



PLANNING COMMISSION MINUTES

Regular Meeting
November 19, 2012 at 7:00 p.m.
City Council Chambers
701 Laurel Street, Menlo Park, CA 94025

CALL TO ORDER – 7:00 p.m.

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

INTRODUCTION OF STAFF – Momoko Ishijima, Planner; Kyle Perata, Assistant Planner; Thomas Rogers, Senior Planner

A. REPORTS AND ANNOUNCEMENTS

- A1. Update on Pending Planning Items**
a. 20 Kelly Court – City Council, November 27

Planner Rogers said the 1 and 20 Kelly Court project that the Commission had recently reviewed would be considered by the City Council at their November 27 meeting.

- b. Housing Element – December Commission Meetings

Planner Rogers said that in December every City Commission except for the Library Commission would receive a status report on the draft Housing Element and requested to consider updates to the General Plan for consistency with the draft Housing Element.

B. PUBLIC COMMENTS

Mr. Mike Lanza, Allied Arts, said he was an active advocate for children playing outside and biking on their own. He said his concern was the lack of east-west connection for bicyclists as crossing El Camino Real to get to the east side of Menlo Park was unsafe. He said efforts to connect the east and west sides of the City were not happening and would not happen because of the fast-tracking of a non-profit residential development on the east side of El Camino Real that would not bring the City any revenue. Responding to a question, Mr. Lanza said it was near the Tesla dealership close to where Middle Avenue connected with El Camino Real.

Ms. Perla Ni said she was Mr. Lanza's wife and also had concern with the proposed housing development because of the traffic implications. She said she worked in Redwood City and her commute was on El Camino Real. She said the Stanford planned development would add six buildings, 300,000 square feet and much of that medical buildings, which would be traffic intensive. She said her concerns were that people who live near El Camino Real and use it to travel to work and back home would be impacted and that people would start using residential streets to travel to avoid El Camino Real. She said children ride their bikes on the residential streets and more traffic on those streets was a safety hazard.

Mr. Stefan Petry, Menlo Park, said he also shared the concerns about the proposed residential development at El Camino Real and Middle Avenue and its impact on traffic. He said he was also concerned with people using residential streets to avoid El Camino Real traffic.

It was noted that there was information on the City's website regarding the El Camino Real-Downtown Specific Plan and City development projects.

C. CONSENT

There were no consent items.

D. PUBLIC HEARING

D1. Use Permit/Lorin Hill/7 Sunset Lane: Request for a use permit for excavation in the required rear and side yard setbacks on a standard lot in the R-1-S (Single Family Suburban) zoning district.

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

Public Comment: Mr. Lorin Hill, applicant and architect, said the project had been under development for about two years having begun as a remodel or retrofit expansion to the existing single-family residence. He said the lot was sloping and subject to substantial soil expansion and contraction, inadequate drainage and substandard foundations that resulted in differential settlements of up to seven inches. He said it proved too expensive to do a foundation replacement and the project now was to build a new home. He said the project complied with all of the R-1-S standards and the size and form of the home design would not require a use permit. He said the use permit was for a modest expansion of the site excavation along with the replacement of large portions of existing site retaining walls and proposed removal of a few heritage trees. He said part of the design program was to maximize the usable outdoor space in the rear yard including a swimming pool in the future. He said they also planned to keep the driveway as currently located. He said the overall intention was a low slung building emphasizing the horizontal elements and having all primary living spaces accessed from one level and with the outdoors. He said new retaining walls were needed to allow for pedestrian traffic around the side of the building, to provide adequate crawl space ventilation, and for better site drainage and water proofing. He said the retaining walls needed excavation greater than 12-inches in depth within the side and rear yard setbacks, which triggered the need for the use permit application. He said they had explored options not requiring side yard excavation but these were unsatisfactory. He said the owners had conducted neighbor outreach and had significant support for the proposed project.

Chair Ferrick closed the public hearing.

Commission Comment: Commissioner Bressler asked why excavation was limited in the side setbacks. Planner Rogers said his understanding was that the requirement was written in response to an incident of excavation in the side setback on one property causing damage to the fence on the neighboring property.

Commission Action: M/S O'Malley/Onken to approve the use permit 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 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 Lorin Hill Architect, consisting of 21 plan sheets, dated received November 6, 2012, and approved by the Planning Commission on November 19, 2012, except as modified by the conditions contained herein, subject to review and approval by 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 by 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 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 the issuance of grading, demolition or building permits.
 - g. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance.

