



PLANNING COMMISSION MINUTES

November 19, 2007

7:00 p.m.

City Council Chambers

701 Laurel Street, Menlo Park, CA 94025

CALL TO ORDER – 7:02 p.m.

ROLL CALL – Bims, Bressler, Deziel (Vice chair), Keith (Chair), O'Malley, Pagee, Riggs (Arrived 7:03)

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

A. PUBLIC COMMENTS

There were none.

B. CONSENT

There were no items on the consent calendar.

C. PUBLIC HEARING

1. **Use Permit/Pham Bichhuyen Thi and Hoang Nguyen/308 Sheridan Drive:**
Request for a use permit to construct a second story addition to an existing single-story, single-family residence on a substandard lot in the R-1-U (Single Family Urban) zoning district. The proposed remodeling and expansion is considered to be equivalent to a new structure.

Staff Comment: Planner Chow said for clarification on condition 4.d that it should read "The landscape plan shall include two new trees along the "right" (rather than the "left") side property line." She said there were three plan sheets distributed to the Commission this evening that had been submitted by the applicants. She reviewed those for the Commission: Sheet A2.1 was the first floor plan and the roof shown on the previously submitted A2.1 was eliminated and the landing and the posts for the front porch were more accurately shown at the top of the page. In response to staff's condition regarding the right of the porch, the applicant had prepared plan sheet A3.1 that showed an alternative solution with a reduced front porch, which would minimize conflict with the right bay window. A2.4 showed the smaller front porch.

Questions of Staff: Commissioner Pagee asked staff to clarify the right and left setbacks for the proposed project as shown on the front page of the staff report. She

said also that the staff report indicated the Commission should consider the project as a new structure and asked why a 20-foot by 20-foot clear garage was not being required. Planner Chow referred to the setback question. She said that on sheet A1.0 with Hedge Road as the front property line the right side setback or the interior was 8.5 feet to the corner of the building and on the left side setback it was 13-feet to the pop-out window on the second story. She said this was an addition to an existing single-family residence, but it was being considered as new construction because of the demolition aspect in that although not expected there might need to be more demolition than what was stated. She said however that the existing bedrooms and garage would remain. Commissioner Pagee said there were not two legally covered spots in the garage and there needed to be either a 20-foot by 20-foot clear garage or the applicants would have to be allowed to park tandem through the use permit process. She said that with the furnace, water heater, washer and dryer in the garage, the garage could only park one car, but it was being called a two-car garage. Planner Chow said that when the Commission considered an existing residence they might determine if the two parking spaces might remain as established or require reconfiguration to provide the 20-foot by 20-foot clear. Commissioner Pagee said in those instances the Commission has directed that appliances be relocated to allow the 20-foot by 20-foot clear or allowed tandem parking; she was concerned that a legal nonconforming structure was labeled as a two-car garage.

Commissioner Deziel asked if the use of the term “new construction” was an attempt by staff to address what had occurred with the 64 Willow Road project, which had been described as a remodel and subsequently was demolished entirely. He said that by using this descriptor for this project it inadvertently ambushed something that would normally be acceptable. Planner Chow said staff was trying to clarify the demolition amount and for future use, they would have to address how this might affect existing conditions. She said the demolition amount shown was what was expected to occur but in the construction of projects sometimes additional walls might need to be removed; if so, they are replaced in the same configuration. She said if that occurred for this garage it would be replaced where it was and it would keep the existing configuration.

Commissioner Deziel asked what feature made the porch “big” in staff’s mind. Planner Chow said it was the scale of it in relationship to the house and related to the proposed height. Commissioner Deziel said in condition 4.d there was a reference to a 15-inch box tree and wondered if 15-gallon was intended as a 15-inch box tree would be bigger than a 15-gallon tree. Planner Chow said it should read 15-gallon.

Commissioner O'Malley said the staff report stated that the Commission could not formally act on the height of the fence and asked if the Commission could comment on the fence. Planner Chow said the applicants were requesting a use permit to keep the height of the fence but it had not been possible to notice that for consideration at tonight’s meeting. She said the Commission might provide direction on the fence height.

Public Comment: Mr. Daniel Fan, project architect, said that the project development had taken over a year and expressed his hope that the Commission would be able to approve the use permit request. Chair Keith confirmed with Mr. Fan that the applicants preferred the plans submitted to the Commission this evening over the plans previously submitted.

Commissioner O'Malley said the existing fence was not appealing in its height and color and would be even less appealing with a new house. Mr. Fan said he understood that the legal height of a fence was six-feet but the house was on a corner across from a school and the owner preferred the existing greater height for privacy. Mr. Hoang Nguyen, property owner, said he wanted to keep the height of the fence as there was an existing bathroom window that would remain and the height was needed to provide privacy for that space. He said the home was situated on a corner and was immediately across from a school, and school buses traveled by his home or parked in front of it frequently and the fence height gave his home privacy.

Commissioner Riggs said there was an unusual chimney enclosure proposed for the house and asked why it was designed so. Mr. Fan said that staff had already recommended making the chimney smaller and he would make that change.

Commissioner Riggs said the applicant would like to install windows with plastic grids between two panes of glass. He said the Commission has been quite rigorous in requesting a higher quality of window as with the proposed type windows anything that reflected off the window made it obvious that the grid was fake. He said the applicant's reasoning for the use of the proposed windows was that the windows were for the second floor and they wanted them similar to existing. He said however that they could also replace the three windows visible on the front elevation similarly which would make the home much nicer looking. He asked if they would consider a better quality window. Mr. Nguyen said it was a matter of cost and the windows they were proposing were large and expensive. Commissioner Riggs said the better windows would improve the value of the residence and the Commission also needed to look out for the community. He also commented that he could understand the desire for the higher fence as the driveway from the school practically ran right onto the applicant's property.

