



## PLANNING COMMISSION MINUTES

June 16, 2008

7:00 p.m.

City Council Chambers

701 Laurel Street, Menlo Park, CA 94025

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**CALL TO ORDER** – 7:00 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. **Architectural Control/Hagman Group/642 Santa Cruz Avenue**: Request for approval of architectural control to remodel the front elevation of an existing commercial building in the C-3 (Central Commercial) zoning district.

Commissioner Keith moved to approve the consent calendar as presented, which included modifications to the minutes that had been previously submitted by Commissioners. Commissioner Riggs seconded the motion.

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. Adopt the following findings, as per Section 16.68.020 of the Zoning Ordinance, pertaining to architectural control approval:
  - a. The general appearance of the structure is in keeping with the character of the neighborhood.
  - b. The development will not be detrimental to the harmonious and orderly growth of the City.

- c. The development will not impair the desirability of investment or occupation in the neighborhood.
  - d. The development provides adequate parking as required in all applicable City Ordinances and has made adequate provisions for access to such parking.
3. Approve the architectural control request subject to the following **standard** conditions of approval:
- a. Development of the project shall be substantially in conformance with the plans prepared by The Hagman Group, dated received May 28, 2008, consisting of seven plan sheets and approved by the Planning Commission on June 16, 2008, except as modified by the conditions contained herein.
  - b. The applicant shall comply with all West Bay 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 issuance of a demolition permit or building permit, the applicants shall submit a plan for construction safety fences around the periphery of the construction area for review and approval of the Building Division. The fences shall be installed according to the plan prior to commencing construction.
  - e. 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.
4. Approve the architectural control request subject to the following **project-specific** conditions of approval:
- a. Simultaneous with the submittal of a complete building permit application, the applicant shall apply for an encroachment permit for the awning, subject to review and approval of the Public Works Department.

- b. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a trash storage plan, already approved by Allied Waste, for review and approval of the Planning Division and Public Works Department.

Motion carried 7-0.

2. **Approval of minutes from the April 21, 2008, Planning Commission meeting.** *Continued from the meeting of June 2, 2008.*

Commission Action: M/S Keith/Riggs to approve the minutes as modified.

- Page 2, 1st paragraph, last sentence: Replace the word “confirmed” with the word “noted.”
- Page 2, last paragraph, 1st sentence: Replace the word “confirmed” with the word “mentioned.”
- Page 3, 1st paragraph, 6th line: Add the word “the” after the word “to.”
- Page 3, 3rd paragraph, 1st line: Replace the word “show” with the word “shown.”
- Page 6, 3rd paragraph, 4th line: Add the word “be” before the word “dark.”
- Page 8, 4th paragraph, 2nd line: Replace the word “complaint” for the word “to.”
- Page 10, 4th paragraph, 6th line; Replace the word “whether” with the word “if” and after the word “frontage” replace the word “if” with the word “the.”
- Page 11, 5th paragraph, 2nd line: Replace the first sentence with “Commissioner Keith said the problem was the previous addition of the fence on Santa Cruz Avenue that created this situation.”
- Page 12, 3rd paragraph, 2nd line: Add the word “the” before the word “property.”
- Page 13, Finding #1, 3rd line: Add the word “a” before the word “hardship.”

Motion carried 7-0.

3. **Approval of minutes from the May 5, 2008, Planning Commission meeting.** *Continued from the meeting of June 2, 2008*

Commission Action: M/S Keith/Riggs to approve the minutes as modified.

- Page 15, last sentence: Replace vote with “The vote was 5-0 with Commissioners Bims absent and Keith recused.”
- Page 17, 6th paragraph, last sentence: Should read: “Planner Fisher said the school and residential properties to the south of that property were notified.”

- Page 21, 2nd paragraph, 7th line: Add the words “at each meeting” after the word “attendance.”

Motion carried 7-0.

### 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. ***Continued from the meeting of April, 21, 2008.***

Staff Comment: Planner Fisher said there was a color/materials board at the dais.

Questions of Staff: Commissioner O'Malley asked if the accessory building was habitable. Planner Fisher said it was a secondary dwelling unit and could be occupied.

