



PLANNING COMMISSION MINUTES

December 5, 2011

7:00 p.m.

City Council Chambers

701 Laurel Street, Menlo Park, CA 94025

CALL TO ORDER – 7:02 p.m.

ROLL CALL – Bressler (Chair), Eiref, Ferrick (Vice Chair), Kadvany, O'Malley, Riggs, Yu

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

A. REPORTS AND ANNOUNCEMENTS

1. Update on Pending Planning Items

- A. 3000 Sand Hill Road – December 13, 2011 City Council Meeting
- B. Facebook Community Meeting – December 8, 2011
 - Public Information Meeting – Senior Center, 7:00 p.m.

Planner Chow said that the amendment to the Conditional Development Permit for 3000 Sand Hill Road would be considered by the City Council at its December 13, 2011 meeting.

Planner Chow also added that Commissioners as residents of Menlo Park might have received a postcard that the release of the Environmental Impact Report and Fiscal Impact Analysis for the Facebook Project would be December 8, 2011, which would include a public information meeting at 7:00 p.m. at the Senior Center on the same day.

Commissioner Riggs asked when the discussion on driveway widths would be agendaized. Planner Chow said staff was aware of the Commission's interest in the topic and would probably agendaize the discussion sometime in January 2012.

C. PUBLIC COMMENTS

There were none.

C. CONSENT

Chair Bressler noted some changes to the October 17, 2011 minutes previously emailed to staff.

Commission Action: M/S Riggs/Bressler to approve the consent calendar including the minutes for the October 17, 2011 Planning Commission meeting with changes as emailed previously to staff and the minutes for the November 7, 2011 Planning Commission meeting as presented.

1. Approval of minutes from the October 17, 2011 Planning Commission meeting

- Page 4, 3rd paragraph, 3rd line: Replace the word “the” with “a”
- Page 6, 1st paragraph, last sentence: Replace “Commissioner Riggs said backup was usually measured to the bumper and rear wheels were usually 30-inches so if there was landscaping for the last two feet a vehicle entering or exiting would not cross that area.” with “Commissioner Riggs said backup distance is measured to the bumper, but the bumper overhangs the rear wheels by approximately 30 inches so that part of the car could pass over landscaping without conflicts when backing.”
- Page 16, 5th paragraph, last sentence: Replace “... and that nothing would stick to that surface.” with “... and that spray paint won’t stick to that surface.”
- Page 17, 3rd paragraph, 3rd line: Replace “... to mitigate the appearance of it being the back of a building.” with “... to mitigate an appearance like that of the rear of a building.”

2. Approval of minutes from the November 7, 2011 Planning Commission meeting

Motion carried 7-0.

D. PUBLIC HEARING

1. **Use Permit, Variances/Whitney Peterson/947 Lee Drive:** Request for a use permit to determine the Floor Area Limit (FAL) for a lot with less than 5,000 square feet of developable area, and for the construction of a two-story, single-family residence on a substandard lot in the R-1-U (Single-Family Urban) zoning district. In addition, a request for variances for construction of a first story encroachment of approximately five-feet into the required 25-foot 6-inch front yard setback, and 10-feet into the required 20-foot rear yard setback. As part of the proposed development, one heritage Monterey pine tree (58-inch diameter) in poor condition at the right side of the property would be removed. ***Item deferred at the request of the applicant.***

2. **Use Permit/Stephen J. Barnes/1444 San Antonio Street:** Request for a use permit to construct two two-story, single-family residences on a substandard lot in the R-3 (Apartment) zoning district.

Staff Comment: Planner Rogers said staff had no additions to the written report.

Questions of Staff: Commissioner Kadvany asked about the property lines between the two proposed residences. Planner Rogers said that upon approval of the use permit there would be a condominium subdivision and the area referred to by Commissioner Kadvany would be an area of common use which would be defined through the condominium plan. He said that the lot itself would not be subdivided explaining the fee simple requirements of the R-3 zoning district.

Public Comment: Mr. Stephen Barnes said he was the applicant and had no presentation but was available for questions.

Ms. Genevieve Shiffar, Oakland, said her father, and others present at the meeting, owned condominiums at neighboring Domingo Oaks and that they and their condominium association were in support of the development. She said they were concerned about the health of a Redwood tree on their property whose roots were in the subject property area. She said they would be applying for a permit to remove the tree as an arborist had indicated the tree was in very bad shape and a hazard. She said the optimum situation would be to have the tree removed before construction of the project.