Mr. Nguyen said it was recommended that they plant a tree to the rear because of the window projection toward the right side; he said the view from that was of the garage. He said in the space between the fence and house in that location there was not room to grow a tree without it eventually damaging the fence and foundation.

Commissioner Deziel asked if Mr. Nguyen was talking about the existing Oak tree or replacement trees. Mr. Nguyen said the replacement trees. He said that there was only six to seven feet of space on the right between the house and the fence and a tree there he thought would hurt the house foundation. He said that the house next door had not been occupied for five years. Commissioner Riggs suggested they clarify with staff where the tree was meant to be planted. He said the placement of the bay window was not aimed at the garage but at the house immediately back of the garage. He said it

was also a seating area and it would seem very visible to the neighbor. He asked if the tree was meant to be at the southwest corner of the house or between the bay window and the neighboring house. Planner Chow said the intent was to provide screening for the adjacent property and the concern was the bay window and screening in the vicinity of the bay window was being sought.

Chair Keith asked if the applicant had any thoughts on reconfiguring the garage so it would be 20-foot by 20-foot clear. Mr. Fan said he considered the work they were doing to be an addition, but staff had described it as new construction, which was a term he was not aware of. Chair Keith asked if they were removing any of the garage walls. Mr. Fan said they were not and would only replace the roof to be consistent with the house.

Commissioner Deziel asked if it was true before 64 Willow that this report would have said "existing legal nonconforming garage." Planner Chow said that they would have described it as a two-story garage but it could be described as legal nonconforming although it had been conforming when it was built.

Commissioner O'Malley asked if the residence that had not been occupied was 307 Hedge Road. Mr. Fan said it was. Commissioner O'Malley said that the owner of that property had written a letter expressing some concerns with the proposed project.

Chair Keith closed the public hearing.

Commission Comment: Commissioner Bressler asked for some clarification about the proposed change in windows. Commissioner Riggs said the issue was of architectural quality. He said the Commission had established a pattern of inquiring about the quality of materials up to a certain level. He said over the years it had been found that windows with simulated divided light that used an insert of plastic between two sheets of glass were obviously fake and were associated with poor quality.

Commissioner Pagee asked staff about the fireplace as to whether it would be decreased in size; whether it was existing; whether it was wood burning and what amount of change would require a conversion to gas. Planner Chow said the applicants were asking to decrease the size of an existing fireplace. She said there were several factors that would require conversion to a gas fireplace but she did not have that information. Commissioner Riggs said if the fireplace or chimney were revised or demolished in any way that it would have to be made to conform to existing code. He said the proposed chimney was greater size than the existing and it should be reduced and tapered.

Chair Keith said issues had been raised about the garage, windows, and the newly submitted plans. She said the chimney was addressed in condition 4.a. She said they needed to resolve for that condition whether to change "may" to "shall." She said they should require the use of quality windows both for the neighborhood and this home as a higher quality of materials would encourage others in the neighborhood to use similar materials and it would increase the value of the home. Commissioner Deziel asked if

the Commission was requiring exterior snap-on grid simulated true divided light or true divided light windows. Commissioner Riggs said the exterior snap-on grid type was not very expensive and those looked quite good. Commissioner Deziel said he thought the grids were a problem and increased costs for window washing; he said if the grid could be removed that would be alright. He noted that the property was close to Hwy. 101 and had forces tamping down its market value, and the use of higher quality materials might because of those forces not increase the home's value, although that was what was normally expected. He said the best possible windows would be high STC windows as they would keep out noise, and which probably had grids. Commissioner Riggs said this property was in Suburban Park where his home was and he hardly ever saw window washing services in that neighborhood. He said many of the two-story homes in the neighborhood had the exterior snap-on grid windows. He said there was a cost issue. He said they might suggest to the applicants that triple windows would make the property quieter during the day and night. He noted that the area was not as noisy because of the proximity of Hwy. 101 as Commissioner Deziel might think.

Commissioner Pagee said that what was being offered was a legal nonconforming two-car garage but the garage would only accommodate one car and had numerous appliances located in it. She said if it was to be a legal garage it should meet the requirements for that. She said that the property owners would park in tandem in the side setback. She said the property owners were currently parking in the front setback. She said that the garage would be sufficient to park one car inside and the driveway would accommodate one to three cars. She said she did not have an issue with the parking. She said however that the neighbors next door would have to look at a two-story "box" with no detail except a projection that was closer to the neighbor's property than the second story itself. She said there were two existing Oak trees that needed to be maintained for landscaping screening and the setback was more like eight-feet than six-feet and would accommodate trees. She said additional landscaping was needed to mitigate the impact of windows located on the second-story that would look into the neighbor's backyard. She said the height of the chimney also needed to be addressed.

