was about eight feet high in the main central area and would be stepped down incrementally to reach a step of five to three feet at about 80-feet from Oak Grove Avenue. Development Services Manager Murphy said that the project included revisions to the retaining wall as conditioned previously by the Planning Commission in its recommendation for the project's approval.

Mr. Pollard said this new application had all the same quality and programmatic elements included in the previous community; there were the same material selections and finishes, amenities including five fountains located throughout the courtyard, health and fitness center, business center, same number of stair towers and one additional elevator. He said this proposal had slightly better parking ratios and more diversity in floor plan selections with all units having a built-in work alcove. He said this project was equal if not superior in design to the previously approved project. He said they had consulted with retail specialist Ms. Amanda Tevis originally as to the right footprint and shape of the retail space. As she relocated to France, for this iteration they had met with three other local retail boutique leasing specialists from whom they had letters related to the elements of those consultations.

Chair Keith said that the Settlement Agreement on page 2, Section 2.4 stated that there would be no greater school and traffic impacts, and asked how the student generation was determined if this project was now including three-bedroom units. Mr. Pollard said the school district determined student generation rates not on a bedroom count but on unit count and so the revised project would generate 20 percent fewer students.

Ms. Anne Moser, Menlo Park, said she was extremely uncomfortable with the discussion at the beginning of the meeting. She noted that the Council was elected, Commissioners were appointed and both of their processes were open for public input and vote. She said Menlo Park Tomorrow was a non-elected, self-appointed group who were dictating what could be done within the City. She said they did not speak for her, but she had no vote to influence that action. She said she was particularly concerned about the loss of BMR units and the delay in project completion because of the Referendum as this would drive the price of the units up and make even BMR units beyond the capacity of many to purchase. She said the Central Tower had curves and a decorative balcony. She said it looked like a mission church and was too busy. She said she would prefer something simpler.

Ms. Elizabeth Lasensky, Menlo Park, said she was distressed at losing five BMR units in the one and two-bedrooms units as these were not replaceable anywhere in the current housing stock in Menlo Park. She said the delay to this project resulted in delays for people who needed housing. She said limiting the units per acre and the delay to the project would drive up the price. She said she would like the revised project to go forward.

Chair Keith confirmed Ms. Lasensky was on the Housing Commission, and asked her about potential housing not yet in the pipeline; for instance, whether Habitat for Humanity had brought a proposal forward to the Commission. Ms. Lasensky said they had not yet received a final proposal from Habitat for Humanity, but her understanding was there would not be one- to two-2 bedroom units but larger units for families. She said the only housing in the pipeline were three- to four-bedroom homes. Chair Keith asked if anyone had presented future projects to them. Ms. L said they were currently doing a senior housing needs assessment, but there were no other project proposals for BMR units at this time other than mentioned. .

Ms. Patti Fry, Menlo Park, said she was a former Commissioner, and she had been very uncomfortable with the previously approved project in that it allowed multiple times the limits specified in the General Plan and zoning regulations. She said she joined the negotiating team with Menlo Park Tomorrow as she felt this was the least divisive way to proceed and it would bring a project forward sooner. She said the elements of the Settlement Agreement were all negotiated and they tried to express their understanding of the principles that drove people to referendum. She said she saw the revised project on the prior Friday. She urged the Commission's support of the revised project.

Mr. Irvin Dawid, Palo Alto, former Chair of the Sustainable Land Use Committee of the Loma Prieta Chapter of the Sierra Club, said he was speaking on behalf of the Sierra Club. He said the Sierra Club had begun evaluating the previously approved project according to their process and had invited the developer, Mr. Brown and Council Member Cohen to speak before them. He said only Mr. Pollard showed interest in presenting to them, which he had done as well as a follow up presentation. He said that they were waiting only for the evaluation from the Build It Green process to finalize the previous project for Sierra Club endorsement. He thanked Commissioner Deziel for his probing questions related to the Commission's role in reviewing the Settlement Agreement and the proposed project. He said the real lesson he thought was to the public that signing a petition meant they were opposed to a project as approved by the Planning Commission and City Council as opposed to just letting the public vote. He thought the project should move forward and noted that referendums were almost always divisive and expensive. He said in response to Commissioner Bressler's somewhat rhetorical question as to which project proposal was superior that, from an environmental assessment, the reduction of units and BMR units by 20 percent at the only Caltrans train station site in Menlo Park was a disappointment. He said the prior project was greener and more socially equitable. He said that going forward with the Settlement Agreement was preferable to starting over.

