



PLANNING COMMISSION MINUTES

June 15, 2009

7:00 p.m.

City Council Chambers

701 Laurel Street, Menlo Park, CA 94025

CALL TO ORDER – 7:03 p.m.

ROLL CALL – Bressler, Ferrick, Kadvany, Keith, O'Malley (Vice chair) (Absent), Pagee, Riggs (Chair)

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

A. PUBLIC COMMENTS

Ms. Aldora Lee, Menlo Park, said she had served on the Library Commission and the Planning Committee for the Library expansion about 20 years prior. She said she and others reviewed old documents related to the Library Expansion and found July 9, 1991 City Council minutes in which there was a budget item for \$95,000 for parking lot improvements to serve the expanded Library adding nine parking spaces and pathway alignments. She said those improvements were very important to the Library and she was dismayed that parking spaces would be eliminated and parking need would be increased in this lot because of the new Gymnasium. She said she also found another document regarding setbacks for the Library that indicated preservation of those setbacks and oak trees related to a potential underpass/overpass at the intersection of Ravenswood Avenue and Alma Street.

Mr. Tim Goode, Menlo Park, said he had also served previously on the Library Commission and the Friends of the Library Board, and was currently a Friend. He said that over the years he had been active with sports and coaching and he had endorsed Measure T and volunteered time to campaign for its passage. He said that locating the Gymnasium where proposed next to the Library violated the intent of Measure T. He said if the Gymnasium were built in that location there would be parking impacts and traffic congestion, which was a safety concern for the families who come to the Library with small children and strollers. He said that the Friends have really worked to make the Library more attractive and added congestion was not desirable. He said his other concern was that the Library Commission and the Friends of the Library only became aware of the proposed Gymnasium location because of an article in the Almanac. He said he was rallying the Library users to speak up about the proposed changes.

Mr. Jim Deveraux, Menlo Park, said the Library Commission had held two sessions in respect to the Environmental Impact Report (EIR) prepared for the new Gymnasium. He said their concern was that the current 132 parking spaces would be reduced by 12 to 13 spaces to accommodate the new Gymnasium and with that facility an additional 50 to 60 parking spaces would be needed. He asked the Planning Commission when they considered the EIR would make sure that there was adequate parking for Library patrons as many of them would not be able to park at SRI or some other distance away from the Library.

B. CONSENT

1. Approval of minutes from the May 18, 2009, Planning Commission meeting.

Commission Action: Unanimous consent to approve the minutes as submitted.

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

C. PUBLIC HEARING

1. Use Permit/Neil Swartzberg and Loreli Cadapan/277A Willow Road:
Request for a use permit to construct first- and second-story additions to an existing single-story, single-family, nonconforming residence that would exceed 50 percent of the replacement value of the existing structure in a 12-month period and would add more than 50 percent of the existing square footage on a substandard lot with regard to lot width and area in the R-1-U (Single-Family Urban) zoning district. The proposed remodeling and expansion are considered to be equivalent to a new structure.

Commissioner Pagee recused herself because of a potential conflict of interest.

Staff Comment: Planner Fisher said in the cover sheet for the staff report that the lot area, lot width and parking should have been highlighted to indicate a substandard condition. She noted two additional pieces of correspondence that had been distributed to the Commission at the dais. She said a neighbor, Mr. Bruce Schena, wrote that he strongly disapproved of the project and that it would negatively impact the residence to the rear of it. He wrote that the proposed design was not sensitive or neighborly and would impact light access. Planner Fisher said the second letter was from Ms. Adrienne Wong, also a neighbor. Ms. Wong asked that the Commission consider the potential impact of this two-story project and that of any future two-story projects to adjacent properties in the Willow Road area.

Questions of Staff: Commissioner Keith asked about the construction costs calculation and whether that had included the removal of the existing corner. Planner Fisher said staff in their calculation looked at existing square footage; she said the value of what

was demolished did not count. She said they looked at the construction costs of the proposed additional square footage and the dollar value of any renovation being done.

Public Comment: Mr. Walter Varda, Retail Design Services, said that his clients had looked at numerous options. He said the desire was to add living space on the first floor, which meant the bedrooms had to go on a second story. He said they looked at how that could be done without increasing the cost of construction to the point of a complete demolition and rebuild and determined that the best location was to demolish the existing garage and add space there. He said with the second story they kept the roof pitch low and tried to minimize any impacts to neighbors. He said there were trees and shrubbery that would protect the neighbors' view and protect from radiant heating. He said the design as proposed followed all of the City's requirements including daylight plane.

Mr. Neil Swartzberg, the property owner, said they had considered alternative structures. He said a neighbor had suggested putting the second story on the other side but there were problems in doing that related to seismic retrofitting and shear walls and that would cost as much as an entire rebuild. He said to keep everything on one floor would require a number of variances. He said they were trying to avoid needing variances. He said one of the Planning Commissioners had asked about doing a basement. He said they would run into violation of the FEMA flood zone and the 50 percent rule. He said they needed a backyard for their children. He said they agreed with the recommendation of staff and were willing to respond to any of the neighbors' comments.

Chair Riggs asked about limitations on building in this flood zone. Planner Fisher said she did not think this property had restrictions because of the flood zone. Mr. Swartzberg said they were in the flood zone but the structure was currently built to the requirements of the flood zone but which requirements would not be met if an underground structure was added.

Ms. Kara Schafer, Menlo Park, said her property would be the most influenced by this project. She said that she and her husband strongly opposed the project and it was not appropriate for the lot. She described how they had accommodated their family with an expansion, which they kept modestly sized. She said she was surprised at how much expansion the applicants were planning. She said she had gotten the impression that if the two-story addition was built to code that neighbors would have no input other than possibly into window locations and screening. She said there had been no neighbor outreach done for the project.

Mr. David Schafer, Menlo Park, said that their house faced the project and that they would lose their morning light and privacy. He said most of their front yard was asphalt and their green space, which was very small with a deck and a table, was right next to where the addition would be. He read an essay by his son describing that corner of the house describing how he could look out the window and enjoy the sun and nature. He

said this project would remove that experience. He said they had not had input into the process. He said with the project rather than their front (side) yard facing a 270 square foot garage they would face 1,000 square feet of an unarticulated wall. He said the applicants were following the rules but the rules were for standard lots and not substandard lots. He said they were sympathetic to the applicants' desire to improve their home, but they would like an opportunity to work with them to come to a preferable project. He said that they would like the Commission to deny the project.

Chair Riggs closed the public hearing.

Commission Comment: Commissioner Bressler said he had looked at the property and he thought the Schafer's property would be greatly impacted by the project. He said he was the Commissioner who asked about the possibility of building a basement. He said generally with a two-story project that the Commission asked for designs with setbacks on the second floor.

Commissioner Keith said she had gone to the site also; she asked the Schafers what their drawing referred to. Ms. Schafer said that she did not think the plans submitted demonstrated how much their property would be impacted. She said the photo she submitted was of another house that would be the size of this project to show where she would be sitting on their deck chair similar to what it would be like with this project. She said the project was described as a modest addition. She said sitting in her deck chair that she would only be 10 feet from the addition.

Commissioner Keith said the lot was a tight space; she was concerned that there was no articulation on a two-story 50-foot wall, which was very close to the Schafer's property line. She said she thought the project would benefit from a redesign.

Commissioner Kadvany asked the architect to tell them about some of the other options they had looked at for the design. Mr. Varda said that the property owner had looked at alternative designs in terms of the best way to proceed with an addition based on their budget. He said related to the 50-foot wall that there were many trees that would screen it. He said the owners had offered to add additional trees. He said the addition was low enough that it would not impact light. He said the height was in the center and further away. Commissioner Kadvany asked how high the existing wall was. Mr. Varda said it was 10-feet high.

