



## PLANNING COMMISSION MINUTES

April 21, 2008

7:00 p.m.

City Council Chambers

701 Laurel Street, Menlo Park, CA 94025

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**CALL TO ORDER** – 7:04 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; Thomas Rogers, Associate Planner

### A. PUBLIC COMMENTS

There were none.

### B. CONSENT

1. **Approval of minutes from the March 24, 2008, Planning Commission meeting.**

Commission Action: Unanimous consent to approve the minutes of March 24, 2008 with the following modifications.

- Page 2, 1<sup>st</sup> paragraph, line 4: insert the word “on” between the words “curb cut” and “Oak Avenue.”
- Page 8, last paragraph, 1<sup>st</sup> line: Add sentence that reads “Commissioner O'Malley thought that the Commission Chairman had a right to address the Council on his/her Commission's actions, indicating that on Council's agenda there was always a slot for Commission reports.”
- Page 9, 3<sup>rd</sup> paragraph, last line: Add the words “speak for Planning Commission” to the last line.
- Page 9, last paragraph, 7<sup>th</sup> line: Insert the word “said” after the word “McClure.”
- Page 12, 4<sup>th</sup> paragraph ;6<sup>th</sup> line: Replace the sentence that starts with “Commissioner Riggs” with “Commissioner Riggs made the specific point that he understood the consideration of the Planning Commission takes an issue to “the next level” and thus should become the “current “ report to the Council.”

## C. PUBLIC HEARING

1. **Use Permit/Alexander and Whitney Hoermann/351 Terminal Avenue:**  
Request for a use permit for a first floor expansion and second story addition to an existing single-story residence that would exceed 50 percent of the existing floor area on a substandard lot with regard to lot width and to construct a detached secondary dwelling unit in the R-1-U (Single-Family Urban) zoning district. Request for a variance for the detached secondary dwelling unit to allow a 10.5-foot wall height and 14.2-foot overall height where nine feet and 14 feet, respectively, are the maximum heights permitted per Section 16.79.040 of the Zoning Ordinance.

Staff Comment: Planner Fisher said staff had not additional comments.

Questions of Staff: Commissioner Pagee noted that the use permit was for an addition that exceeded 50 percent of the existing floor area and asked if that included the value of the floor area and the remodel. Planner Fisher said the structure was conforming and that valuation would not apply. Chair Deziel noted that the project was being treated as new construction because it would exceed 50 percent of the existing floor area on a substandard lot.

Public Hearing: Mr. Steven Pine, builder for the project, said the property had been purchased by the owners the past August 2007; the property owners have a large family and needed additional room. He said the exterior elevations would be very similar to 49 residences just south of the property. He said the home was not being demolished as there was a solid foundation and framing. He said the roof would be reworked to accommodate the addition. He said the materials used would be very similar to the other 49 houses. He said the owners also wanted to create value with the proposed work. He said they have used local architects and engineers and that he planned to use local subcontractors.

Chair Deziel asked what was the distance between the side property line and the second story. Mr. Pine said the second story was 10-feet from the property line on the south. He said on the east the first floor was five feet from the property line and the second story was set back an additional five feet.

**Commissioner Riggs mentioned the architect was present. He said it appeared the width of the second floor was 24-feet six-inches and the upper level was 32-feet.** He asked if there was an overhang on the west side. Mr. Donahue, project architect, said there was. Commissioner Riggs said there had been a similar project on Sevier, which had an existing hip roof building for which the applicant proposed a hip roof on the second story and a hip perpendicular and set back from the original hip. He said the Commission had sent that back for redesign because of aesthetic concerns.

He said for this project there was what he called flipped gables at the backyard end and the front hip ran left to right as viewed from the street, and the front hip was cut at the angle. He asked if they had considered other schemes for the roof. Mr. Donahue said they had discussed doing a hip at the end, but he thought they stayed with the gable because the owners wanted that at both ends. He said he pushed for hip at the back so that the sunlight would be less impeded to get to the back yard but that condition did not hold for the front. Commissioner Riggs asked if the architect would consider hip rather than gables. Mr. Donahue said he would. Commissioner Riggs questioned the proposed color of green for the house and whether the intention was to have a bright color.

Mr. Alexander Hoermann, property owner, said he chose the paint to match a color scheme at an adjacent development; the color was sage and the intent was a natural, subdued color. Commissioner Riggs said he wanted them to be aware of the potential that this color when applied to a large area might be bright. He asked about the small windows in the back unit, and that at the north and south elevations the open kitchen and living room only had windows at either end. Mr. Donahue said the west wall was adjacent to a parking area so they did not choose windows, but they could install high windows. Commissioner Riggs said there could be significantly higher windows and also wider windows on the north elevation, and noted a building code regulation about light and air.