Mr. Robin Leblan, Menlo Park, said he was representing just a few neighbors on Pine Street. He said he and his neighbors enter Menlo Park via Oak Grove Avenue. He said the first time he heard about this hearing was two days ago. He asked that the Planning Commission hold another meeting so that others in his area would be able to attend and provide input.

Chair Keith asked Development Services Manager Murphy if the expanded notification area would include Pine Street. Development Services Manager Murphy said that it would. Commissioner Pagee suggested moving the notification area to include Marcussen as well. Development Services Manager Murphy said the area could be extended to the City's boundary and that would catch Marcussen as well.

Commissioner Deziel noted for the record that there would be another informational meeting on this revised project at the City Council, a subsequent public hearing at both the Housing and Planning Commissions and then to the City Council for final consideration. He said notices of meetings should be placed on a board on the property.

Mr. Kevin Townsend, Palo Alto, said he was representing Greenbelt Alliance and that organization wanted to encourage approval of the project as it located compact homes in the downtown center with a diversity of transportation options, and would provide a high level of affordable homes in an area in which housing was needed. He said this site had crucial access to transit alternatives, was close to Menlo Park's downtown center and would encourage more pedestrian transit. He said secure bike parking and shared parking strengthened future residents' alternatives to driving. He said Greenbelt Alliance believed that diverse communities made vibrant communities.

Commissioner Riggs asked if Greenbelt Alliance would support this project if the units were to be sold at \$1.4 million. Mr. Townsend asked what the current rate for the units was. Commissioner Riggs said that 1,300 and 1,400 square foot condominiums on the other side of Oak Grove were marketed at \$1.3 million and their amenities were not quite as nice as those proposed by this project. He said that previously the units had been one- and two-bedroom, but now were predominately 1,600 square feet and if sold at the \$1.3 million level whether Greenbelt Alliance still supported the project. Mr. Townsend said that generally income was higher in Menlo Park. Commissioner Riggs asked if he thought this would address the lower income market. Mr. Townsend said he had not been involved in the review of this project.

Chair Keith noted that Mr. Paul Collacchi had time donated by Mr. Morris Brown.

Mr. Paul Collacchi, Menlo Park, said he reviewed the project for the first time on Friday and he believed that it met the terms of the Settlement Agreement. He said he supported the project submittal and encouraged the Commission to support as well. He said under the Referendum the choices for the City of Menlo Park were to place the approved project on the ballot or to rescind it. He said the Settlement Agreement assumed the rescind path and protected the developer with assurances that he had a supportable project. He said regarding the desire for more BMRs and housing that the previously approved project would have to be approved by ballot, and it would have to have an 80 percent likelihood of success for the developer or the city to consider the ballot a better option. He said the Settlement Agreement provided for a high density housing project with certainty. He said the Housing Element got stalled in 2003 and that if Menlo Park wanted more housing then the City should complete the Housing Element.