Commissioner Pagee moved to approve as recommended in the staff report noting that the trees were to be planted on the right side and not the left side of the property; that new windows on the second-story and in the front of the residence should be simulated true divided lights; the word "may" in condition 4.a should be replaced with "shall." Commissioner Bims suggested in condition 4.b that "15-inch box" be replaced with "15-gallon." Commissioner Pagee accepted that modification. Chair Keith asked that the three plan sheets received this evening be included in the motion. Commissioner Pagee noted that the three sheets they had received were dated the same as the previous plans and not marked as revised. She said it had to be clear that they were accepting the three sheets A2.1, A2.4 and A3.1 presented to the Commission this evening and those should be marked "Revision Date 05, Planning Commission, 11/19/07." Commissioner Deziel said in condition 4.d it was not indicated what the trees were meant to protect and suggested it should read "The trees shall have the intent of providing landscape screening between the second-story **master bedroom** ~~bedroom #2~~ and the adjacent property at 307 Hedge Road. " Commissioner Riggs said he thought it

was referenced not as a master bedroom but as the “back” bedroom. Commissioner Deziel accepted that modification. Commissioner Riggs said condition 4.d also specified heritage trees for the screening but he did not think 12 foot of space would accommodate Heritage size trees. It was the Commission’s consensus to remove the reference to the Heritage Tree List in condition 4.d. Commissioner Deziel seconded the motion. It was the consensus of Commissioners Pagee and Deziel as the maker of the motion and second to change 4.d so that the selection of the trees would be made by the applicant with input from the neighbor at 307 Hedge Road subject to review and approval by the Planning Division.

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

1. Make a finding that the project is categorically exempt under Class 1 of the current CEQA Guidelines.
2. 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 DPA Design Group, consisting of 12 ~~plan~~ sheets, dated received November 7, 2007, **with modifications to sheets A2.1, A2.4 and A3.0 as presented at the Planning Commission meeting of November 19, 2007**, and approved by the Planning Commission on November 19, 2007, except as modified by the conditions contained herein.
 - b. Prior to building permit issuance, the applicants shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies’ regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicants shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
 - d. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.

- e. Simultaneous with the submittal of a complete building permit application, the applicant shall submit plans indicating that the applicant shall remove and replace any damaged and significantly worn sections of frontage improvements. The plans shall be submitted for the review and approval of the Engineering Division.
 - f. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a Grading and Drainage Plan for review and approval of the Engineering Division. The Grading and Drainage Plan shall be approved prior to issuance of a grading, demolition or building permit.
 - g. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance.
4. Approve the use permit subject to the following **project-specific** conditions:
- a. Concurrent with submittal of a complete building permit application, the applicant ~~may~~ **shall** revise the plans to reduce the size of the second-floor fireplace chase and exterior chimney, subject to review and approval of the Planning Division. The revisions may increase the second-floor FAL accordingly.
- (The original condition b was eliminated with the modifications made to 3.a.)
- b. Concurrent with submittal of a complete building permit application, the applicant shall submit revised plans specifying that all fencing be reduced to four feet or lower within the front setback, subject to review and approval of the Planning Division.
 - c. Concurrent with submittal of a complete building permit application, the applicant shall submit a landscape plan subject to review and approval of the Planning Division. The landscape plan shall include two new trees along the ~~left~~ **right** side property line ~~that are to be selected from the City's Heritage Tree Replacement list.~~ **The trees will be selected by the applicant with input from the neighbor at 307 Hedge Road neighbor, and shall be a minimum 15-gallon, subject to review and approval of the Planning Division.** The trees shall have the intent of providing landscape screening between the second-story **back** bedroom (**bedroom #2**) window and the adjacent property at 307 Hedge Road.
 - d. **Concurrent with submittal of a complete building permit application, the applicant shall submit revised plans showing simulated divided light windows for all the proposed new windows and existing first floor windows visible from the street. The revision is subject to review and approval of the Planning Division.**

Motion carried 7-0.

The Commission provided feedback to the applicant about the fence. Commissioner Deziel said he did not like six-foot fences in the front yard. Commissioner Bims said

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that he would like to see a decrease to four-feet. Commissioner Riggs said that the applicant had not really pushed limits and he could really see the need for a high fence because of the proximity to the school. Commissioner Pagee said she agreed with Commissioner O'Malley and that the fence could use landscaping to soften its appearance. Chair Keith said she understood the desire for the height and thought landscaping would help.

2. **Use Permit/Carmel Planning & Design, Inc./317 Princeton Road:** 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.

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

Questions of Staff: Commissioner O'Malley said the new garage appeared to be several feet closer to the street than the garage next door and asked how many feet that would be. Planner Chow said as a rough estimate she thought it might be 15-feet.

Public Comment: Mr. Tom Passanisi, representing the owner, said they were proposing to move the existing driveway from the left to the right side to take advantage of the sun orientation for the outdoor loggia space. He said the upper level of the residence would setback from the front to reduce mass and they were minimizing the use of larger windows on the second story and they would use true divided light windows and high quality materials. He said they were proposing to set the garage at the front yard setback and that most of the garages along the street were setback further than the front yard setback although they appeared closer to the street than that. He said to minimize the impact of the garage at the street they would use two smaller garage doors in wood so that it looked more like a carriage door, which they felt also fit better into the overall design of the house than a one-piece garage door.

Commissioner Riggs said one of the chimneys was short and asked if the applicant felt he needed to do that to avoid reaction from staff or the Commission. Mr. Passanisi said this would be a gas fireplace. Commissioner Riggs said because it was a gas fireplace that meant no chimney is required, it could also be higher. Mr. Passanisi said he preferred having lower chimneys, in particular the one for the living room as he thought that one would be very visible from the street.

Ms. Bonita Lu, Menlo Park, said she owned a one-story home to the rear of the proposed project. She requested that the applicant plant some trees to the rear of the house to provide screening, such as large Evergreen trees.

Chair Keith closed the public hearing.

Commission Comment: Commissioner O'Malley said he thought the garage might be protruding too close to the street, but having two garage doors rather than one would minimize the impact. He said other homes on the street had prominent garages.