Public Comment: Mr. Alex Hoermann, owner and resident of the subject property, said there was one variance requests. He said the need for a second variance had been eliminated by reducing the ceiling height of the secondary dwelling unit so that the exterior height of the building was 14-feet. He said the windows on the elevations and plans had been corrected so there were no longer discrepancies. He said changes had been made to the windows as directed by the Commission at the April 21 meeting, including the enlargement of four windows in the master bedroom, an addition of a window in the mud room, the addition of three windows in the family room on the east wall, and the enlargement of the windows in the guest room, guest bath, office, and in the second story above the stairwell. He said in the secondary dwelling unit a small window on the northern side was removed, two good-sized windows added for the western wall, and the windows in the living room and bathroom enlarged. He said the underside of the cantilever under the second story would be finished with stucco and there would not be any exposed beams. He said regarding the integration of the roof line that he would like to submit photos of his home and others in the neighborhood that demonstrated similar roof lines in the neighborhood. The photos were given to the Commission at the dais. He said to address the integration of the rooflines that the siding on the second story would be removed and finished with stucco instead so that both stories were stucco and would be painted light green. He said regarding the inconsistency of the roof types between the front and the rear that aesthetically he and his wife wanted a gable front so they added a gable over the garage and the second story. He said for functionality the second story roof at the back would be hipped to allow more light into the backyard. He said the project had community support. He said

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that he and his wife were contributors to the community, and the project was more than an investment as it was their home.

Mr. David Herrera, San Jose, said he was the administrator for the Cesar Chavez Academy, where he first met the applicants. He said the applicants were very involved in community education. He said that a number of his former students lived near the applicants' home and that the architecture of the project was consistent with other homes in the neighborhood and that the proposed changes were consistent with changes made elsewhere in the neighborhood. He urged the Commission to approve the project.

Ms. Marie McKenzie, East Palo Alto, said she was the real estate agent for the applicants. She said the couple had made many improvements to their previous home that had grown too small for the family. She said the applicants were phenomenal contributors to the community.

Neighbor, Menlo Park, said she was a neighbor, and had lived there for 20 years. She said when the applicants had first moved into the neighborhood they invited the 20 families in the neighborhood over to their home for breakfast. She said they have four small children. She said the project would improve the neighborhood and she thought it was good to have more diversified families in the neighborhood.

Ms. Sarah McEleny Palo Alto, said Mrs. Hoerman and she were both educators. She said having lived in Palo Alto for 21 years she had seen much growth in Palo Alto, East Palo Alto, and Menlo Park, and that the applicants were people who would contribute to Menlo Park's growth and future.

Ms. Masa Mota , said she had known Mrs. Hoerman for 10 years. She said the applicants had put a lot of thought into buying a small home that could be expanded so that they could stay in this community. She said she hoped the Commission would approve the application.

Neighbor, Menlo Park, said she was a neighbor and supported the proposed project.

Chair Deziel closed the public hearing.

Commission Comment: Commissioner Keith moved to approve as recommended in the staff report. Commissioner Pagee seconded the motion. Commissioner Keith said she had gone by the site and seen where the proposed project was in relationship to surrounding structures. She said that although the applicants had not changed the rooflines she thought the proposed roof would fit with the architecture of other homes in the area. She said the applicants had addressed the window placement and size that had been requested by the Commission. Commissioner Pagee said she had previously been concerned with the discrepancies between the floor plans and the elevation drawings and what was now presented was of professional quality, accurate and easier to read. She said from the photos presented that it was apparent the gable-look was

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consistent with the architecture in the neighborhood. She said the applicants had also addressed increased ventilation for the secondary dwelling unit. Commissioner Keith said she also appreciated the use of stucco on both stories.

