



PLANNING COMMISSION MINUTES

April 7, 2008

7:00 p.m.

City Council Chambers

701 Laurel Street, Menlo Park, CA 94025

CALL TO ORDER – 7:05 p.m.

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

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

A. PUBLIC COMMENTS

There were none.

B. CONSENT

1. **Approval of minutes from the March 10, 2008, Planning Commission meeting.**

Commission Action: M/S O'Malley/Pagee to approve the minutes as submitted.

Motion carried 7-0.

C. PUBLIC HEARING

1. **Use Permit/Christopher Tripoli/203 Robin Way:** 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 in regard to lot area, width, and depth in the R-1-U (Single-Family Urban) zoning district.

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

Questions of Staff: Commissioner Keith confirmed with staff that the comment on page 3 related to the flood zone “appeared to meet” meant the project would meet; staff indicated it would meet that based on the plans that were required. Chair Deziel asked how the City confirmed compliance with FEMA. Planner Fisher said a flood zone certificate had been received for the project and had been provided by a licensed

surveyor. She said after the home was built that there was confirmation the home was built at the appropriate level.

Public Hearing: Mr. Chris Tripoli, the architect for the project, said the property owners had approached him to design an addition to the existing residence. He said he found the house was in the flood zone and the elevation of the first floor was below FEMA's base flood elevation. He said also the home exceeded setback requirements on all four sides and exceeded permitted lot coverage. He said the house they were proposing was about 1,800 square feet of living space on two floors of 900 square feet each and a two-car attached garage. He said the footprint of the proposed house was about 1,000 square feet less than the existing house. He said they were also changing the location of the driveway as the front of the existing home had been built facing the long direction which was not normal, and the house would now be approached from McKendry Avenue.

Commissioner Riggs clarified that the first floor was closer to 1,300 square feet if the garage was included. Mr. Tripoli said that was correct.

Commissioner Keith asked why some of the windows had grids and others did not. Mr. Tripoli said his thinking was that it was more apropos to have divided lights for the larger windows, but he thought for the smaller windows that divided lights would be too messy. Commissioner Keith asked why some large windows on the bottom floor did not have grids. Mr. Tripoli said those large windows were double-hung windows. Commissioner Pagee asked if the mullions were on the windows or in between. Mr. Tripoli said the grids were applied to the outside. Commissioner Pagee said some of the windows seemed to be too large for casement windows, and asked if they could be opened. Mr. Tripoli said they were casement windows and they were all operable except perhaps two large windows on the side elevation toward Robin Way as those were probably too large to be casement windows. Commissioner Pagee asked where the mechanical equipment would be place. He said they would use radiant heat for the first floor and a small heater in the attic for the second story. He said they would use two tankless water heaters about two-feet by two-feet and those would be outside against the building.

In response to a question from Commissioner Riggs, Mr. Tripoli said that he thought the owners would not use a landscape architect and planned to do the landscaping themselves. Commissioner Riggs asked if the property owners had done the landscaping to date themselves. Mr. Tripoli said that was correct.

Ms. Stephanie Jensen, Menlo Park, said she supported the project and thought it would be a very nice house.

Commissioner Pagee asked if the property owners had reached out to the neighbors. Mr. Bob Hamblin, property owner, said he and his wife had talked with all of the adjacent neighbors.

Chair Deziel closed the public hearing.

Commission Comment: Commissioner Bressler moved to approve as recommended by staff. Commissioner Riggs said he would second the motion with a couple of modifications. He said the windows appeared to be greater than three feet wide in the master bedroom and the others on the other side were too small for egress. He said he wanted a condition that there would be exterior grids for the divided lights. He said condition 4.a asked that a series of privets be protected. He said he spoke with Mr. Juan Alvarez, the City Arborist, who said that one or two of them might be considered heritage size, and thus needed to be protected. Commissioner Riggs asked if it would be appropriate for the Commission to change or remove the condition, and Mr. Alvarez said that trivets were basically weeds, and he would not object. Commissioner Riggs said he would like condition 4.a removed. Commissioner Pagee said that this might be a condition of approval between the owners of the subject property and the owners of the neighboring property. Commissioner Riggs said he was not saying to remove the privets rather the condition for their protection. Commissioner Pagee said it might be the height that was desired for privacy. She said if the trees were not protected that screening could be lost for some period of time until the privets grew back.