Commissioner Ferrick said she was uncomfortable about not supporting the project when the proposed project met all of the regulations. Commissioner Kadvany said that a flag lot with three houses parallel was very tight and they had to look at impacts to the neighbors. Commissioner Bressler said that the project was designed to save money. He said it was a property rights issue. He said he could not approve the project as presented. Commissioner Keith said the Commission was seeing the project because the addition required a use permit on a non-conforming lot, even if project regulations were met.

She said she understood that the property owners needed more space but the Commission had to consider the impacts on the neighbors. She said the impacts were fairly substantial with the way it was currently designed. Commissioner Kadvany said that the applicants would save money but their project would impact the value of the neighbor's property. Commissioner Ferrick said that if the applicants could not improve their property within the rules that would impact the value of their home as well as the home values of their abutting neighbors.

Chair Riggs said that the Commission over the past three or four years had commonly requested setbacks on the second floor, placement of windows, articulation and landscape screening for two-story projects on nonconforming lots. He said the project was before the Commission because it was on a nonconforming lot and code asked for the Commission's discretion. He said he would prefer code that was more amenable to neighbors but also that provided assurance for the homeowners so that property values were pretty well defined. He said Commissioner Ferrick's comments on property value were pretty much indisputable. He said his best reference was to look at what the Commission had done on similar projects. He said that the Commission consistently had looked negatively at a long and continuous wall at the setback line in tight conditions and asked for some amendment on the second floor.

Commissioner Bressler said that if the design was done more elegantly with the same square footage that would be best for property values. Commissioner Keith commented on the impact of an unarticulated two-story home on Oak Court and she would like to see a more sensitive design for this project.

Chair Riggs asked if the Commission would encourage the applicant to modify the second floor. Commissioner Bressler said the project should be continued for redesign to be made more attractive and to have less impact on the neighbors. Commissioner Keith agreed. Commissioner Ferrick said she did not think the design was insensitive. She said there perhaps could be more architectural detail on the second story exterior, but she would like the project to move forward. Commissioner Kadvany said he thought setbacks on the second story were needed although he did not know how that would impact the design. He said it would be best if the applicants and neighbors could get together to work out resolution.

Mr. Swartzberg was recognized by the Chair and said he wanted to address the issue of the lot orientation and property rights. He said the lot was a flag lot and he felt that the Schafers were asserting their property rights to avoid any building on any four sides of their property. He said the Schafers had a back and front yard. He said his property was the only one that had a competing yard with the Schafers. He said their front yard was not being impinged noting that what they called the front yard was the side yard. He said he could put greenery that would effectively block the light to the Schafers without a permit. He said if he had that right he should have the right to have something behind the greenery. He said related to the front neighbors that they have no opposition and the other neighboring house was just recently occupied and those property owners

had indicated approval of the proposed design. He said when two-story projects were initiated that people tended to be generally concerned at first and then not after projects were built as two-story residences increased property values. He said to the extent that this would be referred for redesign they would need some guidelines. He said this was a \$223,000 addition as proposed and the addition had to be moved to the other side it would be about \$330,000.

Ms. Schafer was recognized by the Chair and said they supported the neighbors' desire to improve their property but their plan was being driven by financial issues. He said it was a poor design and would have maximum impact on their property. She said they were not opposed to second story homes just this one as designed.

Commissioner Bressler said he thought the project was offloading the burden onto the Schafer's property. He said he would want the second story to be relocated. Commissioner Ferrick said regarding vegetation that the house could barely be seen now with shrubbery 10 feet higher than the existing structure. She said the home in the photo Ms. Schafer showed did not have nearly as much screening as the applicants' home had.

Chair Riggs asked what the goals of a redesign would be or if there was a motion.

Commissioner Ferrick moved to approve the project as recommended. Motion died for the lack of a second.

Commissioner Kadvany moved to deny the project as recommended. Motion died for the lack of a second.

Commissioner Keith moved to continue the project for redesign to include a second-story that was more balanced over the house, to work with all of the neighbors and share plans, look at window placement, and articulation on the second floor. Commissioner Bressler seconded the motion.

Chair Riggs restated that the motion to continue included direction to address articulation of the continuous 50-foot wall of the second story façade and get neighbor input. He asked if they wanted to discuss setbacks for the second story. Commissioner Kadvany said he thought setbacks should be included. Commissioners Keith and Bressler agreed that setbacks were acceptable to include. Chair Riggs said in the past the Commission had looked at five-foot setbacks on the second story.

Recognized by the Chair, Mr. Varda said that five-foot setbacks would really impact the addition. He said that some other types of articulations would be preferable. He said the property rights of the neighbors seemed greater than the applicants' rights. He said that the design met the City's regulations and protected the daylight plane as it was.

Commissioner Keith said she respected both the neighbor's and property owners' rights, but the project was proposed for a substandard lot, and the Commission had to consider other issues with the proposal.

Commissioner Kadvany asked if they had to specify a depth for setback or could it be such that the neighbors would work with the applicants on something acceptable. Chair Riggs said the Commission generally requested a five-foot setback for all or some of the second story for similar projects. He said related to the neighbors that the Commission was not giving design veto rights to the neighbors, but asked the applicants to get the neighbors' reactions and to work through staff to resolve before the project came back to the Commission. Commissioner Bressler said he thought that the project could be done right and if the project was not financially viable for the applicant to do right, he thought it perhaps was better to not do it. Chair Riggs said the use of obscure glass allowed appropriately sized windows that allowed light to come in and he preferred its use rather than raising windowsills. He said the divided light windows would only have the divider bar between the glass; he asked if it was meant to be simulated divided light. Planner Fisher said it was the same as the existing windows which had the divider bar between the glass. He said if only a minimum of windows were being replaced that it was appropriate to keep the existing type, but with the addition of this much wall he thought the Commission should require the simulation with the grid on the exterior of the window.

Commissioner Ferrick said she did not think it was fair to limit remodels to big properties and big pocketbooks. Commissioner Bressler said a project from the other side of the freeway had come before them, which design was being done the least expensive way. He said none of the Commissioners had liked the design, but there were no impacts on the neighbors, so it was approved. He said in this instance it was impacting neighbors. Chair Riggs said for all projects that come before the Commission that they have a responsibility to maintain aesthetics. Commissioner Kadvany said discussions about property rights did not go anywhere and he thought they had to look at how to get a project that did not impact neighbors significantly. Chair Riggs said that again the City's code might be improved to prevent such situations.

Recognized by the Chair, Mr. Swartzberg said it was unclear whether the redesign needed to be over the middle of the house or if it could remain on the proposed side with setbacks and additional articulation. He said if the addition had to be over the center of the house he would not be able to afford the project.

Chair Riggs summarized that the project was being sent for redesign to interrupt the left side two-story vertical wall with setbacks with five-foot setbacks being acceptable to the Commission in the past, to consider adding articulation to the two-story wall, and to work with the neighbors through the Planning Division.

Commissioner Bressler said that the applicants might want to speak with Commissioners individually to get a sense if the project would be doable.

In response to Chair Riggs, Planner Fisher said she had first noted that the motion was to continue the project for redesign, look at a more balanced design, consideration of windows on the second story, take plans to the neighbors and look for articulation and setbacks on the second floor. She said the motion now was to continue for redesign, interrupt the second story wall with setbacks with five-foot setbacks being acceptable in the past, and for the applicants to work with neighbors through the Planning Division. Chair Riggs said he did not recognize the balanced design component of the motion. Commissioner Keith said they wanted some type of setback on the second floor, to work with the neighbors, and to address window placement and window types. Planner Fisher confirmed the direction of the Commission was for setbacks to interrupt the two-story vertical wall and/or a consideration of added articulation on the second floor. She said the motion was to continue the project for redesign and one direction was to interrupt the second story wall with articulation and/or setbacks which had been up to five feet in the past, work with the neighbors through the Planning Division, show plans to the neighbors and work with the neighbors on the placement of windows and obscuring windows. Commissioner Kadvany said "and/or" did not seem located correctly in the motion. Planner Fisher suggested that the direction for setbacks and articulation could be separate bullet points, which was acceptable to Commissioners Keith and Bressler as the makers of the motion and second.

