



## PLANNING COMMISSION MINUTES

October 20, 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** – Bressler, Ferrick, Kadvany, Keith (arrived 7:05 p.m.), O'Malley (Vice chair), Pagee, Riggs (Chair)

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

### A. PUBLIC COMMENTS

There were none.

### B. CONSENT

1. **Approval of minutes from the September 8, 2008, Planning Commission meeting.**

Commission Action: By general consent, the Commission approved the minutes of September 8, 2008 with the following modification.

Page 4, third paragraph, last line, Replace "\$290" with "\$2.90."

Consent was 6-0 with Commissioner Keith not yet in attendance.

### C. PUBLIC HEARING

1. **Use Permit/Brian Kelly/100 Princeton Road:** Request for a use permit to demolish an existing two-story, single-family residence and construct a new two-story, single-family residence on a substandard lot with regard to lot width in the R-1-U (Single-Family Urban) zoning district.

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

Public Comment: Mr. Brian Kelly, BK Development, said that they wished to demolish an existing two-story, single-family residence and construct a new two-story, single family residence on the subject property. He said the designers had worked extensively to minimize any impact on neighbors and to preserve open space and privacy. He said about two months ago they had passed out preliminary plans to the neighbors. He said

they received many favorable comments and noted that most of the homes in the area were two-story.

Commissioner O'Malley asked about the driveway as it was not clear to him whether it extended to the garage. Mr. Kelly said the front entry portion of the driveway would be pavers and then asphalt as it approached the garage and would be located in basically the same location as the existing driveway. Commissioner O'Malley asked whether the garage would be replaced. Mr. Kelly said the garage would be replaced and the new garage would be the same style as the new home.

Commissioner Keith arrived.

Commissioner Keith confirmed with Mr. Kelly that the plans indicated five bedrooms. She asked if the bedroom on the first floor labeled as bedroom/office had a closet. Mr. Kelly said the room would primarily be a den and the room did not have a closet. Commissioner Keith confirmed that there would be a one-car garage and a carport.

Commissioner Pagee said the staff report indicated that an existing Heritage tree was a 30-inch Pine, but the plans indicated it was 50-inches in diameter. Mr. Kelly said the tree was about 30-inches in diameter and was located on the neighboring property. He said there would be protective fencing on the subject property to protect the drip line of the neighbor's Heritage tree during construction. Commissioner Pagee said it appeared there was not a turnaround for the garage and asked if vehicles would have to be backed out the driveway to exit. Mr. Kelly said there was an area to do a three-point turn. Commissioner Pagee said it was great that the condenser units would be located outside the setback. She asked if the windows were true simulated divided light windows. Mr. Kelly said they were wood simulated true divided light windows with grids inside and outside and a space bar.

Chair Riggs closed the public hearing.

Commission Comment: Commissioner Pagee moved to approve as recommended in the staff report. She said that the project had parking for two cars outside of the setbacks; the residence was situated so that condensing units were outside the setbacks; and windows were placed with high sills to protect the privacy of the neighbors. She said also there would be tree protection fencing at the drip line to protect the neighbor's Heritage tree. Commissioner O'Malley seconded the motion.

Commission Action: M/S Pagee/O'Malley 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 subject to the following **standard** conditions:
  - a. Development of the project shall be substantially in conformance with the plans prepared by Memarie Association, consisting of 14 plan sheets, dated received September 24, 2008, and approved by the Planning Commission on October 20, 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, demolition or building permit.
  - g. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance. Prior to the building permit issuance, the applicant shall implement City standard tree protection measures for all applicable trees.

Motion carried 7-0.

2. **Variance/Matthew Ericksen/1200 N. Lemon Avenue:** Request for a variance to allow a single-story addition to encroach ten feet into the front yard setback where twenty feet is required in the R-1-S (Single-Family Suburban) zoning district.