Commissioner O'Malley moved to approve as recommended in the staff report with a modification to include landscape screening to provide privacy for the rear neighbor. Commissioner Deziel said that even with the proposed deck there was a minimum of 105 feet from the rear house to the deck and he was concerned that tall evergreens would block sun and impact negatively the owners of the proposed project. Recognized by the Chair, Ms. Lu said the two rear second story bedroom windows and deck would view her property. She said she wanted a non-deciduous tree that was tall enough to provide privacy; she said the tree did not have to be a pine, cypress, or redwood. She said the project lot was 150-feet deep and her lot was 120-feet and she did not think it was possible to have a distance of 104-feet between her house and the proposed house. Commissioner Bims said the depth of the proposed house was 71-feet and the garage was 20-feet from the street; the depth of the lot was 150-feet so there was about 54-feet between the proposed house and the neighbor's property. Ms. Lu said with the depth of her yard she thought it would be about 100-feet between the two residences. Commissioner Deziel said that if there was a 11-foot tall hedge at the property line then a six foot person standing at the rear of Ms. Lu's house would not see the eyes of a six-foot tall person standing on the deck. He thought 12-foot to 20-foot tall tree evergreen trees or shrubbery would protect. Commissioner Deziel seconded Commissioner O'Malley's motion. Commissioner Bressler said that screening planted along the rear the fence and behind the rear of the proposed house would protect. He thought the neighbors should work together to agree on what tree or shrubbery would be wanted.

Recognized by the Chair, Mr. Passanisi said they were happy to do screening and would do extensive landscape screening to the rear, which he had just indicated to Ms. Lu. He asked that the neighbor give contact information to staff and staff could contact them. Commissioner Deziel suggested adding a clause to the landscaping condition "or alternative plan approved by rear neighbor." Commissioner Bressler said he liked that condition.

Commissioner Riggs said he liked the architectural style but the relationship of the garage and the house was very unusual as it was basically a house behind a garage. He said this was a two-story being built next to another two-story and there would be two sheer vertical walls separated by 10-feet. Chair Keith asked if they had looked at the window placement on the sides. Mr. Passanisi said they had and put them higher. He said the house to the right has a deck that wrapped around the side so they avoided windows there. He said the house on the left was one-story and there was really only the garage that would be seen.

Commissioner Deziel seconded Commission O'Malley's motion but to include the evergreen tree or an alternate plan approved by neighbor. Mr. Passanisi said he wanted staff to be the arbiter of the tree choice. Commissioner Deziel suggested "or an alternate plan subject to staff review and based on input from the neighbor." He said the applicant had the option to plant a hedge or tree that would obtain 20-feet in height. Commissioner Bressler said it would better for the landscaping plan to have staff approval and if the neighbors found they were unhappy with the process, they might

contact any of the Commissioners. Commissioner Deziel said the landscaping condition should contain language allowing an alternate plan subject to staff review and approval with input from the rear neighbor and the landscaping should provide screening all year round and be of sufficient height. Mr. Passanisi said he would like to consult with a landscape architect as to the best trees or shrubs to use; he said their intent was for the rear neighbor to be happy with what they planted but they needed someone to approve and would like staff to be that third disinterested party. He said they would plant a minimum of two 15-gallon trees. Questioned by Commissioner Riggs, Mr. Passanisi said he did not know if the non-heritage tree in the backyard was evergreen. Commissioner Riggs suggested a minimum of two 15-gallon evergreen trees that would in five years provide screening. Commissioner Deziel suggested instead two 24-inch box trees. Ms. Lu said that two small trees would not provide the screening that was needed, and thought a 12-foot tree was too short. Commissioner Deziel said he would recommend a tree or shrubbery that would reach a height of 20-feet. Commissioner Riggs said there was an accessory structure on the rear neighbor's lot that had a Redwood on one side of the applicant's lot and another tree as well. He suggested that one more tree might suffice. Commissioner Deziel said there should be a minimum of two 24-inch box evergreen trees that would mature to 20-feet in height; or an alternate plan approved by staff with input from the rear neighbor. Commissioner O'Malley agreed to Commissioner Deziel's amendment.

Commissioner Riggs said he had reservations about allowing a prominent garage and he wanted the Commission to be consistent in treatment of projects. Chair Keith said there were a number of homes on the street that had prominent garages. She said the applicant would use two garage doors to minimize the impacts. Commissioner Riggs said he still had reservations. Commissioner Pagee said liked the frontage, and while she thought a side loading garage would be more attractive that would require a redesign.

Commissioner Deziel said by his calculations that the proposed garage would protrude 10-feet more than the other garages. He said he liked the architecture and the proposed house fit the lot and had a pretty façade. He said side loading a garage would eliminate greenery.

Commissioner O'Malley called for the motion.

Commission Action: M/S O'Malley/Deziel to approve as recommended in the staff report with the following modification.

1. Make a finding that the project is categorically exempt under Class 3 of the current CEQA Guidelines.

2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the use permit revision subject to the following **standard** conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Carmel Planning and Design, Inc., consisting of 11 plan sheets, dated received November 6, 2007, and approved by the Planning Commission on November 19, 2007, except as modified by the conditions contained herein.
 - b. Prior to building permit issuance, the applicants shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicants shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
 - d. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
 - e. Simultaneous with the submittal of a complete building permit application, the applicant shall submit plans indicating that the applicant shall remove and replace any damaged and significantly worn sections of frontage improvements. The plans shall be submitted for the review and approval of the Engineering Division.
 - f. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a Grading and Drainage Plan for review and approval of the Engineering Division. The Grading and Drainage Plan shall be approved prior to issuance of a grading, demolition or building permit.
 - g. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance.
4. **Approve the use permit subject to the following project-specific conditions:**

- a. ***Concurrent with submittal of a complete building permit application, the applicant shall submit a landscape plan subject to review and approval of the Planning Division. The landscape plan shall have the intent of providing privacy screening for the rear yard at 316 Arbor Road, and shall either consist of 1) a plan with a minimum of two, 24-inch box size evergreen trees that will have a mature height of 20 feet and be planted along the rear property line or alternatively, 2) a plan with input from the neighbor at 316 Arbor Road. The landscape plan shall also incorporate the proposed screening trees and shrubs along the left side property line, as shown on the site plan subject to review an approval of the Planning Division.***

Motion carried 7-0.