Commission Action: M/S Keith/Bressler to continue the item with the following direction.

- Redesign to interrupt the left side two-story vertical wall with setbacks (five feet has been acceptable in the past);
- Consider adding articulation to the left side two-story vertical wall;
- Work with the left side neighbors on window placement and/or obscuring windows on the left side of the second story; and
- Show revised plans to the adjacent neighbors and work with them to help address their comments.

Motion carried 4-0 with Commissioner Ferrick abstaining, Commissioner Pagee recused due to a potential conflict of interest and Commissioner O'Malley absent.

Commissioner Bressler commented that he would really like to vote for approval when the Commission next saw the project.

2. Minor Subdivision/Cupertino Development Corp./2199 Clayton Drive:

Request for a minor subdivision to create three single-family residential parcels where one parcel currently exists in the R-1-S (Single-Family Suburban) zoning district. The proposal would include the removal of 16 heritage trees.

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

Questions of Staff: Commissioner Pagee said there was one letter from previous meetings attached to the staff report and asked if there were still unresolved issues. Planner Rogers said the letter was resubmitted and it seemed to indicate that the Roses still had concerns. Commissioner Pagee said that there was a concern with drainage on the property and the method by which the drainage report was prepared. Planner Rogers said there were questions raised about the hydrology report and with the prior continuance of the project, the Engineering Division had again carefully reviewed the report to which enhancements and clarification were made, but there was not a new report. He said the hydrology report was a requirement of the Engineering Division, and they had approved the hydrology report.

Commissioner Pagee asked about the location of the property lines. She said for lot 2 there was a setback of 20 feet along the diagonal line to the horizontal line on the left side of lot 2. She asked why lot 1 did not also have a 20-foot setback at the back too. Planner Rogers said for lot 2 that the 20-foot leg in the upper left corner was shown as part of the front setback but under zoning ordinance definitions for rear lot lines it did not need to be. He said the proposed plans would not have any development in those areas on either lot 1 or lot 2. He said the Commission could make as a condition of approval the determination that the 30.54 foot line was a continuation of the rear lot line and needed a 20-foot setback. Commissioner Pagee asked if they had the ability with the redwood trees to require a bond for a year after development to make sure trees were saved. Planner Rogers said staff felt the Heritage Tree Ordinance included construction methods to preserve heritage trees with penalties for damage. He said that the Commission in response to public comment could add additional conditions related to preservation of the redwoods.

Public Comment: Mr. Roger Griffin, Paragon Design Group, said he was representing the Cupertino Development Corporation. He said the project was considerably different from the one previously considered by the commission in 2007 and at its study session in 2008. He said the prior application was for four lots and this was for three lots. He said the footprints of the homes were conceptual to demonstrate how the lots would be developed without impacting the existing grove of redwoods and that there would not be any building structure in the 40 by 100 foot section that remained at end of Clayton Drive. He said the footprints aided in their evaluation of storm water absorption and how to limit runoff to what exists. He said the existing portion of the driveway at the front of the property had no crown. He said this would be reconfigured to have a normal crown with a new valley gutter to limit further runoff to adjacent parcels. He said a new fence would be installed on the north side of lot 1 before construction. He said the 40 by 100 foot section would not contribute to Floor Area Limit (FAL) and would not be developed. He said they agreed with staff's conditions.

Commissioner Kadvany asked about the driveways for lots 1 and 3 and the big driveway in the middle. Mr. Griffin asked if his question related to placement, materials or width. Commissioner Kadvany said he questioned their location in the front. Mr. Griffin said the access to the flag lot was owned by lot 2. He said unit 3 would not be

impacted as it had sufficient space in front of it for turning rather than facing the street like lot 2 but it was an impact on the driveway for lot 1. Commissioner Kadvany said Clayton Drive was rural looking and the driveway in the middle was not continuous with the appearance of neighboring driveways.

Commissioner Pagee said there was a private easement on the small piece of property and when the Commission had approved the adjacent garage project there was not sufficient room for them to back up. Mr. Griffin said he was not familiar enough to answer and said he would get an answer. Commissioner Pagee said this easement had changed owners and the issue was that this piece of property belonged to the neighborhood. Mr. Griffin said he understood that the neighborhood had an opinion the 40 by 100 foot section was communal. He said it was clear who owned the property and this was a private easement not a public easement and also included utilities easements. Commissioner Pagee asked about the wire fence. Mr. Griffin said it was an existing fence.

Mr. Klaus Rose, said he lived next door to the proposed development. He said he and his wife had been on record for about three years with their concerns about the redwood grove. He said staff had indicated the redwood grove would be next to lot 2 but he said he thought most of it would be next to lot 1. He said there were 15 to 20 fully grown redwoods and he appreciated staff's statement that the trees would not be harmed. He said previously the developer had proposed a no-build easement in the area of the trees including accessory structures. He said he hoped that there would be a legal document associated with the development of the lots to create a no-build easement for the redwood grove.

Ms. Melanie Austin, Menlo Park, said her concern was the impact the construction would have on the street. She said Clayton Drive was a dead end street with limited space to turnaround and because of that with construction traffic they would have twice the traffic as other streets would have for similar construction projects. She said the pavement was in marginal condition, but there were no plans to repave it other than to pave in front of the project. She said when the project was finished they would have 30 percent more traffic because of the additional homes. She said they would like a commitment from the developer to observe neighborly diligence in preventing litter, controlling discretionary noise, adhering strictly to legal work hours, limiting construction parking as much as possible off the street, and providing a timeline of work and order of construction. She said they had discussed this with the developer before and they had seen amenable.

Mr. Inguagiato, Menlo Park, said his concern was safety as there were 19 families living on Clayton Drive and eight families with children. He said the construction would cause wear and tear on the street because of the significant construction traffic. He said he frequently walked with his children up and down the street and he was very concerned about traffic. He said the three new homes would tax the infrastructure and he hoped the infrastructure was adequate. He asked that the City work with the developer to

have a traffic plan in place that took in the consideration that at any time there could be as many as 17 children running around the area. He said he would like the City to completely repave the street once the project was completed.

Mr. Harold Tennant, Menlo Park, said he represented the neighborhood on the civil engineering aspects of the project and had reviewed drainage criteria and paving material. He said after the study session for the project when the design was available that he had with City staff to look at hydrology report and soils report. He said by the reduction from four lots to three lots that most of the serious problems had been largely solved. He said there was one issue that needed refining and that was the portion of the hydrology and drainage that relied on percolation on the site. He said the top three to four feet of soil was sandy clay, which had low percolation capability. He said however that under that soil there was sandstone bedrock, which had no permeability. He said that this would need special attention. He said the runoff would be 40 percent greater than what it was. He said three items should be addressed in the final design and that was to refine the percolation design to address soil constraints, to crown the new paving at two percent in conformance with City standards rather than at the 1.4 percent it was currently designed, and for the new valley gutter to extend to the end of the City's right of way with a short connection to pick up drainage coming down the driveway.

Ms. Houck said she was representing her parents, who owned the property on Clayton Drive. She said they were grateful that redwood grove would be preserved. She said the street was very narrow and for a construction project her parents had done they had gotten access through Sharon Road. She suggested that was an option for the heavy construction. She said the basement of her parents' home was subject to flooding and suggested that the development use low water landscaping.

