



PLANNING COMMISSION MINUTES

August 11, 2008

7:00 p.m.

City Council Chambers

701 Laurel Street, Menlo Park, CA 94025

Teleconference with participation by Commissioner Keith from:
13073 Northwoods Blvd.
Truckee, CA 96161
(Posted August 8, 2008)

CALL TO ORDER – 7:01 p.m.

ROLL CALL – Bims, Bressler (Arrived at 7:02 p.m.), Deziel (Chair), Keith, O'Malley, Pagee, Riggs (Vice chair)

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

A. PUBLIC COMMENTS

There were none.

B. CONSENT

There were no items on the consent calendar.

C. PUBLIC HEARING

1. **Use Permit Revision/David W. Terpening/1076 Santa Cruz Avenue:**
Request for a revision to a use permit granted by the Planning Commission on July 14, 2008 to construct a new two-story, single-family residence on a substandard lot with regard to lot width in the R-E (Residential Estate) zoning district. The revision includes modifications to the building footprint and FAL (Floor Area Limit), which have been made in response to the Planning Commission denial of a request for a variance to encroach into the right side daylight plane.

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

Public Comment: Mr. David Terpening, project architect, said in response to the denial of the request for a variance to encroach into the right side daylight plane that they had added two bay windows to the north end of the building, which created a gable to the front, and brought the ridge back to be in compliance and not encroach in the daylight plane.

Chair Deziel closed the public hearing.

Commission Comment: Commissioner O'Malley moved to approve as recommended in the staff report; Commissioner Pagee seconded the motion.

Commissioner Riggs said the architect had done well in making the changes requested by the Commission and maintaining the intended character of the house.

Commission Action: M/S O'Malley/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. Approve the use permit revision subject to the following **standard** conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by David W. Terpening Architect AIA Inc., consisting of 24 plan sheets, dated received July 31, 2008, and approved by the Planning Commission on August 11, 2008, except as modified by the conditions contained herein, subject to review and approval of the Planning Division.
 - b. Prior to building permit issuance, the applicants shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicants shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.

- d. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
- e. Simultaneous with the submittal of a complete building permit application, the applicant shall submit plans indicating that the applicant shall remove and replace any damaged and significantly worn sections of frontage improvements. The plans shall be submitted for the review and approval of the Engineering Division.
- f. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a Grading and Drainage Plan for review and approval of the Engineering Division. The Grading and Drainage Plan shall be approved prior to issuance of a grading or building permit.
- g. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance.

Motion carried 7-0, with Commissioner Keith participating by teleconference.

2. **Use Permit and Architectural Control/Samuel Sinnott/761 El Camino**

Real: Request for a use permit and architectural control for a 336-square-foot addition to the rear of an existing commercial building in the C-4 (Applicable to El Camino Real) zoning district.

Staff Comment: Planner Fisher said that staff had distributed a colors and materials board to the Commission. She said the staff report indicated 41 parking spaces in the data tabulation, which should be corrected to 40 spaces. She noted that only 32 spaces were required for the project.

Public Comment: Mr. Sam Sinnott, project architect, said the property owners wanted to keep the landscaping rather than increase it to 10 percent as parking was very important to them.

Commissioner Pagee said she was concerned about the accessibility of the new restaurant. She said the corner would be filled in with landscaping and that corner would create a tight space for strollers and wheelchairs to navigate. Mr. Sinnott asked if she wanted to see the hardscape increased. Commissioner Pagee indicated she would. She confirmed with Mr. Sinnott that a ramp would be installed in the rear for accessibility. She asked if the existing restaurant would be painted the same color as the new one or whether the new one would be painted to match the existing building.

Mr. Sinnott said the color for the new building would match that of the existing restaurant.

Commissioner Keith said outside seating for restaurants was desirable in Menlo Park, and asked if the planter boxes were narrowed whether tables could be placed on the side of the restaurant adjacent to Roble Avenue. Mr. Sinnott said he thought that seating for two could be accommodated and he would look at that. Commissioner Keith asked if there was only one entrance to the restroom from Roble Avenue. Mr. Sinnott said that for the public there was only one entrance. Chair Deziel said it appeared there was access from the other side of the building and that from the parking lot it was possible to get to the bathroom without using the service entry. He asked if there was enough width for a wheelchair. Mr. Sinnott said the existing entrance for the staff was from the rear and the owners did not want the public to access from that area. He said that this was shown on page A1.1. Chair Deziel noted that the plans showed this was a closed area.

