



PLANNING COMMISSION MINUTES

June 30, 2008

7:00 p.m.

City Council Chambers

701 Laurel Street, Menlo Park, CA 94025

CALL TO ORDER – 7:01 p.m.

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

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

A. PUBLIC COMMENTS

There was no public comment.

B. CONSENT

There were no items on the consent calendar.

C. STUDY ITEMS

1. **Minor Subdivision/Cupertino Development Corp./2199 Clayton Drive:**

Request for a minor subdivision to create four single-family residential parcels where one parcel currently exists in the R-1-S (Single-Family Suburban) zoning district.

Staff Comment: Planner Rogers said five pieces of correspondence had been received since the publication of the staff report. Copies of the correspondence had been distributed to the Commission and made available to the public. He said the letters were from Ms. Selena Fowler, Janice Johnson, Pat and Ginger Connelly, Janice Galbraith, all property owners on Clayton Drive, and Joan Gallo on behalf of Bertha Moreno, also a resident of Clayton Drive. Ms. Gallo is with a law firm representing a number of Clayton Drive property owners. He said the letters in general were opposed to the proposal for a four-unit development as presented, provided some detail about the access easement, and were opposed to any development that would not exclude the access area.

Questions of Staff: Commissioner O'Malley asked about the lot line adjustment and asked if the main contention was the 4,000 square feet created by the lot line

adjustment. Planner Rogers said that a lot line adjustment was an administrative procedure that allowed for the boundary between two or more parcels to be moved creating lots that conformed with the regulations for that zoning district. He said that attachments C.43 through C.45 showed best how the lot line adjustment altered the parcel boundaries. He said Commissioner O'Malley was correct in that the area transferred corresponded exactly to the 40-foot by 100-foot area that was the major source of the discussion for the access easement. Commissioner O'Malley asked if it was correct that the administrative procedure for a lot line adjustment was possible in this case even with the access easement contained in that square footage. Planner Rogers said that was correct.

Chair Deziel asked if there had not been an access easement within the 4,000 square feet in question whether it would have been possible to have five lots. Planner Rogers said it would not have been. Chair Deziel said regarding the Commission's discretion related to this proposal as to whether the square footage might be counted toward lot 4 or not that staff had indicated there was no definition for "impair." He asked if there was a staff precedence that might be used. Planner Rogers said it was not clear if there had been cases for which areas might have been excluded or not, but there was nothing that would have set a pattern in recent history. Chair Deziel asked if there was a utility easement. Planner Rogers said there was a utility easement in the area and the applicant had looked at potentially reducing the size of that and relocating it. Chair Deziel asked which utility the easement served. Planner Rogers said he would have to defer to the applicant for that question. Chair Deziel said that the access easement seemed to have no functional use except for persons to walk onto and off the property. Planner Rogers said that the adjoining parcel to the easement at 2275 Sharon Road was private property and there was no evidence of a public right-of-way or reciprocal access easement for that parcel. He said as indicated in the staff report that use of the access easement was restricted to entering and exiting from the same location. Chair Deziel said there were four parcels with access easements but which did not include 2275 Sharon Road. Planner Rogers said there were four parcels with a clear claim to the access easement and that a fifth parcel located at 2198 Clayton Drive adjoined the access easement, but the applicant was disputing the easement for that parcel based on when the transfer of that property to the current owner had occurred.

Commissioner Riggs said this was described as an access easement. Planner Rogers said the title reports for the properties described it as an ingress/egress easement, which staff defined as an access easement. Commissioner Riggs asked if that was expandable to a day picnic use easement. Planner Rogers said that was a possibility staff had not fully looked into, but which did not seem to fit with an access easement. Commissioner Riggs asked if it could be considered a dog walking easement. Planner Rogers said that did entail ingress and egress but it was a private easement and the City did not have ability to define it as such. He said, however, that was information the Commission might want to consider in its discretion as to whether to include the square footage or not. Commissioner Riggs said an ingress/egress easement indicated a third location to which the easement would permit access. He asked if that was something to be addressed by the City Attorney. Planner Rogers said in staff's discussion with the

City Attorney that the City Attorney was comfortable with the definition that the easement provided access to and from itself and would not necessarily have to lead to a third location.

Commissioner Keith said sheet showed Lot 4 as 11,025 square feet and asked if that included the 4,000 square feet under discussion. Planner Rogers said it did include the 4,000 square foot easement area.

Chair Deziel noted that there was a description of the easement on Page F2, which referred to it as a private road.