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

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. Make the following findings as per Section 16.82.340 of the Zoning Ordinance pertaining to the granting of variances:
  - a. Flood zone construction requirements, the Base Flood Elevation for this property and the existing natural grade at the rear of the property create a constraint to the ability to provide an adequate interior ceiling height for the secondary dwelling unit without approval of the requested variance.
  - b. The proposed variance is necessary for the preservation and enjoyment of substantial property rights possessed by other conforming properties in the same vicinity, and the variance would not constitute a special privilege of the recipient not enjoyed by neighbors.
  - c. Except for the requested variance, the proposed construction will conform to all other requirements of the Zoning Ordinance. Granting of the variance will not be materially detrimental to the public health, safety, or welfare, and will not impair an adequate supply of light and air to adjacent property since the structure will not be visible from the street and will comply with the setback requirements.
  - d. The conditions upon which the requested variance is based would not be applicable, generally, to other properties within the same zoning classification since the variance is based on the Base Flood Elevation and existing natural grade of this property.
4. Approve the use permit and variance subject to the following **standard** conditions:

- a. Development of the project shall be substantially in conformance with the plans prepared by RS Donahue, consisting of nine plan sheets, dated received May 29, 2008, and approved by the Planning Commission on June 16, 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.
5. Approve the use permit and variance subject to the following ***project-specific*** conditions:
- a. Concurrent with the submittal of a building permit application, the applicant shall show the uncovered, off-street parking spaces as asphalt concrete and the on-site driveway as an approved all-weather surface that allows infiltration to occur. Approved forms of pervious all-weather surfacing include pavers placed on compacted sand or "Class II" aggregate base at 95 percent compaction. Property owners may also propose alternatives for the review and approval by the Engineering and Planning Divisions.

Motion carried 6-1 with Commissioner Riggs opposed.

2. **Use Permit and Variance/Chris Kummerer/335 Barton Place:** Request for a use permit for first and second story additions that exceed 50 percent of the existing floor area and 50 percent of the replacement cost for an existing nonconforming, single-family residence on a substandard lot with regard to lot width and area located on property in the R-1-U (Single-Family Urban) zoning district. Request for a variance for a second story addition that would encroach approximately eight feet into the required front setback of 42.5 feet.

Staff Comment: Planner Chow said there was correspondence from Ms. Janet Cross, the owner of 347 Barton Place, who said she supported the project.

Mr. Chris Kummerer, the project architect, said the intent was to take the existing cottage and add a significant amount of square footage in such a way so that the structure looked unified while minimizing the appearance of mass in the front elevation. He said the existing low slope roof was used to create a Craftsman style look. He said that most of the new space was located to the rear and there was a single dormer on the front elevation. He said an obstacle to the owners' plan was the need for the front 42.5 foot setback. He said with the requested encroachment the second story had a 35-foot setback. He said the impact of windows on the sides was minimized by the use of high sills. He said the design allowed access to be retained from the living spaces to the backyard. He said the driveway would be widened to allow for one car to be parked on the driveway and room for another car to pass and park in the garage. He said the daylight plane was hard to show on a tapered site and there was one area in which it appeared the house did not fit within the daylight plane but in fact the house did fit within the daylight plane. He said the owners had met with neighbors and discussed the design.

Commissioner Riggs said this project design solved the same problem as that of the previous project much better through a good design.

Commissioner Pagee asked when the applicants found out about the required 42.5-foot setback. Mr. Kummerer said during the initial process of applying. Commissioner Pagee confirmed with Mr. Kummerer that the existing tandem parking would continue. She asked about the location of the furnace and water heater. Mr. Kummerer said the furnace would be in the attic adjacent to the fourth bedroom and a tank-less water heater would be attached to the side of the existing structure.

Commissioner O'Malley said there was not a window in the existing garage and asked why not as it would provide natural light. Mr. Kummerer said the side door had divided light windows that allowed light and the top of the garage had glazed glass.

Commissioner Riggs asked if the applicants would consider pavers for the driveway. Mr. Kummerer said they intended to use the same pavers as the existing driveway, which were set in sand. Commissioner Riggs said that he had designed skylights for garages and offered that as a possibility if the architect wanted to have more light. Mr. Kummerer conferred with his client, who indicated there was not a desire for a skylight



at this time. He asked if in the future the client wanted a skylight whether that would require a use permit. Planner Chow said that it depended upon the design.

Chair Deziel closed the public hearing.

Commission Comment: Commissioner O'Malley moved to approve as recommended in the staff report. Commissioner Riggs seconded the motion. He said the project was a very attractive design and the use of the low eaves was sensitive to the neighbors. He said the chimney was nicely scaled. He said he could make all of the findings for the variance request, but wanted to note for the record regarding the fourth item of the findings that although there might benefit one or more parcels on the cul de sac that might or had benefited from a similar encroachment that it was not generally applicable in the R-1-U zoning district. He said he could make the findings for the variance request.