Commissioner Bressler said he would like a second to his motion that did not have conditions. Commissioner Deziel seconded the motion.

Commissioner Riggs said the Commission had consistently required where divided lights were indicated on a plan that exterior grids would be used, but if they were true divided lights the grids as a matter of course would be on the exterior. He said as a separate issue he was certain the windows would change.

The condition for exterior grids was accepted by the makers of the motion and the second.

Planner Fisher said that a contracting arborist for the City, Mr. Walt Fuji, had visited the site and instructed that protection fencing be used to protect the privets from damage during construction for the neighbors' protection. Commissioner Riggs retracted his request to remove condition 4.a, but noted for the record that privets were almost impossible to destroy.

Chair Deziel said the motion was to approve as recommended by staff with one modification to require that grids on windows be placed on the exterior.

Commission Action: M/S Bressler/Deziel 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 subject to the following **standard** conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Christopher Tripoli, consisting of five plan sheets, dated received March 18, 2008, and approved by the Planning Commission on April 7, 2008, except as modified by the conditions contained herein, subject to review and approval by the Planning Division.
 - 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. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. Landscaping shall properly screen all utility equipment that is installed outside of a building and that cannot be placed underground. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
 - 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 by 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 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. Prior to demolition, the privets on 210 McKendry Drive and 207 Robin Way shall be protected with City standard tree protection fencing, subject to review and approval by the Building Division.

- b. Simultaneous with the submittal of a complete building permit application, the applicant shall submit revised plans to show simulated divided light windows (with interior and exterior grids) where grids are proposed. The plans shall include the manufacturer specifications for the windows, subject to review and approval by the Planning Division.***

Motion carried 7-0.

2. **Use Permit/Kohler Associates Architects/642 Harvard Avenue:** Request for a use permit to demolish an existing one-story, single-family residence and detached garage and construct two new two-story, single-family residences and for excavation within the required side yard setbacks for basement light wells on a lot that is substandard with regard to lot width in the R-2 (Low Density Apartment) zoning district.

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

Questions of Staff: Commissioner Keith asked if staff had seen alternative excavations methods as referred to in the staff report. Planner Rogers said they had not and that those alternative methods were theoretical.

Public Comment: Mr. Roger Kohler, project architect, said the project was nestled on Harvard Avenue among other similar projects. He indicated a rendering provided to give the Commission of how these homes looked on that street. He said there were some items that had impact on the project. He said the Fire District had requested an extra wide driveway. He said the two homes were similar in appearance but with different interiors. He said the front house had an Oak tree on the left side and it would be preserved. He said they had modified the garage plan to protect the Oak tree. He said they had worked with an arborist Mr. Robert Weatherall, who would be present during excavation to insure the protection of that tree. He said there was a Redwood tree near the rear home and the foundation had been designed to protect the roots of that tree, and Mr. Weatherall would also be monitoring during construction. He said the floor plan design was to create a second floor that was not like a box, and the second floor was setback from the first floor with rooflines to give the house a more cottage feel.

Commissioner Riggs said it was a very attractive project. He noted a statement that there would be compatible plants under the Oak tree, and noted that irrigation was not good for Oak trees. Mr. Kohler said they would hire a landscape architect to do a full landscape plan and if it evolved that there were not plants compatible to grow under the Oak trees, then the architect would adjust that.

Commissioner Keith asked if the windows were true divided light and if the grids would be on the exterior. Mr. Kohler said they were true divided lights with grids inside and outside and a bar in the middle.

Commissioner Pagee asked about the location of furnaces and water heaters. Mr. Kohler said the furnace would be in the basements and if needed, a heater in the attics. Commissioner Pagee asked if hand digging would be used in the protection zone around the trees. Mr. Kohler said the arborist had recommended that when construction came within a certain distance from the trees that he should be there to observe and direct hand digging or very carefully by machine.

Chair Deziel closed the public hearing.

Commission Comment: Chair Deziel said the comment about planting and irrigation under the Oak trees was a good point and he would like something in the approval to address that.