Chair Deziel said that page 5 of the staff report addressed the minor subdivision decision the Commission would be asked to make, and which decision could be appealed to the City Council. He said the findings for the Commission's decision were based on State law for the Subdivision Map Act and included five standards. He said that if the Commission was able to make all five findings then the subdivision must be granted. He said if the Commission did not grant the subdivision that it must explain how the proposal did not meet at least one of those five standards. Planner Rogers said there were separate City requirements that fed into those findings as to whether the proposal was in conformance with the General Plan and Zoning Ordinance.

Chair Deziel said staff had outlined three topics for the Commission to discuss during the study session. He said the first regarded the Commission's discretion as to whether or not the easement on the 4,000 square feet impaired the land enough that the Commission found that the 4,000 square feet should not be included in the floor area limit calculations. Planner Rogers said the decision on the floor area was secondary to the determination as to whether the 4,000 square feet should be included in the minimum lot area. If it was included, the four-unit subdivision was possible, and if not included, a four-unit subdivision was not possible.

Chair Deziel said the second topic related to information about the hydrology of the area, and the third topic was anything else the Commission wanted the applicant to provide when the proposal came back for consideration.

Public Comment: Mr. Keith Kolker said he was representing the developer Cupertino Development Corporation. He said the direction of the Commission at the August 2007 meeting to them had been to resolve concerns of the neighbors. He said there had been numerous meetings, phone calls, and letters between the developer and its counsel and the residents and their counsel, which resolved everything except the inclusion of the 4,000 square foot ingress/egress easement. He said that square footage was needed for a four-lot subdivision. He said unfortunately there had been no resolution of that issue and negotiations had ceased. He said the developer was requesting inclusion of the 4,000 square feet easement area in a calculation of the minimum lot size for Lot 4. He said the developer was also requesting to build to the boundary of the line beginning at the boundary of that 4,000 square foot parcel but not to encroach into it. He said the reason for the request was to provide for a more usable

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rear yard and more open space for the new owners if Lot 4. He said that house would also be farther away from the house on the rear lot and a large amount of the 4,000 square foot area would be used for the driveway. He said they tried their best to resolve the easement issue with the neighbors.

Ms. Jane Johnson, Menlo Park, said she and her husband had lived on Clayton Drive since 1976. She said it was unincorporated Menlo Park at the time and there were large lots and a country feel. She said property owners in this neighborhood decided to annex to the City because they felt the City was more restrictive in terms of development and because of assurances from the City that the area would be protected from unreasonable subdivision and gentrification, i.e., sidewalks and curbs. She said the City also offered to reconstruct their road, but that never happened. She said the City Manager send the residents a letter dated May 5, 1988 that reconstruction and changes to the road would not be done or considered unless the residents wanted those changes. She said a four-lot subdivision on Clayton Drive would drastically change the character of the neighborhood, and that a three-lot subdivision was the maximum that could be built without discretionary interpretation. She said that she and her family and neighbors have always had access to the easement area. She said they have held block parties there and emergency vehicles use the area for turnaround. She said the easement should remain open and accessible.

Chair Deziel said it was unclear whether the residents wanted the road improved or not. Ms. Johnson said the City had offered to reconstruct the road, but it never happened. Chair Deziel asked what change they wanted to the road. Ms. Johnson said they wanted it crowned just as it was situated. She said if that had been done there would not have been the drainage problem that occurred. She said she would like part of the development project to include reconstruction of the road.

Mr. Harold Tennant, Menlo Park, said he and his family had lived on Clayton Drive since 1962; that he worked as a civil engineer for 50 years and still did some consulting. He said the neighborhood had historically used the easement. He said he had discovered recently that the fire hydrant identified as the closest to the planned development was not the closest. He said the hydrant that would be the closest to this development was located in the Sharon Glen neighborhood across the fence from the proposed Lot 4, and firefighters would need the easement to work from that hydrant. He said he had worked with the developer to arrive at drainage solutions appropriate for the development and the neighborhood, had reviewed drawings and made comments on those. He said he was surprised that the plans submitted to the Commission did not show those solutions but the applicant had reverted to a previous plan that used infiltration and bubble boxes. He said it was mentioned that there was a hydrological report and a soils study but that had not been included with the staff report. He said an infiltration system would not be appropriate in this site as the soils were predominantly clay and not sand. He said he would be willing to work with the developer to develop drainage solutions.