Motion carried 7-0.

D2. Use Permit and Variance/S&G Builders, LLC/748 & 746 Partridge Avenue: Request for a use permit to demolish two single-family dwelling units and associated accessory buildings and to construct two two-story, single-family dwelling units and associated site improvements on a substandard lot with regard to lot width in the R-2 (Low Density

Apartment) zoning district. Request for a variance to build an accessory structure in the front half of the property, 69.5 feet from the front property line where 93.75 feet would be required.

Staff Comment: Planner Ishijima said two pieces of correspondence about the project had been received and were made available to the Commission and the public. She said one letter was from the applicant with a petition containing 13 signatures of neighbors in support of the project. She said the other was an email from an adjacent neighbor at 764 Partridge Avenue expressing concerns that there had been a lack of engagement from the applicants with him. She said his three points of concern related to the variance findings in the staff report.

Public Comment: Mr. Greg Zierman, Unique Home Designs, said the use permit request was to remove two existing single-family residences and accessory buildings and build two, two-story residences. He said they were requesting a variance to build a detached one-car garage to be located in the front half of the lot. He said on January 14, 2008, the Planning Commission had approved a variance very similar to what they proposed now but the applicant had not moved forward with the project and the previous two use permits had expired. He said their proposed project would place the new structures nearly in the same footprint as the existing homes as the previously approved project. He said they were proposing more traditional design than the very contemporary and modern design proposed previously and would be much more compatible with the rest of the neighborhood. He said locating the garage as proposed would save a heritage tree, a 12-inch sycamore. He said they were also proposing to increase the side setback from three feet to five feet. He said the project was designed to meet and exceed all R-2 zoning regulations with the exception of the proposed detached garage for which they were requesting a variance. He said the previous approval had a detached garage at the same location except that garage would have encompassed two parking spaces, two combined single-car garages, whereas this has one, one-car detached garage, and the rear unit was proposed to have a detached garage. He said the location of the detached garage would save the heritage tree, provide greater privacy to the rear unit, and allow more yard space for the front unit. He said also landscape screening was proposed along the detached garage to provide more privacy for the rear unit. He said they talked with neighbors and if they were not home they left a letter with information on how to contact them. He said they did not receive any response; he noted they had gone door to door on Partridge and College Avenues and received numerous signatures for the project as designed.

Commissioner O'Malley confirmed with staff that the difference between the variance currently requested and that previously approved was a half foot and one, one-car attached garage rather than one, two-car detached garage, and that the attached garage did not require a variance.

Commissioner Kadvany confirmed with staff that any detached garage by definition was an accessory building.

Mr. Michael Hogan, Menlo Park, said he was the adjacent neighbor, and that he had only once been contacted by the property owners. He said the new property owners had indicated when they first purchased the property that they would move the driveway to provide more space between the two properties. He said he was surprised they were asking for a variance. He said he reviewed the rationale related to hardship in the variance findings in the staff report but he did not understand how it could be applied as every lot would be unique. He said saving the tree was less about that than having the two homes situated on the lot. He thought as the

adjacent neighbor that there was more of an impact for him than neighbors who lived on College Avenue which was located to the rear of the property.

Commissioner Bressler asked Mr. Hogan if he could state his concerns related to the project other than not being contacted by the property owner. Mr. Hogan said this project would be identical in design to others being built along the street and he thought diversity would be a better use of the lots.

Commissioner Eiref asked if the applicant were to attach the garage whether that would address Mr. Hogan's concerns. Mr. Hogan said regarding "what ifs" that no one had communicated with him about those, and he thought the design should be lot appropriate without requesting a variance.

Chair Ferrick closed the public hearing.

Commission Comment: Commissioner Riggs said when a variance was requested the Commission had to make four findings that were not easily made. He said part of this process was to allow for a certain amount of judgment to be used. He said also the Commission had previously approved an almost identical variance request for this property. He said he recalled after looking at various options several years ago for this site that it became evident to them as representatives of the City that they would rather retain a heritage sycamore tree than get wrapped into details about where the garage was located front to rear. He said that this project would fit within the Allied Arts neighborhood and would fit all of the rules except for the single-car garage, the location of which he thought was sensitive and would preserve the tree.