Ms. Jane Johnson, Menlo Park, said she and her husband had lived on Clayton Drive for 33 years. She said there had been progress in developing the lots and many issues had been positively resolved. She said the road was in bad condition and she asked for assurance from the developer to repair from damage from construction traffic. She said the lot would be recrowned and repaved, but she thought at the least this should extend down the length of the access lane to the end of the cul de sac as that was promised by the renovator of 2198 Clayton Drive, who was now a partner in the development. She said on June 30, 2008 she had submitted a letter to the Commission with a copy of a May 5, 1988 letter from then City Manager Mike Bedwell to the residents of Clayton Drive saying that the reconstruction of Clayton Drive would be one of the benefits for residents to annex into Menlo Park. She said that promise was not kept.

Ms. Janice Galbraith, Menlo Park, thanked staff and neighbors for working together on the project. She said she was one of the easement holders and she wanted the 40 by 100 foot section to be an easement in perpetuity. She said her property suffered the most flooding. She asked for assurances regarding runoff from the project as there would not be any accountability once the developer was gone.

Chair Riggs closed the public hearing.

Commission Comment: Chair Riggs said there were things to clarify about the process. He said there was a minor subdivision that would create three parcels. He asked if the subdivision map was contingent upon the paving of Clayton Drive. Planner Rogers said the frontage improvements were best shown on architectural plans C. 04 (attachment B.4). He said they included a seven-foot parking strip and valley gutter, and repaving of Clayton Drive in the vicinity of the parcel. He said as per the recommended condition 3.g that removal of the frontage and installation of the improvements would have to occur prior to recordation of the final parcel map through the City's standard encroachment process.

Chair Riggs said there were issues raised about construction traffic degradation of paving, which would affect most areas below the area to be repaved, and with construction traffic and safety. Planner Rogers said there was a street construction impact fee for such developments. He said the fee was used for scheduled street reconstructions. He noted that property owners could lobby for the reconstruction of their streets. He said the City's Public Works through the building permit process required builders to replace any portion of right of way whose damage could be directly tied to construction traffic. He said regarding safety that the City's building inspection process was intended to ensure safety during construction projects, but noted the Commission could discuss additional enhancements.

Chair Riggs said there had been observations about the adequacy of the infrastructure and assurance of adequate percolation for the developed lots. He asked what the Engineering Division's responses were generally about those matters. Planner Rogers said there would be an increase of paved, impermeable area because of the development, but there were elements to be used such as bubbler boxes filled with river rock and more pervious stones, which were sized for a particular level of storm. He said the applicant was also proposing oversized pipes leading to the bubbler boxes. He said the drainage proposal had been carefully reviewed by the Engineering Division and they had given their full approval that hydrology requirements were being met. He said through the parcel map process that the maps were routed to all of the utilities serving the project and those returned had been positive for this proposal. Chair Riggs asked if the bubbler box would be several thousand square feet or percolate below the bedrock. Planner Rogers said the Engineering had reviewed the storage capacity of the bubbler boxes and pipes and gave their full recommendation of the hydrology plan. .

Commissioner Kadvany asked if the hydrology analysis had taken into consideration maximum buildout and all the changes to the property because of the development. Planner Rogers said that it had and the development would have to conform to building coverage requirements. He said the analysis worked from the assumption that all of the coverage and landscape had to work together to meet the requirements.

Chair Riggs said there was a tree protection zone indicated on the drainage and grading plans, but Mr. Rose had said there had been commitments about a long-term maintenance of the redwood grove as a no-build zone. He said the setback in Lot 1 did not protect the redwood grove. He asked if there was a deed restriction being proposed. Planner Rogers said there was not as proposed; he said the previous restriction had been shown when the intent had been to create a four-lot subdivision for assurances about the redwood grove and to determine the widths of the four lots. He said with the reconfiguration to a three-lot development that the determination of lot widths was no longer needed and the protection of the trees was covered under the Heritage Tree Ordinance. He said the Commission could consider greater action. Chair Riggs asked Planner Rogers to explain the Heritage Tree Ordinance. Planner Rogers said under the Ordinance that trees with 15-inch trunks were protected and if the removal was tied to a Planning Commission action that would be a Commission consideration. He said if someone was building on a standard lot and met standard requirements that tree removal proposals would require notification of the neighbors with appeal rights to the Environmental Quality Commission.

Commissioner Keith asked what occurred if a resident decided to violate the Heritage Tree Ordinance. Planner Rogers said there were fines and if the removal was tied to a construction project that that building could be frozen. Commissioner Keith asked about individual homeowners who had violated the Ordinance. Planner Rogers said there had been individual homeowners who had done so and were fined. Commissioner Pagee asked about the amount of the fines. Planner Rogers said he thought it went up to \$5,000 but Planner Chow would confirm.

Chair Riggs said the City had made a commitment to repave Clayton Drive a long time ago and this should be on the Council's priority agenda. He said it was important for residents to make their demand for this project. He asked when the residents should go to the Council. Planner Chow said the residents should first contact Public Works as that department prepared the project priority list. Chair Riggs said when the priority list got to Council he would go with the Clayton Drive residents as a Commissioner to support their request for the repaving of their street.

Chair Riggs recognized Mr. Griffin. Mr. Griffin said that the redwood grove was very important to them, that the setback modification proposed earlier was workable, and they would entertain the use of a no-build easement in that area including the redwood grove. He said during construction and prior to construction there would be fencing installed around trees including the grove. He said the subdivision would improve the safety of the street as it would provide a wider space for turning. He said during construction, their builders would follow the restrictions of the City's work hours and would regulate the level of radios and other noise. He said if the street impact fees could be used to pave the rest of the street that they would be happy to do the whole street when they did their own paving. He said related to drainage that they would also use gravel basins and the paving for the driveway would be a permeable material. He said they would work with Public Works related to concerns and would refine the

hydrology. He said regarding the crown proposed that it ranged from 1.5 percent to 2 percent on the street. He said if they wanted more details, his civil engineer was present.

Commissioner Keith thanked the applicant for agreeing to the no-build easement and modification of the setback. She asked about Commissioner Kadvany's suggestion about the driveway. Mr. Griffin said he had spoken with his civil engineer and they were open to that consideration.

Commissioner Pagee said she would move to approve the three-lot subdivision with an adjustment to the rear lot line on lot 1 to a 20-foot setback along the 30.54 leg of that lot, for the protection zone around the redwood grove to be 10 times the diameter of the trees. She said that meant there would be about 20 feet around the redwood grove that would be no build and no hardscape and would include lots 1 and 2. She said her motion also included that the applicant work with the City on the drainage and percolation, and as a sidebar she suggested that Mr. Tennant might also be included in those discussions. She said her motion also included to address construction concerns that the developer provide the names and numbers of contact persons, work with the neighbors and mitigate traffic noise, provide a parking plan for construction workers, and minimize traffic to and from the site. She said she was concerned about no one holding a deed to the easement. Planner Rogers said that lot number 3 did not need that easement. He said the owners had the right to use the easement for access as shared with other properties. Commissioner Pagee said this piece of property used to be part of the adjacent property the Commission had approved a project on and it had been turned over to the developers. She asked if the adjacent property owner had been paid for this property. Commissioner Keith asked which property Commissioner Pagee was referring to. Mr. Griffin said it was the property west of the 40 by 100 foot section. He said this section would eventually become a part of lot 3. He said it was part of the entire parcel that was proposed for subdivision but it was excluded from FAL for lot 3.

Commissioner Keith seconded Commissioner Pagee's motion and requested a modification to look at the placement of the driveways for lots 1 and 3. Commissioner Pagee said that was amenable as that would make the lots more rural in appearance. She said the subdivision would create three standard lots and the Commission would not see the project again.