Mr. Klaus Rose, Menlo Park, said he and his wife lived in the house right next to where the subdivision was intended to be located. He said their initial concern was a redwood

grove. He said he was pleased that the grove would remain and that the developer would create a no-build easement for it. He said there was a very long common border between the properties and the developer had agreed verbally to erect a new fence, .six-feet or higher. He said however that Ms. Casey Hansen, Cupertino Development Corp., had sent an e-mail that the Roses had contacted them and offered to sell a portion of their property to support a four-lot subdivision. He said that was totally erroneous. He said that he and his wife would only support a three-lot subdivision.

Mr. James Barbee, Menlo Park, said they had purchased their home on Clayton Drive one year prior. He said they respected the easement and wanted it to continue as it was well used. He said they supported a three-lot development. He said the seller of the home they bought was aware of the access easement.

Mr. Tim Jenks, Menlo Park, said he and his family had lived on Clayton Drive for 15 years. He said a letter from their counsel, Ms. Joan Gallo, Hopkins and Carly, was submitted to the Commission this evening. He said the easement parcel should be excluded from Lot 4. He said the area was well used by neighbors and was important for access for fire protection and neighborhood character. He said three lots could be developed without the need of the developer to seek additional easements or setback reductions. He said the developer had provided an eight-page summary of the actions they had taken with the neighbors to resolve issues but there were omissions and distortions in that summary. He said the developer was indicating that they were not aware of the easement until August 2007. He said however that Mr. Sam Sinnott, the seller of the home Mr. Barbee and his wife bought, had a 10 percent interest in this development and was well aware of the easement. Mr. Jenks said it was incorrect for the developer to claim that Mr. Barbee acquired an easement from the seller, who did not have an easement to convey. He said representatives of the developer, Mr. Kolker and Mr. Sinnott, had met with several neighbors, including him. He said at that meeting, neighbors were given an intimidating letter from a Palo Alto attorney, Mr. John Hanna, which emphatically stated that the easements were abandoned and which threatened litigation against the holders of the easements. He said the developer's letter attached to the staff report listed chronologically the settlement negotiations between the developer and neighbors. He said during these negotiations the developer and the developer's representatives had impressed upon the neighbors that the negotiations were private and confidential. He said however that those negotiations were now included in the developer's letter and made public record. He said the neighbors had proposed a settlement; yet the developer in this letter was claiming that the neighbors were unable to reach agreement. He said the neighbors were in complete agreement but would not accept the developer's proposal. He said one of the developer's principals, Mr. Stan Howard, had told the neighbors' counsel, Ms. Gallo, that it would be impossible to build a fourth house unless encroachment on the easement was allowed as there was not enough room otherwise. He said because of the developer's omissions and distortions that the developer did not deserve any support for any requests to alter the regulations for this proposal. He said the neighbors could support a three-lot subdivision that left the access easement intact.

Mr. Steve Sowiski, Menlo Park, said he had lived on Clayton Drive for 23 years, and was one of the easement holders. He said he did not want to abandon his easement rights, and that the easement was historically used. He said regarding street paving that if the road was not crowned before paving the then drainage problems would continue. He said during the rebuild of the house later bought by Mr. Barbee that there had been many construction vehicles, which had affected traffic in and out of the neighborhood. He said this construction work damaged the road in Clayton Drive proper and the cul de sac, and while Mr. Sinnott said he would repair the damage, the work that was done was insufficient and had not lasted. He said the issues of paving and drainage needed some remediation by the developer.

Commissioner Riggs said the issue of the paving of the road should be pressed by the neighborhood to the City, and asked if that had occurred. Mr. Sowiski said he was not aware of any residents pressuring the City for paving.

Chair Deziel said a road impact fee was charged developers for the repair of roadways damaged by construction.

Ms. Melanie Austin, Menlo Park, said she had lived in the area for 19 years, and that the neighborhood was extremely interested in maintaining the character of the area. She said the developer had indicated the project would not be profitable unless four lots were developed. She said that should be weighed against the neighbors' needs and desires. She said she hoped the Commission would make a finding that allowed the development but also protected the neighborhood.

Mr. Wayne Bonde, Menlo Park, said it was apparent that the original developer had a plan for how the lots should be laid out, and that the proposed four lots did not follow that plan and would be look like a separate development within another development.

Mr. Rob Berry, Menlo Park, said his home was on Campo Bello, and his primary concern was the privacy into his backyard and pool area. He said the developer and Mr. Sinnott had met with him and discussed setbacks and landscape screening, but now the discussion was about four-lots or three-lots. He said he would like mitigation of privacy impacts built into the approval.

