



## PLANNING COMMISSION MINUTES

December 3, 2007

7:00 p.m.

City Council Chambers

701 Laurel Street, Menlo Park, CA 94025

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Vice chair Deziel chaired the meeting until Chair Keith's arrival at 8:10 p.m.

**CALL TO ORDER** – 7:03 p.m.

**ROLL CALL** – Bims, Bressler, Deziel (Vice chair), Keith (Chair) (Arrived 8:10 p.m.), O'Malley, Pagee, Riggs

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

### A. PUBLIC COMMENTS

There were none.

### B. CONSENT

There were no items on the consent calendar.

### C. PRESENTATION

Mr. Fred Hansson introduced himself noting that he has served on the City of San Mateo's Planning Commission since 2000 and is currently the Chair. Mr. Robert Gooyer said he has served on the same Commission since 2001.

Commissioner Riggs said the Commission had reviewed about three use permit requests for single-family residential development over the past year and a half for which several Commissioners had raised serious aesthetic questions, but architectural control had not been noticed as part of the review for those projects. He said the Commission had seemed to settle into a pattern of not commenting on architectural control for single-family residential use permit request unless it was part of a development. This prompted him to raise the question with the Commission as to whether they were being inconsistent and he said he challenged the Commission to think about its charge which even under a use permit was to consider the comfort of the neighborhood environment and community. He said it was evident from letters received by the Commission from the community on certain projects that comfort was determined by one's neighbor's building program. He said the Commission decided to find out how

another community addressed single-family use permit requests and how consistently the aesthetics issues were addressed.

Mr. Hansson said the City of San Mateo has developed design guidelines, the use of which they found gets the public animated. He said his Commission makes an effort to keep the guidelines in the forefront when they consider a project. He said Mr. Gooyer served on the committee to develop the design guidelines. Mr. Gooyer said the development of the guidelines began with the concept of the monster homes that were being built on the peninsula which people did not like, but did not know what to do about. He said their City similar to Menlo Park does not have a designated design review board or panel so these considerations fall to the Commission's purview and they are required to do design review. He said with the use of the guidelines that were developed, every development that was seeking a second story and did not currently have one, and every residential demolition and rebuild comes before their Commission. He said they take it very seriously and take the time to do design review. He said the public was most concerned about the design. Mr. Hansson said that such projects would be looked at for 50 years and it was important to have projects that fit with the neighborhoods and community. Mr. Gooyer said that privacy was very important and so setbacks and window placement were looked at carefully. He said the Commission has discretion but there were guidelines for them to follow. Mr. Hansson said however that even before the guidelines were developed the Commission did not design the homes. They either liked the design or did not and if they did not they explained why, but they would not tell an applicant, for example, to move a window to another location or do the roof a certain way. Mr. Gooyer said that in certain communities on the peninsula the Commission tries to design the project, but Commissions were not delegated to do that. He said that the Commission should critique the project and then leave the solutions to the architect or designer.

Commissioner O'Malley asked who developed the guidelines. Mr. Gooyer said the monster home concept give rise to the guidelines in that the Council was considering a project and made a determination that they would not approve any more second stories until the matter was reviewed. He said a citywide committee was formed with architects, contractors, real estate persons, and other professionals to develop guidelines. He said it took about three years to get the consensus of the disparate entities involved, but once developed the guidelines moved through the Commission and Council for approval quite smoothly. Mr. Hansson said that as the guidelines were being developed the Commission used agreed upon aspects of them in their review of projects. Mr. Gooyer said the benefit of the guidelines was that when people remodeled their homes they understood what they needed to do. Mr. Hansson said that guidelines had existed since the 1970s for the City but were not adhered to consistently. He said the Commissions that sat from the late 1990s through now were the first to hold applicants to the standards in their projects. Mr. Gooyer said as part of the development of the current guidelines the committee members took of photos of designs in the City that were agreed upon as examples of bad design.

Commissioner Bims said that the demographics and population in the area were changing and asked if they looked at that to address in projects that would be there 50 years. Mr. Gooyer said it had to do with zoning and they had changed the zoning to protect residents where there were conflicts with zoning such as an R-4 next to R-1. Mr. Hansson said they have different design guidelines for R-1, R-2, R-3, and R-4 zones and when the R-4s and R-3s abut R1s and R2s the applicants are required to do designs that step those into the community.

Commissioner Pagee said the City of Menlo Park has many non-standard lots and those have review but standard lots generally do not, and anything tends to go with those applications. She said that the City had become polarized because of discussions about residential development. She asked how they dealt with that. Mr. Gooyer said that toward the end there were the elements of view corridor and parking for which they could not get consensus so they proceeded with guidelines without including those elements. Commissioner Pagee asked whether residents or people looking to buy in the area would receive a copy of the guidelines should they visit with planning staff. Mr. Gooyer said that they do and the real estate agents are supplied with the guidelines as well. Mr. Hansson noted that the guidelines were also on the web.