Commissioner Keith moved to approve as recommended in the staff report. Commissioner O'Malley seconded the motion. Chair Deziel asked if there was interest in limiting irrigation. Commissioner Riggs said that they had previously limited irrigation. Chair Deziel suggested a condition to prohibit irrigation to be located in or directed into a radius of 10-feet around the heritage oak trees. Planner Rogers suggested making the condition read: Concurrent with the submittal of a complete building permit application, the applicant shall submit a detailed planting and irrigation plan, subject to review and approval of the Planning Division and City Arborist. The plan shall have the intent of ensuring the long-term health of the heritage oak trees, in particular with regard to the unique irrigation requirements of native California oaks. The plan could include conditions such as a prohibition on irrigation within 10 feet of the heritage oak trees. This was accepted by Commissioners Keith and O'Malley as the makers of the motion and second.

Commission Action: M/S Keith/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 subject to the following **standard** conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Kohler Associates Architects, consisting of 11 plan sheets, dated received March 21, 2008, and approved by the Planning Commission on April 7, 2008, except as modified by the conditions contained herein, subject to review and approval of 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 and Hydrology Report for review and approval of the Engineering Division. The Grading and Drainage Plan shall be prepared based on the City's Grading and Drainage Plan Guidelines and Checklist and the Project Applicant Checklist for the National Pollution Discharge Elimination System (NPDES) Permit Requirements. The Grading and Drainage Plan shall be approved prior to issuance of a grading 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 the submittal of a complete building permit application, the applicant shall revise the arborist report to include the heritage pine tree on the adjacent rear parcel and update the site plan to label this tree and the adjacent coast live oak correctly, subject to review and approval of the Planning Division.
 - b. ***Concurrent with the submittal of a complete building permit application, the applicant shall submit a detailed planting and irrigation plan, subject to review and approval of the Planning Division and City Arborist. The plan shall have the intent of ensuring the long-term health of the heritage oak trees, in particular with regard to the unique irrigation requirements of native California***

oaks. The plan could include conditions such as a prohibition on irrigation within 10 feet of the heritage oak trees.

Motion carried 7-0.

3. **Use Permit/Lisa Stahr/506 Santa Cruz Avenue:** Request for a use permit to expand an existing veterinary hospital (Scout's House) into vacant tenant space in an existing commercial building that is nonconforming with regard to parking in the C-4 (General Commercial, Applicable to El Camino Real) zoning district.

Staff Comment: Planner Rogers said one letter was received after publication of the staff report from a resident on Cedar Avenue, Brenda Shamoolian. She wrote to give her support of the use permit application and provided some background information about the care her dog received at Scout's House.

Questions of Staff: Commissioner O'Malley said on the existing demolition plan that one corner of Scout's House was labeled Mid-Peninsula Animal Clinic, and asked if that was correct. Planner Rogers said it was and directed attention to the site plan. He said the little corner of Scout's House that was currently used by Mid-Peninsula would continue to be used by them after this project was done.

Commissioner Riggs noted that the project had 24 parking spaces where 48 spaces were required. He said if they were going to grandfather this parking in whether they could say the clinic was no greater intensity than the office use above the space prior to the vacancy. Planner Rogers said given that there were a range of office intensities staff felt this animal clinic use could be considered equivalent to an office use.

Public Comment: Ms. Lisa Stahr, CEO of Scout's House, said this proposal was the result of many requests from clients to provide boarding for pets with special needs and rehabilitation. She said they were a physical rehabilitation center and they proposed this project to expand their rehab center, because of the growth of their client base, and also to add boarding for special needs pets. She said they will add boarding also for pets without special needs.

Commissioner Pagee asked about garbage collection. Ms. Stahr said there was not a lot of disposal as many clients brought their pets in for 45 minute appointments, and for the boarding pets the waste would be deposited in the dumpster. Commissioner Pagee said that the facility was staffed 24 hours, and asked if there were sleeping quarters. Ms. Stahr said that the staff did not sleep but took care of the pets. Commissioner Pagee asked about ventilation. Ms. Stahr said they would have to install a unit.

Commissioner Riggs asked about boarding pets and how often they went outside. Ms. Stahr said that they take the dogs to a grassy area on Santa Cruz and the staff always cleaned up after the animals. She said some animals needed expressing which was

done on a large pad in the facility. Chair Deziel said it seemed like a very public toilet area. Ms. Stahr said it was very much so, but even without their animals, noting she had seen both animal and human waste. She said that there was a severe homeless problem in the area and often in the back parking lot.