Commissioner Keith asked if the front door shown on B4 was accurate or whether the front door on the model was. She said the plan showed windows on either side of the door but the model did not. Mr. Donahue said the drawing was more current and what was desired. Commissioner Keith asked about windows in the den and if they considered putting windows on either side of the fireplace. Mr. Donahue said that was an existing wall and there were large expansive windows facing the garden.

Chair Deziel said it looked like there were windows on the elevations but those were not shown on the floor plans. He said that sheet A2 showed no side windows for the kitchen, dining or living room. He said however that sheet A5 showed two pairs of windows on each side for the dining room. Mr. Donahue said the windows for the dining room were shown in the plan for the east wall and on sheet A4. Mr. Donahue said his plans showed the windows coordinated but on Chair Deziel's set of plans those windows had been grayed out in error.

Commissioner Bims said the applicant was requesting two variances for the secondary dwelling unit including a request for three-inches of additional height. Mr. Donahue said they were trying to work out the nine-foot wall, do a slab on grade and get above the seven-foot flood elevation and match the pitch of the existing house. Mr. Donahue said that the ridge of the roof could be dropped.

Commissioner O'Malley said the windows looked tiny on the north elevation for the secondary dwelling. Mr. Donahue said he thought the bedroom windows were ample,

but that the living room windows could be larger. Commissioner O'Malley said the windows looked out of proportion and an increase in size would bring them into proportion.

Mr. Hoermann said a fire station was to the east of the proposed secondary dwelling unit and there were numerous buildings 30-feet high. He said the view would be into the fire station work area and that was why the windows were sized smaller. He said he had hired a Title 24 consultant, who had made a preliminary finding that there was more than adequate light and area for the square footage. He said the back side of the secondary dwelling was next to a noisy area and there was no desirable view.

Commissioner Keith said sheet A7, the west elevation plans, had no windows, which the applicant had indicated was because of a parking area. She asked if they could do a window with a higher sill. Mr. Hoermann said they could do a long high window. He said they were using a Title 24 consultant as they wanted to do as few windows as possible on the three sides impacted by the fire station. Commissioner Keith said that more light would be preferable. Mr. Hoermann said the essence of the unit would be the view into the backyard from the front of it.

Commissioner Pagee said there was a request for a variance of three-inches of height for the secondary dwelling unit. She suggested lowering the ceiling height to eight-foot one-inch so that a variance would not be required. She said she was concerned how the secondary dwelling unit would meet the nine foot needed for the flood zone. She said the applicant was doing a slab on grade and a slab foundation. She said the flood level was one-foot six inches and so they would only need a six-inch variance in the wall height. Mr. Pine said the fire station was a foot and a half higher than the existing level of the wall. He said their intent was to raise the floor without exceeding the height requirement and that required three to six inches which was why they were asking to go a little bit higher as there was no neighbor other than the fire station surrounding the back part of the subject property. Commissioner Pagee said they could gain the few inches they needed by reducing, from the slab to the under ceiling rafters, one foot and one inch. She said then the only variance they would need would be to raise the side walls in excess of nine feet. Mr. Pine said he was confused as it was not the height of the structure they wanted but rather the height of the floor. Commissioner Pagee said the Commission was being asked to look at the request for a variance from height requirements. She asked for a confirmation of the height of the ceiling in the mudroom as the floor plan indicated it would be eight-foot nine-inches on sheet A.2 and the section indicated it was seven feet (Section 2 on sheet A3). Mr. Pine said the eight-foot nine-inches was the floor elevation on A2 and the seven foot was the ceiling height on A3.

Commissioner Pagee said the floor plans did not show windows and asked if egress requirements were met. Mr. Pine said they were. Commissioner Pagee asked if the walls were two-foot by six-foot. Mr. Pine said the walls were four-inches and the framing was two-foot by four-foot noting the house was built in 1949 and the two by four

then used was considerably greater than what was currently called two by four. Commissioner Pagee said the elevations showed a furnace on the outside. Mr. Pine said it would be an enclosed furnace room. Commissioner Pagee asked if that showed on the model. Mr. Pine said it did not. Commissioner Pagee asked if it showed on the elevations. Mr. Pine said A4 showed the roof detail for it. Commissioner Pagee asked if it was a short furnace in the flood area. Mr. Pine said it was actually larger than it appeared and there was a requirement for a furnace room to have a certain height for service. Commissioner Pagee asked whether they realized that there could be no duct work underneath the house in the flood plane. Mr. Pine said the proposed floor was one step up from the existing floor and the existing floor was close to the flood plane, and would step up for the duct work.