Commissioner O'Malley asked if the footprint of the existing restaurant was similar to that proposed with the new restaurant. Mr. Sinnott said that the garbage and recycling area had to be enlarged and would slightly extend beyond what was there currently. He said that they were only adding 135 square feet. Commissioner O'Malley said the access to the bathroom from the street side seemed difficult but persons could park on the side and enter the bathrooms through the existing lot. Mr. Sinnott said that those bathrooms were not accessible. He said they were putting concrete around the service yard and they could ramp it down to Roble Avenue and from the parking lot. Commissioner O'Malley commented that the restaurant was primarily for take-out and he was surprised that any tables would be needed unless they were waiting for orders. Mr. Sinnott said a table might serve for people waiting for orders, but that sometimes people liked to eat there.

Commissioner Riggs said it was great the site was going back into use as Cook's. He said it was windy and noisy in the outside area. He said the new landscaping and planter might help with those conditions, but asked whether the area might be more enclosed. Mr. Sinnott said they had talked about various measures to address those conditions such as lattice and a fountain, but their landscaping plan was not yet complete. He said perhaps staff could review the landscaping plan when it was developed. Commissioner Riggs said he agreed with other Commissioners' concern about the narrow sidewalk. He said there was a width of 44-inches which was wide enough for a wheelchair but not for others to pass if a wheelchair or stroller was in that space already. Mr. Sinnott said he thought a modification to the landscape plan on the Roble Avenue side would be doable to address that issue.

Mr. Roy Crumbach (SP?), owner of Cook's restaurant, said that if the Commission wanted the sidewalk on Roble Avenue increased that they would be connecting the planter box on the Roble Avenue side around to El Camion Real. He said they wanted higher landscaping because of the noise and wind from cars coming by on El Camino

Real. He said that perhaps they could pull the planter back to provide a little more room at the corner for people crossing. Commissioner Pagee said there was a suggestion for a ramping in the upper corner for easier access from the parking lot to the bathrooms. She said if concrete was being torn up perhaps they could add a ramp at this location. Mr. Crumbach (SP?) said that they wanted to direct people to the bathrooms from the dining area for security reasons.

Chair Deziel said the plans do not show a closure there. Mr. Crumbach (SP?) said there was an 8-inch curb and there were restrictions about placing anything next to the PG&E box. He said perhaps they could add a gate to restrict entry in that area. Chair Deziel asked what the size of the eating area next to Roble Avenue was. Mr. Sinnott said it was about eight feet wide. Chair Deziel said he thought that was wide enough to accommodate a table and two chairs too. Mr. Sinnott said that the seating area at Arby's was popular with the homeless population. Commissioner Pagee said if there were planting boxes all along Roble Avenue that would restrict entrance. Chair Deziel asked about enclosing the area. Mr. Roy said that he hoped to have an iron gate to restrict entry. He said they have had to keep the restaurant area clean of debris from homeless encampments since it became vacant. He said their facilities are open to the public when the restaurant was open, but they want to direct where people entered.

Commissioner Keith asked if they intended to put bench seating along Roble Avenue. Mr. Crumbach (SP?) said there was enough room for a bench for people to sit on and wait for their pickup orders and for wheelchair access. Commissioner Keith asked where it would be located. Mr. Crumbach (SP?) said it would be adjacent to the door coming out to Roble Avenue through the service area and centered on the door but along the planters.

Commissioner Keith asked about the newspaper boxes along the El Camino Real walkway and if those could be removed from the intended path. Planner Fisher said the ones on private property could be removed and those were intended for removal.

Chair Deziel closed the public hearing.

Commission Comment: Commissioner Keith moved to approve per the staff recommendation with the addition of bench seating along the planters on Roble Avenue, 10 to 12 feet long, centered on the door that opens to Roble Avenue. She said that perhaps staff should review plantings and other mitigation of noise in the outside area. Chair Deziel said he would like to see a two-top table and noted that the seating was removable. Commissioner Keith said she would not require the seating but would allow for reduction of landscaping for the purpose of outdoor seating. Chair Deziel said that putting the bench seating into the conditions would mean that it would have to be kept forever. Commissioner Keith said the applicant had indicated the bench would be installed and it did not have to be included in the conditions. She moved to approve as recommended by staff. Commissioner Bims seconded the motion.