Commission Action: M/S Riggs/O'Malley to make the findings, approve the use permit and variance request 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 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. Make the following findings as per Section 16.82.340 of the Zoning Ordinance pertaining to the granting of the variances:
 - a. The substandard lot width and the location of the heritage sycamore tree create a constraint to the design potential for the redevelopment of two residential units on the site with the required number and size of parking stalls without approval of the requested variance.
 - b. The proposed variance is necessary for the preservation of the heritage trees 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.

- c. Except for the requested variance, the proposed construction will conform to all other requirements of the Zoning Ordinance. Granting of the variance 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 location of the structure will not be visible from the street, will allow a heritage tree to be preserved, will provide adequate on-site parking, and will meet the floor area limit, building coverage, and height per the R-2 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 a lack of feasible parking alternatives that provide access and circulation while preserving the heritage tree.
4. Approve the use permit and variance subject to the following **standard** conditions:
- a. Development of the project shall be substantially in conformance with the plans prepared by Unique Home Designs, consisting of 14 plan sheets, dated received November 9, 2012, and approved by the Planning Commission on November 19, 2012, except as modified by the conditions contained herein, subject to review and approval by 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 by 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 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 the issuance of grading, demolition or building permits.
 - g. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance.

5. Approve the use permit subject to the following ***project-specific*** conditions:
 - a. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a landscape plan with local irrigation and implement regular nitrogen fertilizer treatment to ensure the longevity of the heritage sycamore tree.

Motion carried 7-0.

D3. Use Permit and Variances/Young and Borlik Architects/1976 Menalto Avenue:

Request for a use permit to demolish a single-story, single family residence and to construct two, single-family dwelling units and associated site improvements, on a lot that is substandard with regard to lot depth and area, located in the R-2 (Low Density Apartment) zoning district. The proposal includes a request for a variance to encroach into the required front and rear yards. As part of this proposal, three heritage trees, in fair and good condition, with diameters between 16.5 and 19.5 inches that are located towards the right-side of the lot and the rear of the lot are proposed to be removed. Elements of this proposal have been revised since the Planning Commission Study Session of September 24, 2012.

Staff Comment: Planner Perata said staff had received three additional pieces of correspondence since the printing of the staff report and copies were being distributed to the Commission and were available to the public. He said the first email was from Mr. Maarten Hooft, Menalto Avenue, supporting the project and noting the property needed to be cleaned up and he appreciated the applicant's outreach about the project. He said a letter was received from Mr. Jim Quilliam, Menalto Avenue, across from the project, which also was supportive of the property improvement. He said a third email was received from Ms. Mickie Winkler, who stated she appreciated the redesign of the units and was all right with the variance request if the adjacent neighbor supported the change. Planner Perata said staff had added two conditions of approval, 5.b and 5.c related to construction of driveway, excavation and materials.

Public Comment: Mr. Bill McNair, applicant, said at the September 24, 2012 study session, the Commission had expressed general support of the variance request and the project. He said since then they had revised the design to respond to Commission and neighbor input, including redesign the units to fit within typical flag lot setbacks, replace the flat roof line with a pitched roof line, minimize the ability for overflow parking on the property, and insure the preservation and protection of the Oak tree on the neighboring property. He said some neighbors had opposed the project at the study session but now several of them were supportive. He made a visual presentation outlining how they had addressed the four redesign items. He noted efforts to continue to meet with the neighbors and work with them.

Commissioner Kadvany asked how the privacy between the units was being addressed. Mr. McNair said the area between the units was a courtyard and was similar to the public view from a street except there was no street for additional distance. He said they looked at providing obscure glass and of course window coverings. Commissioner Kadvany asked if there was any room for landscape screening. Mr. McNair said both windows had balconies and perhaps there could be potted plants there but there was not space in the courtyard to do additional landscaping.

Commissioner Riggs said the report indicated the driveway should be impervious to use existing base and not have to do excavation. He asked if they had intended that material for the entire length. Mr. McNair said that they would use impervious from the street to the parking court and they could possibly use pervious pavers in the parking court. Commissioner Riggs asked if there would be protection of the Pine tree roots. Mr. McNair said there would be. Commissioner Riggs said it sounded as though the driveway would not be the full panhandle lot width and would have plantings on both sides. Mr. McNair said it was a 16-foot wide driveway but the actual space was 20-feet so there were a couple of feet on each side for landscape. Commissioner Riggs said under the Oak tree it would be important to avoid irrigation. Mr. McNair said he would be happy to stop the planting outside the drip zone of the Oak tree. He said the primary objective of the landscaping in that area was to alleviate any concerns about parking. Commissioner Riggs said it appeared from the conditions that they would need to work with an arborist. Mr. Dan Rhodes said that as part of the project approvals they would work with a landscape architect and arborist.