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

Staff Comment: Planner Fisher said there were four additional pieces of correspondence related to the project that had been distributed to the Commission. Ms. Eunice Fay (SP?) wrote that she had no issue with extension of the family room as it would not go beyond the garage line area. Ms. Julie Corin (SP?) had written that the plans looked great. Marcia and Charlie Brock wrote that they fully supported the project and thought the design was better suited for the neighborhood than a two-story addition. Eve and Gene Kennish (SP?) wrote that they fully supported the proposed project.

Public Comment: Ms. Stephanie Ericksen, property owner, said she and her husband had lived in the home for five years, and had bought the home with the expectation that they would remodel in the future. She said the home was a 70s rancher style and they had found that they really liked how the living spaces flowed, the home's location on a flag lot, and the neighborhood. She said the lot bordered seven other residential properties so they were very conscious of the potential for impact to the neighbors as they developed their design for an addition. She said the Boicellis, neighbors to the front of their parcel, would be the most impacted by the design. She said they corresponded or visited with all of their neighbors about their proposed plan and received feedback that they included in their design. She said the Boicellis had concerns as the proposed project would move the existing house closer to their property. She said however that there was existing mature landscape screening in the area where the proposed addition would extend, and she and her husband had offered to add even more screening. She said the Boicellis indicated that they did not like the proposed design and preferred that she and her husband build a two-story. She said they had their architect look at a two-story design. She said their main objection was that such a design would not keep the current flow of the house, which she and her husband desired to retain. She said they also placed story poles on their roof at the height of a two-story, which demonstrated that a second story would be quite visible from many points of perspective along the length of the street.

Mr. Gary Ahern, project architect, Menlo Park, said they had been working on the project for about two years. He said the owners' intent was to maintain the ranch style home, get a little more living space and update the interior. He said the existing house on the flag lot touched at all setbacks. He said trying to find a space to expand to and maintain the interior flow was the issue for the property owners. He said they looked at

ideas proposed by staff such as extending the front. He said that created a zig-zag hallway. He said they looked at moving the garage out to the front. He said that would mean relocating all of the bedrooms from one side of the house to the other and putting the kitchen where the bedrooms were. He said that about 75 percent of the home would have to be reworked to accomplish such a design and rather than do that it might make more sense to demolish the existing home and rebuild, but the owners just wanted to update the house. He noted that they could add a second story without a use permit. He said however that a second-story would impact the privacy of every neighbor. He said there would be minimal privacy impact on the Boicellis from this design as there were large trees that provided screening, as well as a high fence, and an arbor on the Boicellis' property against the fence. He said there would be no windows on the addition that would look into the Boicellis' yard. He said the request for a variance was to allow them to extend the home into the most viable part of the yard to create a floor plan that minimized the most impact to the floor layout and created the additional space needed.

Commissioner Keith asked Mr. Ahern to address the findings for the variance request excluding that pertaining to the project having a detrimental effect on public health, safety, and welfare as that was not an issue. Mr. Ahern said related to the finding of a hardship that the existing L-shaped house stretched to both side setbacks, to the rear and to the front setback. He said the pool in the backyard precluded an extension to the rear. He said they were taking the space behind the garage and the family room and that left very few spaces to expand the existing footprint. He said pulling the garage forward would create an undesirable change to the floor plan. He said expanding out as shown on A.6 created a convoluted floor plan, removed turnaround space, and would create an awkward entry into the home. He said regarding the preservation and enjoyment of property rights that this design would not impact privacy. He said there was some impact to the Boicellis but the extension would hardly be visible and there were no windows on that side, no high density uses, and they were willing to slope the roof away from the existing Dutch gable and make it a hip roof to minimize any vertical element. Commissioner Keith commented that there numerous flag lots in the area. Mr. Ahern said the hardship was that the house was built setback to setback, and the preservation of property rights enjoyed by others was to do a minimum upgrade to the existing house without going to major rebuild. Commissioner Keith asked if they had looked at other configurations that did not extend so far into the setback. Mr. Ahern said that they had but that impacted the size of the bedrooms significantly.