Commissioner Keith said she thought the restaurant would be a great improvement and an asset for Menlo Park. Commissioner O'Malley said he would like to keep the parking level where it was. Chair Deziel asked if the Commission needed to approve the gate the applicant referred to. Commissioner Keith suggested leaving that for staff review. Planner Fisher said by its inclusion in the minutes that staff would be aware that the Commission acknowledged the inclusion of the gate. Commissioner Keith asked if the gate would be locked. Mr. Crumbach (SP?) indicated it would be. Chair Deziel confirmed that the installation of a gate subject to staff review was acceptable to Commissioners Keith and Bims as the makers of the motion and second.

Commission Action: M/S Keith/Bims to approve the item as recommended in the staff report with the following addition.

1. Make a finding that the project is categorically exempt under Class 1 of the current CEQA Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. 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 subject to the following **standard** conditions:

Development of the project shall be substantially in conformance with the plans prepared by Samuel Sinnott & Company, Inc., consisting of nine plan sheets, dated July 9, 2008, and approved by the Planning Commission on August 11, 2008, except as modified by the conditions contained herein, subject to review and approval by the Planning Division.

- a. Prior to building permit issuance, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, San Mateo County Health Department, and utility company's regulations that are directly applicable to the project.
- b. 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.
- c. 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.
- d. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
- e. Prior to building permit issuance, the applicant shall submit revised plans indicating that the applicant shall remove and replace any damaged and significantly worn sections of curb, gutter, sidewalk, and driveway approach. These revised plans shall be submitted for the review and approval of the Building and Engineering Divisions.
- 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 subject to the following project-specific condition:

- a. ***If desired in the future, the applicant may add a gate to restrict access to the right side patio area, which is open in nature, between the right side of the building (Roble Avenue) and the transformers towards the rear of the building. The gate would be subject to review and approval by the Planning Division and would require a building permit.***

Motion carried 7-0.

D. STUDY MEETING

1. **Study Session/John Conway/1200 El Camino Real:** Request for a study session for the expansion of an existing snack shop associated with a gas station located in the C-4 (General Commercial, Applicable to El Camino Real). The applicant proposes to convert either a portion or all of the existing automotive service bays into additional snack shop area, which includes the request for the sale of beer and wine along with other goods, including but not limited to food, non-alcoholic beverages, health and beauty products, tobacco products and automotive-related products.

Staff Comment: Planner Chow said a letter of support from El Camino Real property owner Mr. Howard Crittendon had been distributed to the Commission as well as a second letter from John and Dan Beltramo, who opposed the concept of the sale of alcohol by convenience stores associated with a gas station. She said the Commission also received input from the Menlo Park Police Department related to concerns with the sale of alcohol from a convenience store associated with a gas station. She said if the applicant decided to move forward with a formal application that staff would continue to work with the Police Department for input and possible modifications that would mitigate their concerns.

Questions of Staff: Commissioner O'Malley said there were a number of gas stations with convenience stores in Menlo Park and asked how many of those also sold beer and wine. Planner Chow said that there were 11 gas stations with convenience stores and none of those were permitted to sell beer and wine. Commissioner Riggs asked if there was information on drinking in the parking lot of the 7-11. Planner Chow said she could check with the Police Department. Commissioner Riggs said he would observe himself as instances of drinking in the parking lot at the 7-11 might not rise to police involvement. Commissioner Bims asked if staff had additional information as to why the Police Department had concerns with the sale of beer and wine at a gas station. Planner Chow said it related to all of the gas stations and might be related to the "convenience" factor. She said they would need to get more information from them as to whether it was general or related to a specific site. In response to Commissioner Keith, Planner Chow said the project site was remodeled in 2003. Chair Deziel asked why the convenience store required a use permit. Planner Chow said one factor was the proposal to sell beer and wine and the use change to the use permit originally given. Chair Deziel said there was information from ABC that there was an undue concentration of liquor licenses in the area. Planner Chow said that the applicant had a initial conversation with ABC, not confirmed by staff, that the site was located in an area where the issuance of a liquor permit would create an undue concentration of liquor license either because of the number of the licenses in the area was greater than the City as a whole or because of greater crime rate related to those liquor licenses. She said the Commission was being asked to consider whether the liquor license was

needed to meet public convenience and necessity. Chair Deziel asked if it was known whether there was already an undue concentration. Planner Chow said that would need to be clarified. Commissioner Keith said on page 4 of the staff report, under proposed use, third line down indicated that the project had minimum floor area for a convenience store. She asked what that number would be. Planner Chow said the applicant could probably answer that.