Commissioner O'Malley asked if the guidelines were used by staff for projects that did not come before the Planning Commission. Mr. Gooyer said staff uses the guidelines. Commissioner O'Malley said it would not have the force of law though. Mr. Hansson said essentially it became de facto law. Mr. Gooyer said the Commission now generally makes unanimous decisions and that provides a buffer for the Council which gives the Council a comfort level to agree with the decisions made by the Commission. Mr. Hansson said the Commission does not make the political decisions but the decision long term for the community. Mr. Gooyer said at the opposite end when there are projects that seem good and there is one neighbor next to it who hates it and makes a big deal of it that when the Commission has found the project good and that it would be good for the community and neighborhood, they have supported the applicant and not the neighbor. He said why should the applicant be deprived and the rest of the neighborhood who are in favor of the project deprived of the benefits of a good project because of the objection of one person.

Commissioner Deziel asked to what extent having the guidelines gives the Commission the strength to say no to the single objector. Mr. Hansson said the guidelines took about two-thirds of the Commission's work away so that if applicants wanted to do something outside of the guidelines, those were the projects the Commission saw. He said if the applicant was not able to make the case for an exception to the guidelines, then it was the community who decided no.

Vice chair Deziel asked if a percentage of their projects had contentiousness around second-story development. Mr. Hansson said two-stories in neighborhoods that were built after the 1950s were contentious; many of the homes built before 1950s were already two-story. Mr. Gooyer said that generally it was the ranch homes that wanted to

add a second story and if this was the first second story in a one-story neighborhood, then the development might be constrained more to protect the neighborhood. He said as more two-stories developed in a primarily one-story neighborhood, constraints might be lessened.

Vice chair Deziel said in neighborhoods where there was contentiousness about the right to build did they put less time into architectural review or into the contentiousness surrounding the project. Mr. Hansson said that they always do the architectural review and lay out their expectations. Vice chair Deziel said when a contentious item comes before his Commission that more time was devoted to the contentiousness and less to the architectural review; he asked how much time they devoted to items. Mr. Gooyer said if a project was contentious that very seldom do they deny the project rather they would continue the project and when they saw it again they focused on the design review if all of their direction had been followed.

Commissioner Bressler asked if other cities used these guidelines. Mr. Gooyer said staff had indicated that many communities requested copies of the guidelines.

Commissioner Riggs said it appeared that the guidelines filtered out a number of projects. Mr. Hansson said all the plans go through Mr. Gooyer. Mr. Gooyer said that as the senior architect on the Commission, the City had set up an arrangement about six years ago because decisions left at the zoning administrator level received a number of complaints. He said after the zoning administrator approves a project, he reviews and decides whether it should go to the Commission or not. He said neighbors could pay a fee of \$500 to have the project go before the Commission. Mr. Hansson said that Commissioners might be petitioned to bring projects before the Commission. Mr. Gooyer said that he had brought 12 projects to the Commission over the past six year.

Commissioner Riggs asked to what degree public opposition should bear on what seems otherwise to be a good project to the Commission. Mr. Hansson said his job was to be the interaction between the administrative side and the community side. He said if it was a good project, it was his job to tell the community. Mr. Gooyer said they have approved projects that had 30 people in the audience against it.

Commissioner Riggs said Menlo Park has a neighborhood on the other side of Highway 101 whose homes were economically built in the 1950s. He said these residences were being added onto in varying degrees of quality. He said his concern was with box-like structures having a box-like second-story added and more stucco applied and the use of aluminum slider windows. He said the rationale for allowing this was cited as economics. Mr. Gooyer said the City of San Mateo has a similar neighborhood and the pervasive attitude was that if anything could be built, it could be built there. He said they have made a real effort to go against that. He said divided light windows were required not the fake divided lights; if dormers were used they had to be real dormers not dummy dormers. He said that he and Mr. Hansson push for quality and that a building has four sides and each of those should look good not just the front. He said the City librarian was upset that they were requiring architectural features on the rear of

the library building. He said that the Commission has to be willing to be the “bad guy.” Mr. Hansson said he brought the library design before the Commission because its original design looked terrible. Mr. Gooyer said they were in the process of putting in a new police station and they were requiring quality for that civic building. He said these buildings would be there for 50 years and he wanted the building to look good. Commissioner Riggs asked what the waiting time was to get projects from the zoning administrator to the Planning Commission. Mr. Gooyer said the planning staff was comfortable enough to give an applicant the heads-up that a project would not fly with the Commission. Commissioner Riggs said their scheduling was about 90 to 100 days. Planner Chow said that projects had about a three to four month wait. Mr. Gooyer said that was similar with the City of San Mateo. He said they felt many things were falling under the radar which is why they developed guidelines with more specificity and some projects needed review beyond City staff’s review.