Ms. Janice Galbraith, Menlo Park, said she and her husband had lived in the area for 11 years. She said they were active holders of the easement and it should be excluded from the development area. She said the drainage problem on Clayton Drive was a continuing issue. She said with three lots there would be more room for yards and water percolation.

Mr. John Yandle, Menlo Park, said he had lived in the neighborhood for 19 years. He said the easement had been in continual use. He encouraged the Commission to visit the site. He said homes in this area were mostly on 12,000 square foot lots and this fourth proposed lot without the easement would not have sufficient room.

Mr. Keith Kolker, Cupertino Development Corporation, said whether they built a three or four lot subdivision that met State and City standards, it was important that they be allowed to build to the boundary of the 4,000 square feet in question. He said he had worked closely with Mr. Tennant on a drainage plan and that was part of the negotiations that had failed. He said they would work on the drainage plan for their frontage and that the street's existing problem should not become the developer's problem to solve as the City should have done something years ago.

Chair Deziel closed public comments.

Commission Comment: Chair Deziel asked staff if the easement area was excluded if that precluded a fourth lot. Planner Rogers said that was correct. Chair Deziel opened comments on whether the easement area should be included or not in the minimum lot calculations.

Commissioner Bressler said his opinion was that the developer had not really worked with the people in the neighborhood. He said this was a lot alignment that did not fit with the current development. He said that the developer should work with the neighbors and create something that would fit within the neighborhood.

Chair Deziel said the developer had made a concerted effort to work with the neighbors on a drainage plan. He said the developer would receive a benefit from a fourth lot and the developer had offered to share that benefit with the neighborhood by providing a drainage plan for the whole neighborhood. He said the neighbors had rejected the fourth lot and the drainage plan. He said an example of impairment of a property was if the long-gone owner of the alleys in the Willows area returned and decided to build a home in the alley using the 50-foot width of the alley for the front and the depth of the alley for the rest of the home with a driveway in the alley. He said that would be an impairment of the other properties. He said several of the neighbors of this proposal had indicated the easement area was used as a turnaround for trucks and other vehicles getting in and out, but he did not think the area had to be 40-foot by 100-foot for that use. He said other uses mentioned for this area did not impair this property in his mind. He said it might be useful to determine how much of the area was impaired and how much was not.

Commissioner Bims said the May 1998 letter from the City had made commitments to the property owners regarding the road, and it seemed the developer was willing to do that work in exchange for use of the 4,000 square feet in the lot calculations. He said at a minimum the City should be encouraged to follow through on reconstructing the road so that issue would be resolved. He said with regards to the 4,000 square foot easement that both parties had expended quite a bit of effort to reach a resolution and that had not occurred. He said the question was whether there should be four or three lots. He said there were issues with the four-lot configuration because of the setback needs. He said he thought the 4,000 square foot should be excluded, the subdivision should be three-lots, and the City should honor its commitment to reconstruct the road.

Commissioner Pagee said there was no data on what space was needed for an emergency vehicle turnaround. She said it was interesting that the closest fire hydrant was in the Sharon Glen neighborhood. She agreed that only three lots should be allowed and a four-lot subdivision was not in character with the neighborhood. She said the three lots would have less traffic impact, less hardscape and more open space than a four-lot subdivision built to property lines. She said the house at 2198 Clayton Drive was 23 feet from the easement and backup from its garage was one foot less than the 24-foot minimum. She said the neighbor had indicated how difficult it was to back out of that driveway. She said if there was a fence between the two properties that there had to be an allowance of space for the property owner to back out of the driveway.

Commissioner Riggs said related to whether the easement impaired the use of the property that primarily the property would be used for the building and yard space, which would include the minimum landscape requirements of the City for water absorption. He said if the easement remained that he did not see a detriment to either yard space or water absorption. He said without the 4,000 square feet the lot would be 7,000 square foot. He said he thought the easement should remain. He said arguments about drainage were not strictly a planning issue. He said regarding density that the proposed four lots in aggregate would occupy the same amount of area as the four lots down the hill and it was misleading to call it a density issue. He said regarding the turnaround that the proposed driveway for the subdivision would create a "T," which would solve the turnaround issue. He said the Fire District would not approve the plans unless there was enough space for emergency vehicle turnaround.

Commissioner O'Malley said the easement was a right of the neighbors and that the 4,000 square feet belonged to them. He said the drawings provided to the Commission of the building envelope showed the building on Lot 4 set back but there had been mention that it actually would abut the boundary of the easement. Chair Deziel said this was done based on staff recommendation but the applicant was now asking to move the building envelope to the easement. Commissioner O'Malley said he would not support that. He asked if the easement was respected whether a smaller home could be built on that land. Chair Deziel said if the easement was not counted there would only be a three-lot subdivision.