Public Comment: Mr. Bill Gutsell, Keller and Daisy King Architects (SP?), said the reason for expanding the convenience store size was because of prevailing marketing and economic issues that were negatively impacting the profitability of service stations. He said the applicant wanted to increase profits from sales. He said related to Commissioner Keith's question regarding floor area that their original application for a use permit was for a 742 square feet addition, and included gross square foot area for the office/ utility room, a walk-in refrigerator, storage, and toilet area. He said the minimum square footage needed for just retail sales to participate in Chevron's Extra Mile Franchise was 550 square feet. He said that area was currently 419 square feet.

Commissioner Pagee asked about Scheme 1 and Scheme 2 and the loss of service bays. Mr. Gutsell said with Scheme 1 that all three service bays would be lost and for Scheme 2 that one service bay would be lost. Commissioner Pagee asked where tires or other automotive materials would be stored. Mr. Gutsell said some of the storage was currently in the utility room and there was elevated storage area in the bays. Commissioner Pagee asked what dollar value was required per square foot. Mr. Gutsell said he could not address that and suggested the Chevron representative could address that. Commissioner Pagee said that on Scheme 1 that the entrance door would be in the bay closest to the existing retail space. Mr. Gutsell said that for Scheme 1 the entry door would be centrally located and the service bay doors kept so that if in the future service became profitable that Mr. Conway could use the space again as service bays. He said the Extra Mile franchise was highly dependent upon the granting of a beer and wine sales use permit. He said there were other convenience stores that sold beer and wine that were in the County and had a Menlo Park address: the AM/PM on the Alameda and the Quik-Stop on Middlefield Road across from St. Anthony's. He said this service station was built in 1948 and when renovated in 2003 it made a positive impact on aesthetics on this area of El Camino Real. .

Commissioner Bressler said that there was a gas station on El Camino Real near Allied Arts with a large convenience store that did not sell alcohol. He said giving an alcohol permit to this property might encourage other similar businesses to apply for an alcohol permit. He said that the other station seemed to be doing well and asked how important it was to sell alcohol.

Mr. John Conway, 1200 El Camino Real, said that no service stations were doing well because of the escalating credit card costs and the rising cost of fuel.

Commissioner Keith asked what the square footage of the office/utility room was. Mr. Gutsell said it was about 120 square feet in size. Commissioner Keith asked if this could be used to meet the requirement for sales space. Mr. Gutsell said the office/utility room had to have a three compartment sink per Health Code requirements. He said they could look at using that space to make up the difference. He said they looked at using it, but it was under the 550 square feet required by Chevron. He said the mop sink and hand wash sink might possibly be moved. Commissioner Keith suggested that it might be possible to do the increased sales floor without closing the service bays. Mr. Gutsell said there was a need for the walk-in cooler and storage was not counted toward display area. Commissioner Keith said there were many people from Menlo Park, Palo Alto, Atherton and Portola Valley who brought their cars for service there. Mr. Conway said that was true. Commissioner Keith said she thought the bays were busy. Mr. Conway said that gas sales were down 30 percent and the service sales were down about 20 percent.

Commissioner O'Malley asked if the sale of wine and beer was not permitted whether they would want to continue with Scheme 1 or 2. Mr. Gutsell said they were looking at that.

Chair Deziel asked if the applicant kept three bays and expanded the sales area to 550 square feet and had no alcohol sales whether a use permit would be needed. Planner Chow said that would probably fit under the existing use permit. Chair Deziel asked if one bay was converted to retail space if that would need a use permit. Planner Chow said that would require looking at a use permit. Chair Deziel asked about the façade in Scheme 2 as it looked like the existing appearance. Mr. Gutsell said the garage bay door could be locked; and that one door within the convenience store area could be locked off and they could remove one rolling door.