Chair Deziel said he did not think it was right for the applicants to have two cars parked in front of the garage, and he did not think the third parking stall should be drawn in the front setback. He said he like the project overall.

Commissioner Bims said for the fourth item of the findings for the variance that his support for the finding was slightly different from staff's position in that this property had the further restriction of Section 15.16 100 and he had evaluated whether other properties subject to that section had similar constraints.

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

1. Make a finding that the project is categorically exempt under Class 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. Make the following findings as per Section 16.82.340 of the Zoning Ordinance pertaining to the granting of the variance:
  - a. The shape and dimensions of the lot combined with application of the front setback requirements per Section 15.16.110 limits the ability to construct a second-story on the existing residence and maintain a cohesive architectural style without approval of the requested variance.

- b. The proposed variance is necessary for the preservation and enjoyment of substantial property rights possessed by other conforming properties in the same vicinity, and the variance would not constitute a special privilege of the recipient not enjoyed by neighbors.
  - c. Except for the requested variance, the proposed construction will conform to all other requirements of the Zoning Ordinance. Granting of the variance will not be materially detrimental to the public health, safety, or welfare, and will not impair an adequate supply of light and air to adjacent property since the second story appearance is minimized from the street, has a greater setback than typical residences in the same zoning district, and is designed to help protect the privacy of the occupants and neighbors by placement and quantity of windows.
  - d. The conditions upon which the requested variance is based would not be applicable, generally, to other properties within the same zoning classification since the variance is based on the lot shape and dimensions, which are unique to the site.
4. Approve the use permit and variance subject to the following **standard** conditions:
- a. Development of the project shall be substantially in conformance with the plans prepared by Chris Kummerer Architect, consisting of 11 plan sheets, dated received May 30, 2008, and approved by the Planning Commission on June 16, 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. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance.

Motion carried 7-0.

3. **Use Permit/Chris Romero/19 Buckthorn 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 with regard to lot area and width in the R-1-U (Single-Family Urban) zoning district.

Staff Comment: Planner Fisher brought the Commission's attention to an additional piece of correspondence from the owner of 21 Buckthorn Way. She said the neighbor expressed similar concerns to those presented in the correspondence already provided to the Commission, namely that the proposed structure was too large for the homes on either side, that the window placement might not provide adequate light for the project and might not protect the privacy of neighbors, and that the structure would cast shadows into the neighbor's backyard.

Questions of Staff: Commissioner O'Malley said the single-story residence had already been demolished. Planner Fisher said that was correct and the Commission's review was of the proposed new two-story structure.

Public Comment: Mr. Chris Romero said he was the builder representing the property owners. He said the property owners' current residence was one street over from this property. He said they had liked the Craftsman style he had previously built in Redwood City. He said the owners intended to live in this home upon their retirement. He said the proposed residence would fit well in the neighborhood in which there were condominiums and apartment buildings. He said the proposed residence was slightly larger than the homes on either side but it was similar in scale to homes on Spruce Street.

Commissioner Riggs said there was bamboo on the property and asked if it would be removed. Mr. Romero said they would get rid of it.

Commissioner Pagee said the neighbors on both sides had expressed privacy concerns and asked whether the second-story windows had been looked at relative to the neighboring homes. Mr. Romero said the window sills were 54-inches high. He said the other side was a guest room and not used frequently and the window view would look down onto the roof. Commissioner Pagee asked if they had done a solar study to address the concerns of shadowing the other lots. Mr. Romero said there was a large stand of trees in the backyard of 17 Buckthorn that would create shadowing in the late afternoon. He said the proposed project would have some shadowing but he did not think it would be significant. Commissioner Keith asked what the sill height was in bedroom 2. Mr. Romero said those sills were 38-inches to meet egress. Commissioner Pagee confirmed that the back windows would provide egress.