3. **Use Permit and Variance/Pamela Culp/748 Partridge Avenue:** Request for a use permit to demolish one single-family dwelling unit and associated accessory buildings and to construct two single-family dwelling units and associated site improvements on a substandard lot with regard to lot width in the R-2 (Low Density Apartment) zoning district. Request for a variance to build an accessory structure in the front half of the property, 69 feet from the front property line where 93.75 feet would be required.

Staff Comment: Planner Fisher said staff had distributed a colors material board, a color elevation, a photo of the existing house and the two houses on both side of it, and a letter from a neighbor across the street that was received today. She said the neighbor had four concerns related to the modern style of the proposed house, which she thought was in conflict with the character of the neighborhood; that the gutters on the front elevation needed downspouts; the front porch with railing and tiles would not conform with the look of the neighborhood; and was concerned about window placement on the second story as well as the impact of vertical walls.

Questions of Staff: Chair Keith said on page 3 there was a recommendation to require both structures being shifted one foot to left; she asked if that had been discussed with the applicant. Planner Chow said that the applicant was amenable to the change.

Public Comment: Mr. Tim Murphy, project architect, introduced Ms. Pam Culp, the property owner. Chair Keith asked if he had seen the e-mail received; he had not and Chair Keith provided him a copy. Commissioner Bims asked if they could go over the architectural style and the thought that went into the choice. Mr. Murphy said the proposed structures were townhouses and that something modern would most appeal to the demographic that would buy such a home. He said there would be articulated mass with the roofline and bay windows.

Commissioner Pagee asked Mr. Murphy to address some of the questions in the e-mail. She said that there were other town homes and duplexes in this neighborhood that were more traditional in character. Mr. Murphy said that they wanted spaces that allowed

more light and this style did so better than traditional style. He said in a traditional style home the window openings were smaller and centered in the facade rather than being part of the composition in an elevation. Commissioner Pagee said that putting downspouts would seem to conflict with lighting on the front elevation and on west elevation would pass a three light window. . Mr. Murphy said they could adjust the bay windows or do downspouts on the interior. Commissioner Pagee asked where the heating units would be located. Mr. Murphy said they would be hung in the crawlspace with vents for the heat to travel to the second floor. Commissioner Pagee asked about the location of the water heaters. Mr. Murphy said they were looking an Instant-heat gas-fired water heater and that could be hung in the crawl space as well. Commissioner Pagee said staff was asking that the units to be moved one foot to the left to allow more landscaping and confirmed that permeable features such as pavers would be used. Commissioner Pagee confirmed with the applicant that the proposed home would not be taller than shown on the plans. Commissioner Pagee asked if the applicant had done neighbor outreach. Mr. Murphy said they had not. Ms. Pam Culp, property owner, said they wanted the architectural style to be different what was on the street. She said this mixture and contrast of styles had been done successfully in other neighborhoods on Bay Laurel, Allied Arts and west Menlo Park.

Ms. Wendy Hasemyer, Menlo Park, said she lived across the street from the proposed project. She said she was supportive of new development and was not against two-story homes. She said that the character of her neighborhood was traditional architecture; she said she was very surprised at the choice of the architecture for the project as it was such a departure from the style of the neighborhood.

Chair Keith closed the public hearing.

Commission Comment: Commissioner Bressler said he would feel the same way as the speaker if this home was to be built across the street from him. Commissioner Bims said the style was not predominant in the neighborhood, but he was open to change of style and mix of eclectic styles in a neighborhood. He said he thought the color choice was cold looking which caused him to object to the style.

Commissioner Deziel said he thought the proposed house had a Menlo Park style and its success depended on the quality of material. Chair Keith noted a non-traditional home on Woodland Avenue that the Commission had approved, which was beautiful. Commissioner Pagee said that home however had a two-story wall that had not been mitigated and was a modernized traditional style. Commissioner Deziel said that the applicant would be using wood siding. Commissioner Riggs said the issue was the roof line; he said the materials were nice and he liked stained wood. He said he thought the colors were warm and would nicely offset with the second floor natural color. He said the window proportions were fun, the trellis was prominent in the front; and although a tile porch landing was unusual there was one in his neighborhood recently built, and he found that after a few days he no longer noticed it. He said however that the inverted roof would be hard for the neighborhood to accept. Commissioner O'Malley said the proposed project did not fit the character of the neighborhood. Commissioner Bressler

said perhaps it was the style of the roof that was off putting and suggested that would be pretty easy to fix. Commissioner Bims said inverted the roof on plan sheet A.5 and that changed the look of the house quite a bit. He said he thought the roof was the issue.

Chair Keith said she liked the architecture, rook the colors and the aluminum clad wood frame windows as proposed. She said the architecture was different from other homes in the neighborhood, but noted in her own neighborhood that she had become accustomed to a very modern style home next to a farm house. She moved to approve as recommended by staff. Commissioner Deziel seconded the motion.