Commissioner Keith asked if they had retail. Ms. Stahr said they had a very small retail area now, but they would make the current waiting room a full retail operation. She said they had also started an online store, which was doing very well. She said most of the products were specialized currently but she wanted to add more general products. Commissioner Keith asked if there would be an awning. Ms. Stahr said an exterior awning by the owner would be a wonderful amenity. Regarding parking, she said they would prefer that owners drop off their animals and not wait as their working quarters were snug. Commissioner Keith asked if they encouraged their clients to clean up after their pets when in route to or from the facility. Ms. Stahr said most of the clients were very conscientious and Scout's House offered bags and to clean up for the clients, if needed. Commissioner Keith said the property only had 13 spaces where 48 were required. Ms. Stahr said they tried to keep the spaces for the employees, but she also encouraged employees to take the train. She said clients really did not like the lack of parking.

Commissioner O'Malley said he noted that there were only 600 animals treated a year, which seemed a low number. Ms. Stahr said they were very specialized and there were only three other similar facilities in the region. She said that they were approaching a break even point, and it was critical to the business plan to expand the business.

Mr. Charlie Bourne, Menlo Park, said he was speaking as a long-term resident and not as a member of the Transportation Commission, in support of the project. He said that it was highly desirable to have medical and dental facilities locally. He said the specialized nature of this facility allowed for treatment locally which was a benefit so that there was no need to travel to Berkeley, Hayward or Campbell for such services.

Ms. Wan Quu Wu, Menlo Park, said she lived nearby and there was lot of noise from dogs barking all of the time at the facility. She said they called the police when there was noisy barking.

Ms. Eloisa Sehuanes, Menlo Park, said she had lived here 20 years and until this facility it was very quiet. She said also there was a lot of dog excrement in the parking lot, and she had called the police to report it and they had come out to take a report.

Chair Deziel asked if the noise was from the hospital or Scout's House.

Ms. Sehuanes said the noise came from the backyard of the hospital.

Ms. Carol Schumacker, Midpeninsula Animal Hospital, said she provided Ms. Quu Wu and Ms. Sehuanes her business card and asked them to call the hospital directly so they could mitigate any problems. She said they had also received a letter from a resident complaining about noise. She provided the Commission with their response letter. She said none of their animals went off the site and they had a run in the backyard which they opened at 7:30 a.m. and at the latest the animals were inside by 9 p.m. She said there was a lot of noise from the train station and when the BBC let out. She said they would address the speakers' problems responsibly. She said they supported the application for Scout's House.

Chair Deziel asked if barking dogs would be covered by the City's noise ordinance. Planner Rogers said he had to research.

Commissioner Pagee asked if animals were housed overnight in the hospital. Ms. Schumacker said they were and there was a veterinarian nurse and her husband who lived above the facility. She said they did not walk their pets externally and provided an outside disposal dog waste station for the public. She said there were 18 parking spaces in the back shared by all of the tenants.

Commissioner Keith asked if the nurse would respond to the downstairs if the dogs barked. Ms. Schumacker said the nurse does. She said that the complaints were regarding the dogs barking when they were outside.

Planner Rogers said the noise ordinance stated that any animal making a noise for a period of five minutes continuously or over a period of a half hour that exceeded the noise decibel was a violation. He said there were different levels for day and night. He said day was considered 7 a.m. to 10 p.m. and the maximum was 60 decibel. In response to Commissioner Pagee, Planner Rogers said all noise ordinance violations were on a complaint basis to the police and the police would need to make a report, and if there was a violation, there would be a fine.

Ms. Schumacker suggested that the neighbors call them directly with their complaints so they could respond immediately. Commissioner Riggs wanted to know why the hospital staff would not be aware that the dogs were barking. Ms. Schumacker said staff were moving back and forth and might not be aware coming inside with dogs that a dog was barking outside.

Ms. Fran Dehn, Chamber of Commerce, said they were a neighbor of the two facilities. She said currently Scout's House did not board animals so that the after hours barking was probably Midpeninsula Hospital. She said that business had reviewed their procedures and willingness to work on the problems. She said the hospital animals did not go outside. She said the waste from the animals that were taken out of Scout's House was cleaned up as described by Ms. Stahr. She said the homeless problem was very bad in the area and she frequently had to clean the steps of the Chamber of Commerce in the morning because of human waste.