Commission Action: M/S Pagee/Keith to approve the item with the following modifications.

1. Make a finding that the project is categorically exempt under Class 15 (Section 15315, "Minor Land Divisions") of the current California Environmental Quality Act (CEQA) Guidelines.
2. Make findings that the proposed minor subdivision is technically correct and in compliance with all applicable State regulations and City General Plan,

Zoning and Subdivision Ordinances, and the State Subdivision Map Act.

3. Approve the minor subdivision subject to the following **standard** conditions:
- a. Development of the project shall be substantially in conformance with the plans prepared by AP Consulting Engineers, dated June 10, 2009, consisting of seven sheets and approved by the Planning Commission on June 15, 2009, except as modified by the conditions contained herein, subject to review and approval of the Planning Division.
 - b. Within two years from the date of approval of the tentative parcel map, the applicant shall submit a parcel map for review and approval of the City Engineer. The parcel map shall use a benchmark selected from the City of Menlo Park benchmark list as the project benchmark and the site benchmark.
 - c. Concurrent with the parcel map submittal, the applicant shall pay fees for the parcel map, improvement plan check, and storm drain connection.
 - d. Concurrent with the parcel map submittal, the applicant shall submit a preliminary Grading and Drainage Plan for review and approval of the City Engineer. The Grading and Drainage Plan shall demonstrate that storm water shall not drain on adjacent properties. Erosion and sediment control plans must be a component of the Grading and Drainage submittal. The Grading and Drainage Plan shall also indicate all proposed modifications in the public right-of-way including frontage improvements and utility installations.
 - e. Prior to recordation of the parcel map, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
 - f. Prior to recordation of the parcel map, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
 - g. Prior to recordation of the parcel map, the applicant shall remove and replace all damaged, significantly worn, cracked, uplifted or depressed frontage improvements (e.g., curb, gutter, sidewalk) and install new improvements per City standards along the entire property frontage, including utilities. The applicant shall obtain an encroachment permit prior to commencing any work with the City's right-of-way or public easements.
 - h. All electric and communication lines servicing the project shall be placed underground. Each lot/unit shall have separate utility service connections.

- i. Prior to grading permit issuance, the applicant shall file a Notice of Intent (NOI) with the State Water Resources Control Board to obtain coverage under the State General Construction Activity NPDES Permit and shall prepare and implement a Storm Water Pollution Prevention Plan (SWPPP). The applicant shall submit documentation demonstrating compliance with these requirements to the Engineering Division.
 - j. Concurrent with the recordation of the parcel map and prior to issuance of a building permit, the applicant shall enter into and record a "Stormwater Treatment Measures Operations and Maintenance (O&M) Agreement" with the City subject to review and approval by the Engineering Division. With the executed agreement, the property owner is responsible for the operation and maintenance of stormwater treatment measures for the project. The agreement shall run with the land and shall be recorded by the applicant with the San Mateo County Recorder's Office.
 - k. Prior to recordation of the parcel map, the applicant shall pay applicable recreation in-lieu fees per the direction of the City Engineer in compliance with Section 15.16.020 of the Subdivision Ordinance.
 - l. Prior to building permit issuance for the construction of new residences, the approved parcel map shall be recorded at the County Recorder's Office.
 - m. Heritage trees in the vicinity of construction shall be protected pursuant to the Heritage Tree Ordinance. Prior to issuance of a demolition or building permit, the applicant shall implement the tree protection plan and recommendations in the Arborist Report for all applicable heritage trees for review and approval by the Building Division.
4. Approve the minor subdivision subject to the following ***project-specific*** conditions.
- a. Prior to the removal of any heritage trees, the applicant shall submit Heritage Tree Removal Permit applications and a comprehensive planting plan for replacement trees, subject to review and approval of the Planning Division and City Arborist.
 - b. ***Concurrent with the parcel map submittal, the applicant shall revise the plans to establish a no-build easement with the objective of protecting the redwood grove in the eastern corners of Lots 1 and 2 (adjoining 2171 Clayton Drive and 122 Campo Bello Lane). The no-build easement shall prohibit the construction of any structures (including accessory structures) and hardscaping in this area. The extent of the easement shall be reviewed and approved by the Planning Division and the City Arborist prior to the approval and recordation of the parcel map.***

- c. Concurrent with the parcel map submittal, the applicant shall revise the plans so that the 30.54-foot southeasterly property line of Lot 1 is part of the rear property line and shown with a 20-foot setback. The revisions shall be reviewed and approved by the Planning Division prior to recordation of the parcel map.***
- d. Concurrent with the parcel map submittal, the applicant shall revise the plans to add a notation that a construction management plan is required prior to grading and the construction of new residences. Concurrent with the submittal of building permits for the construction of new residences, the applicant shall submit a draft construction management plan, detailing how potential impacts such as traffic, parking, noise, hours of activity, and safety will be minimized. The plan shall also specify that the contact information for the on-site supervisor be prominently displayed and/or distributed to neighbors in advance of construction. The construction management plan shall be reviewed and approved by the Planning Division prior to the issuance of building permits.***
- e. Concurrent with the parcel map submittal, the applicant may revise the plans to modify the vehicular access to Lots 1 and/or 3 to come from the central access driveway of Lot 2. Any revisions shall be reviewed and approved by the Planning Division prior to approval and recordation of the parcel map.***
- f. The applicant shall continue to working with staff to address all applicable requirements with regard to hydrology.***

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

Chair Riggs thanked everyone for their persistence and work on the project.

- 3. Use Permit, Variance, and Architectural Control/Scott Stotler, Stotler Design Group/849 & 865 University Drive:** Request for a use permit and architectural control to demolish two single-family houses and to construct four single-family houses and associated site improvements in the R-3 (Apartment) zoning district. Request for variances for uncovered parking to encroach five feet into the left and right side setbacks and to reduce the distance between buildings on the subject and adjacent property on the right side to less than 20 feet.

Staff Comment: Planner Fisher said there were two pieces of correspondence at the dais for the Commission. She said the first was an email from Mr. Roger Cooper who said he had met with the developer and talked about a redwood fence that would divide the two properties. Mr. Cooper indicated that the developer was cooperative and they had discussed the proposed design. He said they had agreed to work together on the

fence project and to work around a brick fireplace on his property. Planner Fisher said there was also a piece of correspondence from the project arborist related to adjustments to drainage swales around tree number 3, which was being administratively processed by the Engineering Division. The arborist's letter indicated that the preliminary grading and drainage plans were done and that the plan for the tree preservation was good. .

Questions of Staff: Commissioner Pagee asked about the tree protection zone and if that was 10 times the diameter of a tree. Planner Fisher said that was the standard and the arborist could address other preservation measures.

Public Comments: Mr. Scott Stotler, Stotler Design Group, said there were four heritage oak trees and they were proposing to save all four trees. He said the project as proposed conformed to FAR, lot coverage, height and the required percentage for landscaping. He said they were trying to help fill the need for affordable detached housing. He said the project was designed compatible with the neighborhood and met parking requirements. He said the property was zoned R-2 and they were asking for a variance for their guest parking area with a central driveway. He said to accommodate circulation, tree preservation and parking that they had to request an encroachment of five feet for the guest parking area behind which they could pick up landscaping to the fence. He said the second variance was the distance separation between the buildings and that was related to adjacent buildings on other property with nonconforming setbacks. He said if those properties were redeveloped in the future then they would need to comply with the required setback, which would resolve the distance separation for this project.