Commissioner Keith said at the August 13, 2007 Commission meeting that staff had indicated the City Attorney had not been available before that meeting to get his input on the easement. Planner Rogers said staff had spoken with the City Attorney after that meeting and before this meeting, and the City Attorney agreed with either excluding or including the easement toward the calculation of the minimum lot size. Commissioner Keith said Lot 4 was impaired by the easement area as it represented 36 percent of the lot area. She said 11 neighbors had spoken and would not support a four-lot subdivision. She addressed the five factors related to State law for subdivisions. She said that she could not make the finding for the second factor which was that the site of the subdivision was suitable for the density of the neighborhood. She said the proposed fourth lot only had 7,025 square feet, not 11,025 square feet, as the 4,000 square foot easement should not be included in the lot size. She said the homes in this R-1-S

zoning district were on much larger lots. She said also she could not make the findings for the fifth factor related to public access as there was a conflict with the access easement. She said if the plan went forward in some other configuration that the developer would work with neighbors on landscape screening and provide fences. She said she would like to see the grove of redwood trees protected.

Commissioner Bims said regarding the factors that he saw no problem with the fifth factor as the easement was not public, and drainage could be mitigated. He said the first factor asked if the subdivision would comply with the General Plan. He said this also included the zoning ordinance and that including the private easement into the calculations or not, the buildable area would be a substandard lot in this R-1-S zoning district. He said that he could not make the findings for factors 1 and 2 and would not support the subdivision as proposed.

Chair Deziel said that the 50 feet of the easement to the rear should become part of someone's property and that he thought only the first 40 feet of depth and 30 feet of width of the easement were impaired. He said that his was a minority opinion. He said related to the second factor that the proposed subdivision was physically suitable and was analogous to other cul de sacs on Clayton Drive. He said he thought the proposed subdivision also was in character with the neighborhood. He said the question was what the development was entitled to. He said the R-1-S zoning district defended the neighborhood's desire for less density. He said it was in everyone's interest to allow the land to be subdivided and he was in favor of rejecting the front of 40 feet of the easement.

Commissioner O'Malley said if there were no easement he would not have a problem with the fourth lot. Planner Rogers said that City Attorney had noted this was a private easement and it was not up to the City to speak authoritatively on its use. He said the developer had asked for permission to include the 4,000 square feet.

Chair Deziel said the proposed driveway that would enter the proposed four-lot subdivision would be an easement to allow vehicles to access other lots. He said Lot 1 would grant an easement to Lots 2, 3 and 4. He asked if any area was excluded. Planner Rogers said the driveway to Lots 2 and 3 would cross over some property of Lots 1 and 4 and by code that area had to be excluded from Lots 1 and 4 because it served panhandle lots. Chair Deziel said also because Lot 1 had its driveway somewhere else. Planner Rogers said sheet C.02 or attachment B.2 would show the draft driveways in more detail. He said the easement that served Lots 2 and 3 could only be used by two parcels and for it to serve more parcels the easement would have to be wider. Chair Deziel commented that the driveways were exclusive to the parcels and was excluded but the 4,000 square foot easement was not exclusive to any parcel.

Commissioner Pagee said that the 4,000 square foot easement should be kept for access and use by the residents and that if the 4,000 square feet was excluded from parcel 4, that it would be less than 12, 000 square feet and not in keeping with the neighborhood.

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Commissioner Bims said regarding additional information needed that page G.4 indicated the applicant had a letter from the title company regarding the easement in terms of whether it should have been conveyed to the Barbees. He said the City was also searching for a resolution and a signed grant deed for Clayton Drive. Planner Rogers said the City Clerk found the unrecorded deed and the City Attorney advised to record the deed, which reflected the City's intent when the area was annexed into the City to make Clayton Drive a public street. He said as to whether the Barbees' (2198 Clayton Drive) claim on the easement was as equally valid as the other three parcel owners' claim on that easement had not been discussed at length by staff and the City Attorney, mainly because the other four property owners' claim on the easement was valid.

Commissioner Riggs said if the easement was valid that it came down to the Commission's discretion as to whether it could be included in the development of a fourth lot. He said as a Commissioner part of his role was to protect the City's neighborhoods and the fact that 10 residents had come forward about retention of the easement was very persuasive. He said that it would be important for the City Attorney to be in attendance at the public hearing for this project as the legality of the easement would come up in the discussion. Commissioner O'Malley said that was his opinion as well. Chair Deziel said that the City Attorney has indicated that the inclusion/exclusion of the easement was the Commission's discretion.