He said developing more housing ad hoc ran the risk of future referendum action. He said through his participation in the negotiation for the Settlement Agreement he tried to stay true to the R-4 zoning code. He said that Menlo Park has only one parcel zoned R-4 and that was a complex in Sharon Heights. He said introducing R-4 zoning into downtown Menlo Park was zoning-up and innovative. He said the negotiated intensity was higher even than that allowed in the R-4 zoning district. He said if the City tried to do too much in the wrong area it ran the risk of delay. He said that 1300 El Camino was never intended for R-4 density but the Derry property had long been considered for R-4 zoning. He said the O'Brien Group and the architect had done an outstanding project within the constraints of the Settlement Agreement. He said those constraints softened the project and improved it. He said he signed on as a member of the Settlement Agreement not because he was representing the City or people who signed the petition rather as representing himself. He said the choice before the Commission was full discretion on this project and the Council's choice was either to rescind or to bring the approved project to the ballot. He said the consequence of straying too much from the Settlement Agreement was that it would release both the developer and the Menlo Park Tomorrow group from the Settlement agreement. He said this was an opportunity to move forward with this negotiated project. He said it was a higher density project than had ever been approved in Menlo Park downtown or any residential area. He urged the Commission to support the proposed project. Mr. Collacchi said he had made a mistake voting for Santa Cruz (street improvements) and therefore the Planning Commission could make a mistake too, therefore the Commission should not over think this and support the project proposed now.

Commissioner Riggs asked Mr. Collacchi if he personally saw a value in providing housing that was more affordable. Mr. Collacchi said providing housing at \$800,000 and \$1.2 million was not affordable for the working class. He said there was world demand to live in Menlo Park and he did not think enough units would ever be built to create housing that was actually affordable. He said the BMRs would stay the most attainable. Commissioner Riggs said in order to have BMRs that the cost difference of those had to be spread over the other units. Mr. Collacchi said that he did not think it was about recovering cost rather the profit margin of these projects.

Mr. Elias Blawie, Menlo Park, said he was speaking as a member of the negotiating team, a resident of Menlo Park, and a person who circulated the petition for the referendum through which he had had multiple extended discussions with those signatories. He said the project submittal was presented as a solution to the complicated Referendum effort. He said he supported the revised project as presented. He said if the Planning Commission did not think the project as submitted had merit or that the Menlo Park Tomorrow's efforts were not representative of the City's citizens that the project might be voted down. He said that most of the architectural elements and details of the project were not reflected in the Settlement Agreement; thus the Commission has a fair amount of discretion. He said the Agreement did not dictate the mix of number of bedroom units or the materials and window placements. He said he supported the revised project in that if high density was to be done, this was the area in which to do it. He said that three-story homes at a maximum 40-foot height and the

openness of the design was desirable to the community. He said that BMRs were a function of density and 40 units per acre pushed the upper limits of whatever residential density that the City had looked at. He said this was an opportunity to move the project on without tying it up in Referendum action or litigation.

Mr. David Speer, Menlo Park, said he supported the comments of Mr. Collacchi and Mr. Blawie. He said he had run for City Council in 2002 and although not elected, he remained very interested in what occurred in Menlo Park. He said he fully supported the revised project. He advocated that the Commission support the project so that it was not delayed further. He said there was a process to plan the El Camino corridor and he encouraged more public input at the beginning of projects. He said rather than spot zoning the City should consider changes that would only apply throughout the City.

Mr. Jack Morris, Menlo Park, said he was a member of the negotiating team, and wanted to speak to them as a 40-year resident of Menlo Park, former Planning Commissioner for eight years, and former Council member for 12 years. He said he wanted to endorse the comments of Ms. Fry, Mr. Collacchi, Mr. Blawie, and Mr. Speer. He said this was a good project and if he was on the Planning Commission and Council, he would support it. He encouraged the Commission to look at it as a new project.

Chair Keith closed the public hearing.

Commission Comments: Commissioner Bressler said he was involved in the Referendum and he was delighted with the ultimate outcome of the project being presented. He said the Referendum was a very divisive effort. He said he was very impressed with the process that had been played out and the solution.

Commissioner Pagee said that she was not part of the Referendum movement and there had not been a lot of public participation as the original project was developed. She said she did not know how to get more public participation in the beginning of such large projects, but at the least the notification area had to be greatly increased. She said she liked the project as presented and she was pleased that two opposing sides had reached a mutual agreement.

Commissioner Bressler said one of the objections he has had with spot zoning is that there was not a strong negotiating process to maximize benefit to the City. He said it would behoove the City to have groups of citizens who represented the community to do such negotiation.