Commissioner Keith asked about the noise-deadening drywall. Ms. Stahr said she did not know the noise decibels it would alleviate, but the whole idea was to build a sound-deadening wall along the wall next to H&R Block.

Chair Deziel closed the public hearing.

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

1. Make a finding that the project is categorically exempt under Class 1 of the current CEQA Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the use permit subject to the following **standard** conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Samuel Sinnott & Company, Inc., consisting of five plan sheets, dated received March 19, 2008, and approved by the Planning Commission on April 7, 2008, except as modified by the conditions contained herein, subject to review and approval of 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.
4. Approve the use permit subject to the following **ongoing, project-specific** conditions:

- a. Any modification of the existing circulation arrangement between 506 and 556 Santa Cruz Avenue shall be subject to review of the Planning Division, and may be grounds for considering revocation of the use permit.

Motion carried 7-0.

D. REGULAR BUSINESS

1. **Possible reconsideration of recommendations regarding the requested applications associated with the Derry Mixed-Use Project located at 550 to 580 Oak Grove Avenue and 540 to 570 Derry Lane.**

Chair Deziel said this item was recommended by the Commission last week, and he had requested this item be placed on this agenda. He said each Commissioner received actions from the last meeting. He said that the morning after the last Commission meeting, he analyzed what uses might be allowed on the second floor of the commercial buildings. He said he uncovered an error in the memo that had been distributed to the Planning Commission at that meeting. He said it was because of that memo they had voted unanimously to recommend to make a finding that there was adequate analysis of the Addendum to the EIR. He said that the permitted use table they recommended allowed scenarios where the EIR trip numbers were exceeded. He said the unanimous vote on the environmental review was discarded by staff and the 3-1-3 vote on the TOD deductions became the vote on the environmental review. He presented the analysis he had done previously to allow one of the restaurants to be open in the morning. He said he submitted a memo through staff to the Commission with his proposal.

Development Services Manager Murphy asked if Chair Deziel had copies of his memo for the public. Chair Deziel distributed copies.

Chair Deziel proposed that there first would be a motion to reconsider items 1, 8 and 10. He suggested that they discuss what would happen in the reconsideration before the motion on the reconsideration. He suggested expanding some permitted uses based on the TOD credits. He said he used an Excel spreadsheet optimization tool to find the uses that would have the most traffic impact. He said if the 5% credit for residential and the 15% credit for commercial was used it would allow up to 3,600 square feet that would support page P1 of the Staff Report. He asked the Commission to look at the bottom of the page which showed that the worst scenario of p.m. trips would be 12 less than what was allowed in the EIR. He said page 2 showed the combination of uses that created the most a.m. peak trips assuming the TOD deductions. It showed a high turnover morning operating restaurant at 3,950 square feet and retail on the second floor was the worst case traffic and that it would not exceed the peak a.m. trips allowed by the EIR. He said that all of the possible uses were analyzed and stayed within the limits in the table and in no instance did a.m. peak trips exceed those in the EIR. He said on page 3 he looked at total daily trips and that the uses and square footage in his table would never exceed the total daily trips stated in the EIR. He said this would bring

8,300 square feet of retail on the second floor and would bring people downtown during the off-peak hours. So it would be good planning to allow this scenario.

Chair Deziel said that staff had indicated it would take six to eight weeks to analyze traffic counts and uses; he said his analysis was much more stable than what the traffic consultant had presented previously. He said he believed the Commission could make a recommendation on what ought to be in the permitted use table without regard to the work flow restraints that staff might say there are. He said if staff wanted to say they could not support the Commission's recommendations for community serving uses that staff could develop their own recommendation of uses.

Commissioner Bressler asked if the reconsideration needed to be noticed. Chair Deziel said it was noticed. Commissioner Bressler said it was noticed that they would consider reconsideration, but he thought notice would mean sending out all the formal stuff that happened.

Planner Chow said there was an opportunity to reconsider a decision on an item at a meeting following the meeting when a decision was made. She said this item was noticed with the agenda and reconsideration could proceed at this meeting after a successful motion to reconsider. The person making the motion to reconsider had to have voted for the approval; the person who seconded the motion could either have approved or opposed.