Planner Rogers said the validity of the 2198 easement had not been discussed with the City Attorney and there had been no basis to question the validity of the other four parcels whose properties indicated the easement.

Commissioner Riggs said that the applicant had indicated a structure was built by one party and there had been no objection, which might constitute a de facto abandonment of the easement noting that a carport had been built previously on the easement without objection. He said he had no one to ask that question. Chair Deziel said that would fall under the third area of their discussion.

Commissioner Keith said page 5 outlined five standards of State law and asked if this was a summary of those five standards. Planner Rogers said this was a summary of a previous staff report. Commissioner Keith asked if standards three and four had been combined previously. Planner Rogers said they had been separate. Commissioner Keith asked if factor five specifically said public access easement. Planner Rogers said it did. Commissioner Keith said she would like to see exact language for State law in the future. She asked about City ordinance section 15.58.020 as to whether it made any distinction between easements. Planner Rogers said that it did not distinguish types of easements.

Commissioner Bressler said the issue was quite simple. The Commission had asked the applicant to work with the neighbors. The neighbors wanted to maintain the character of their neighborhood. He said the Commission could make a decision or leave it open ended for potential lawsuits. He said that when the Commission directed

an applicant to work with neighbors that should occur and there should not be situations like this where the residents have to hire an attorney to protect their neighborhood.

Commissioner Keith said on page C7 of the prior staff report that the third and fourth factors of the State law were not separated. She said it was important to have State law verbatim.

Chair Deziel said he saw nothing in the staff report regarding hydrology, and the neighbor's concern about the soil being sand. He said the developer had made an effort to offer more than required for drainage in exchange for inclusion of the easement but that was not accepted by the residents. He said when the developer returned with a three-lot proposal they would have a certain amount of proposed drainage improvements. He said that should be separated from the previous discussions and probably that would be best done in the staff report so it was clear to the public, members and Commission what those earlier discussions were as they were discretionary in nature.

Commissioner Riggs said regarding the hydrology that the Commission had heard that the developer would improve the drainage and that there would be an onsite drainage storage plan. He said a soils report was only as valid as the number and depth of borings. He said when the proposal came to a public hearing that he would request specific soils analysis. He asked if staff had reviewed the soils report. Planner Rogers said he had forwarded the soils report to the engineer and that it needed expansion to be approved. He said the engineer said that there could possibly be a soils exchange and that the areas of the swales might be sandy but not sand. Commissioner Riggs said he would like to see the borings report.

Commissioner O'Malley said if the easement was valid then the proposal for four lots was impaired. He said that if the easement was not valid that this four-lot subdivision was not impaired and was consistent with the other homes in the neighborhood. He said that he wanted the City Attorney to resolve the question of validity.

Planner Rogers said that there was a valid easement for the four properties and possibly for a fifth property.

Chair Deziel said it was up to the Commission's discretion as to how much that easement impaired the fourth lot.

Commissioner Bressler said there was majority agreement that the easement did impair the fourth lot and should not be included in the square footage of a fourth lot.

Commissioner Keith noted that only four Commissioners were present at the April 13, 2007 meeting consideration of this project. She said that staff report indicated the developer would be able to build a four-lot subdivision contingent on an abandonment of

easements. Planner Roger said that this had referred to utility easements as well as the access easement.

Summary of Commission Discussion

Planning Commissioners provided individual comments. A majority of Commissioners indicated that the 4,000-square-foot access easement area should be excluded when determining the minimum lot size, which would preclude a four-lot subdivision on the subject parcel. Individual Commissioners also made comments requesting additional information if and when a revised proposal returns to the Commission, in particular with regard to the soils testing and State law regarding subdivision actions.

2. **Study Session/Doane + Doane Architects/1081 Santa Cruz Avenue:**

Request for a study session for the proposed demolition of an existing single-family residence and the construction of four attached single-family units in the R-3 (Apartment) zoning district. The proposal would require a use permit and architectural control.

Staff Comment: Planner Rogers said one piece of correspondence had been received since the publication of the staff report and was from the applicant summarizing the neighborhood outreach done and signatures of neighbors in support of the project.

Questions of Staff: Commissioner Keith asked if there were color boards. Planner Rogers said he understood that the applicant would have color sheets and a color mockup of the project.