Commission Action: M/S Keith/Deziel to approve as recommended by staff.

Motion failed 2-5 with Commissioners Deziel and Keith voting in favor.

Commissioner Bressler said they needed to continue the item for a redesign. Commissioner Pagee said they could continue the item for a redesign of the front elevation to make it more in keeping with the neighborhood by mimicking roof styles. She said they should also address drainage, bring samples of materials rather than pictures, and provide a landscaping plan related to moving the units another foot to the left. Commissioner Riggs said he would like the roofline to be more harmonious with the neighborhood, but he did not want the front elevation changed to look more traditional.

Recognized by the Chair, Mr. Murphy said they could take the roof line of the accessory building and use it on the residences.

Commissioner Bressler said that there should be a notice to the neighbors with design plans. Planner Fisher said this project had been in process for over a year and the plans had been sent to all the neighbors in 2006. Chair Keith suggested the applicant do neighbor outreach; she said in doing that they might find the neighbors liked the design. Commissioner Bims said the slanted roof idea suggested by the applicant was a nice compromise. Commissioner Riggs said when a project was delayed as much as this one, then the plans needed to be sent out again with noticing for the hearing. Chair Keith asked if they could continue for redesign and ask the applicant to provide the neighbors with the redesign. She said the Commission also wanted a materials board.

Commissioner Deziel moved to continue for redesign for a new roof treatment and to submit revised plans after they had done outreach with the neighbors. Commissioner Riggs seconded the motion and asked that the cloud layer be turned off when the revised plans were done..

Planner Fisher said that Commissioner Pagee had indicated a desire for a landscape plan. Commissioner Deziel suggested the applicant bring a landscape plan with the redesign. Commissioner Riggs said that many times projects came forth without a landscape plan. Commissioner Deziel said he would drop that requirement.

Commission Action: M/S Deziel/Riggs to continue for redesign with the following direction.

- Modify the proposed house design to be more compatible with the traditional architectural style of the neighborhood;
- Bring a colors and material board;
- Conduct neighborhood outreach before resubmitting plans; and
- Remove the cloud layer from the plan sheets.

Motion carried 7-0.

The Commission discussed the variance request and there was consensus that it was well-justified.

4. **Tentative Parcel Subdivision/Wanda Barnes/1427 Garwood Way and 1428 San Antonio Street:** Request for a tentative parcel map to convert two residential dwelling units into two condominium units on one parcel in the R-3 (Apartment) zoning district.

Prior to the November 19, 2007 meeting, the item was continued to the meeting of December 3, 2007, at the applicant's request.

5. **Use Permit/Lion Cells/1555 Adams Drive:** Request for a use permit for outside storage and screening of regenerative thermal oxidizer equipment and for the indoor use and storage of hazardous materials for the research and development of next generation battery technologies and initial electrode manufacturing in the M-2 (General Industrial) zoning district.

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

Questions of Staff: Commissioner O'Malley said this was the first time during his time on the Commission that the reagents were made proprietary and that information not provided to the Commission. He said staff had gone from one extreme to another. He said there were more unnamed reagents than listed confidential reagents. Planner Fisher said staff was trying a new approach and welcomed Commission feedback.

Commissioner Bims said many of the chemicals he had seen in the past were unfamiliar to him and he needed to know if they were flammable, combustible, or an irritant. He said definitions would be appreciated for primary hazard abbreviations. He said that he would lean on the side of protecting confidentiality. He asked if the BAAQMD permit would be submitted during this process or if it should have been applied for before the request came to the Commission. Planner Fisher said that if the applicant did not get the BAAQMD permit they would not be able to operate.

Commissioner Bressler said they needed a key to the hazard codes and asked if Commissioners could receive copies that showed the substances. Planner Fisher said they could be provided and the applicant had requested that the Commissioners shred that information. Commissioner Deziel said this project had much greater volume than others previously considered by the Commission but with much less information provided.

Public Comment: Mr. John Tarlton, Menlo Business Park, said Lion Cells was a “green” tech company and had game changing technology. Mr. Jeff Depew, Lion Cells, said the technology was developed at SRI with the Department of Energy but it had been shelved as it was not known how to produce a product using the technology. He said his firm received funding to develop products and he now had a team of 17 people. He said the cells would be developed at this site. He said by next year they anticipated staff increasing to 40 people, and that they would begin the commercialization of the product by the end of the 4th quarter. He said they were projecting by 2010 to have reached \$1,000,000 in revenue from the product. He said they would make the electrodes in Menlo Park and those would be sent to China to be assembled into full cells.

Commissioner Pagee asked if the building was large enough for them to grow to the maximum projected for their team. Mr. Depew said it was and there was potential for growth at the site. Commissioner Pagee asked if he would be comfortable having his children and family live close to this facility. Mr. Depew said the process was most benign and materials were inside and materials exhausting to the environment were cleaned. Commissioner Pagee asked about the BAAQMD permit. Mr. Depew said it was not needed during research and development. Ms. Ellen Ackerman, Green Environment, said that the permit would not be needed until production ramped up and they need to use the regenerative thermal oxidizer (RTO) equipment. She said some of the details were not determined enough to complete the application.

Commissioner Bressler asked if there were any different processes or chemicals or quantity than had been used and worked with at SRI. Mr. Depew said it was the same but they would be making greater quantities of cells whereas SRI made hundreds, they would be making tens of thousands.

Commissioner Riggs said the second sheet of the materials inventory indicated a gas mixture; he asked if this mixture was made from materials listed on other sheets or was this mixture proprietary. Ms. Ackerman said it was and she had the information to provide the breakdown to the County and the Fire Marshall.