Chair Riggs said that considerable change was proposed for the interior and asked if Mr. Ahern had looked at moving the living room and dining room rectangle to the east and to use the space where there was a fireplace to provide the space desired. Mr. Ahern said his design philosophy was to divide space so there was public, private and semi-private space. He said moving the dining room and living room started pushing where the kitchen and family room might be located. He said staff had suggested flipping the living spaces. He said the owners however did not want their master

bedroom on the other side of the house from the children's rooms. He said with this design they retained the roof, the exterior walls, and the foundation.

Commissioner Pagee asked if there was air conditioning in the existing or planned residence. Mr. Ahern said there was not air conditioning currently and they were not planning to add it.

Commissioner Kadvany asked if the pool in the backyard prevented them from building the addition into the rear yard. Mr. Ahern said there was about a 15-foot distance between the house and the pool; and if the home was extended to the rear that would probably mean the pool would have to be removed.

Ms. Catherine Boicelli, Menlo Park said her home was directly in front of the subject property and because of the requirement for a 20-foot front setback they had enjoyed a sense of privacy in the use of their backyard. She said that moving the home 10-feet into that setback would impact the privacy of her backyard. She said the arbor mentioned by the applicant was at a different corner and had no bearing on this view.

Mr. Ron Dumont, Menlo Park, said he supported the project, noting that a second story would impact all of the neighbors. (There was a speaker card for Ms. Sherry Dumont, but she did not speak.)

Mr. Rich Cline, Menlo Park, said he had been impressed with the applicants' outreach efforts. He said the applicants had evaluated their surroundings and developed a design with minimal impacts to the neighborhood. He said he supported the project.

Mr. Dan Boicelli, Menlo Park, said he had lived at his home for 37 years. He said that to his knowledge every property in Menlo Park had a 20-foot front yard setback. He said he could not imagine how 10 extra feet would make the existing home any more livable. Commissioner Keith asked if he supported a second story. Mr. Boicelli said if the applicants built a two-story that met all of the regulations including daylight plane then he was all for it. Commissioner Keith said that a second story would look down into his backyard. Mr. Boicelli said the house on the subject property was built 18-inches lower than his home and if the second story was built to meet daylight plane and setback requirements that it would not impact his home and privacy. Commissioner Keith asked if he had seen the story poles. Mr. Boicelli said that the story poles had not been placed accurately to take into consideration the requirements for daylight plane.

Chair Riggs closed the public hearing.

Commission Comment: Commissioner Pagee noted with the addition of a second story that the front of the home could be 28-feet high and still stay within the daylight plane.

Commissioner Bressler said that the design and request to encroach into the front setback to him was a matter of convenience for the applicants and not a necessity because of hardship. He said he respected the applicants' desire to keep their home one story, but that there were ways to design the addition so that an encroachment into the setback would not be needed.

Commissioner Ferrick said if the applicants were to move the garage forward they would lose all their turnaround space. She said the existing house was 18-inches lower than the Boicelli's home, and the addition would not impact their privacy.

Commissioner Keith said that she liked the design but she could not make the findings for a variance in particular that it was needed for the preservation of property rights enjoyed by others.

Commissioner Kadvany said a 10-foot encroachment into the front setback was a significant intrusion, and was not defensible. He said that impacts on privacy were both physical and emotional for neighbors.

Chair Riggs said the proposed design with its exterior elevations, floor plan and materials to be used would result in a completely improved residence. He said however that state law was strict about the conditions under which a variance could be granted. He said the applicants' desire to avoid a two-story addition in a one-story neighborhood was commendable. He said however that the Commission was not able to grant a variance when three of the required findings could not be made. He said there were possibilities of other designs. He said he hoped the applicants would proceed with other one-story options.

Commissioner Pagee said in the past the Council had allowed a variance for an encroachment into a front setback for a corner house on a busy street. She said this house was not on a busy corner and it was hard to make the findings for the variance request. She said there other possibilities of design. She said she applauded their desire to keep the home one-story, but there were impacts to the Boicellis with this plan that she could not ignore. Commissioner Kadvany said that there also was an important fairness issue related to other people building in the community. Commissioner Pagee said she could not make the second finding. Chair Riggs said that he could not make the first finding. Commissioner Keith said she could not make three of the four required findings, and moved to deny the variance as recommended in the staff report. Commissioner Bressler seconded the motion.