Public Comment: Mr. Joe Comartin said he owned a small property development company, Woodlane Properties. He said formerly he was a project manager for SummerHill Homes. He said his office was located on Sand Hill Road. He said he bought this property with the intent to build sophisticated townhomes. He said he was proposing a more urban product than the townhomes usually built in Menlo Park. He said the latter usually had reduced lawn space. He said they would put the garage under the structure to allow for more lawn space and outdoor living space. He said he had conducted his own neighborhood outreach and found the idea resonated with a number of the members of the community.

Commissioner Keith said the existing home appeared raised. Mr. Comartin said that it was and the homes he proposed would have garages about three-and-a-half below grade as opposed to the current two-and-a-half below grade. She asked about the courtyard between units 2 and 3 and asked its use. Mr. Comartin said it was separated by a wall and was for use of each unit separately. Commissioner Keith said she liked the height of the chimneys proposed. She asked if he was interested in LEED certification. Mr. Comartin said his project was not yet at that point but he would look at incorporating green elements into the project.

Mr. Babat Doane said he was the architect for the project. He said they met with staff in design review meetings for general direction. He said they were interested in more

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density on the site because of its location to downtown and proximity to similar units. He said they were looking at natural cedar shingle appearance with painted trim. He said they intended to keep the heritage trees although some were not in good health.

Chair Deziel said the drawing showed the height at 43 feet and the report indicated 34 feet. Mr. Doane said the drawing should show 34 feet. Chair Deziel said the top plate was 24-feet and the roof ridge was 34-feet 7-inches. Mr. Doane said that was correct. Chair Deziel asked about the clear height of the garages. Mr. Doane said it was seven-foot six-inches. He said the garages would have a slight slope to the garage door to provide drainage for the terraces above. He said the garage was about five feet above the sidewalk elevation. Chair Deziel asked if the seven-foot six-inch height of the garages was typical of this urban type development. Mr. Doane said the standard door was seven feet and the extra space allowed for lights and other details. He said the height could certainly be greater for the garages.

Commissioner Pagee said she appreciated having an additional handicapped space but the lift only went to the terrace level. She said she would like to see an elevator added to get the person to the second floor. Mr. Doane said City code required that an elevator would have to be provided for all units to the second floor and prohibited one elevator for just one unit. Commissioner Pagee suggested that the unit be designed so it would allow for the addition of an elevator after it was purchased by a property owner. Commissioner Pagee said there were front and back yards. She said the fence height would be limited on the corner. She said a gate at unit 4 to allow privacy would be satisfactory to her. She said she would like to see the colors and materials. She asked if they would use true divided light or simulated divided light. Mr. Doane said many manufacturers were making three-part grids that looked exactly like true divided light windows. Commissioner Pagee said the concrete wall going around the property would be visible for some of the units and suggested something to break the wall up. Mr. Doane said they would be looking at that. Commissioner Pagee suggested passive ventilation rather than active or mechanical ventilation. She said she would also like to see green elements included such as tankless water heaters and skylights.

Commissioner Riggs said the proposal would be an attractive addition to Santa Cruz Avenue. He said between the decks and garages that there were considerable impervious areas, and asked how much they were preventing absorption on the lot. Mr. Doane said there was a larger impervious area because of the garage footprint. He said they were proposing to use pavers rather than paving in some of the driveways. Commissioner Riggs asked if mechanical ventilation was needed for the garages because they were underground. Mr. Doane said that he believed they were designed so that mechanical ventilation would not be needed. He said there would be ventilation on the sides and backs of the garages. Commissioner Riggs said that with the site location and density that they would be quite close to LEED certification.

Commissioner Keith said on page 3 of the staff report it talked about the encroachment of the uncovered stoop into the setback. Planner Rogers said it would be a legal

encroachment. Commissioner Keith said landscaping could soften the wall. Mr. Doane said they were looking at ways to improve the aesthetics of the wall.

Chair Deziel closed the public comment period.

Commission Comments: Commissioner Keith said that overall it was a pleasing design and would be a nice addition to downtown. Commissioner O'Malley agreed with Commissioner Keith's comments and thought the project would add benefit to the downtown.

Chair Deziel said that he liked that the units had so much yard space. He said as buildings got older that a too-short garage door might be discouraging to future buyers. He said this type of underground garage was common in Los Altos; he suggested the applicant check with that town to see if they used an eight-foot door and if so they should consider using that height. He said others had already commented on the wall. He said he would like to give the feel of a taller house with perhaps windows or door access on the garages. He said he liked the outside patio and the natural shingles. He asked what materials the walls between the yards would be. Mr. Comartin said he expected a wood framed wall with shingled siding to create privacy between units on the terraced level. He said on the lower level they would need to do a wooden fence and in response to concerns from Chair Deziel about the Oak tree, he indicated they would jog the fence or mitigate some way to protect the Oak. Chair Deziel said it cost money to put the garages underneath and he would have a hard time to require an elevator. Commissioner Pagee said that it would not be a requirement but to design the unit so that an elevator could be installed later. Chair Deziel said he liked the density.