Commissioner Riggs asked about the end of the cycle for the product and whether it would be recycled or reconditioned. Mr. Depew said it would be recycle and people were already beginning businesses to do that.

Chair Keith said although the materials list was marked confidential, there were no boxes marked as “trade secret.” Ms. Ackerman said this was for the protection of Lion

Cells process as although the materials in themselves were not a “trade secret” the mere showing of the individual compounds would reveal to someone familiar with this technology what the process was. .

Commissioner O'Malley said if everything on the materials list was declared confidential that would create a big problem with members of the public; he said the list should be specific about materials that were trade secrets.

Commissioner Bims asked about abbreviations and acronyms in the second column on page C.4. Ms. Ackerman went through the meaning of those with the Commission. Commissioner Bims asked if the materials in the flammable column had a lower flashpoint than combustibles. Ms. Ackerman said that was true.

Commissioner Deziel said if the business did not get the BAAQMD permit what would occur. Ms. Ackerman said the RTO was abatement equipment and to operate it they would need the BAAQMD approval; she said BAAQMD has the authority to shut down businesses. Commissioner Deziel asked who would monitor the limit of materials used or amount of emissions. Ms. Ackerman said that BAAQMD provided limits in the permit as conditions and able to inspect the facility at any time.

Commissioner Deziel asked who monitored that the business stayed within the quantity limits. Ms. Ackerman said the BAAQMD permit conditions under which one was allowed to operate included through-put limits, and gave the upper limits of what they might do. She said they also require the permit holder to provide an annual report.

Commissioner Deziel said the 95 percent destruction seemed low but he asked what the other five percent was. Ms. Ackerman said it was a volatile organic compound; alcohol and acetone were such materials. Commissioner Deziel asked for the standard of what the RTO would do. Ms. Ackerman said the manufacturer believed that it would operate at 98 percent destruction. She said the BAAQMD required that if the equipment functioned at less than the requirement then the equipment had to be shut down and repaired. Commissioner Deziel said there was the matter of how long it would take BAAQMD to find out the equipment was less functional. Ms. Ackerman said that the business owner would be taking a risk to operate as the business might be shut down for violation and/or fined.

Commissioner Deziel said they had gone from a typical application where there was no waste disposal onsite to processing waste onsite with large quantities, but the Commission did not know what the materials were. Ms. Ackerman said they could provide that information to the Commission; she said they were not doing waste disposal. She said the RTO cleaned the air so the emissions were harmless. Commissioner Pagee asked if it was safe to say that the combustion of the RTO made the exhaust safer and produced better air. Ms. Ackerman indicated that was so.

Planner Fisher said it might be helpful to describe the emissions from the RTO. Ms. Ackerman said the chemical reaction created with the heat added to the solvent broke

the solvent down and emitted water vapor and carbon dioxide. Commissioner Deziel said that they were talking about concentrations within an air stream. He said the remaining five percent would still be in the exhaust. He said he was in favor of bringing the business in but he found it difficult not having a list of materials.

Chair Keith asked if there were processes that would guarantee 100 percent destruction. Ms. Ackerman said there were no guarantees of 100 percent and manufacturers built to requirements.

Commissioner Riggs said fume hoods take fumes that were not healthy to breathe and mixed it with high quantities of air to disperse successfully. He said the RTO would oxidize at 95 percent so what was emitted could not create a problem. Ms. Ackerman said that was correct with the materials they were using. Commissioner Riggs asked if the RTO were to stop functioning properly would the manufacturing stop. Ms. Ackerman said that it would stop immediately and that would stop emissions.

Commissioner Bims said there would be a research and development phase moving into pilot production and then into larger manufacturing overseas. He asked how long they might expect to be in the pilot production phase. Mr. Depew said the full on production would be offshore for all the cell assembly; they would do pilot production for new cell design for the life of the business at this site, but when it went to full scale production, that assembly would go offshore. Commissioner Bims asked about the life expectancy of the RTO. Mr. Depew said they lasted about 20 years.

Commissioner Pagee asked if the system had a fume detector similar to a smoke detector that measured particulate matter to indicate that the process was not working. Ms. Ackerman said that particulate matter was not a concern here. She said the RTO works on humidity, air flow and temperature readings and if those are not correct, it would issue an alarm.

Commissioner Deziel asked about the protocol to report these breakdowns to BAAQMD. Ms. Ackerman said that would be written in the permit. Mr. Depew said when an alarm went off on the RTO it would then shut down the process that was creating the stream of air.

Commissioner O'Malley said there was only one emergency shower and eye wash and none in an area where cylinders were stored. Ms. Ackerman said those were required in areas in which a person might come into contact with a corrosive chemical. Commissioner O'Malley said he did not understand why it was in the outgoing product area. Ms. Elka McGregor, DES Architects, said there were emergency showers and eye washes in two rooms. Commissioner O'Malley said that was sufficient.

Chair Keith closed the public hearing.

Commission Comment: Commissioner Riggs moved to approve as recommended in the staff report. Commissioner Bims seconded the motion.