Commissioner Deziel said in looking just at the project that he had two issues related to the commercial portion of the project, which were the same ones he stated at all hearings related to the previously approved project. He said the changes he wanted for that project had been undone by the City Council in the previous project's approval. He said this project site was one of the last developable commercial lands with which to strengthen the vitality of downtown. He said the project did not contribute as much to the commercial intensity as a commercial development with surface parking. He said

even if the rear portion of the project was removed from consideration that the project should provide commercial square footage equivalent to the frontage of 270 feet times a depth of 100 feet, or 27,000 square feet. He said the square footage on the second floor of the commercial structure was completely devoid of customer drawing capability. He said that the City was short about 15,000 square feet of customer drawing commercial use with this project. He said he could accept the lower square footage on the first floor if the second floor had the capability of drawing in people with such uses as medical and personal services. He said the last paragraph on page D.10 and continuing on page D.11 was language which had been diluted by the City Council so that only the attached letter from Terranomics would be needed to meet the condition, i.e., to say that the commercial project was well developed. He said previous condition recommended by the Planning Commission would have required the applicant to perform a market assessment of what the area could do to develop synergy downtown and would have required the applicant to use a commercial consultant to develop a plan for the 25,000 square feet that would create a vital commercial center. He said he would like the quality of use to be conditioned and that the proposed use mix was not acceptable because medical and dental uses were excluded. He said personal services needed to be allowed as well on the upper area of the commercial center.

Chair Keith said she was not sure personal services were being excluded.

Commissioner Deziel said that the Settlement Agreement did not extract an additional \$2 million from the developer, but that the developer was merely paying \$2 million instead of costs avoided by reducing the density, such as reduced parking structure costs and reduced in-lieu fees. He said that three-quarters of that money was coming directly from lost community benefit as there would be skewed housing mix as opposed to a mix with smaller housing.

Commissioner Bressler asked whether what Commissioner Deziel wanted would void the Settlement Agreement. Commissioner Deziel said that was what he could not understand; that a citizen group could negotiate zoning ordinance amendments for the City. Commissioner Bressler asked whether Commissioner Deziel had supported the project previously. Commissioner Deziel said he had with conditions related to the issues he had raised. Commissioner Bressler said he was greatly confident that the negotiated terms of the Settlement Agreement were much better than the original project.

Commissioner O'Malley said he had a problem that an independent group had done this negotiation and not the City Council or Commission. He said that this should not be the modus operandi for the City. He said he had a problem with the housing situation as many of the City employees were not able to live within the City because of the cost of housing. He said having more people housed in the project would mean greater success for the commercial services that would be provided. He said he was a strong advocate of having places for employees of the City to live in the City. He said he thought housing should be maximized and he was not sure this project did that. He said if the Commission had not seen the previous project that this would most likely have

been an acceptable project. He said he would not take a stand on the revised project at this time.

Commissioner Riggs said when the petition was made that there was only a certain amount of time in which the City could rescind the approved project or put it on the ballot. He asked whether that deadline had expired. Development Services Manager Murphy said the two groups involved in the negotiation had not taken action and there was no expiration, but at some point the issue of the Referendum needed to be resolved, and if the former project approval was rescinded that would resolve the Referendum.

Mr. Pollard said that if the Referendum sponsor specifically asked the City to respond within a time frame the City would have had to, but that had not occurred. He said however eventually the whole matter would need to be resolved.

Commissioner Riggs said the renderings for the proposed project were done with a view from the train station; he said a number of people live, work or shop on the other side of El Camino and he would like to see a rendering from the angle of Oak Grove. He said that the front of the project from Oak Grove needed more attention. He said the elevator and stair towers appeared to be chopped off at the top. He asked if the developer knew whether they would not need additional space on the top of the towers for five-stop elevators. Mr. Pollard noted the architect had left the meeting, and he would need to consult with him.

Commissioner Riggs said two residents, obviously active and interested in the housing of Menlo Park had spoken about the need for housing, and the Sierra Club and Greenbelt Alliance had addressed maximizing affordable housing. He said the City needed housing that was more affordable. He said the police force in Menlo Park was understaffed by 20 percent. He said the Commission had supported through a series of meetings that the commercial portion of this project was to be the best it could be. He said he wanted to reinforce Commissioner Deziel's comments related to the commercial part of the project.