Chair Deziel asked for some commitment that the bamboo would be eradicated. Mr. Romero said their intent was to remove the bamboo entirely and to landscape using non-invasive, native plants as much as possible. He said the bamboo grew on the neighboring parcel and that could not be removed but retardant would be used along the fence to keep the bamboo from growing back onto the subject property.

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Chair Deziel closed the public hearing.

Commission Comment: Commissioner Keith moved to approve as recommended in the staff report. She said she had concerns with the sill heights in bedroom 2.

Commissioner Pagee said she would second the motion with consideration of the sill heights in bedroom 2.

Commissioner Bressler said the neighbors were concerned that the two-story structure would impact their privacy and create shadows, but there seemed to be nothing in the design to setback the second story or mitigate those impacts.

Commissioner Riggs said for other projects having a substandard width lot and a second-story next to single-story residences that the Commission has regularly required an additional setback at the second story.

Chair Deziel said he did not like five-foot height window sills but he did support second-story setbacks and screening to mitigate privacy concerns. He said the skylight angle he used for reference and applied to this project indicated a 63-degree angle at which extreme he found created problems with light. He said this only applied to half of the proposed house.

Commissioner Riggs said a second-story setback would require a redesign, which would mean the project would have to be continued. He said because the house faced south winter sun would be blocked to the neighboring back yards. He said if it was continued that he would like the bulk of the chimney reduced.

Commissioner Riggs moved a substitute motion to continue the project for redesign for setbacks on the second story and to reduce the mass of the chimney. Commissioner Bims seconded the motion.

Commission Action: M/S Riggs/Bims moved to approve a substitute motion to continue item with direction for redesign.

Motion carried 7-0.

Chair Deziel said the Commission now had a new main motion to continue the project with direction to increase the side setback at least on the right side for the second story.

Commissioner Keith suggested looking at the sill heights to make sure they mitigated impacts. She noted that the sills in bedroom 2 were 38-inches as opposed to 54-inches on the other side. Chair Deziel said that having high sill heights was counterproductive to green design as it limited sunlight, and that landscape screening should be used. Commissioner Bressler said that the design was trying to accomplish its addition of square footage without sacrificing yard space but he thought the design could be improved so that the structure was not so boxy.

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It was the consensus of the Commission to require greater setbacks for the second story on both sides.

Commissioner Riggs said it was not the bottom of the window that impacted light but the upper part of the window, and that light was best with higher placed windows. He said there was no reason for the view from the front or rear windows to be limited. He said he thought the design was not boxy and had dramatic features, but privacy and shadowing issues had been raised. He said that he did not think the Commission's direction had to include both an increased setback and higher windows sills. He said that this depended on doable landscaping.

Commissioner Riggs summarized the direction to redesign to increase setback on the second floor on both sides and look at mitigating privacy issues with landscaping if possible, or increased window sill heights or glazed obscure glass.

Commissioner Keith said she had concerns with the 38-inch sill height. Commissioner Riggs asked whether the applicant could be given the options to use sill height, landscape screening, or obscure glass to address the privacy concerns. Commissioner Keith said that was fine but she also wanted to give the applicants direction to speak with the concerned neighbors.

Chair Deziel said that notification of the neighbors was part of the process. Planner Fisher noted that the applicants had done neighbor outreach but it was not until the notice of tonight's meeting that the neighbor at 21 Buckthorn had e-mailed her concerns.

Commission Action: M/S Riggs/Bims to continue the item with the following direction.

- Provide second-story setbacks of the house to address shadow concerns onto the side neighboring properties;
- Address the bulk of the chimney; and
- Propose alternative window glazing, higher window sill placement, and/or landscape screening to address potential privacy concerns of side neighboring properties.

Motion carried 7-0.

4. **Use Permit and Architectural Control/Gregory Spalasso/737 Fremont Street:** Request for a use permit and architectural control for the demolition of an existing single-family residence, detached garage and other accessory buildings and to construct four single-family residences comprised of two two-unit attached, single-family residential buildings and associated site improvements on a standard size lot in the R-3 (Apartment) zoning district. The proposed project would include the removal of 36 trees, including nine

heritage trees, and the installation of 33 new 24-inch box trees, of which 27 trees would have the ability to grow to heritage size.

Staff Comment: Planner Chow noted there was a colors and materials board for the Commission's review and that four letters of support for the project from neighbors and a letter from the soils engineer had been distributed to the Commission.