Commissioner Bims asked how their efforts in San Mateo would scale across the peninsula in other cities and if so, how their efforts addressed regional issues such as the use of land use policy to address global warming. Mr. Hansson said they have been sensitive to other communities and invited them into their neighborhood to comment on projects and have thought about the housing ratio. Mr. Gooyer said that Ms. Jill Boone, who had formerly been with the County in charge of their green technology, was going through a process to see how the city-owned buildings reacted and to develop a policy for civic and community buildings being developed all the way down to compliance measures for a single-family residence. He said the civic buildings have to be at least silver LEED standard. He said that the use of green features in single-family residences would provide the applicant some relief from some of the processes. He said that about six years prior, Ms. Boone had come up with a checklist for green buildings, but those things had now become mandated so they needed to come up with their own policy.

Commissioner Bressler said that the City has experienced the rezoning of light industrial districts to residential and these developments look substantially different from the surrounding established neighborhoods such as being much higher and setbacks lessened. Mr. Gooyer said the design guidelines have the second-story stepped back but they have had well-crafted Tudor-style homes that have a second-story overhang or a Cape Cod with straight sides that because they were well-designed, they approve. Mr. Hansson asked if Commissioner Bressler was asking whether they would approve a contemporary design in an established neighborhood. Commissioner Bressler said it was not buildings being built next to other neighbors rather light industrial zones being rezoned and development being placed to facilitate density and that were much different than the surrounding area. Vice chair Deziel said it was commercial that had been rezoned. Commissioner Bressler said the guidelines had much about maintaining the integrity of neighborhoods and Menlo Park has planned communities that have been reengineered and asked if their guidelines dealt with that. Mr. Hansson said that touched on one of their unwritten rules that they did not want to lose existing light industrial and commercial zoning and they vigorously work to keep what they have. He said they look at how to transition that so it is not driven out. He said if the commercial

and light industry was driven out that changed the tax base or sent people to other cities for services.

Commissioner Pagee asked when their Commission met. Mr. Hansson said they meet the second and fourth Tuesdays and if the month has five Tuesdays, they have the option to have a third meeting. Mr. Gooyer said that presently Bay Meadows was a large project before them and had been for about a year so to protect other applicants from delay they had been meeting all four weeks of the month. Mr. Hansson said that once a year they selected five projects they approved to review, by going out on a Saturday to see the actual project in place and to compare that to what they had thought it would look like. He said this review helps the Commission in the future change how they look at projects and address issues.

Chair Keith arrived.

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

1. **Use Permit and Variances/Frank L. Ho/671 Live Oak Avenue:** Request for a use permit to demolish an existing single-story, single-family residence and construct a new two-story, single-family residence on substandard lot with regard to lot area and lot width in the R-3 (Apartment) zoning district. In addition, a request for variances to reduce the minimum distances between the main building on the subject lot and the main buildings on the adjacent left and right side properties to less than 20 feet.

Staff Comment: Planner Rogers said a color and materials sheet was distributed. The design on that sheet was a previous iteration in which the height of the structure had been taller and there was a rear porch. He said the design has been changed to match what was shown on Attachment E. He said that staff received a letter that day from Mr. Lindsay Nichols, the property owner of a business adjacent to the subject property. He said that Mr. Nichols had completed a speaker's card and would address his concerns with the Commission. Planner Rogers said the letter mentioned trees that had been removed. He said he spoke with the applicant this evening who said that about four years prior a number of Walnut trees on his right rear right corner had been removed at the request of the right adjacent property owner. The trees though tall did not have 16-inch diameter which was the standard for heritage-type trees. He said that a year before applying for this development permit the applicant had with City approval removed a tree that had been near the corner of the garage. He said he looked for the Heritage Tree Removal permit but had not located it; however, that did not necessarily negate its existence.

Questions of Staff: Commissioner Pagee asked staff to clarify the actual height of the proposed structure. Planner Rogers said the height of 30-foot 9-inches shown on the materials sheet was not correct and the current plans which show a height of 27-feet 9-inches at the center ridge line represented the maximum total height of the structure. Commissioner Pagee asked if staff had done the calculations to verify that. Planner

Rogers said the height measurement was taken from the project plans which showed a measurement for that. Staff had not done calculations.

Commissioner Deziel asked if it was true that only one dwelling unit was allowed on this lot or whether two dwelling units were permissible. Planner Rogers said any lot in R-3 of minimum 5,000 square feet was technically allowed two dwelling units. However, the design guidelines were at odds with actually achieving two dwelling units on lots in relationship to vehicle access and off street parking. He said for this lot it would be difficult to locate four (4) off street parking spaces when they could not be located in the front or side setbacks or in tandem with another space and also because of the total allowed paving which could not exceed 20 percent of the lot area. He said they discussed that with the applicant early on in the process and the applicant had indicated the proposed design was their desirable scenario.

Public Comment: Mr. Ken Phan, property owner, said that he and his family had lived in Menlo Park for five years and they liked their property, but the house was old and the landscaping was poor so they wanted to demolish the existing house and rebuild.