Chair Keith said the City needed more housing and she hoped there was somehow for the developer when they met with the Housing Commission to somehow support BMR housing perhaps at other locations. She noted there was a dearth of one- and two-bedroom units. She asked how many of the BMRs in the project would be one- or two-bedrooms or three bedrooms, and where those would be located. Mr. Pollard said they have not decided the mix or location of the BMRs yet. Chair Keith suggested that the BMRs be scattered throughout the project. She said the architecture was beautiful and had quality details. She said she thought it was impressive that a Settlement Agreement had been reached considering that historically that had never occurred for the attorney when he had tried that solution. She said she thought it was the least divisive way to proceed. She asked about the wording in the Settlement Agreement excluding medical/dental use on the second story and whether that included personal services. She asked if the two parties could revisit that area. Mr. Pollard said staff

would be preparing an updated Planned Development Permit that would outline such things as permitted uses, conditionally permitted uses, and administratively permitted usage. He said the Settlement Agreement however did not allow personal services on the second story, but it was possible from his side to revisit the issue. Mr. Brown said that he recalled the exclusion of medical/dental was the key issue they were interested in preventing, but that he could not speak for the negotiating team.

Chair Keith said she would like both parties to get together to discuss allowing personal services for the second story as the process continued moving forward. She said she supported increased project notification and she thought an information board was important for this project and future large projects. She said she would like to see a rendering from the view of the 7-11 store. She said the elevator and stair towers look unfinished with one being tiled and the other not tiled. She said she would like both towers finished with tiles and embellishment. She said she was glad to hear that the same color and type of windows would be used as previously designed. She said that the developer did not want to seek LEED certification but she encouraged that at the least they work with the Build It Green program. She said despite the school district's determination as to student generation from the project she thought with three-bedroom units that the student generation would be higher. She said if she had not seen the previous project or known about the number of BMRs it would have had that she would have found this project attractive, but she would like the commercial use addressed.

Commissioner Deziel said the Sierra Club representative had indicated that there had never been a successful settlement agreement from a referendum action; he said he had no problem proceeding with the referendum action to put the project on the ballot.

2. **Consideration of minutes from the August 20, 2007, Planning Commission meeting.**

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

- Page 5, 5th paragraph, 1st line, Replace the word "it" with the word "if."
- Page 12, 2nd paragraph, 5th line, Replace the words "there be a variety of uses reviewed" with the words "staff should identify a new variant."

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

3. **Consideration of minutes from the August 27, 2007, Planning Commission meeting.**

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

- Page 4, 9th paragraph, 4th line, Replace the word "the" with the words "if he."
- Page 16, 5th paragraph, last line, Replace the words "relationship to the airport and businesses on the peninsula" with the words "proximity to Redwood City, the airport, and south to Santa Clara."

- Page 19, 1st paragraph, 18th line, Replace the word “would” with the word “should.”
- Page 19, 1st paragraph, 23rd line, Replace the word “M-3” with the word “M-2.”
- Page 19, 1st paragraph, 24th line, Insert the word “it” after the word “that.”
- Page 20, 1st paragraph, 6th line, Replace the word “created” with “create.”
- Page 20, 2nd paragraph, 18th line, Replace the word “vibration” with the words “reverberation it would cause” add the words “of the freeway” at the end of the same sentence.
- Page 20, 2nd paragraph, 19th line, replace “was” with “are.”
- Page 20, 2nd paragraph, 25th line, Add the words “but needed” after the word “homes.”

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

E. COMMISSION BUSINESS, REPORTS, AND ANNOUNCEMENT

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

Planner Chow presented a review of upcoming planning items on the City Council agenda.

ADJOURNMENT

The meeting adjourned at 10:28 p.m.

Staff Liaison: Deanna Chow, Senior Planner

Prepared by: Brenda Bennett, Recording Secretary