Commissioner Pagee said there was an existing grade of 74.5 and they were building it up. Mr. Stotler said it had to do with making sure the drainage would work. He said they had gotten the Engineering Division's approval. Commissioner Pagee said there were stem walls around the perimeter and she could not determine how high the development would be from the street. She said it would look bigger than the house on the right which was a single-story. Mr. Stotler said the developer had had a problem with slab construction and wanted a raised floor. He said he could look at possibly lowering the project. Commissioner Pagee said that there would be cutting in of the foundation around the roots of the oak trees and she would want the excavation/tree protection zone to equal 10 times the diameter of the trees and for there to be an arborist on site during that work. Mr. Stotler said they had an excellent arborist and when there was a need to cut around dripline they would rely on the arborist for recommendations to mitigate and preserve trees. He said they might have to hand dig some piers. Commissioner Pagee asked about tankless water heaters in some units but not in others. Mr. Stotler said when there was not space for a tank water heater they would use a tankless, although they preferred tank water heaters. Commissioner Pagee said that tankless water heaters might not work in the garage as shown as they needed a distance of 10 inches and that might impact the required size of the garage interior.

Commissioner Pagee said on the sidewalls there were two units with a long two-story wall. Mr. Stotler said this was an early California Tuscan style and the units were not big buildings. He said they could pick up some band trim and they had talked about screening. Commissioner Pagee said all of the interest was on the front of the buildings and asked what they could do to make the sides more attractive. Mr. Stotler said they maximized the lower level and wanted to get three bedrooms in the upstairs. He said they could pick up a band and locate upper level windows so that they did not look down on neighbors. Commissioner Pagee asked if the windows had simulated grids on interior. She said the Commission consistently required grids on the exterior and asked if they would agree to that. Mr. Stotler said they had finished a project on Middle Avenue with simulated divided lights, which had a grid in the middle, inside and outside. He said if they needed to do true divided simulated windows they would do it. Commissioner Pagee said if they approved the project there should have to be simulated lights with outside grid.

Commissioner Pagee said that one house had two furnaces. Mr. Stotler said if they could fit two they preferred to for each of the two zones. Commissioner Pagee said the condenser units were in the setback and asked if carrier units with a thin profile could be used inboard to minimize noise to exterior neighbors in between the units, and screened with landscaping. Mr. Stotler said that was a good idea. Commissioner Pagee said she was still concerned with the elevation of the units.

Commissioner Keith said these were characterized as affordable detached housing and asked what they expected the selling price to be. Mr. Stotler said if there was a low-end entrance residence in the California area these would qualify. He said the Middle Avenue project had sold at \$400,000 less than the appraisal. Mr. Sagorac said that he thought the projects would probably be listed at \$1.2 or \$1.3 million.

Commissioner Kadvany said "University" was spelled wrong on every title block. He said the applicants were combining two lots that had individual buildings and asked if they had thought about keeping the projects separate. Mr. Stotler said with one lot to develop they could do a reciprocal driveway but he said the best layout they could do for the two lots was a driveway up the middle for four units. He said if they developed them separately they would end up with two separate driveways. Commissioner Kadvany asked if there were other buildings on University Drive with 24-foot wide driveways. Mr. Stotler said it was either that or two separate 12-foot driveways. Commissioner Kadvany said the existing paving was 1,800 square feet and the new construction would have 33, 991 square feet of paving. Mr. Stotler said it was necessary to accommodate the City requirements for guest parking and for ingress and egress. Commissioner Kadvany said it was the result of wanting to build four units on one lot. Mr. Stotler said that it was allowable in this zoning district and the cumulative impervious driveway area was the result of four units. Commissioner Kadvany said unit 1's rear elevation was unarticulated; he asked how this qualified as "high-quality." Mr. Stotler said there was an architectural style used on University Avenue in Palo Alto with

homes that were essentially boxy looking but articulated with windows and landscaping that were similarly high quality. He said it was reasonable to add some windows on that wall. He said their floor plan along the side walls was to protect neighbors but they could add windows along the sides as well.

Commissioner Keith asked if windows were added whether there had to be more noticing. Planner Fisher said it would be dependent upon the number of windows, window heights, and the use of obscure glass or not. Mr. Stotler said to the rear were apartments, to the left were duplexes and the other side of the units faced garages. He said he thought that the length was about 38 feet. He said they could consider adding some windows but it would be difficult to jog the walls back. He said they could pick up some transom windows along those walls. Mr. Stotler said regarding moving upper levels back that that made the second level look like an addition.

Mr. Roger Cooper, Menlo Park, said he was the neighbor on the right facing the property. He said his house was built in 1929 and 1930 and it was not clear where the property line was. He assumed the fence was where the property line was and there was only five feet between the house and fence. He said if the variance was approved for the guest parking that this would be from the side of his house and would be 10 feet from the sidewall of their house. He said it was not clear where the property line was and he would like to know where it was. He said the project was an opportunity to enhance the aesthetics and the value of the properties and neighborhood.

Commissioner Bressler asked if Mr. Cooper had reviewed the plans. Mr. Cooper said he looked at them briefly, but his wife had reviewed them more carefully.

Ms. Lydia Cooper, Menlo Park, said she had lived at the property adjacent to the project for all of her life. She said their bedrooms would face the sidewalls of the new units so she hoped any windows added would not look down on their home. She said they had met with the developer and she thought the project looked great, but she was concerned about the comment on the elevation and whether that might cause drainage onto her property.

Chair Riggs closed the public hearing.

Commission Comment: Commissioner Bressler said the houses should be built at the same grade as the neighboring houses and he did not think windows should be added. He said the neighbors did not seem concerned with the proposed development.

Commissioner Kadvany said this project was being done in the most inexpensive way of getting the most development without concern with future owners. He said there would be a lot of driveway and not much else. He said he could not understand why cars should be in a setback and that was unconscionable for future development. He said there were errors on the plans and minimal attention to solutions.

Chair Riggs said that the lots were zoned for two residences with a narrower than required driveway because of sharing with the neighbors. He said that was not cheap that was good planning. He said the Tuscan style to many folks was a higher than normal quality. He said he thought the project would be a significant improvement. He said he saw value in this design. He shared concern about accurately representing the base height. He asked if staff would assure in future projects that floor lines for street elevations made sense. He said it was honorable to work to preserve the two oaks and part of the encroachment of the parking was related to saving the oak. He said the oaks hamper the uncovered parking. He said there was planting called out around the drip line of the oak which he would not recommend using because of water demand and also it was not recommended against a wall as it would collect heat. He said there were other plants and low shrubs such as salvia and lavender that were low water use plants. He said the Commission had consistently directed to avoid irrigation around mature oaks. He said that this 100 feet of University Avenue did not have any street trees. He said since there was a single driveway he would recommend to add street trees, such as the London plane tree up the street. He said the driveway would be concrete and that probably related to Fire District requirements, but he thought they could use better materials with increased percolations. He suggested the applicants check on that with the Fire District. He said it was important to have natural ventilation for bedrooms and urged that a second window be placed on the other wall of the units. He said if privacy was an issue than they could use a high awning window. He said the architect had mentioned putting tankless water heater on exteriors and he said they were not finished appliances and unattractive. He said the parking variance was justified by the oak trees and he thought that the building to building distance variance was justified as the existing structures on the property were more than ready for improvement. He noted that in the future, development on the adjacent lots would have to then conform to setback requirements.

Chair Riggs moved to make the findings for the variance requests and approve the project with a requirement for the addition two street trees at a minimum 15-gallon size, for the divided light windows to be expressed on the exterior, to revise the landscape planting plan to reduce the irrigation within the root zone of the mature oaks, and provide windows on secondary walls for the bedrooms with sills at five foot height or obscure glass used particularly for units 1 and 3. He said he had not addressed Commissioner Keith's concern about the articulation. Prompted by Commissioner Pagee, Chair Riggs said the condenser units should be moved out of the setbacks and located inboard with screening for units 1 and 3. Commissioner Keith asked about requiring pervious driveway materials.