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

1. Make a finding that the project is categorically exempt under Class 1 of the current 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 by DES Architects, consisting of five plan sheets, dated received October 10, 2007, and approved by the Planning Commission on November 19, 2007 except as modified by the conditions contained herein.
 - b. Prior to building permit issuance, the applicant shall comply with all sanitary district, Menlo Park Fire Protection District, and utility companies regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
 - d. If there is an increase in the quantity of hazardous materials on the project site, a change in the location of the storage of the hazardous materials, or the use of additional hazardous materials after this use permit is granted, the applicant shall apply for a revision to the use permit.
 - e. Any citation or notification of violation by the Menlo Park Fire Protection District, San Mateo County Environmental Health Department, West Bay Sanitary District, Menlo Park Building Division or other agency having responsibility to assure public health and safety for the use of hazardous materials will be grounds for considering revocation of the use permit.
 - f. If the business discontinues operations at the premises, the use permit for hazardous materials shall expire unless a new business submits a new hazardous materials business plan to the Planning Division for review by the applicable agencies to determine whether the new hazardous materials business plan is in substantial compliance with the use permit.

Motion carried 7-0.

The Commission commented on the materials disclosure. Commissioner O'Malley said that he brought this up because he thought the public would take issue with the Commission not receiving the materials inventory. He said the Commission should see the materials, confidentially, if need be, but that the majority of materials, if they were not trade secrets should be provided to the public. Commissioner Deziel said that the Commission was discussing much less materials when they suggested that materials might be kept confidential if they were trade secrets. He said with this project there were much larger quantities and the equipment that processed the emission added another layer that needed consideration. He said it behooved the applicants to provide more information so the process was more transparent for the public. Chair Keith said she did not understand why materials were listed as confidential when they were not trade secrets. She said they were not the regulators but wondered if the regulating agencies would have to provide this information if someone cited the Freedom of Information Act.

Planner Fisher said she thought it was clearly stated in the staff report that the Commission might come by the Planning Division to view these sheets, and perhaps less clearly that members of the public could request the information also. Commissioner O'Malley said he went to the Planning Division and viewed the materials and there were only six materials of the 24 materials listed as confidential that were shown to him. He said that those substances which were proprietary should not be shown in the staff report provided to the public but should be provided to the Commission. Planner Fisher said staff was told that all of the ingredients when mixed together were the proprietary information. She said in the future only the proprietary materials should be labeled confidential but that information would be provided to the Commission but not the public.

Commissioner Bressler said the Commissioners should be provided with all lists of materials; but the decision the Commission had made this evening was based on testimony received and he was comfortable with the testimony and the decision.

Commissioner Bims said that when applicants were bringing hazardous materials applications before the Commission they should give a short presentation that would educate the public.

Commissioner Deziel said he wanted the Commission to be provided all of the hazardous materials for this application prior to the next meeting so he could request reconsideration for the next agenda if the types and quantities of materials raised questions about the Commission's decision. Commissioner Pagee said that the information was confidential and should be shredded afterwards.

D. REGULAR BUSINESS

1. Consideration of minutes from the September 24, 2007, Planning Commission meeting.

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

- Page 4, 5th paragraph, 4th line, Add the word “he” after the word “and,” add the word “them” after the word “whitewash.”
- Page 7, “step back second story” replace “by” with “to five feet.”
- Page 11, last paragraph, last line, Add the word “negatively” after the word “impacted.”
- Page 16, 2nd paragraph, 2nd line, Delete the word “use” after the word “2007.”
- Page 19, 5th paragraph, last line, Add “and does not want to see more drawings” at the end of the sentence.
- Page 20, 7th paragraph; last line, Replace “the setting of the priority projects” with “their project priority setting process.”
- Page 21, last full paragraph, 2nd line, last word, delete “I.”

Motion carried 7-0.

2. Consideration of minutes from the October 8, 2007, Planning Commission meeting.

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

- Page 5, 3rd paragraph, 2nd line from bottom, “tenant they were going to give more space to” replace “have” with “has.”
- Page 9, last paragraph, last line, Replace the word “would” with the word “should.”

Motion carried 7-0.

e. COMMISSION BUSINESS, REPORTS, AND ANNOUNCEMENTS

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

Planner Chow provided a review of upcoming planning items on the City Council agenda. She said that Commissioners Riggs and Bressler served on the selection committee for the selection of the firm DCE for the El Camino Downtown.

Commissioner Pagee said she had visited the model homes on Linfield Drive and the land seemed to be high; she was concerned with runoff from that land to the sidewalk and streetscape. She understood that there was to be no increased runoff to the storm

drain system and asked how that was observed. Planner Chow said that first hydrology calculations and a drainage plan were done; she said all runoff was to be retained onsite, and the work was inspected. Commissioner Pagee said it seemed the floor elevation was higher. Planner Chow said it would be inspected based on the building plan. Commissioner Deziel said the street would be narrowed so the land would continue to taper down. Chair Keith asked when it was checked. Planner Chow said there were inspectors doing building inspection at various check points.

Commissioner Deziel asked for comment on the selection of the firm DCE for the El Camino Downtown. Commissioner Riggs said there were four applicants, one of which withdrew before the interviews. He said the decision was between DCE and Battia. He said there was discussion about their relative merits, but DCE was able to provide the most service and options.

Commissioner Bressler said that Phase 1 was about building consensus and they found the principal with DCE was best suited to build consensus and had the best communication skills and approach to get community buy in to develop a vision.

2. Memorandum from Commissioner Riggs regarding how other communities handle design review of single-family residences.

Commissioner Riggs said recently the Commission had heard that members of the community felt the role of the Commission was to look out for their rights. He said the Chair and former Chair of the City of San Mateo Planning Commission were willing to come to a meeting for a question and answer. Commissioner Pagee said it would be helpful to get that City's regulations and guidelines.

The Commission developed their questions.

ADJOURNMENT

The meeting adjourned at 11:23 p.m.

Staff Liaison: Deanna Chow, Senior Planner

Prepared by: Brenda Bennett, Recording Secretary