Mr. Tom Anarello (SP?) said he was the Chevron representative. Commissioner Pagee asked for locations of nearby Extra Mile franchises. Mr. Anarello said the program was nationwide as gas stations were moving away from service bays. He said that Chevron got out of the service bay business about 12 years ago, but some dealers had not. He said that Chevron has had the food mart/snack shop capability for 15 years. He said the Extra Mile franchise brought a much more diversified merchandising program. Commissioner Pagee asked if Chevron's support was needed for this dealer to make the conversion. Mr. Anarello (SP?) said that it was Mr. Conway's choice. Commissioner Pagee asked if there was a dollar per square foot sales required. Mr. Anarello (SP?) said there was not. Commissioner Pagee asked if Mr. Conway needed to buy products from Chevron. Mr. Anarello (SP?) said that Chevron had contracted vendors who would provide merchandise. Commissioner Pagee asked for the location of an Extra Mile site that was nearby. Mr. Anarello (SP?) said there were 48 Extra Miles in the Bay Area. He said there was one in Menlo Park on Willow Road. Commissioner Pagee asked about an Extra Mile that sold alcohol. Mr. Anarello (SP?) said there were two local stores that sold beer and wine and were located in Sunnyvale and Santa Clara. Commissioner Pagee asked when the Extra Mile concept started. Mr. Anarello (SP?)

said three and a half years ago. Commissioner Pagee noted that the applicant's current hours of operations were acceptable to the City and asked whether Chevron would require something different. Mr. Anarello (SP?) said that the current hours of operation were acceptable to Chevron.

Commissioner Bims asked if seating would be provided in the convenience store. Mr. Anarello (SP?) said there would not be seating.

Commissioner Keith asked if the alcohol sales were limited in the Extra Mile stores mentioned. Mr. Anarello (SP?) said it was based on the locale. He said some areas did not allow the sale of a single serve and beer had to be sold as a six- or 12-pack. He said in some places the door was locked at 9 p.m. and sales were conducted via a window. He said that hours of sales were set by the ABC. Commissioner Keith asked how the retailers are trained so that minors do not buy alcohol. Mr. Anarello (SP?) said training was provided that addressed both alcohol and tobacco sales.

Commissioner O'Malley asked where current customers who use the service bays would go if all of the bays were closed. Mr. Conway said he would refer customers to a reputable service station or dealer. Commissioner O'Malley said customers would be disappointed to lose his service.

Commissioner Bims asked about Scheme 2 and how much it would cost to reconvert the bays if that was desired later. Mr. Gutsell said it was not easy to remove the equipment and then put it back in, and that the less they would need to remove would be best. Commissioner Bims said if Scheme 2 was used which removed one bay how likely it was that it would be reconverted in the future. Mr. Conway said he could not definitively answer that question because there were too many unknowns.

Commissioner O'Malley asked how much the drop in service bay business was. Mr. Conway said it was down about 20 to 40 percent.

Commission Comment: Chair Deziel said questions staff would like the Commissioner to address were: whether to allow alcohol, whether to allow the conversion of one or three bays, whether to require more on the façade if the bays were converted, hours of operation and merchandise to be sold.

Commissioner Bressler said he did not support the sale of wine and beer at service stations. Commissioner Bims said related to public convenience and necessity that while there was a need on the part of the owner to generate more income, more input from the public was needed to determine whether this was a convenience or necessity for them. Commissioner O'Malley said he would find it hard to make the determination to allow the sale of beer and wine. He said that if it was granted he expected other dealers would want to do the same. Commissioner Pagee said she thought the combination of beer and wine and vehicles was not good. Commissioner Riggs said there was not enough information to make the decision. Chair Deziel said that he

concurred. He said several years prior there had been an effort to move an alcohol store downtown, the owners of which had a strong program to limit sales, yet there had been a strong public resistance to that use. He said there had to be a standard for screening sales to the general public that prevented problems and he was uncomfortable with the sale of beer and wine. Commissioner Keith said she was uncomfortable also with the sale of beer and wine at the service station especially as related to sales to minors and hours of sale.

Chair Deziel asked the Commission to comment on preference for either Scheme 1 or Scheme 2. He said there were really three options in that the applicant could achieve 550 square feet without any changes to the façade and if there was a small enough change to the square footage that could occur under the existing use permit.