Mr. Stotler said he thought the proposed architecture was very nice. He said he had proposed pavers but the Fire District had rejected use of that material and required concrete. He said adding two street trees and windows were reasonable. Chair Riggs said he could reapproach the Fire District. He said that there was also a question about drainage which was a building not a planning issue. Commissioner Ferrick said the use of a gravel basin and French drain might be a good solution. Chair Riggs said that

there most likely would be a swale at the street. Commissioner Kadvany said regarding the driveway that putting a planter down the middle would help relieve the expanse of paving. Chair Riggs asked if the 24 foot width was a requirement from the Fire District. Mr. Stotler said he thought they could widen the driveway at the street and put a planter there. Chair Riggs said that would make the driveway 27 feet wide. Mr. Stotler suggested he could revisit with the Fire District about reducing the driveway to 20 feet and using pervious materials.

Commissioner Bressler asked about the elevation. Commissioner Pagee said there were inconsistencies with the grade and finished floor. Chair Riggs said the design allowed for water to flow from under the house but which was then retained onsite. Commissioner Pagee said elevation A.18 was incorrect and no matter how high the fence would be that units 1 and 3 would be looking over into the next property. She said there could also be privacy issues from the downstairs windows. She said she thought the design could better fit this lot and it was not a finished product yet.

Commissioner Kadvany said he would like to see a great project developed here and this was a conventional approach. He said there was nothing that forced attached garages and in other areas developers were looking at other ways of dealing with cars, such as stacking. He said people preferred more green space to asphalt.

Commissioner Ferrick said the maximum number of cars that could be parked here would be eight and there was no street parking overnight. She said that was a constraint that the residents would need to resolve. She said she was leaning toward the variance because it was a small space for parking, preserved the trees and precluded a wall. Commissioner Pagee asked about on street parking for R-3. Planner Fisher said that there was no overnight on street parking on University Drive.

Commissioner Ferrick seconded Chair Riggs' motion. She said she wanted assurance that quality materials would be used. Chair Riggs said he thought it would have to be quality to sell in downtown Menlo Park.

Commissioner Bressler asked if the zoning regulations would make it possible to have a stacked car configuration. Chair Riggs said it was done on Santa Cruz Avenue. Commissioner Bressler said it was a good idea. Chair Riggs said there might be the opinion that encouraging less use of cars was part of the City's green initiative. Commissioner Bressler said that parking was needed to sell houses and asked if it was possible to add alternative parking. Commissioner Kadvany said from the development view that developers were finding that it was more profitable to decouple the parking from the residence and have parking for sale or lease. Chair Riggs asked what layout Commissioner Kadvany was trying to improve. Commissioner Kadvany said there was so much attention given to the parking and he thought there should be a focus to improve the site that was not focused on the parking.

Mr. Stotler said he understood the Commission's desire but they had been working on the project for two years and going back and forth with Fire District and planning. He said for some of the topics raised that the City had to have some policies for applicants to follow. He said a stacking garage would be more vertical and right now the City did not count a one-car garage as FAR but he did not know about a stacked garage. Planner Fisher said that covered parking was not counted as FAR. She said the major concern was that the stacked spaces had to be independent or there would be tandem parking. She said to create such a parking structure would required the excavation of a big pit and the structure would have to be vertical and it would include a basement and two-story garage. Mr. Stotler said he thought the variance request for a five-foot encroachment to accommodate guest parking and would preserve the oak trees was reasonable. Commissioner Ferrick said that the guest parking when not used for parking was usable space. Chair Riggs said he had seen it cleared for a two neighbor barbecue.

Chair Riggs asked staff to restate the motion. Planner Fisher said the motion was to make the findings and approve the variance requests and use permit with the additional conditions to add a minimum of two street trees with a minimum planting size of 15 gallons, require windows with divided lights expressed on the exterior, revise the landscape plan to reduce irrigation around the root zone of the existing oak trees, add windows with five-foot window sill heights or obscured glass to the second story of Units 1 and 3 to provide cross-ventilation in the bedrooms, relocate the condensing units for Units 1 and 3 out of the side setbacks, and discuss the possibility of narrowing driveway width to 20 feet and using pavers for the driveway with the Menlo Park Fire Protection District.

Chair Riggs called for the vote; the motion tied 3-3.

Commissioner Keith said she had a problem with the elevations on units 1 and 3 with the long blank side walls. She said the wall was better addressed in unit 4. Chair Riggs said they could ask for more articulation on the sidewalls of units 1 and units 3. Commissioner Keith said she had a concern about the elevation and possible impact on drainage. Chair Riggs said that seemed to be concentrated on unit 1 with 1.9 feet at the dining room floor. Commissioner Pagee said with the differences in the grade and the floor plan that someone would need to add steps into the garage and that reduced the 10 foot by 20 foot clearance. Chair Riggs said the garage was raised also so no steps were needed to the kitchen. Commissioner Pagee said there were places where stairs did not match the change in elevation from the grade up to the house. She said the front elevation might show two steps and the side elevation showed three steps. She recommended sending the project back for redesign and to get a drainage plan and grading line, to include the windows and shift the second story sidewalls to get some articulation. Planner Fisher said the project would be going through the Engineering Division for the subdivision map and grading and drainage plan. She said it was not customary to provide grading and drainage plans to the Commission. She said a condition might be to have the planning staff work with engineering staff to lower the

grade as much as possible to existing. Chair Riggs said that was fine with him and asked for wording regarding articulation.

Recognized by the Chair, Mr. Stotler said regarding articulation that he thought they could dress the walls up with banding and windows. He said a five-foot setback would make the design very tight on the second story. He said they could also do a landscape plan. Chair Riggs said that screening did not necessarily block the view of the wall. He said that even basins could be set back six-inches for articulation. He said they were trying to identify articulation that the applicant could work on with staff.

Recognized by the Chair, Mr. Cooper suggested that they approve the project subject to certain conditions. He said this was a drastic improvement over the existing homes, which had been there 50 years. He said they were ugly residences and the owner had not maintained the landscaping. He said he was grateful the developer would improve the property.

Commissioner Keith asked about the weathered copper gutter. Mr. Stotler said they had been successful with the faux copper gutters in other projects. He noted that he had been in business for 27 years and done over 2,000 projects and had recently received a Gentry Showcase House of the Year award. He said this project would be very attractive with landscaping in the back, additions to the wrought iron railing in the front and the use of the faux copper gutters. Commissioner Keith asked about articulation of the side walls of units 1 and 3. Mr. Stotler said he could add a couple of awning windows and perhaps add another high window in the walk-in closets. Chair Riggs said a window could be added above the linen closets to break up the wall. Mr. Stotler said that was possible.

Chair Riggs modified the motion to add two more items for the applicant and planning staff to work with engineering staff to try to bring the grade down for units 1 and 3, and to add articulation to the property line walls for units 1 and 3 such as windows in the area of the master bath linen cabinet. Commissioner Ferrick asked if they could let the applicant figure out the location of additional windows. Chair Riggs said that was the intent. The modifications to the motion were acceptable to Commissioner Ferrick, the maker of the second.

Commission Action: M/S Riggs/Ferrick to approve the item with the following modifications.

1. Adopt a finding that the project is categorically exempt under Class 3 of the current State 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 structures 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. Make the following findings as per Section 16.82.340 of the Zoning Ordinance pertaining to the granting of variances:
 - a. The location of the existing oak trees and structures on the neighboring right side property in conjunction with required vehicular turning movements create a constraint to the design potential for the redevelopment of four residential units on the site with the required number and size of parking stalls without approval of the requested variances.
 - b. The proposed variances are necessary for the preservation and enjoyment of substantial property rights possessed by other conforming properties in the same vicinity, and the variance would not constitute a special privilege of the recipient not enjoyed by neighbors, due to the existing oak trees and the placement of structures on the adjacent parcel.