Commissioner Pagee asked about the dimensions for the overhang. Mr. Pine said he did not think those had been listed. Commissioner Pagee said there was ambiguity about the roof line. Mr. Pine said the whole front section would protrude from the existing house. He said that most of the other 49 homes had straight gables. He said for looks and provision of sunlight that they thought the gable was best way to go.

Commissioner Bims said in the living room there was a six-inch down step to the living room and asked what measures would be applied to prevent people from tripping. Mr. Pine said the step would run the full width of the room.

Chair Deziel said there were no windows on the west elevation. Mr. Pine said that faced the main parking spot for the unit. He said there was a backyard before the uncovered parking space, and there were larger windows facing the yard. Chair Deziel said A7 showed a blank wall. Mr. Pine said there were three windows on the south side. Deziel said A1, plan north, was toward the fire station. Mr. Pine said there were no windows on the west side.

Chair Deziel closed the public hearing.

Commission Comment: Commissioner Riggs said there were two issues the Commission should address. He said regarding the proposed front elevation that the Commission reviewing other projects had challenged applicants to use architecture that harmonized the existing structure and the added structure. He said although the roof pitches matched there was not a sense of connectivity that made the proposed project one structure. He said the Commission should challenge that because of a duty to protect neighborhood aesthetic. He said regarding the proposed secondary dwelling unit that the windows were tiny. He said bathroom windows should be no less than six square feet. He said the space would not be livable because of insufficient light. He said it was strange there were no windows on the west elevation as that view would be toward landscaping. He said that there had not been enough consideration of how the interior space would work with the proposed addition and there were challenges in the layout

Commissioner Bressler said he thought it was admirable that the owners were willing to forego scraping the house and to add to the existing. He said that was a benefit for the community as well.

Commissioner Bims said a variance request was a rare thing and a double variance request was more so. He said the justification had significantly more hurdles than the normal hurdles for a singular variance. He said that it appeared the overall building height of the secondary dwelling unit could be worked around, but he would not support the second variance request for the nine-foot wall.

Commissioner Keith said she was in favor of additions and remodels. She said the model did not really show what was being proposed however. She said windows were proposed for removal in the front of the house but no new windows were proposed. She said she thought it was going to be dark. She said the windows for the secondary dwelling unit needed to be addressed. She said she liked Commissioner Pagee's idea about lowering the ceiling height. She said the overhang in the front would shadow the first floor windows.

Commissioner Pagee said she had trouble with plans that did not reflect the model. She said the floor plans did not show windows so the Commission was unable to look at placement and potential impacts to neighbors. She said she would like to see a set of plans that showed the windows and doors.

Commissioner O'Malley said the Planning Division had justified the variance requests but it sounded as if design changes would make the one variance unnecessary. He said he felt strongly that proper attention had not been given to the windows in the secondary and in some places in the primary dwellings. He said he agreed that he preferred addition and remodel rather than demolition.

Chair Deziel said for the variance for the wall height that there were four conditions for which the Commission had to make findings. He said the second variance could be eliminated by a change in roof pitch. He said the secondary dwelling unit was not livable with the current configuration of windows. He said that provision of light and air was a finding with the use permit and he would have trouble making that finding.

Commissioner Bressler asked if the addition of a skylight in the secondary dwelling unit would solve the problem. Chair Deziel said that a skylight would not mitigate noise. Commissioner Bressler said he would like the project to be approved with attention to windows. Chair Deziel suggested some wording for a motion: Make the findings to approve the use permit per staff recommendation and make the findings for the variance subject to adding conditions to expand windows in the secondary dwelling unit to provide more air and light including the west wall; and expand windows in the primary dwelling unit with attention to the west elevation.

Commissioner Bims said the plans were inconsistent and suggested adding a condition that A2 was updated to be consistent with A4 related to the windows.

Commissioner Riggs said he was concerned with the amount of assistance the Commission was giving to the applicant and that it was designing from the dais. He said the model showed an open area which because of the raised floor would be visible to neighbors. He said what materials would be used in that area should be addressed. He said the neighbors would be looking up at the underside of the house. He said he thought there were more issues than could be addressed and the project should be continued.

Chair Deziel said he seconded Commissioner Bressler's motion and suggested finishing the wording for that motion and then craft a substitute motion. He said the original motion was to approve as recommended in the staff report with the correction of the plans to call out the windows, allow some expansion of windows for both the primary and secondary structures, reduce the roof pitch or ceiling height to reduce the height of the secondary unit, and make the findings for the variance for the height of the wall.