Questions of Staff: Commissioner Pagee asked whether there were four covered and four uncovered parking spaces. Planner Chow said there were two covered and two uncovered spaces per building.

Public Comment: Mr. Greg Spalasso said he was co-owner of the property with his brother. He said within four years they had lost both their grandparents and parents. He said the property had been owned by his family for 50 years and they wanted their project to be an outstanding addition to Menlo Park. He said they would name the townhome development after their great grandfather.

Ms. Elizabeth Lasensky, Menlo Park, said she lived close to this property, and that the project would be a nice addition. She said neighbors in this area would like to own a home like those proposed but she did not think they would be able to afford them. She said she would like to see more affordable housing in the City. She expressed support of the project.

Ms. Carrie Nicholas, Menlo Park, said she owned the property across the street and noted that the applicants had been in contact every step of the way. She said that this project would really improve the area and she fully supported it.

Chair Deziel closed the public hearing.

Commission Comment: Commissioner O'Malley moved to approve as recommended in the staff report. Commissioner Keith seconded the motion. She said the project was very beautifully designed with a lot of detail and interest.

Commissioner Riggs asked about the concern related to removing the acacia trees and the loss of screening. He asked if the City had used a phased removal of trees. Planner Chow said that the City had not. She said the neighbor who lived on the lot next to the acacia trees had written a letter requesting that they be removed.

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

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. Adopt the following findings, as per Section 16.68.020 of the Zoning Ordinance, pertaining to architectural control approval:
  - a. The general appearance of the structure is in keeping with the character of the neighborhood.
  - b. The development will not be detrimental to the harmonious and orderly growth of the City.
  - c. The development will not impair the desirability of investment or occupation in the neighborhood.
  - d. The development provides adequate parking as required in all applicable City Ordinances and has made adequate provisions for access to such parking.
4. Approve the use permit and architectural control requests subject to the following **standard** conditions:
  - a. Development of the project shall be substantially in conformance with the plans prepared by Jim Maliksi & Associates, consisting of 19 plan sheets, dated received on June 9, 2008, and approved by the Planning Commission on June 16, 2008, except as modified by the conditions contained herein.
  - b. Prior to building permit issuance, the applicants shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
  - c. Prior to building permit issuance, the applicants shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.

- d. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. 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 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.
  - f. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance.
5. Approve the use permit and architectural control requests subject to the following ***project specific*** conditions:
- a. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a detailed landscape and irrigation plan showing all proposed and existing trees, plants and shrubs based on the preliminary landscape plan prepared by Peggy Eaton Landscape Designs. The plans shall be updated to replace one 24-inch box cork oak with a 24-inch box scarlet or pin oak, planted in a suitable location. The landscape plan shall meet the Water Efficient Landscape Ordinance as certified by a licensed landscape architect, and is subject to review and approval of the Planning Division.

Motion carried 7-0.

5. **Appeal of Special Event Permit/Sharon Heights Golf and Country Club/2900 Sand Hill Road:** Appeal of an approval for a fire works display on July 4, 2008, between approximately 9:15 p.m. and 9:35 p.m. The provision for a Special Event Permit allows for events to exceed noise limits provided that people are noticed, the event is infrequent, and reasonable efforts are made to minimize impacts on surrounding properties.

Commissioner O'Malley recused himself due to a potential conflict of interest and left the chambers.

Staff Comment: Planner Chow said that staff had received two more letters of support for the special event and those had been distributed to the Commission.

Questions of Staff: Commissioner Bressler asked how much the appeal of the special event had cost. Planner Chow said it was \$15.00.



Public Comment: Ms. Melanie Austin, the appellant, said she had lived in Menlo Park since 1976. She said she did not realize that exercising her right to appeal would have been so controversial, and that comments she had made to the manager of the Country Club had been falsified and sent in written form to members accusing her of being unpatriotic. She said that her concern was the fire danger and potential safety hazard. She said the Fire District would look at the display prior to use and would have a fire truck at the site. She said her fear was the Fire District resources were stretched thin because of resource sharing to fight the wildfires in California.