Commissioner Bressler said he liked underground parking and thought it should be required in the future.

Chair Deziel asked if there was a wall between the two ramp down areas. Mr. Doane said they were thinking of a wall between the two areas. Chair Deziel said adding a wall would make it look like a channel. He suggested making the wall wider to include greenery. Commissioner Riggs asked if they would like the Commission to recommend narrower driveways since they were one-way. Mr. Doane said it would benefit the project to have a narrower width.

Mr. Comartin, in response to a question from Commissioner Keith, said that the units might be \$1.3 to \$1.7 million.

Commissioner Pagee suggested that if there were narrower driveways that there might be additional safety features included.

Chair Deziel asked if there was consensus to help narrow the driveway ramp width. Commissioner Riggs said it would look like an office building parking lot. He said there were only six cars with one-way driveways. Commissioner Bims said with two-way driveway access they would need at least 20-foot width.

Menlo Park Planning Commission

Minutes

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Commissioner Pagee praised the developer for doing public outreach. Commissioner Keith suggested that they should make more effort to contact property owners rather than just residents.

Chair Deziel said he expected the applicant would provide for bicycle racks and storage within the development.

Upon polling the Commissioners, Chair Deziel said the Commission unanimously supported reducing the driveway to 20 feet and graciously requested that the Transportation Engineer consider the request.

Summary of Commission Discussion

- General support for the proposed design, in particular the placement of parking underground and the provision of more usable outdoor space;
- Encouraged incorporation of green building materials and features and to seek LEED (green building) certification;
- Revisit the underground garage height in comparison to other luxury products as it might be too short as designed;
- Encourage providing Unit 4 with the flexibility to add an elevator in the future;
- Windows should all be true or simulated divided light;
- Base wall should be broken up visually, possibly by windows, other openings or varied material treatments
- Skylights and other passive lighting should be considered;
- Encourage shingle siding option for the exterior facade;
- Backyard fencing should be sensitive to heritage oak;
- Consider providing bike parking areas;
- Work with staff to determine whether driveway entrance can be reduced in width;
- Driveway design should avoid “channelizing” feel; and
- Neighbor outreach should incorporate property owners

D. REGULAR BUSINESS

There were no regular business items.

E. COMMISSION BUSINESS

1. Review of planning items on City Council agendas.

A. Downtown/El Camino Real Vision Plan scheduled for July 15, 2008.

Commissioner Bressler said that he reported the Commission's consensus that the planning process continue. He said he thought the Council would make room in the budget to continue the process.

Planner Rogers said there would be an additional Council meeting on July 15. The Commission on June 10 had provided a number of directions to the draft Vision Plan. He said that staff would bring a final Vision Plan to the Council on July 15, and the Council would provide direction on the second phase of the Vision Plan potentially including preparation of an RFP.

Chair Deziel suggested that the consultant for the first Phase might prepare a proposal for the second phase, which would save money. He said if the proposal was not satisfactory then an RFP could be prepared. Commissioner Pagee said that there were reasons why an RFP was preferable including competitive pricing.

Commissioner Bressler said the building at 64 Willow Road was very imposing and there were two large signs. He asked how this project could have gotten through without review. Chair Deziel said there would be a fence that would break up the façade. Planner Chow said sign approval usually went through staff review. Commissioner Bressler said he was concerned with 8 Homewood Place and asked if that would be reviewed. Chair Deziel said that it had come before the Commission about three years prior. Planner Chow said there was architectural control approved in 2005 and there was no expiration date.

Commissioner Pagee asked about 66 Willow Road. Planner Chow said she thought they would be withdrawing their application.

G. REPORTS AND ANNOUNCEMENTS

Commissioner Keith said she would need to telephone conference for the July 14 and the August 11 meetings.

Commissioner Bims said he would be absent July 14.

Chair Deziel asked if staff could let the neighbors on Clayton Drive know about the City's prioritization list and process.

ADJOURNMENT

The meeting adjourned at 10:35 p.m.

Staff Liaison: Deanna Chow, Senior Planner

Recording Secretary: Brenda Bennett

Approved by Planning Commission August 25, 2008.