Chair Deziel asked staff if the Commission had given enough direction in the motion made by Commissioner Bressler and seconded by him. Planner Fisher said placement of the expanded windows would be helpful. Chair Deziel said the west elevation did not match the first floor on A5 when compared to A2. He said there should be series of three windows and one was shown for the guest bedroom and one for the dining room but there were no windows for the mud room. He said the window on A5 needed to show on A2. Commissioner Riggs said the plans had not been fully developed. Chair Deziel said on A2 there were no windows for bedroom 1. Commissioner Bressler said he did not think the Commission should try to fix the plans but give general direction. He said he thought the owners wanted to do a needed expansion to their home.

Commission Action: M/S Bressler/Deziel

Expand windows in the secondary unit and add one to western wall. Change the plans so windows show on the primary unit; and reduce height of secondary structure so they only need the variance for the wall.

Commissioner Riggs made a substitute motion to have the project continued to look at issues related to:

- windows on the secondary unit
- reviewing and potentially adding windows on the primary unit
- addressing the appearance from the neighbors' yard of the overhung area on the west side
- reconsider green paint
- reconsider the front elevation to better link the front with the back addition

Commissioner Riggs said he had no problem with the variance for the height of the

Menlo Park Planning Commission

Minutes

April 21, 2008

secondary unit. Commissioner Pagee seconded the substitute motion, but she did not feel two variances were needed.

Commissioner Bims said he was trying to understand continuing the project as in the first motion the corrections to plan A2 would be made to both stories and that would capture bedroom 1. Commissioner Riggs said that doing design for a living that he would not recommend making such changes from the dais. Commissioner Bims asked if he was open to the continued project coming back on a consent calendar.

Commissioner Riggs said that would be fine with him. Chair Deziel said that would be up to staff. Commissioner Riggs said the Commission had continued projects for lack of coordination between the plans. Chair Deziel said that he did not think the secondary unit had been designed well.

Commissioner Keith said that the plans showed two laundry rooms, one on the first and one on the second floor.

Commissioner Keith asked when the project would come back on the calendar if it were continued. Planner Fisher said it was highly dependent on how long it took for the applicant to get the revised design back to them. She said that there might be the need to re-notice the project if there were significant changes. She thought that it could possibly come back in the beginning of June.

Commissioner Bressler said he did not think staff and the applicant were being trusted, there was no neighbor complaint and to continue the project just because of the placement of windows was absurd.

Commission Action: M/S Riggs/Pagee to make a substitute motion to continue the project with directions.

Motion failed 3 to 4 with Commissioners Bims, Bressler, Keith and O'Malley opposed.

Commissioner Keith asked if Commissioner Riggs had any further direction on the design plan or had anything to add to the original motion to approve. Commissioner Riggs said there was a window on the model not shown on the plans or elevations. He said he was concerned with integration of the old and new structures. He said the comfort and welfare of the neighbors were impacted because the proposed project was an architectural downgrade and the front should be redesigned. Chair Deziel said the motion included expanding windows but he thought that it should include adding windows.

Commission Action: M/S Bressler/Deziel to approve as recommended in the staff report with the following modifications.

- Expand windows in the secondary unit and add one to western wall;
- Change the plans so windows show on the primary dwelling unit; and



- Reduce the height of the secondary dwelling unit to eliminate one variance request.

Motion failed 3-4 with Commissioners Deziel, Keith, Pagee and Riggs opposed.

Commission Action: M/S Pagee/Keith to continue the item to a future meeting with the following direction.

- Redesign the rooflines and elevations to better integrate the addition into the existing structure;
- Revise windows in floor plans to correspond with the elevations;
- Review window sizes and placement for the both the main unit and the secondary dwelling unit;
- Review windows for cross-ventilation in rooms; and
- Consider a treatment to address the appearance of the underside of the deck on the west elevation.

Motion carried 6-0 with Commissioner Bressler abstaining.

2. **Variance/James Clendenin/1075 Windsor Drive:** Request for a variance to allow an attached garage to encroach ten feet into the rear yard setback where twenty feet is required in the R-1-S (Single-Family Suburban) zoning district.

Staff Comment: Planner Fisher said that staff had no additional comments. She noted that the applicant's presentation had been distributed to the Commission at the dais.

Questions of Staff: Commissioner Pagee asked why there had been a front line election. Planner Fisher said this allowed for the Santa Cruz Avenue fence allowance. Commissioner Pagee asked if the property was subject to the three feet height of fence requirement on the corner. Planner Fisher said that was not a requirement for homes facing Santa Cruz Avenue.