- c. Except for the requested variances, construction of the project will conform to all other requirements of the Zoning Ordinance. Granting of the variances will not be materially detrimental to the public health, safety, or welfare, and will not impair an adequate supply of light and air to adjacent property since the structures would conform to the required 10-foot side setback requirement, provide adequate on-site parking, and meet the floor area ratio, building coverage, height, and landscaping requirements per the R-3 zoning district.
 - d. The conditions upon which the requested variance is based would not be applicable, generally, to other properties within the same zoning classification since the variance is based on the configuration of existing buildings on the adjacent properties, the existing location of the heritage size oak trees, and the required turning movements for cars to pull in and out of the required parking spaces.
5. Approve the use permit, architectural control, and variance requests subject to the following **standard** conditions:
- a. Development of the project shall be substantially in conformance with the plans prepared by Stotler Design Group, consisting of 25 plan sheets, dated received June 9, 2009, and approved by the Planning Commission on June 15, 2009, except as modified by the conditions contained herein.
 - b. Prior to building permit issuance, the applicants shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicants shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
 - d. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. Landscaping shall properly screen all utility equipment that is installed outside of a building and that cannot be placed underground. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.

- e. Concurrent with the first building permit submittal, the applicant shall submit plans in conformance with the frontage improvements as shown on the approved tentative parcel map. These revised plans shall be submitted for the review and approval of the Engineering Division. All frontage improvements must be constructed and approved by the Engineering Division prior to approval and subsequent recordation of the parcel map.
 - 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 the tree protection plan and technique recommendations in the Arborist Report for all applicable heritage trees.
6. Approve the use permit, architectural control, and variances subject to the following ***project specific*** conditions:
- a. Prior to or simultaneous with the submittal of a complete building permit application, the applicant shall file a complete lot merger application subject to review and approval by the Planning and Engineering Divisions. The approved lot merger shall be recorded at the San Mateo County Recorder's Office, and documentation shall be provided to the City prior to grading or building permit issuance.
 - b. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a fence plan. The fence plan shall be presented to the neighbors at 875 University Drive and shall be subject to review and approval by the Planning Division.
 - c. ***Simultaneous with the submittal of a complete building permit application, the applicant shall revise the landscape plan to add a minimum of two street trees with a minimum planting size of 15 gallons, subject to review and approval by the Planning Division and City Arborist.***
 - d. ***Simultaneous with the submittal of a complete building permit application, the applicant shall revise the plans to indicate that the windows shall have the divided lights expressed on the exterior, subject to review and approval by the Planning Division.***

- e. ***Simultaneous with the submittal of a complete building permit application, the applicant shall revise the landscape plan to reduce irrigation around the root zone of the existing oak trees. The landscaping and irrigation plan shall demonstrate compliance with Chapter 12.44 (Water-Efficient Landscaping) of the City of Menlo Park Municipal Code, subject to review and approval by the Planning Division.***
- f. ***Simultaneous with the submittal of a complete building permit application, the applicant shall revise the proposed elevations and floor plans to add windows with five-foot window sill heights or obscured glass to the second story of Units 1 and 3 to provide cross-ventilation in the bedrooms, subject to review and approval by the Planning Division.***
- g. ***Simultaneous with the submittal of a complete building permit application, the applicant shall revise the site plan to relocate the condensing units for Units 1 and 3 out of the side setbacks, subject to review and approval by the Planning Division.***
- h. ***Prior to the submittal of a complete building permit application, the applicant shall discuss the possibility of narrowing the driveway width to 20 feet and using pavers for the driveway with the Menlo Park Fire Protection District.***
- i. ***Simultaneous with the submittal of a complete building permit application, the applicant shall provide a revised grading and drainage plan showing the proposed grade under Units 1 and 3 closer or equal to the existing grade, subject to review and approval by the Planning and Engineering Divisions.***
- j. ***Simultaneous with the submittal of a complete building permit application, the applicant shall revise the proposed elevations and floor plans for Units 1 and 3 on the property line sides to add a window (such as a window in the current master bathroom linen closet), subject to review and approval by the Planning Division.***

Motion carried 4-2, with Commissioners Pagee and Kadvany opposed and Commissioner O'Malley absent.

4. **Use Permit/Verizon Wireless/2180 Sand Hill Road:** Request for a use permit to install wireless telecommunications antennas on three sides of an existing building. The nine antennas would be flush mounted on the building and covered with fiberglass reinforced panels. Associated equipment cabinets and a natural

gas generator would be installed on the roof of the building, which is located in the C-1(X) (Administrative and Professional, Conditional Development) zoning district.

Staff Comment: Planner Fisher said at the request of Commissioner Pagee, staff had provided a list of the other antennae locations in the Sharon Heights area for various companies.

Public Comment: Mr. Fowler asked if the Commission had any questions. Commissioner Kadvany asked why the antennas were attached to the sides and whether that was for aesthetics or reception. Mr. Fowler said it was for both broadcasting and reception. He said the Commission looked at the architectural control and it was undesirable to have antennas higher than the roof. He said the colors would match the penthouse and the view of the antennas from Sand Hill Road was blocked.

Commissioner Ferrick asked about Mr. Joseph Feinstein's letter of concern about television signal interference and damage to sensitive bodily organs. Mr. Russ Benson said he was the engineer and responsible for the area from the Golden Gate Bridge to Gilroy for Verizon. He said that they broadcast above the frequencies used by television even with no filters but they also use really good filters. He said there were Federal standards related to safety and their safety factors were 10 to 1 beyond those required.

Chair Riggs closed the public hearing.

Commission Comment: Commissioner Keith said they had created a sensitive design and moved to approve. Commissioner Pagee seconded the motion.

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

1. Make a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current State California Environmental Quality Act (CEQA) Guidelines.
2. Make necessary findings, pursuant to 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 safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of the proposed use, and will not be detrimental to property and improvements in the neighborhood or general welfare of the City. *(Due to the Federal Communications Commission (FCC) preemption over local law regarding concerns over health where the proposed facility meets FCC requirements, staff has eliminated the standard finding for "health" with respect to the subject use permit.)*
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 L.D. Strobel Co., Inc., dated March 23, 2009 consisting of eight plan sheets and approved by the Planning Commission on June 15, 2009, except as modified by the conditions contained herein and the recommended mitigation measures described in the RF report.
- b. Prior to building permit issuance, the applicant shall comply with all County, State, and Federal regulations that are directly applicable to the project.
- c. Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division that are directly applicable to the new construction.

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

There was a short discussion about where these items were placed on the agenda. Planner Chow said if the Commission desired these type items could be placed on the consent calendar and could be pulled from the consent calendar if needed. Chair Riggs said that was a possible solution.

D. REGULAR BUSINESS

There was none.

E. COMMISSION BUSINESS

1. Review of planning items on City Council agendas.
 - A. El Camino Real/Downtown Specific Plan (Phase II) Process

Planner Chow said the #2 Community Workshop would be June 18. She said the first downtown party would happen on June 24.

- B. Burgess Gymnasium and Gymnastics Center

Planner Chow said the Final EIR for the project would be delivered to the Commissioners on June 18 and the item would be on the agenda for the meeting of June 29, 2009.

F. REPORTS AND ANNOUNCEMENTS

There were none.

ADJOURNMENT

The meeting adjourned at 11:59 p.m.

Commission Liaison: Deanna Chow, Senior Planner

Recording Secretary: Brenda Bennett