Commissioner Pagee said the front of the home seemed to have a double-door entry on the elevations, but it was shown as a single-door on the floor plans. Mr. Phan said the architect had first proposed two-doors but he requested that it be one-door instead. Commissioner Pagee said that on the floor plan it showed two steps to the porch and one step to the home but the elevation showed the front porch as almost level with the ground. Planner Rogers said he had not caught the discrepancies between the elevations and the floor plans but if the Commission wanted to direct as part of the approval a particular design, the proposal had the flexibility in terms of the second and first story plate heights to do an elevated or toward grade porch design.

Commissioner Pagee asked whether attic space over five feet was counted as square footage in the R-3 zone. Planner Rogers said R-1 and R-2 zones had that restriction but the R-3 zone did not. He said for the R-3 zone the question was whether the attic was habitable space; he said the proposal's attic space fell well below the area of habitable space.

Commissioner Deziel said that if the structure was raised for another step that could increase the height.

Chair Keith asked if the architect was present. Mr. Phan said he was not as his children were ill. Chair Keith said the front sheet showed the height as 27.8 feet. Planner Thomas indicated that equated to 27-feet 9-inches. He said related to Commissioner Deziel's question as to whether the house might be raised to accommodate a step that the interior plate heights could be raised without impacting the overall height of the structure.

Commissioner O'Malley confirmed that Mr. Phan currently resides at the subject property.

Mr. Lindsay Nichols, Menlo Park, asked since his letter was submitted late whether the Commissioners might read the letter as it was short. Commissioner O'Malley said that he believed most of the Commissioners had already read the letter. Mr. Nichols said he owned the adjacent building and the variance request, if approved, would allow a five-foot encroachment into the existing 20-foot separation between his building and the neighbor's. He said his little office building was built to accommodate psychiatrists and psychologist and allowed persons to visit a tree-lined quiet street. He said to have a building 15-feet away would damage the ambience of the site for those hoping to come in anonymity to find guidance and compassion. He asked that the Commission not approve the portion of the variance for the intrusion into the required 20-foot building separation distance. He said he had some photos that demonstrated what he was trying to describe to the Commission. He said sheets A and B showed views from north and south and east and west which showed the already narrow passage between the existing buildings. He said staff had indicated that he should accept this variance because his property developed in the 1970s had intruded somewhat into the separation between the properties, but he thought that was insufficient reasoning.

Commissioner Bressler said that the existing house has a fence and windows that look onto Mr. Nichols' property but which were blocked by the fence. He asked if Mr. Nichols was concerned with the second story window placement which would look into the office building windows. Mr. Nichols said he did not know if he could object to the placement of the windows, but he thought he could object to the applicant's request to intrude into the building separation distance. Commissioner Bressler said according to the documents that the setback was at 17-feet on the left side, but the setback required by the zoning ordinance was only 10-feet. Mr. Nichols said the City's correspondence indicated that a variance was being requested to reduce the 20-foot building separation.

Planner Rogers said there were two separate specifications with a stand-alone specification of a 10-foot side setback in R-3 and a specification of a distance of 20-feet between buildings. He said there was an existing nonconformity for both properties and that adhering to the stand-alone specification of the 10-foot side setback did not solve the specification of the 20-foot separation distance between buildings. He said a complexity was that Mr. Nichols' property was zoned as R-3 and if it was developed as residential it needed to adhere to those requirements. However, when a commercial property was developed on an R-3 lot, the side setback was based on a percentage of the height of the building and thus a 10-foot side setback was not necessarily required. Mr. Nichols said that his property because it was commercially developed did not need to have a 10-foot setback but Mr. Phan's as it was a residential development needed to have a 10-foot setback and he was opposing the variance request.

Chair Keith closed the public hearing.

Commission Comment: Commissioner Bressler said the applicant was proposing to build much closer to the neighboring property and he felt the second story should be set back more to allow the left side property to have the separation it currently enjoys. . Commissioner Deziel said that the R-3 requirement for a 20-foot building separation

distance was intended to protect the R-3 property. He said the rule was to protect the R-3 property and not the C-1-A property and that the R-3 should be able to build to its required setback. He said it was not the Commission's job to protect the C-1-A property. He said the policy of the General Plan was that commercial development should not be allowed to encroach on residential properties. He said it was appropriate to allow the R-3 to develop rather than hold it constrained by the development of that C-1-A.

Commissioner Bims said the need for the 20-foot building separation was to protect the R-3 from whatever was adjacent. He said he would not be in favor of putting residences too close to commercial properties and that 20-foot was desirable for the transition.

Commissioner Deziel asked what the setback was for Mr. Nichols' office building. Planner Rogers said the setback was 4.5 feet. He said the required setback was based on the percentage of the building height, which for Mr. Nichols' building was 6.75-feet, so the side setback was non-conforming. He said however there would not be any situation wherein the building would be required to have a 10-foot setback.