Commission Action: M/S Keith/Bressler to deny the variance as recommended in the staff report.

1. Make a finding that the project is categorically exempt under Class 1 of the current State CEQA Guidelines.
2. Make findings, as per Section 16.82.340 of the Zoning Ordinance pertaining to the granting of variances:
  - a. The current configuration of the house does not prevent square footage from being added within the required setbacks. Design alternatives, such as an addition to the right side of the bedroom wing, expansion of the garage to convert existing space into a bedroom, or a limited second-story addition, are feasible options for this site. These options can be undertaken without variances. The existing configuration and placement of the residence and site features are not peculiar to the property that would not constitute a hardship.
  - b. Design alternatives, such as an addition to the right side of the bedroom wing, expansion of the garage to convert existing space into a bedroom, or a limited second-story addition, are feasible options for this site. These options have the potential for the applicant to preserve and enjoy property rights possessed by other properties in the vicinity without the requested variance. Because feasible design alternatives are available, the granting of the requested variances would constitute a special privilege.
  - c. Except for the requested variance, the proposed additions and remodeling would conform to all other Zoning Ordinance requirements. The requested variance would not be materially detrimental to the public health, safety, or welfare, and would not impair an adequate supply of light and air to the adjacent property.
  - d. The requested variance is based on the existing layout of the house and flag lot parcel. The existing site layout and flag lot parcel are not particularly unique, and the relationship between the existing structure and setbacks may be generally applicable to other parcels, including flag lot parcels, within the same zoning classification.
3. Deny the variance.

Motion carried 6-0 with Commissioner O'Malley recused due to a potential conflict of interest.

Chair Riggs expressed the Commission's appreciation to the applicants for pursuing a one-story design and that a future design would also be one-story but without the need for a variance. He said it was a strict position that the Commission found itself in when



considering variance requests as those requests had to be fully justified by the four findings under state law and the City's zoning ordinance.

3. **Use Permit and Variance/James M. Sagorac Jr./1260 Mills Street:** Request for a use permit to demolish a single-story, single-family residence and construct two two-story, single-family residences and associated site improvements on a substandard lot with regard to lot width in the R-3 (Apartment) zoning district. Request for a variance to allow covered and uncovered parking to encroach up to five feet into the side yard setback where ten feet is required.

This item was continued to the meeting of November 3, 2008 prior to the October 20, 2008 meeting.

4. **Use Permit/Roger Kohler/1070 Pine Street:** Request for a use permit to demolish a two-story, single-family residence and two accessory buildings and construct two new two-story, single-family residences on a substandard lot with regard to lot width in the R-3 (Apartment) zoning district.

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

Public Comment: Mr. Roger Kohler, project architect, said this property was similar to the 1066 Pine Street previously reviewed by the Commission. He said they had worked with the Transportation Division on driveways for the units. He said staff had advised there be one driveway in and one driveway out serving all four units, the two on this lot and the two on the other lot. He said each of the homes had been designed to look differently and each one would have a garage.

Commissioner Kadvany asked about paving materials. Mr. Kohler said they would be a relatively new type of pavers with spacers between each one. Commissioner Kadvany asked if there was irrigation for the landscaped areas. Mr. Kohler said there would be and a landscape and irrigation plan would be developed and submitted to staff for their review and approval.

Commissioner Pagee asked about the permits for the adjacent project. Mr. Kohler said the application had been made for the building permit. Commissioner Pagee confirmed that the driveways were designed for cars to exit moving forward and not backing out the driveway.

Ms. Susan Thieren, Menlo Park, said that the proposed project did not meet zoning regulations as this property was only 50-feet wide. She said the existing buildings had their own driveways along which numerous cars might be parked. She said this project would create four three-bedroom units with only two parking spaces per unit. She said with shared driveways there would be no parking of vehicles along them. She said

there were other similar units along this street and people parked their cars on the street. She said there were people with overnight parking permits and the street was swarming with cars. She said this development would mean more cars parking on the street, which was extremely narrow. She said she would like to see the combined planning for both lots. She said the two projects needed to be reconsidered.