Public Comment: Mr. Martin Bernstein, project architect, said the project represented solution of a quality of life issue. He said Santa Cruz Avenue was noisy and the house faced that street. He said the proposed garage addition was very modest, and a benefit to the neighborhood was reduced visual clutter by having a two-car garage rather than a one-car garage. He said the property owners were retired and part of the desire for the two-car garage was personal security. He said there were five houses in the neighborhood that had 10-foot rear and 10-foot side yards and two-car garages. He said regarding the variance findings that the finding for hardship was not based on the election of setbacks but that this house was built in 1946 before current regulations were in place and it had been built 40-feet away from Santa Cruz Avenue. He said the options stated by staff included converting the one-car garage and adding a bedroom and a second story, which would have environmental impacts. He said another option

was to do a two-car garage and add a bedroom in front of the kitchen window but that blocked the view and did not provide a good quality of life. He said another option was to move the house 10-feet closer to Santa Cruz Avenue, but that would have environmental impacts. He said for the finding related to preservation of property rights that there were other properties in the neighborhood that had what the property owners were seeking. He said the project would not be detrimental to public health, safety and welfare, and noted there were letters of support. He said the last finding related to hardship, which was that the house was built unusually close to the side property line. He said by approving this application there was no variance in the neighborhood pattern.

Chair Deziel closed the public hearing.

Commission Comment: Chair Deziel said that this project would give the property owners a special privilege. He said if Windsor Avenue was the front property line that the new addition would not be allowed in the rear nor would the applicants be allowed the imposing wall that would along Santa Cruz Avenue. He said he would move to deny as recommended by staff.

Commissioner Pagee asked if the house had maintained Windsor Drive frontage the front setback was 20 feet, the left setback 10 feet and the right setback 12 feet. Planner Fisher said that was correct. She said the property owners could have put a seven-foot fence on Santa Cruz Avenue since that was a side yard if the front was Windsor Drive. She said the applicants chose to build a fence closer to Santa Cruz Avenue. She said with a Windsor Drive frontage, a fence could not exceed 4-feet and the 35-foot safety triangle for three foot fence would apply.

Commissioner Riggs said he thought parking was allowed in the rear setback but not a structure. Planner Fisher said that was correct. Commissioner Riggs said he had seen canvas covering for uncovered parking spots and asked if that was considered a structure. Planner Fisher said a permanent awning would need proper approvals. Commissioner Riggs said he could not see any functional reason why the City would be opposed to expanding the garage but there was a clear case that the findings could not be met for the variance request.

Commissioner Bims seconded Commissioner Deziel's motion to deny the request as recommended by staff.

Commissioner Bressler said the Commission often saw projects that completely demolished structures and then rebuilt causing months of hardship for neighbors. He said he did not think there was any problem with this conservative project.

Chair Deziel said the proposed wall was too big, too monotonous and too close to Santa Cruz Avenue. He said there should have been an entry through this fence.

Commissioner O'Malley said there was a project about a year prior that he thought was great but the findings could not be met for the variance request. He asked if anyone could articulate an argument for each of the findings for the variance request.

Commissioner Pagee said the major problem was that at one point a decision was made to change the narrow lot width on Windsor Drive to make the front property line along Santa Cruz Avenue and to put in a fence that was five to six feet off the side setback line. She said a tall fence could have been placed further in, but they would still need a variance for the rear. She agreed with Commissioner Bressler that it was great when people enhanced a one-story home. She said putting the new addition to the garage to the right of the existing garage would be easy to build but the driveway would then be too close to Santa Cruz Avenue.

Recognized by the Chair, Mr. Bernstein said finding for hardship was that the building was built in 1946 and was a conforming structure. He said imposition of current regulations and location of the property created the hardship. He said moving the driveway closer to Santa Cruz Avenue would create a hazard. He said the hardship was the location of the house and how to put the garage in a normal location. Chair Deziel said the house predated the rules and that now applying the rules created a hardship but economics could not be used as an argument for hardship. Mr. Bernstein said one way to relieve the hardship would be to move the house 10-feet closer to Santa Cruz Avenue but that raised questions of environmental impacts.

Mr. Bernstein said that the variance was necessary for preservation of property rights of conforming properties nearby noting four properties on corners with the same setbacks they were requesting with two-car garages located the same requested distance to property line.