Commissioner Riggs said he had no functional issues with the project in terms of what he thought was the intended building, noting the drawing conflicts pointed out by Commissioner Pagee. He asked staff to clarify the origin of the 20-foot building separation requirement. Planner Rogers said there was no purpose statement connected with the rule. He said in recent years there had been several cases wherein variance requests had been applied for based on this rule, such as the 911 Fremont Street development of four units. He asked the Commission to consider if the intended project was done and the separation of 20-feet was kept how the project would fit on the lot, which was narrow. He said with the 20-foot separation the developable width of the property would be 22-feet 11-inches.

Commissioner Pagee said there were challenges in developing a residence on this lot but the challenge was to meet the limitations with a good design. She said this proposal was a box just under 2,800 feet and would be flipped quickly. She said if it was to stand the test of time it needed to fit the neighborhood. She said she agreed with Commissioner Bressler that the second floor could be setback and that perhaps the first floor could be expanded.

Commissioner Bressler said there was space to move the residence back from the adjacent building, which would also reduce the mass. He said the rear setback was a required minimum 20-foot and it was proposed at 50-feet. He said the adjacent residence was set back and had a larger front yard. He said there was room to move the first floor back a certain extent and to move the second floor back as well.

Commissioner Bims said he appreciated what staff said about the Oak tree. He said he would prefer to see 20-foot separation between this residence and the neighboring residence rather than between this and the commercial property. He said that would mean flipping the property and not the Oak tree reason.

Chair Keith said there was room for improvement in the design and she did not like the box-look. She agreed the second story floor could be setback. She said she thought the property would be flipped quickly and that consideration had to be made as to what the neighborhood would look at for the next 50 years. She said that she was not inclined to approve the project.

Commissioner O'Malley said he had visited the property and his impression was there was an apartment building straight up and down to the right of the subject property and the commercial building to the left of it was also straight up and down. He said the "boxiness" of the two residences did not bother him because of those other structures' mass.

Commissioner Riggs moved to continue the project. He said the property could meet the 20-foot separation by putting a garage in front with the house attached similar to another project they had seen recently, and this would not require a variance. He said except for the two homes the area was dominated with two-story 1970s architecture. He said he was not particularly concerned about the mass. He said homes could be built nicely on 35-foot width lots and have a 20-foot wide building. He said they might consider allowing the variance for the first floor and perhaps require a 20-foot separation for the second floor. He said the setbacks were not the issue however. He said the drawings needed to be consistent so the Commission would know what was being proposed as there was not a limit in R-3 for height as in the R-1 district. He said he did not understand why the Oak tree had to be removed as it existed on the same garage floor plan, and appeared to be growing. He said the Oak's problem seemed to stem from the Black acacia hovering over it, and some storm damage. He said there was no validity that the Oak would block winter sun as it was located to the southeast of the proposed building and would not provide any shade in the winter. He said his motion was to continue the project for clarification of the design to address the inconsistencies related to the front door and the plate heights. Chair Keith asked if he would accept a requirement for the second story to be set back. Commissioner Riggs said he would not as he could not see how a two-story next to another two-story was less compatible than a two-story next to a one-story. He said the 10-foot setback viewed from the C-A-1 property was a generous setback for the downtown.

Commissioner Deziel said he agreed with Commissioner O'Malley concerning the design. He said this was an R-3 district and the Commission was not as concerned about the sky and light access as it would be for projects in the R-1 district. He said R-3 was an apartment district and it was desirable to have residences that fit in an apartment district. He said he would not favor a second story setback. He said meeting the setback rules was adequate. He said that it would have been preferable to have two units on the site although perhaps the lot was too constrained. He seconded Commissioner Riggs' motion to have the project continued for design clarifications.

Commissioner Pagee said that this would be a single-family residence and should follow the architectural design guidelines and have articulation and detail .

Commissioner Bressler said the proposal was a single-family residence and it was undesirable for it to look like an apartment. He said it was possible to design the project so that the 20-foot building separation could be met.

Chair Keith said she would have preferred a two-unit design as Menlo Park needs housing. She said that such development had been done on Willow Road near Highway 101. She said that the design needed to be more attractive. She said she would also continue the project but for different reasons.

Commissioner O'Malley said he would have preferred a two-unit development but he thought the design fit the neighborhood.

Commissioner Bims asked if they were continuing the variance request as well. Commissioner Riggs said his intent was to continue all elements of the project. He said he would prefer the development to be a duplex but that would require four parking spaces. He said however that a 3,000 square foot duplex would have less economic value than a single-family residence.

Commission Action: M/S Riggs/Deziel to continue the item to allow the applicant to address the following concern.

- Clarify all discrepancies between the floor plans and the elevations, in particular with regard to the front door, finished floor levels and plate heights, and overall building height.

Motion carried 4-2-1 with Commissioners Pagee and Keith opposed (for reasons previously stated) and Commissioner Bressler abstaining.

Commissioner Deziel said the Commission owed the applicants comments on the variance and design in terms of the continuation.