Responding to questions from Chair Bressler, Planner Rogers said that there was no method of expediting a tree removal permit and that typically building permits were issued about six to eight weeks after use permit approval.

Commissioner Ferrick asked the applicant for his opinion on the removal of the tree and the timing of that. Mr. Barnes said the removal of the tree was neither a benefit nor loss to his project but he would be happy to work with the neighboring property owners if the timing of his building permit and the neighbors' tree removal permit coincided.

Chair Bressler closed the public hearing.

Commission Comment: Commissioner Riggs said that the project was proposing to use asphalt shingles and noted for the applicant that the City beginning in January 2012 would have a cool roof requirement that would need to be met, which would affect the color choice and/or the cost. He said there was a relatively low roof pitch and asked if they had considered a steeper roof pitch. Mr. Robert Gooyer, RCG Architecture, said the pitch was not an unusually flat pitch for this type design. He said he was willing to raise it a foot or two but noted that the higher the pitch the higher the structure would become. He said he tries to keep the pitch as low as possible on a two-story building and in this instance he did not want it higher than the neighboring property's elevation.

Mr. Barnes said the structure was only 30 feet wide as well, which was another reason they had preferred the lower roof pitch.

Commissioner Riggs said the site plan minimized the driveway coverage by getting clear of the pine tree which benefitted the street view and the pervious lot coverage ratio. He said all of the setbacks were met although this was only a 50-foot wide lot and this design showed that setbacks worked for such developments.

Commission Action: M/S Riggs/Ferrick to make the findings and approve as recommended in the staff report.

1. Make a finding that the project is categorically exempt under Class 3 (Section 15303, "New Construction or Conversion of Small Structures") of the current California Environmental Quality Act (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 RCG Architecture, consisting of 17 plan sheets, dated received November 30, 2011, and approved by the Planning Commission on December 5, 2011, 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.

Motion carried 7-0.

- 3. **Development Agreement Annual Review/Bohannon Development Company/101-155 Constitution Drive and 100-190 Independence Drive (Menlo Gateway Project)**: Annual review of the property owner's good faith compliance with the terms of the Development Agreement for the Menlo Gateway (Bohannon Hotel & Office) project.

Staff Comment: Development Services Manager Murphy said staff had no additions to the written staff report.

Public Comment: Mr. David Bohannon, property owner, said he did not have a presentation noting he had submitted a detailed letter outlining their position. Chair Bressler said the letter indicated there was no funding available to build hotels in areas outside of New York City or Washington, D.C. and that such funding would not become available in the Bay Area for at least the next 24 to 36 months. He asked what would be the collateral for such a loan. Mr. Bohannon said the hotel market based on the experts he communicates with, noting he attends various seminars on capital markets, had no products for hotel at this time except in the areas as mentioned. He said until there was a broader job recovery in the domestic economy, hotels and financing would not open up as opposed to other real estate markets such as apartment and office buildings.

Chair Bressler said this area was uniquely located and asked if a hotel would be profitable in the area if the Facebook project was approved. Mr. Bohannon said that with or without Facebook this was an excellent location for a hotel. Chair Bressler said the question was whether a hotel would be profitable noting they have a tremendous amount of collateral and that it would be located next door to the international headquarters of Facebook. Mr. Bohannon said he could understand Chair Bressler's feelings, but noted that while the hotel market and some existing hotels were doing well

there were restraints on funding for new hotels. He said they have the ability to develop a hotel and this was a great location but the economy was not to the point of funding the project. He said they were talking with hotel markets but there were not yet investors and funding. He said the reluctance to fund stemmed from the amount of nonperforming debt on hotel products. He said hotels financed in a boom time and those assets were financed at very high values but in more recent years there had been a disintegration of value. He said the Four Seasons Hotel was recently sold at half of its loan amount.

Commissioner O'Malley asked about discussions with Facebook. Mr. Bohannon said he had met several times with real estate personnel at Facebook and had been introduced to a New York architect that Facebook senior personnel hoped would design the proposed hotel. He said thus far these discussions had not convinced investors to fund the project although Facebook would generate a significant amount of room stay. Commissioner O'Malley asked if Facebook had offered funding. Mr. Bohannon said they had not.