Mr. Bernstein said the variance would not be detrimental to public safety, health or welfare and would benefit public safety, health and welfare as it would provide the owners more personal security and protect cars from street parking where cars were more vulnerable to crime. Chair Deziel noted the finding that there would not be a special privilege from the variance. Mr. Bernstein said that it was not a special privilege but was a common privilege.

Commissioner Keith said the problem was the previous addition of the fence on Santa Cruz Avenue that created this situation. Mr. Bernstein said if the simple answer was moving the house 10-feet that would have environmental impacts. Chair Deziel said it was the owner that declared Santa Cruz Avenue as the front so as to install the fence and create the yard, but now they were saying the variance was a common privilege. He said if the frontage was Windsor Avenue and there was a request to build a garage that he could look at the variance and make findings. Mr. Bernstein said that the fence was constructed in 2006 but it was not tied to the present request.

Chair Deziel said the last finding was that the condition upon which the request was based was not generally applicable. Mr. Bernstein said an election could only be done on a corner lot. Commissioner Pagee said she thought the location of the house was unique.

Commissioner Riggs said a reoccurring priority was maintaining the view from the kitchen window to the street. He said he looked at other projects on the agenda that did not have a view from the kitchen to the street. He said there was more space between

the fence and the house which resulted from the front line election. He asked if the architect had considered relocating bedroom 3. Mr. Bernstein said that would not be doable.

Commissioner Keith moved a substitute motion to grant the variance. She said the first finding was a hardship particular to the property not created by any action of the owner. She said the hardship was the house was built in 1946 and its location. She said regarding the preservation of property rights enjoyed by other nearby properties that there were five other properties on corner lots that have two-car garages and located the same distance in the setback as proposed by this request. She said that the basis for making the fourth finding was the uniqueness of the location of the house on the property. Commissioner Bressler seconded the motion.

Commissioner Bims said the home was built in 1946 and in 2005 was nonconforming so the property owner did a property line election and made the lot conforming. He said the result was the action of the applicant. Commissioner Keith said an election was granted in 2006 and there was a change. Commissioner Bims said without the election in place there would not be the issue to need a variance so he could not say that the owner had not created the hardship. Commissioner Keith said the house was built in 1946 and at its particular location.

Commissioner Riggs said he liked the house, but he could not make the findings. He said they could start the history with where they are now. He said it was a conforming lot and that to build in the setback required more than wanting a two-car garage and not losing the view from the kitchen.

Commissioner Pagee said she was in favor of granting the variance but the owners were ill-advised to locate the fence where they did. She said she did not see a safer place to put the garage except where it was proposed off Windsor Drive, and that this would not harm the neighbors and was not a special privilege.

Commissioner Bressler said the request was supportable because it was a community benefit to allow people to remodel their home without great disruption to the neighbors that occurred with demolition/rebuild projects.

Commissioner O'Malley said that all of the findings had been met.

Chair Deziel said if the front was Santa Cruz Avenue and the rear was along the garage wall that the garage could move over, which would eliminate the bathroom. He said the variance to come towards Windsor Drive was necessary to allow the property owner to build a two-car garage. He said however that this would create a concrete space all along Santa Cruz Avenue and then the wall would extend along Windsor Drive, which would eliminate all green space. He said it was a special privilege to take up the last spot of green.

Commission Action: M/S Keith/Bressler to make a substitute motion to grant the variance.

Motion carried 4-2 with Commissioners Deziel and Bims opposed, and Commissioner Riggs abstaining.

Commission Action: M/S Keith/Bressler to approve the variance with the following findings.

1. The current front setback from Santa Cruz Avenue dates from the building's 1946 construction. The location of the house on the lot limits feasible garage expansion options for this site. Therefore, a hardship currently exists that is peculiar to the property and not of the making of the property owner.
2. Seven other residences with two-car garages located on corner lots in this neighborhood have similar garage setbacks. Therefore, the granting of the requested variance would not constitute a special privilege.
3. The requested variance would not be materially detrimental to the public health, safety, or welfare, and would not impair an adequate supply of light and air to the adjacent property.
4. The requested variance is based on the large front setback that creates a unique house location on the property. The conditions of the existing house layout and the relationship between the setbacks and the existing structure would not be applicable, generally, to other properties within the same zoning classification.

Motion carried 4-2 with Commissioners Deziel and Bims opposed and Commissioner Riggs abstaining.

3. **Use Permit/Dennis J. O'Connor/1170 Santa Cruz Ave:** Request for a use permit to demolish an existing single-story, single-family residence and detached garage and construct a new two-story, single-family residence on a substandard lot with regard to lot width and lot area in the R-E (Estate) zoning district. The project includes a request for a six-foot tall front fence where four feet is the maximum height allowed in the front setback.