Commissioner Bims said that there was no maximum square footage for the quality restaurant. Chair Deziel explained how the optimization program worked. Commissioner Bims noted in Figure 3 that the quality restaurant was up to 4,100 square feet as this was not looking at the 900 square feet for the fast food restaurant. Chair Deziel said that was correct.

Commissioner O'Malley asked if staff had time to review Chair Deziel's data and if they were accurate. Planner Fisher said she had reviewed the data that afternoon adding in the Commission's recommendations for TOD credit reductions and how much that would increase fast food uses and high turnover restaurant uses and square footage, and she could not explain why, but she was getting different numbers. She said that was why they would like the traffic consultant to review the data. Commissioner O'Malley said that when Commissioner Deziel reviewed data he found an error with the 4,600 square feet. Planner Fisher said that she had done the analysis and could adjust this so it could go forward to the Council with a simple reduction of 100 square feet. She said you could do a full amount for a 2,200 square foot high turnover restaurant in the morning and max that out and make the balance retail or max out a coffee shop/fast food restaurant, and make the balance retail, and remain under 46 trips in the peak a.m. In response to Chair Deziel, Planner Fisher said the Commission's recommendations to include TOD credits, which her solution did not use, would allow for a higher amount of square footage for a high turnover restaurant in the a.m. or a fast food/coffee shop. She

said her numbers differed from Chair Deziel's figures for some reason, and she would prefer to have the traffic consultant analyze the numbers.

Commissioner Bressler said what they would recommend was fairly general and while the analysis could be validated, it was not what they had been presented before. He said he was not sure what needed to change. Chair Deziel said he felt like most Commissioners would want to have a better vote on the environmental review than 3-1-3. Commissioner Bressler said he thought they should vote on whether to reconsider or not as he saw no reason to go any further in discussion as there had been no outside validation of the analysis. He said he did not want to debate the traffic estimates. Chair Deziel said if they revised the TOD, staff would increase square footage, but they would not develop additional uses.

Development Services Manager Murphy said to clarify that the Chair was focused on the 3-1-3 vote for the environmental review. He said staff had reviewed their notes and believed that was the vote on the motion for the overall environmental review with the transit oriented development credit, and that staff had not modified the vote. He suggested that there should be a motion and a second to reconsider. He said three items were listed and those were accomplished by two motions. He said the motions could be done individually with discussion following or do each motion on each item up front and then discuss. He said that they did not have to allow public comment, but they could.

Chair Deziel said that he would like the public to comment before they voted. He said he did not think staff had modified the vote rather that the Commissioners thought they had unanimously voted on the environmental review but that a second motion after that on the credit reductions had the split vote. He asked for staff comment.

Planner Fisher said it was staff's impression that the TOD credits recommended by the Commission would allow high turnover restaurant and fast food square footage to increase.

Commissioner Keith asked if the Commission did nothing this evening and left the 3-1-3 vote whether staff would present to the Council some other table that included the TOD reductions of 5% for residential and 15% for commercial. Planner Fisher said her goal for Council was to provide them information on what would allow increases in those particular uses. Commissioner Keith confirmed with staff that the information on the TOD credit reductions and how that applied to uses would be given to the Council with the vote as it currently was.

Chair Deziel said he thought the 7-0 vote was inadvertently erased by the 3-1-3 vote. He said it was not clear that staff could actually make the recommendation to get the higher square footage with the high turnover restaurant operating in the morning and have a health/fitness club on the second floor.

Mr. Jim Pollard, O'Brien Group, thanked Chair Deziel for his efforts to make sure the analysis was accurate and to provide flexibility to have a high turnover restaurant that could operate in the a.m. and a health/fitness club and retail options for the second floor. He said the certification of the EIR recommendation and the 7-0 and 3-1-3 votes were not a serious concern to him. He said having the high turnover restaurant in the morning and the fast food/coffee shop options were very valuable and they appreciated the Commission's recommendation for TOD credits and that could move forward as recommended. He said regarding the health/fitness club on the second floor was being championed by Chair Deziel, that he did not completely agree with Chair Deziel. He said their perspective was that in the near term and for the foreseeable future the use would be office on levels two and three. He said also other uses would cause a delay and he would ask that the Commission not recommend additional analysis. He said they would like to move forward with just the greater flexibility on the first floor. He said he was not sure why the Commission recommended 5% for residential and 15% for commercial as the study he had shared indicated with transit-oriented reduction that residential trips often fell by 20%. He asked the Commission to reconsider the TOD credits.