Commissioner Kadvany asked what amount of funding was needed for a hotel and sports club. Mr. Bohannon said the parking structure would be shared between a hotel and office use. He said in very general terms if the hotel/sports club was \$100 million to build that they were willing to use their land as a basis to get the hotel funded. He said the office market was performing and he had to put off discussions with very significant users who were looking to relocate. He said the way they were approaching the development of the hotel was to attract an experienced hotel investor/operator to own and operate the hotel. He said the investor would bring equity and Bohannon would bring equity and would look for about 60% of the total financing from investors/lenders. He said he had talked to a number of people about their willingness to invest. He said new deals were happening in the office market in New York City and in the Bay Area because of the local social media businesses. Commissioner Kadvany asked about the terms of the City's approval. Mr. Bohannon said they basically had five years in which to start the hotel and before the office space could be tenanted they would need to have 80% of the hotel rooms sheetrock inspected. Commissioner Kadvany asked, hypothetically, whether office space different from the City's agreement could be built to incentivize the funding of the hotel. Mr. Bohannon said there would be benefits doing the office space prior to a hotel but the City wanted definitiveness that there would be a hotel which was why the agreement was structured as it was.

Commissioner Eiref said there was a statement in the PKF consulting report that operating expenses were high and had gone up over the past three years. Mr. Bohannon said although revenue and occupancy were currently equal to the numbers at the height of 2006-2007 the profit margin was lessened because the cost of operating had continued to climb over this period. Commissioner Eiref asked about the occupancy rates of existing hotels in the immediate area. Mr. Bohannon said he was not sure he could answer that specifically but he could get the answer. He said generally in the broader Bay Area he would guess that hotel occupancies were back to

around 65% and room rates were back to where they were roughly in 2007. Commissioner Eiref said if they needed to start building within five years by what time would they need to have the financing. Mr. Bohannon said once they were confident they would get financing they would start the design congruently with those efforts, which could then occur within the same 12-18 month period. He said another 18 months would be needed for building. He said the entire process would take about three years.

Commissioner Riggs commented that financial institutions continued to do their forward planning with a rearview mirror. He said if the hotel market was expected to rebound in three years and it would take three years to build a hotel that it seemed to make sense that funding should occur now. He said in the Newmark Knight Frank analysis of office space and Class A office in particular it was interesting that Menlo Park downtown and its Bayshore corridor seemed to be the outliers that have a significant vacancy rate in Class A office space, and asked Mr. Bohannon to comment. Mr. Bohannon said the office use market was very spotty right now. He said a nice office building in the downtown or on the west side of 101 and Marsh Road area would be attractive to prospective Class A tenants. He noted that they have 30,000 square feet of office space vacant on Marsh Road but were about to complete a lease for a 13,000 square foot building in the same vicinity. He said the office market had heated up over the summer and then slowed except for downtown Palo Alto which was red hot. He said the size of the buildings was important and smaller buildings did not attract the Class A users.

Commissioner Yu asked if there were hotels other than Marriott which were interested in developing the project. Mr. Bohannon said they had had others express interest but the Marriott product was something they would expect to operate at a high level and was the product they had indentified in their development agreement. He said if there was a good reason to change the product than the development agreement could possibly be renegotiated.

Chair Bressler opened the public comment period. There being no speakers, Chair Bressler closed the public comment period.

Commission Comment: Chair Bressler said in the follow up prompted by Commissioner Kadvany's questions and comments, Mr. Bohannon had expressed the length to which they were willing to go to make the project happen, which was a sign of good faith. He said also the applicant's expressed desire to build the office and the comments on the process of funding and construction seemed to indicate that something would probably occur over the next year.

Commissioner O'Malley said he agreed with those comments.

Chair Bressler moved, and Commissioner Riggs seconded the motion to make the findings as recommended in the staff report.

Commissioner Kadvany asked if there was any area the Commission should look at that it had not. Development Services Manager Murphy said the Commission had covered the review thoroughly for this year, and that issues the following year may be similar. He noted in subsequent years there would be areas of permitting and mitigations, and the development agreement that would need to be considered by the Planning Commission.

Commission Action: M/S Bressler/Riggs that the Planning Commission has found and determined upon the basis of substantial evidence that the property owner has for the period between December 8, 2010 and December 5, 2011 complied in good faith with the terms and conditions of the Development Agreement.

Motion carried 7-0.

E. COMMISSION BUSINESS

There was none.

ADJOURNMENT

The meeting adjourned at 8:03 p.m.

Staff Liaison: Deanna Chow, Senior Planner

Recording Secretary: Brenda Bennett

Approved by Planning Commission on January 9, 2012