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

Questions of Staff: Commissioner O'Malley asked about the details of the pool house. Planner Rogers said sheet A2.1 of the floor plans showed the pool house and its shape, and sheets A3.1 and A3.2 showed the elevations.

Public Comment: Mr. Dennis O'Connor, project designer, said that they set out to create a home that would work for a family, have style, and meet City regulations. He said they also wanted to keep the trees and add trees. He said the design was a French style with slate roof and stone. He said they introduced a six-foot wall at the front and setback six feet from property line with a nice cap and column breaks with landscaping features. He said the traffic and conditions along Santa Cruz Avenue were such that such a wall was highly desirable. .

Commissioner Pagee said she was concerned about the right side setback at only 10 feet and the left side setback at 20 feet as the size and height of the proposed house would shade the house on that side. Mr. O'Connor said that there were massive oak trees that already shaded that house and it was desirable to have south light for the proposed project. Commissioner Pagee asked if there was a bath in the pool house. Mr. O'Connor said it was a place for pool equipment and for the children to gather and that the owner did not see a need to put in a bathroom. She asked if they had talked to the left-hand side neighbors regarding the window placement. Mr. Vasile Oros, property owner, said the neighbor had liked the plans but was now listing the property.

Commissioner Bims said this was a well-done project. He asked what the use was for the non-habitable basement. Mr. O'Connor said it would be use for storage and mechanical equipment.

Commissioner Riggs said the proposal was a charming house and had maintained a 19-foot six-inch height. He said he was curious why they wanted four more Redwood trees and asked if they would have an interest in planting a Live Oak in front of the wall. Mr. O'Connor said the owner wanted to create a redwood grove and provide screening.

Commissioner Keith asked about the tree removal, noting trees 551 and 552 were being proposed for removal. She said she spoke with Mrs. Oros when she visited the site, who indicated other trees would be removed. Mr. Oros said there were four trees that were growing over the one-story house, trees 534, 535, 536, and 537, proposed for removal and that they all were non-heritage.

Chair Deziel closed the public hearing.

Commission Comment: Commissioner O'Malley said there was nothing objectionable about the project and he moved to approve as recommended by staff. Commissioner Bims seconded the motion.

Chair Deziel asked if tree 534 was a heritage tree. Planner Rogers said it was a crepe myrtle with a diameter of 18-inches multi stemmed but the arborist had not yet analyzed the tree to see if it qualified as a heritage tree. Chair Deziel said it appeared to be dead and asked if approval of the removal could be incorporated in the approval. Planner Rogers said it had not been included in the noticing but the Commissioner could publicly disclose support of that tree removal. Chair Deziel said there was also an Oak that was close to heritage size that was growing into the top of the first story. Chair Deziel said the Commission might indicate additional support of removal of the three potential heritage trees, 534, and 535, and 537 or any of the trees in the cluster that would impact the second story. Commissioner O'Malley said that would make the motion more problematic.

Commission Action: M/S O'Malley/Bims to approve as recommended by staff/

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 Dennis J. O'Connor & Associates, consisting of seven plan sheets, dated received April 9, 2007, and approved by the Planning Commission on April 21, 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 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. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a revised site plan showing that the driveway material would consist of permeable pavers for the review and approval of the Planning Division. The plan shall be accompanied by a section drawing of the proposed paver installation.
- b. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a detailed planting and irrigation plan for the area between the front property line and the front fencing, subject to review and approval of the Planning Division and City Arborist. Modifications to this plan could be required to minimize the potential for future conflicts with sidewalk improvements.

Motion carried 7-0.

4. **Use Permit/Phillip A. Kamangar/665 Cambridge Avenue:** Request for a use permit to demolish an existing single-story, single-family residence and a detached garage and construct a new two-story, single-family residence on a substandard lot with regard to lot width in the R-2 (Low Density Apartment) zoning district.

Staff Comment: Planner Rogers said there was one additional piece of correspondence received earlier in the day from the owner of the adjacent rear property. He said the neighbor asked whether the Walnut tree would remain. He said the applicant proposed to remove the tree, but staff's recommendation was for its retention. The neighbor indicated he agreed with staff's recommendation.

Public Comment: Mr. Phillip Kamangar introduced himself as the owner of the property.

Commissioner Keith said it appeared that the Walnut tree was the only screening at the rear location. Mr. Kamangar said the tree was multi-trunk and had split; it was unclear whether the tree was heritage or not. He said it also dropped walnuts that created black spots and it had impacted paving. He said he would prefer that it be removed and he was willing to plant yet a third tree.