Mr. Morris Brown, Menlo Park Tomorrow, said they had discussed uses, and everything they heard was that retail was not viable on the second floor. He said that was why they pushed for additional retail on the first floor. He said that he really hoped nothing was done to delay the project. He said perhaps Chair Deziel could go before Council with his ideas. He said the second floor Curves on Buckthorn created a lot of disturbance because of noise for the first floor tenants.

Commissioner Riggs said he wanted to address Motion 2 but he thought the Commission should agree on the goal. He said it made more sense for the Planning Commission to recommend that options be open rather than depend on developer's input from leasing agents. He said it did not make sense to restrict what the City wanted to see; that a requirement was not being made for other uses on the second floor, rather restrictions were being removed from other uses on the second floor. He said Motion 2 offered a proposal to allow a high turnover restaurant with greater square footage providing a.m. service or as a coffee shop as opposed to a fast food restaurant, terminology he opposed. He said that this should not be framed as a direct replacement of staff's original recommendation, but as leaving flexibility. He said his intent was to remove restrictions on the second floor use to office as this was contrary to the City's economic desires and revitalization of the downtown. He said his concern was with the vitality this project would bring to the community. He said he would move to reconsider. Chair Deziel said he would second to reconsider the recommendations the Commission made last week in regard to items 1, 8, and 10. Commissioner Riggs said that was agreeable to him.

Development Services Manager Murphy said that the City Attorney had indicated that there had to be separate motions on the two original motions. Chair Deziel said he did not want the motions made until all of the Commissioners understood where they were

going with the motion. Development Services Manager Murphy said that it was important to not jeopardize the project by creating a cloud with motions that did not address the motions originally made individually.

Chair Deziel suggested retracting the motion just made by Commissioner Riggs, and withdrew his second. Commissioner Riggs said the way the item had been noticed seemed to indicate the Commission could vote to reconsider the entire project.

Environmental Review

Commission Action: M/S Riggs/Deziel to reconsider the finding that the Addendum to the Certified Environmental Impact Report provides adequate environmental documentation of the changes to the project.

Discussion: Commissioner Bims said if their decision to vote on the EIR was based on faulty information that it might be appropriate to vote again on it as information had been corrected. He said regarding the uses on the second floor it was apparent that it would be office use no matter how many uses the Commission could devise. He said increasing the trip reductions for the residential was something he would consider.

Commissioner Bressler called for the question.

Chair Deziel said the motion died for lack of a second.

Commissioner Keith asked what the faulty information was. Chair Deziel said the memo that the Commission based its recommendation on had an error precisely where they were relying on it. It had been indicated that the table did not exceed peak trips, but in fact it did. Commissioner Keith said that was something to address. She said that Commissioner Riggs had suggested 5% for residential TOD reduction. She said that Mr. Pollard had indicated 20% for residential that was based on a study but staff had indicated there were varying percentages. She asked how Commissioner Riggs came up with 5%. Commissioner Riggs said it was a very conservative number.

Commissioner Keith said she did not want to hold the project up and wanted to know what would hold it up and what would not in terms of the motions. Development Services Manager Murphy said it was most important to focus on what was wanted on the second floor, and staff would make good faith efforts to do analysis, but he could not commit to how much time was needed. He said anything that staff ultimately needed to weigh in would go through their normal process with the review of an outside consultant and the transportation manager.

Chair Deziel said they were just considering the recommendation related to the EIR. He said for the Motion 1 for reconsideration they should first make the finding, second allow that the addendum should use trip reductions for 5% and 15% except for general office which shall use 0% reductions, and third staff shall revise the square footage limits in

the permitted use table to provide the maximum square footage for a high turn a.m. restaurant as allowed under the EIR limits. He said it was an explicit recommendation to use the TOD recommendations to expand the square footage allowed. He said that motion would be for all of the restaurants on the ground floor. He said if they exceeded the 5% or 15% that the coffee shop would get larger and larger which would preclude the high turnover restaurant and he had no interest in increasing the 5% or 15%.

Commissioner Bressler said he felt the project had been hijacked and he still did not know whether any of the other Commissioners were even interested in reconsidering. He said what was occurring was potentially creating more problems than were hoped to be solved. He said he would like to see a vote item by item to see if reconsideration was wanted.