Commissioner Pagee asked if Ms. Austin was aware of fires caused by other events at the Country Club. Ms. Austin said she did not but her concern was related to delay of service to other fire emergencies.

Commissioner Bims said he understood her concern about the potential of fire elsewhere and this vehicle not being available for such. He asked if the Fire District had indicated any shortage of staffing resources or vehicles. Ms. Austin said the Fire District staff was neutral in discussion of the event. She said she did not expect her appeal to succeed but she wanted people to be mindful of the potential hazard.

Chair Deziel asked if she was concerned about pets or stray animals. Ms. Austin said that she was concerned about pets, but that was not her major concern.

Commissioner Keith noted that the Country Club was eliminating the beginning and ending salutes and said Ms. Austin's appeal had been successful in that regard.

Mr. Rick Sussman, General Manager, Sharon Heights Golf and Country Club, said they were good neighbors and there was support from those neighbors for the event. He said that one of his staff spoke with Ms. Austin. He said upon receipt of Ms. Austin's complaint he and his staff reviewed their process and how they might lessen noise impact on pets, and they came up with the idea to eliminate the salutes. He said that was a positive outcome. He said there was mutual multi-jurisdictional cooperation between fire agencies. He said there was a 300-foot exclusionary area required for fireworks and their area far exceeded that requirement. He said there were variable conditions such as wind and if there was a hazard the Fire District could and would shut the event down.

Chair Deziel asked about the fees charged by the Fire District. Mr. Sussman said the contract with the pyrotechnic company required \$570 of the overall \$15,000 be paid to the Fire District. If the Fire Marshall determined that more resources were needed the Club would have to pay additional fees. Chair Deziel asked for an explanation of the financial obligation to the Fire District.

Mr. Tom Ginard, Chief Engineer for the Country Club, said that as part of the contract with the pyrotechnic company, there was a requirement for a \$570 deposit for Fire Department permitting and services. He said that the Club's obligation under the

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contract was 100% financial responsibility for additional fees required by the Fire District should upon inspection they deem more resources of equipment, staff and time necessary.

Commissioner Keith asked about the history of the event. Mr. Sussman said that prior to the five years of the event he had no knowledge as he was more recently employed there. He said originally the fireworks show was on Memorial Day, but had been moved to the 4<sup>th</sup> of July for the past three years.

Commissioner Pagee said she assumed the pyrotechnic company they used was experienced and would use fireworks that would take into consideration outlying residences many of which had shingled roofs. She asked how high the fireworks rise and how far the sparks might go. Mr. Ginard said that the fireworks would go no higher than 300 feet and only one-third of the show was aerial. Commissioner Pagee asked if the show was located as far away from residences as possible. Mr. Ginard said that was correct. Commissioner Pagee said there had been fires in Sharon Heights related to fireworks and Ms. Austin's concerns were valid. She asked related to pets if the neighbors were aware of the show. Mr. Sussman said City staff had notified the neighbors within a 300-foot radius of the appeal and his staff had previously notified all of the homeowners associations around of the proposed event. Commissioner Pagee suggested that perhaps signage might be posted to make neighbors who lived further away aware of the event so they might protect their pets and possibly wet down their shingle roofs.

Chair Deziel closed the public hearing.

Commission Comment: Chair Deziel moved to deny the appeal. Commissioner Riggs seconded the motion.

Chair Deziel said there were four points raised by the appellant. He said the first was the threat of fire hazard. He said that the Fire District was capable of determining needed resources and he did not see an increase in fire hazard. He said regarding the second referring to irresponsible use of fire resources that the Fire District's services would be paid for by the Club. He said regarding the created noise and its impact on pets that this was the 4<sup>th</sup> of July and there was some expectation of noise. He said pet owners had a responsibility to bring their pets indoors where the sound would not exceed noise ordinance maximum allowed levels. He said the fourth point was the availability of other shows in the area. He said that meant people had to travel to go to other shows, which he did not deem necessary.

Commissioner Riggs said there would not be any loss of service dependent on the location of the fire truck as there was radio communication. He said the event was popular, and he found the event producers to be competent and capable.

Commissioner Bims said he understood the appellant's concern that everyone be safe on the 4<sup>th</sup> of July, especially with the current drought and dryness. He said the appeal had raised everyone's consciousness to be even more careful.