Commissioner Bressler said he was not sure using the existing space to expand would work. He said he would not have a preference between the two schemes as it was up to the property owner to run the numbers to determine the best scheme. Commissioner Pagee said she agreed but as a customer of the service repair station she would be disappointed to lose the business. She said her preference was retaining the service bays as in Scheme 2 but she thought Mr. Conway would have to determine what would work for him financially. Commissioner Riggs said he would prefer Scheme 2 but he concurred with Commissioner Pagee's comments. Commissioner O'Malley said he would prefer if they could accommodate the convenience store in the existing space, but if not his preference would be Scheme 2. Commissioner Keith said she also agreed with Commissioner Pagee's comments related to the property owner's determination of which scheme was needed financially, but she would prefer Scheme 2. Commissioner Bims said expanding in the existing area was not really tenable as the space was already cramped. He said he would prefer Scheme 2 to provide service for people who did not like to use dealers. He said he would support either scheme or variation thereof. Chair Deziel said he supported the conversion of one service bay and that if all of them were converted that the façade would need improvement. He said even if one bay was converted he would like to see that one bay façade improved to appear part of the storefront. He said without that the business could deter nearby development. Commissioner Keith said if there was a conversion of one of the bays that perhaps the entry could be moved to the center of the building as shown in Scheme 1. Commissioner O'Malley said he thought that was a good recommendation. Commissioner Bims said the decision to transform the building was analogous to the 2003 renovation and that with the possible renovation of any of the bays that he would like some certainty as to where the space evolved. He said the façade should reflect the change to the service bays. Commissioner Riggs said that the building was handsome and if one of the bays hid space used by retail space he would not object. He said aesthetically he had no problem with rollup doors. He said Scheme 1 had a door in the center but removed the cooler from the area of the clerk and was not exactly functional. Commissioners Bressler and Pagee said they agreed with Commissioner Riggs' comments about the elevations.

Chair Deziel asked if additional designated parking spaces should be required because of the conversion as four stalls in front of the pumps were being counted. The Commissioners commented unanimously that was not needed.

Chair Deziel asked if there were factors such as hours of operations, design or security measures that could be added. He noted that they were looking at it within the context of no sale of beer and wine. There were no comments.

Chair Deziel asked if the Commission had issues with the planned improvements to the exterior of the building. He noted his previous comments. There were no additional comments.

Chair Deziel asked if there was any additional information the Commission wished to see that was not typically required in an application. Commissioner Bims said if there was additional information that showed there would be increased sales because of the franchise he thought it would help the applicant to provide it. Commissioner Pagee said if the applicant went with Scheme 1 that two parking spaces should be added in front of the service bays. Commissioner Keith said that there might be three new Commissioners in the near future so that information on the location of other Extra Mile stores that sell beer and wine might be beneficial to have to provide to the Commission.

Following is a summary of the Commission comments.

- A majority of the Commissioners categorically did not support the sale of beer and wine at gas stations but some of whom also indicated that additional information was needed to determine whether there is a public convenience or necessity for the sales of beer and wine at the site.
- Related to the sale of beer and wine, several Commissioners expressed concern that there was the potential for other convenience stores to have similar requests and the sale of alcohol to minors. A few Commissioners indicated that they believed the sale of beer and wine is not a solution to generate revenues.
- A majority of the Commissioners supported the retention of at least one, but preferably two, automobile service bays since they provide a service to the community.
- Several of the Commissioners expressed concern regarding the reuse of the roll-up doors as part of the convenience store façade while others did not object to maintaining the existing architecture.
- The Commission generally did not believe extra parking spaces were needed as a result of a larger convenience store.
- Assuming no sales of beer and wine, the Commission generally indicated the proposed operating plan did not need to change.
- If the applicant moves forward with a project, several Commissioners requested additional information, including 1) data that could provide a

greater degree of confidence that the expanded convenience store would increase sales and 2) the location of Chevron Extra Mile stores where alcohol is sold.

- One Commissioner noted that if Scheme 1 is selected, access to the service bays would not be needed and therefore, there is the potential to add two parking spaces in front of the bays.

E. REGULAR BUSINESS

1. Consideration of a written summary drafted by the Chair and Vice Chair of the Planning Commission's previous recommendation of possible exclusions to the definition of gross floor area as contemplated in a Zoning Ordinance Amendment.

Staff Comment: Development Services Manager Murphy said that there were two pieces of correspondence; one from Patti Fry dated August 10 and one from Elias Bly dated August 11.

Chair Deziel said there was a Commission meeting on November 5, 2007 when the Commission made a motion to change the definition of gross floor area. He said the Commission also felt a letter should be submitted to Council via a representative from the Commission before the Council. He said in a subsequent meeting with the Mayor, he had indicated that he did not want a Commissioner to make a presentation before the Council. At a different meeting, the Mayor indicated that he wanted to have a two-page memo of what the Commission decided and asked that Chair Deziel write the memo. He said that based on staff input he consulted with Commissioner Riggs. He said Council member Ferguson agreed to review the memo in terms of its communicative effectiveness. He said it was drafted by him, reviewed numerous times by Commissioner Riggs and then reviewed by Council member Ferguson who had comments. Chair Deziel said he made the changes and had Commissioner Riggs review it and then it went to Development Services Manager Murphy for comment. He said the idea was to adopt the memo as a communication to the Council.