Mr. Timothy Radin, project designer, said the backyard was spacious and there was a somewhat larger tree in the intersection that created privacy for the neighbors. He said there would be additional trees planted as well.

Commissioner Keith asked if the shutters were working shutters. Mr. Radin said that they would look operable if not actually operable.

Commissioner Pagee said there were two new trees proposed but that did not appear on the Commissioners' data sheet. Chair Deziel said staff recommended keeping the Walnut tree and if the applicant was to remove the tree that would need the review of the Environmental Quality Committee. Planner Rogers said any future removal permit



would be years away. He said the intent was for the planting of two trees and when those provided adequate screening then a proposal might move forward to remove the Walnut tree.

Mr. Kamangar said the Walnut tree was centered on the patio area and it would impact enjoyment of that area.

Commissioner Riggs asked if there was a color board. Mr. Kamangar said he did not but he had the materials with him in the colors proposed. Commissioner Pagee asked what the color of the stucco was. Mr. Kamangar said that it was a custom color 790C Smooth Superior Stucco from Stucco Supply Company. Commissioner Pagee asked if the roof was a 50-year roof. Mr. Kamangar said it was.

Commissioner Riggs suggested the applicant might reconsider the small size of the windows in the second and third bathrooms. Mr. Kamangar said they were that size in consideration of the neighbors' privacy. Commissioner Riggs said the sills might be higher or the glass might be obscure. Mr. Kamangar said they would take that under consideration.

Chair Deziel closed the public hearing.

Commission Comment: Chair Deziel said the Commission had received a memo from the neighbor that he supported condition 4.a.

Commissioner Keith moved to approve as recommended by staff to include retention of the Walnut tree and planting of two new trees; the stucco color would be 790C Smooth Superior Stucco from Stucco Supply Company and the roofing material and color as provided to the Commission would be used. Chair Deziel seconded the motion.

Commission Action: M/S Keith/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 Form + One Design, consisting of 12 plan sheets, dated received April 3, 2008, and approved by the Planning Commission on April 21, 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 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. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a revised site plan showing retention of the heritage walnut, as well as the addition of two new trees along the rear property line with the intent of providing screening. The applicant shall also submit an arborist report that specifies relevant protection measures for the walnut trees. The revised site plan and arborist report shall be subject to review and approval of the Planning Division and City Arborist.
  - b. ***Simultaneous with the submittal of a complete building permit application, the applicant shall submit revised plans showing that the stucco color (790C Smooth) and roofing material (50-year asphalt shingle) match the samples distributed to and reviewed by the Planning Commission, subject to review and approval by the Planning Division.***

Motion carried 7-0.

#### **D. REGULAR BUSINESS**

There were no items on the regular business calendar.

#### **E. COMMISSION BUSINESS**

Chair Deziel said that Commissioner O'Malley had indicated he would not be available on May 19 when the Commission would do a study session for the El Camino project and wondered if the meeting could be rescheduled.

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

Planner Chow said they made a modification to the Commission's recommendation to two-year extension because of discussions with County Environmental Health and the need to do further soils testing. She said that Mr. Morris Brown had written a letter supporting the two-year extension.

Commissioner O'Malley said Mr. Morris Brown had indicated that he represented Menlo Park Tomorrow and asked how that was legally manifested. Planner Chow said that perhaps Menlo Park Tomorrow would need to be agendized. Chair Deziel said he thought the conversation was appropriate as Mr. Brown had written a letter regarding the agendized project. Commissioner Bressler suggested that the next time Mr. Brown came before them that the Commission should challenge him. Chair Deziel said that Commissioner O'Malley had challenged Mr. Brown and had been stonewalled. Commissioner O'Malley said he wanted evidence that Mr. Brown was representing Menlo Park Tomorrow. Commissioner Keith said that Mr. Brown indicated the group had gone through state procedure.

- B. Appeal of Use Permit Approval for 1010 Doyle tentatively scheduled for May 6, 2008

Planner Chow said May 19 was targeted for the El Camino Real Downtown working session. Commissioner O'Malley said he would not be able to make that meeting and wondered if it was possible for it to be held on May 12 or May 26. Planner Rogers said the session was part of an overall scope of services and project schedule approved by Council. He said there would not be enough time after May 1, the third public workshop, and May 12 to prepare for the session; May 26 was Memorial Day.

## **F. REPORTS AND ANNOUNCEMENTS**

### **ADJOURNMENT**

The meeting adjourned at 10:44 p.m.

Staff Liaison: Planner Chow, Senior Planner

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission June 16, 2008.