Mr. Greg Love, Menlo Park, said his concern with this project was that the existing homes were 1930s home and there were would be fine particulates produced by the demolition process. He asked about toxicology and asbestos reports, and environmental protection. He said the guidelines for demolition by the BAAQMD were dated 1998. He said he would like to know more about the contractor and their experience. He said his concern was lead and asbestos being released into the environment. He said he was speaking for seven families on Pine Street who have children under seven years of age.

Chair Riggs closed the hearing.

Commission Comment: Commissioner Keith asked if tankless water heaters would be used and where would they be located. Mr. Kohler said there would be a washer/dryer cupboard on the second floor where the water heater would also be located.

Commissioner Kadvany asked if there was a code for overnight parking in a driveway area. Planner Rogers said the municipal code does not regulate parking on private property. He said the residences would not be eligible for annual on-street parking permits, but each unit would be eligible for the allowed guest parking permits.

Commissioner Keith said she understood the concerns of the public about demolition and cars, but she supported the project. She said it would be a nice addition to the area. She moved to approve as recommended in the staff report. Commissioner Ferrick seconded the motion.

Chair Riggs said the demolition process in California was one of the most restrictive in the nation. He said it was a very extensive process and had procedures to test for hazardous materials, such as lead and asbestos, and stringent regulations for the handling and disposal of those materials. He said that Pine Street was a narrow and crowded street. He said this project however would provide for legal parking as opposed to earlier units built that did not provide parking onsite. He said the addition of 1,300 square foot homes in Menlo Park was appreciated.

Commission Action: M/S Keith/Ferrick 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 subject to the following **standard** conditions:
  - a. Development of the project shall be substantially in conformance with the plans prepared by Kohler Associates Architects, consisting of 12 plan sheets, dated received October 13, 2008, and approved by the Planning Commission on October 20, 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, demolition or building permit.
  - g. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance.

4. Approve the use permit subject to the following ***project-specific*** conditions:
  - a. Simultaneous with the submittal of a complete building permit, the applicant shall submit a draft access easement for the driveway and motor court area on 1066 and 1070 Pine Street, subject to review and approval of the City Attorney and Planning Division. Prior to building permit issuance, the applicant shall submit recorded documentation of the shared access easements, subject to review and approval of the Planning Division.

Motion carried 7-0.

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

There were no Regular Business items.

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

1. El Camino Real/Downtown Specific Plan (Phase II) Process.

Chair Riggs said Commissioner Bressler and he took the two questions formulated by the Commission to the Consultant Review Committee and the questions were incorporated into the consultants' interviews.

Planner Rogers said that the Committee interviewed the applicants, and asked the staff to follow up by doing reference checks and analyzing information to make it generally consistent among the various consultants' proposals such as differing levels of detail about the EIR process.

Commissioner Keith asked if the Working Group would have edit and final approval powers of the consultant's final report. Commissioner Bressler said that Commissioner Kadwany was also at the Consultant Review Committee meeting. He said there was consensus that the Working Group would have a more involved role. He said there would be meetings with the successful applicant to get more specifics about the process and further define the Working Group's role. Planner Rogers confirmed that the next steps after the selection of the consultant would be to determine the role of the Working Group in Phase 2. Chair Riggs noted that all of the consultants interviewed acknowledged that this would be a different process than Phase I.

2. Review of planning items on City Council agendas.

Planner Chow said that the October 27 study session was canceled.

## **F. REPORTS AND ANNOUNCEMENTS**

Commissioner Pagee said the Commission had nominated two commercial projects under the green category for Environmental Quality Commission awards. She said both project owners that were nominated by the Planning Commission were very pleased and provided photographs in addition to those she had submitted. She said the Environmental Quality Commission also took photographs of the projects.

## **G. ADJOURNMENT**

The meeting adjourned at 8:56 p.m.

Staff Liaison: Deanna Chow, Senior Planner

Recording Secretary: Brenda Bennett