Commissioner Riggs said the left side elevation which would face the medical office building had more character and relief than many things the Commission had previously approved even after sending projects back for redesign. He said the front elevation was better than one of the homes they recently approved. He said the right side elevation toward the right residence was not ideal and could be better, but no less than designs they had approved. He said the rear elevation was boring and would be viewed only by the property owner and the garage. He said the proportions as a box would probably hold up better surrounded by R-3 units. He said if the Oak tree had a specific condition from which it could not recover that it could be removed.

Recognized by the Chair, Planner Rogers said that the first intent would be to protect the tree and rebuilding the garage in its existing location was not the arborist's preference. He said the Valley oak appeared to be in bad shape and that it seemed to be preferable to have a better Heritage tree planted in replacement. Commissioner

Deziel said that the tree from what he could see was a volunteer tree and that excavation for the garage would damage its roots. He said the tree did not provide much benefit for anyone. Commissioner Riggs said that if the Acacia was removed the oak tree would benefit.

2. **823 College Avenue/Use Permit/Cortland Bohacek**: Request for a use permit to demolish an existing two-story, single-family residence and construct a new two-story, single-family residence on a substandard lot in regard to lot width in the R-1-U (Single-Family Urban) zoning district.

Staff Comment: Planner Fisher said staff had no additional comments but would distribute colors and materials sheets.

Public Comment: Mr. Cortland Bohacek, Menlo Park, introduced Mr. Al Borel and Mr. Christian Wallenberg, of the Dahlin Group, located in Pleasanton.

Mr. Borel said there was a gorgeous streetscape in the neighborhood and they tried to replicate the existing elevation. He said there was a beautifully landscaped large rear yard and they tried to keep that. He said they brought the front and side setbacks into conformance and were building a home that met building and energy codes as the existing structure did not meet code. He said they tried to put articulation on all four sides of the proposed home. He said on the four outside faces of the second story windows had been placed high to protect neighbors.

Commissioner Pagee said she was happy with the “anti-box” design as they went in with features rather than out. She said she was concerned with the location of the condensing units next to the garage as access was needed for garbage and recycling cans and it was next to the living side of the neighbors. Mr. Borel said that these could be moved to the kitchen area. Commissioner Pagee asked what type of glazing they would use. Mr. Borel said they would use simulated divided lights.

Chair Keith closed the public hearing.

Commission Comment: Commissioner Pagee moved to approve as recommended but to check with the adjacent neighbors as to the location of the condensing units so those were not installed next to master bedrooms. She said it was excellent that light wells were installed without intruding into setbacks and allowing for natural light. Commissioner O'Malley seconded the motion.

Commissioner Riggs said the front left corner of the building would pose a significant mass to the neighbor at just five feet back from the property line. He said that usually there was not a wall at 19-feet 6-inches five feet from the property line. He said there was an existing mass but it was not as tall.

Commissioner Deziel said the house on the right side had been sold. He wondered if the new owner had received the project notice.

Mr. Bohacek said he was contacted by the broker and had tried to contact the new owner but was not successful. He said they were increasing the side setbacks and pulling the majority of the façade away from the home on the right.

Commission Action: M/S Pagee/O'Malley to approve 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 the Dahlin Group, consisting of eight plan sheets, dated received September 27, 2007, and approved by the Planning Commission on December 3, 2007, except as modified by the conditions contained herein, subject to review and approval by the Planning Division.
  - 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 revision subject to the following specific conditions:***
  - a. ***Concurrent with submittal of a complete building permit application, a site plan shall be submitted that shows the proposed air conditioning units in a location that is considerate of the adjacent property's living space, based on input from the adjacent neighbor. This plan is subject to review and approval by the Planning Division.***

Motion carried 6-0-1 with Commissioner Riggs abstaining.

Commissioner Pagee asked if the garage exterior front to exterior rear was 20-foot 10-inches. Mr. Christian Wallenberg, Wallenberg Architects, said the interior of the garage was 21.1-feet deep and 25-feet wide.

- 3. **Tentative Parcel Map/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. ***Continued from the meeting of November 19, 2007.***

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

Questions of Staff: Commissioner Deziel asked if the allocation of the remaining square feet to the two units was in proportion to the exclusive areas. Planner Fisher said essentially the exclusive areas were divided in half and the owner allocated 100 additional square foot of floor area to one of the units. Commissioner Deziel said that they were allowed 45 percent FAR in this District; he calculated the land area for Unit 1 as about 1,814 buildable square feet. Planner Fisher said that it was calculated on the entire area not on a portion of the exclusive use area. Commissioner Deziel said if it was proportionate that would prevent a disincentive for future development.

Public Comment: Mr. Barry Barnes, property owner, said he and his wife bought this parcel in 1997 and built two new homes, duplexes. He said their daughter has lived in one of those units and would like to buy it. He said they were seeking to accomplish the split of the units so that she would be able to buy the one. He said the other unit has had the same tenant since it was built.