Commissioner Keith said it appeared to her that staff would create a table that allowed the 5% and 15% TOD credits to go forward to the Council and Chair Deziel's advisory from the original motion that the Council should consider other uses on the second floor. She asked about the erroneous information that the a.m. trip was 1.5 greater than what was stated. She said if the Commission were to vote on this particular motion would staff be correcting the erroneous information in the Addendum to the EIR. Planner Fisher indicated that the erroneous information would be corrected no matter what.

Commissioner Riggs called for the question, and Commissioner Pagee seconded the motion.

(Note: restated as originally moved) Commission Action: M/S Riggs/Deziel to reconsider the finding that the Addendum to the Certified Environmental Impact Report provides adequate environmental documentation of the changes to the project.

Motion passed 4-3 with Commissioners Bims, Bressler and Pagee opposed.

Chair Deziel moved to recommend making the finding that the Addendum to the Certified Environmental Impact Report provides adequate environmental documentation of the changes to the project after using the TOD trip reductions of 5% for residential and 15% trip reductions for all commercial and retail uses except general office which receives 0%. He said the change to square footage in the table had to occur in the next session. Commissioner Keith said she thought that Commissioner Deziel was making one motion out of two motions. Commissioner Riggs said the chart did not work without the TOD reductions.

Development Services Manager Murphy said in terms of fixing the error that there was one way to fix square footage and that could happen by reducing square footage but if the higher square footage was wanted then they would need to go down the path of TOD reductions.

Commissioner Keith asked if the TOD reductions were added how that affected the project moving forward. Planner Fisher said they would correct the use table in the PD Permit so the a.m. trips were not exceeded by reducing the square footage. She said the Commission's recommendation would be a separate recommendation for the restaurants to use the OD reductions, which might result in higher square footage. She said that staff's recommendation had calculated a 10% TOD reduction for either the high turnover restaurant or the coffee shop.

Commissioner Bims seconded Chair Deziel's motion.

Commission Action: M/S Deziel/Bims to recommend making the finding that the Addendum to the Certified Environmental Impact Report provides adequate environmental documentation of the changes to the project with the following modification.

- Apply a five percent transit-oriented development (TOD) reduction for residential trips and a 15 percent TOD reduction for ground floor retail and restaurant trips.

Motion was withdrawn.

Planned Development Permit

Commission Action: M/S Riggs/Deziel to reconsider the Planned Development Permit.

Discussion: Chair Deziel said this would permit them to take another look at the numbers and the allowed uses in the use table on page H3 in the PD Permit.

Motion failed 3-4 with Commissioners Bims, Bressler, Keith and Pagee opposed.

Commission Action: M/S Deziel/Bims to recommend making the finding that the Addendum to the Certified Environmental Impact Report provides adequate environmental documentation of the changes to the project with the following modification.

- Apply a five percent transit-oriented development (TOD) reduction for residential trips and a 15 percent TOD reduction for ground floor retail and restaurant trips.

Motion carried 7-0.

E. COMMISSION BUSINESS

Chair Deziel noted that the deadline to get items on the agenda was noon on Wednesday, not noon on Thursday.

Menlo Park Planning Commission

Minutes

April 7, 2008

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1. Review of upcoming planning items on the City Council agenda.
 - A. Planned Development Permit Extension, Vesting Tentative Map Extension, and Planned Development Permit Amendment - 1452 & 1460 El Camino Real and 1457 & 1473 San Antonio Street scheduled for April 22, 2008
 - B. Appeal of Use Permit Approval for 1010 Doyle tentatively scheduled for May 6, 2008

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

Commissioner Riggs asked what the basis was for the appeal on 1010 Doyle. Planner Chow said her understanding was that the basis was parking reduction.

Commissioner Keith asked what had happened with the construction project at West Bay Sanitary District. Development Services Manager Murphy said they had applied for a building permit and they had requested bids.

F. REPORTS AND ANNOUNCEMENTS

Planner Chow invited everyone to the continuing Speakers' series, Wednesday April 9, 6 p.m. at the Library in the basement room.

ADJOURNMENT

The meeting adjourned at 10:32 p.m.

Staff Liaison: Planner Chow, Senior Planner

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission on May 5, 2008.