Commissioner Bressler said the Commission had since then gotten input from the public and former commissioners, and he thought those comments should be heard, and addressed and that perhaps that would change the Commission's decision.

Commissioner Pagee asked if staff had a copy of the staff report from November 5. Development Services Manager Murphy said he did not have a copy. Commissioner Riggs asked if they were presenting a summary of decisions made and if staff's intention was to present it but have the Commission approve it later time. Development Services Manager Murphy said that the memo summarized the discussions related to exclusions but outstanding was a modification to the nonconforming section which needed to be drafted and presented to the Commission and a public hearing conducted

He said there was a January target date for the amendment to go to the Council and staff would calendar the remaining section in time to meet that target date.

Public Comment: Ms. Patti Fry, Menlo Park, complimented the Commission on their careful consideration of items this evening and in the drafting of the summary memo. She said there were areas remaining where there was silence and no added clarity and might be considered as loopholes. She said there was an option that Commissioners could provide their own rationale if not represented. She said she felt that the exemptions somewhat codified some of the creep but not entirely, but that the Commission thought otherwise.

Commission Comment: Commissioner O'Malley said that this memo was a summary of the actions taken at the November 5 meeting. Chair Deziel said that was correct. He said they were adopting a summary of action to supplement the minutes to more effectively communicate the Commission's actions on November 5, 2007.

Commissioner Riggs said the Mayor had told them directly that he would not read more than two pages, and the actions and consideration the Commission had made would not have been reflected in a Council consideration. He said originally the Commission considered a joint session of the Commission and Council, but that had not been wanted by the Mayor..

Commissioner Bressler said he thought the summary was accurate, but asked whether they would talk about dissenting opinions this evening. He said since the November 5, 2007 meeting that he had additional information. Commissioner Keith suggested the motion could be to adopt the November 5, 2007 recommendation as summarized in the memo. Commissioner Pagee said she did not recall agreeing to some of the items as the memo indicated as a unanimous motion of the Commission, such as noise generating mechanical areas. Chair Deziel said that items were collected into motions and that those were unanimous. Commissioner O'Malley said that Commissioner Bressler and Commissioner Pagee could make their opinion known to the Council. Commissioner Pagee said her thinking may have solidified on the issues since then and that she had voted as stated in the memo.

Commissioner O'Malley asked if staff had reviewed the document. Development Services Manager Murphy said the memo was a good representation of what the Commission decided, but that there were subtleties in the minutes that were not in the memo.

Chair Deziel moved to adopt the memo as the communication of the recommendation that the Commission made on gross floor area on November 5, 2007. Commissioner O'Malley seconded the motion.

Commissioner Keith said that page 15 of the excerpt minutes for November 5 stated a Commission action to request staff to bring back two options for section 3,

including a simplified version of 110 as proposed by the Commission to a future Commission meeting. Chair Deziel noted page 2 of the memo entitled "Handling Preexisting Conditions." He said what was discussed was that if the Council adopted all of the exclusions then the proposed method of handling pre-existing conditions was a weighty process that would not be needed as there would be very little discrepancy between what they were doing and not doing. He said they came up as suggestions and Development Services Manager Murphy said that those had to be developed and presented at a public hearing, which has not yet occurred. Chair Deziel said that was addressed in the last paragraph of the memo.

Commission Action: M/S Deziel/O'Malley to adopt the Planning Commission recommendation of November 5, 2007 for defining gross floor area.

Motion carried 7-0.

F. COMMISSION BUSINESS

There was none.

G. REPORTS AND ANNOUNCEMENTS

Development Services Manager Murphy said he believed there was an El Camino Real Downtown Visioning Plan oversight committee meeting to consider the RFP document for Phase II on Thursday, August 14.

Commissioner Pagee said the Commission saw many projects and was in a good position to nominate projects for the Environmental Quality awards, either residential or commercial.

It was the consensus of the Commission to place this consideration on the next agenda to allow enough time to meet the deadline for submittal of nominations.

ADJOURNMENT

The meeting adjourned at 9:58 p.m.

Staff Liaison: Deanna Chow, Senior Planner

Recording Secretary: Brenda Bennett

Approved on October 6, 2008