Commissioner Deziel asked if Mr. Barnes had come up with the split of 1,865 and 1,975 square feet allocation. Mr. Barnes said that staff had indicated there had been additional FAR so he distributed the extra square footage.

Chair Keith closed the public hearing.

Commission Comment: Commissioner Riggs moved to make the findings and approve the subdivision. Commissioner Bims seconded the motion.

Commissioner Deziel said the lot was within the PD district and the parcels could be split. He said the footage allocations should match the exclusive area as one of the units could be hampered in the future. He suggested the proportionate allocation would reduce Unit 1 from 1,865 square feet to 1,814 square feet and Unit 2 would increase from 1,975 square feet to 2,026 square feet. He said that Unit 1 had more square footage than it would have if it was just split along its condominium line. He said his concern was related to whom this property was sold to in the future.

Chair Keith asked staff if this was approved as allocated whether it would remain thus for future property owners. Planner Fisher said under the zoning regulations that it would never be possible for two parcels to be created for this property. She said that if someone bought a number of lots to add to this lot then they would do a complete reconfiguration anyway and these existing parcels would change anyway.

Commissioner Deziel said 1425 San Antonio was split into six parcels. Planner Chow said that those properties were R-3 and were condominiums and not individual lots, but condominiums on one parcel. Commissioner Deziel said that it had gone to City Council for a PD approval. Planner Chow said that if this lot was to go to PD it would go through the rezoning process. This lot, unless assembled with other lots, would not be able to go through that process. Commissioner Deziel said that a 15,000 square foot parcel went through the PD process and this one was 8,500 square feet. He said he did not see a minimum in the regulations for a PD. He said if Unit 2 wanted to get its own lot in the future Unit 1 would have a disincentive to allow that. Commissioner Bressler said that this seemed arbitrary and that future property owners would work it out. Commissioner Pagee said she had no problem with even density unless there was a specific reason for the difference in allocation.

Mr. Barnes said he was told that he could not split this parcel into two lots because it was substandard as it was only 50-feet wide. He said he had no preference as to the FAR or square footage allocation for the units.

Commissioner Deziel requested a modification to the motion for approval to allow equal allocation. Commissioner Riggs asked whether that might be changed just through staff's wording or whether that would require a change to the map. Commissioner Deziel said his intent was to change condition 4.a to change 1,865 square feet to 1,814 square feet for Unit 1's exclusive area, and to change 1,975, 45 square feet to 2,026 square feet for Unit 2's exclusive area. Planner Fisher said that condition 4.a could be changed and they would get the precise numbers from the engineer. Commissioner Deziel said the gross area for Unit 1 was 4,032 square feet on the map and asked why it was less. Planner Fisher said this was possibly because of easements.

Mr. Barnes said the difference related to the side of the garage on the San Antonio side as that had a utility easement going back to Garwood and part of that was exclusive, so

that one lot was 4,000 square feet and the other was 4,500 square feet. Commissioner Deziel said using gross areas of 4,032 square feet for Unit 1 and 4,503 square feet for Unit 2 this calculated out to 1,814 square feet and 2,026 square feet respectively for Units 1 and 2. .

Chair Keith asked if the makers of the motion and second accepted the modification. Commissioners Riggs and Bims accepted the modification.

Commissioner Pagee commented that legal non-conforming parking garages should not have water heaters and steps and still be designated legal. She said the legally required parking space in the interior of a garage needed to be 20-feet by 20-feet clear.

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

1. Make findings that the project is categorically exempt under Class 15 of the current State CEQA Guidelines.
2. Make findings that the proposed minor subdivision is technically correct and in compliance with all applicable State regulations and City General Plan, Zoning and Subdivision Ordinances, and the State Subdivision Map Act.
3. Approve the minor subdivision subject to the following **standard** conditions:
  - a. Development of the project shall be substantially in conformance with the plans prepared by Lea & Braze Engineering, Inc., dated September 27, 2007, consisting of one plan sheet and approved by the Planning Commission on December 3, 2007, except as modified by the conditions contained herein, subject to review and approval by the Planning Division.
  - b. Prior to recordation of the parcel map, 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 recordation of the parcel map, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
  - d. Heritage trees in the vicinity of construction shall be protected pursuant to the Heritage Tree Ordinance.
  - e. Within two years from the date of approval of the tentative parcel map, the applicant shall submit a parcel map for review and approval of the City Engineer. The parcel map shall use a benchmark selected from the City of Menlo Park benchmark list as the project benchmark and the site benchmark.