Commission Action: M/S Deziel/Riggs to approve the item as recommended in the staff report that it is appropriate to allow the special event, and recommends denial of the appeal.

Motion carried 6-0 with Commissioner O'Malley recused.

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

There were no regular business items.

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

##### **1. Review of planning items on City Council agendas.**

###### **A. Draft Downtown/El Camino Real Vision Plan on June 10, 2008.**

Planner Chow said there were a number of Commissioners at the City Council's meeting in which the Draft Downtown/El Camino Real Vision Plan was considered. She said that the Council made comments. The consultant would bring a revised plan based on those comments and an implementation schedule for Phase 2 to the Council at their July 15 meeting.

Chair Deziel said at the June 10 Council meeting he had clarified that options should come from the public input and not to be invented by the consultant. He said the staff report seemed to indicate the Commission wanted a delay so he explained that the concern was getting the options in the plan, which might cause a delay. He said the Mayor thanked all of the members of the Commission for their work on the vision plan. Chair Deziel said he thought that the consideration of the plan should not have been a study session.

Commissioner Bressler said that there was no Phase 2 budgeted for this plan. He said he would go before the Council at their June 17 meeting as an individual to recommend that they allocate money toward Phase 2. Chair Deziel suggested that Commissioner Bressler might make comments on behalf of the Commission.

Commissioner Riggs said staff had suggested taking funds from reserves for Phase 2. He said he supported Commissioner Bressler speaking about this to the Council.

Commissioner Bressler said he would tell the Council that they should allocate funds for Phase 2. He said the purpose of Phase 1 had been to get diverse opinions and Phase 2 was to consider those opinions. He said the consultant viewed Phase 1 as a

narrowing process and he thought the City should consider the greater diversity of options, rather than less options.

Commissioner Riggs said he supported Commissioner Bressler stating that position as a vision could be more than what was immediately available. He said one of the bolder ideas was to make more feasible a connection under El Camino Real to downtown.

Chair Deziel said he liked the idea of allocating funds as long as momentum was not lost. He said that calling Phase 2 consideration was derailing the momentum. He said regarding needed changes to the ordinance code that the vision had to be defined. He said he would like to see a way to combine consideration and implementation.

Commissioner Riggs said he understood that if Phase I vision was approved that implementation was not about building anything but to look at how to implement greater connectivity.

Commissioner Bressler said he was only comfortable representing the Commission to ask that funds be allocated for Phase 2, and that he would present his own ideas as an individual.

Commission Action: M/S Riggs/Pagee to support Commissioner Bressler to speak on behalf of the Commission at the June 17, 2008 City Council in support of allocating funds for a Phase II of the El Camino Real/Downtown Plan.

Motion carried 7-0.

Commissioner Bressler noted that the applicants from tonight's Terminal Avenue project had spoken with him and expressed concern that the use permit process was onerous and costly and that people in their area circumvented the process and built additions without permits because of that process. Commissioner Bressler asked what he could do as a Commissioner to help people through the process.

General discussion ensued related to what the City currently does to assist applicants and it could do to improve the process. Ideas presented included:

- More information upfront and more comprehensive checklists to cover different types of application.
- A how-to seminar on remodels and additions for residences and put on DVD as an additional resource.
- Provide a list of the Commission's "hot" points.
- Commissioners could offer assistance if called by residents for help.

Commissioner Riggs asked about the follow up by staff for the baseball field drainage at the German American School. Planner Chow said that the Little League had lowered the fill; Engineering staff had looked at the property and while there was some

downward slope there was area that leveled out and staff felt the drainage was not a problem.

## **G. REPORTS AND ANNOUNCEMENTS**

Planner Chow said that the Commission would have a meeting on June 30, which would be a study session on 2191 Clayton Drive, a four-lot subdivision the Commission had previously considered for which neighbors had expressed concerns about drainage and a new four-unit project on the corner of Santa Cruz Avenue and Fremont Street.

## **ADJOURNMENT**

The meeting adjourned at 9:41 p.m.

Staff Liaison: Deanna Chow, Senior Planner

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission \_\_\_\_\_ 2008.