- f. Concurrent with parcel map submittal, the applicant shall submit covenants, conditions and restrictions (CC&Rs) for the approval of the City Engineer and the City Attorney. The parcel map and the CC&Rs shall be recorded concurrently.
  - g. Concurrent with the parcel map submittal, the applicant shall submit a plan indicating all proposed modifications in the public right-of-way including frontage improvements and utility installations.
  - h. Prior to recordation of the parcel map, the applicant shall remove and replace all damaged, significantly worn, cracked, uplifted or depressed frontage improvement (e.g., curb, gutter, sidewalk) and install new improvements per City standards along the entire property frontage. The applicant shall obtain an encroachment permit prior to commencing any work with the City's right-of-way or public easements.
4. Approve the minor subdivision subject to the following ***project specific*** conditions:
    - a. Prior to recordation of the parcel map, the Conditions, Covenants and Restricts (CC & Rs) shall incorporate language to specify the gross floor area allocation between Unit 1 (~~4,865~~ **1,814** square feet) and Unit 2 (~~1,975~~ **2,026** square feet). The language shall be subject to review and approval of the City Attorney.

Motion carried 7-0.

## **E. REGULAR BUSINESS**

### **1. Consideration of minutes from the October 22, 2007 Planning Commission Meeting.**

Commissioner Deziel said he had a number of changes. He would email the longer changes to staff.

- Page 3, 2<sup>nd</sup> line from the bottom, at the end of the sentence, insert after the last word "proposal" "as a Commissioner."
- Page 3, last line, insert comma after "He asked"; insert comma after "settlement agreement";
- Page 4, 6th line, delete the first occurrence of "could" and then delete the comma.
- Page 4, 15<sup>th</sup> line from bottom beginning with "said"; 1<sup>st</sup> sentence: "Commissioner Deziel asked about the strength of the settlement agreement as the people who...."; delete the rest of the sentence and the next two sentences to the word "people" and insert after "the people who" "promoted the petition asked for signatures to put the project on the

ballot, but now rather than placing the project on the ballot, the sponsors were negotiating for interests of what might be only a very small number of people. Commissioner Deziel said that the settlement agreement stipulated key land use parameters and also that all other aspects would be the same as the original proposal so there was no room for customary Commissioner discretion.”

- Page 4, 2<sup>nd</sup> line from bottom, sentence “Commissioner Deziel said”; insert “the Commission could assume” (the applicant had revised their project.)
- Page 10, last paragraph, ninth line down, delete “win by 80 percent” and insert “have an 80 percent likelihood for the developer or City to consider the ballot a better option” (than the settlement agreement.)
- Page 11, 13<sup>th</sup> line down, beginning “Tomorrow Group” replace “development” agreement with “settlement” agreement.
- Page 11, end of previous paragraph immediately previous, add statement: “Mr. Collacchi said he had made a mistake voting for the Santa Cruz Street Improvements and therefore the Planning Commission could make a mistake too, therefore we should not over-think this and we should go with the proposed settlement agreement.”
- Page 12, last paragraph, 4<sup>th</sup> line down, after words “City Council” insert “in the previous project’s approval.”
- Page 12, last paragraph, 8<sup>th</sup> line down, after “Project was removed from consideration”; insert “The project should provide commercial square footage equivalent to the frontage of 270 square feet times 100 feet in depth, or 27,000 square feet.”
- Page 13, 1<sup>st</sup> paragraph, 2<sup>nd</sup> line down, beginning with “that only” delete “a” and insert “the attached” (letter from Terranomics was needed) and then insert “to” and delete “ing” from “say”; (the commercial project was well developed he said) insert “the”; delete “ly” from “previous” insert “condition recommended by the Planning Commission” delete “the applicants” (would have) insert “required the applicants to”; deleted “ed” so it’s “perform” (a market assessment of what the area); replace “should” with “could” (do to develop synergy downtown and); delete “d” so it’s “use.”
- Page 13, 3<sup>rd</sup> paragraph, after “Commissioner Deziel said that”; replace rest of sentence with “the settlement agreement did not extract an additional \$2M from the developer, but that the developer was merely paying \$2M instead of costs avoided by reducing density such as reduced parking costs and reduce in-lieu fees.”
- Page 13, 3<sup>rd</sup> paragraph, after line inserted just previously, correct sentence: He said that three-quarters of that money was coming directly from – replace “the City’s pockets” with “lost community benefits” as there would be “a” skewed housing “mix” as opposed to a mix – replace “of” with “with” smaller housing.” (delete remainder of sentence)
- Page 15, 2<sup>nd</sup> paragraph, after the word “indicated” replace “hat” with “that”

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

Motion carried 7-0.

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

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

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

Commissioner Pagee asked for information on the Linfield development regarding the three foot-high banks and how that impacted drainage, and confirmation that bicycle lanes would be included on Linfield Drive as part of the street improvements that seemed to be starting. Staff will research and get back to Commissioner Pagee with information.

### **2. Review of Draft 2008 Planning Commission meeting calendar.**

Commissioner Riggs said he would be out of the country for the January 14, 2008 meeting.

Commissioner Bims said he would be absent July 14, 2008.

Commission Action: M/S Unanimous consent to approve the 2008 Planning Commission meeting calendar.

Motion carried 7-0.

## **ADJOURNMENT**

The meeting adjourned at 10:40 p.m.

Staff Liaison: Deanna Chow, Senior Planner

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission on February 11, 2007.