Commissioner Onken asked if the two slit windows for the upstairs master bedroom facing west were translucent or clear. Mr. McNair said those windows were clear and looked into the neighbors' rear yard and they were working with that neighbor on acceptable screening. He said the window in the bathroom was placed very high and would allow light but no view. Commissioner Onken said that if the glass was translucent that would help.

Chair Ferrick suggested conferring with the arborist about spreading mulch around the area under the Oak canopy as she had read that was helpful in creating a pad of protection for tree roots. Mr. McNair said he would.

Mr. Scott Marshall, Menlo Park, said he lived on O'Connor Street, and was representing a group of neighbors. He said they had been in communication with the applicant, who had taken their feedback, but had not addressed many of their concerns when the project was brought forward for a study session. He said they did notice with the project presented tonight that the roofline had been changed which had been a neighbor's concern. He showed a proposal they had developed for the site noting that the applicant's plan would have the rear home well into the canopy of the Oak tree on the neighboring property and would remove several other heritage trees. He said with their proposal at least two of the three heritage trees could be preserved. He said the applicant's plan had the cars parked in the rear, essentially under the neighbor's living room windows, and their proposal had the parking kept to the front. He said they wanted to save the Oak tree canopy, save the other heritage trees, and protect their neighborhood from construction impacts. He said the arborist had indicated a fence should be put 30-feet around the Oak tree to protect it but he had not heard anything about that this evening. He said the applicant planned to build a 25-foot high building within 11 feet of the Oak tree trunk and that would impact its root system and canopy. He presented photos of the subject property. He said the City has protection for heritage trees. He showed a photo of another property where pavers had been installed within three feet of the heritage tree and another photo showing the tree subsequently died. He said the parking for this project should be in the front. He said the applicant had shown them a plan in which the two homes were pulled together that neighbors supported, but the applicant had not proposed that project to the Commission. He said it was possible to create a 25-foot setback from the Oak tree. He said if they changed the front and side setbacks based on a flag lot configuration that they could change the lot from an R-2 to an R-1. He urged the City to save its trees.

Chair Ferrick noted that Mr. Marshall had used Ms. Deanna Lin and Mr. Manfred Kopisch's speaking time.

Ms. Michelle Daher, Menlo Park, thanked the developer for enhancing the subject property. She said that what was being proposed was not what the neighbors supported and that they had not heard from the developer after the study session. She said she was sorry they had not provided their information sooner to the Commission but they had conducted their neighborhood study session over the past weekend. She said the proposal shown by Mr. Marshall to the Commission had the neighborhood group's unanimous support.

Speaker cards had been submitted for Mr. Alexander Lenhart, Mr. Lawrence Lee, and Mr. Stephen Moran, all of whom declined to speak.

Ms. Cathleen Moran, Menlo Park, said her family's home was behind the rear fence of the subject property. She said the existing house was derelict but the proposed design would be intrusive. She said the most offensive thing to them was to have cars parking against the fence which was about seven feet from their living room window. She said as the adjacent neighbor they preferred a plan that would intrude the building closer to their home and would not have cars parked immediately across the fence. She said she was also concerned about the ultimate health of the Oak tree. She said she understood that the tree was on Mr. Kopisch's property and was his liability noting she was an attorney. She said she thought it was fundamentally unfair that the tree was on his property but the ability to mess with the root system and health of the tree was largely in the hands of the adjacent property owner. She said she thought there should be a definite plan for the health of the tree. She said if it died and fell over that the innocent property owner on whose land the tree was located should not have to be saddled with the expense of repairing damage when the roots and canopy were being impacted by this project. She said she was strongly in favor of one of the alternate proposals prepared by the developer that had the two units closer together and kept the parking further away from their fence.

Commissioner Riggs asked what aspect of parking cars along the fence caused concern for Ms. Moran. Ms. Moran said noise and visual impacts. Commissioner Riggs noted that a seven-foot fence was planned. Ms. Moran said the parking would be very immediate to the sole window in her living room and that was their view.

Mr. Jason Watson, Menlo Park, said he supported the plan presented by Mr. Marshall representing the neighbors' input, and provided the Commission with a letter signed by 22 neighbors who also supported this alternative plan.

Chair Ferrick closed the public hearing.

Commission Comment: Commissioner Eiref asked if the developer could respond to the proposal made by the neighbors, noting he was surprised someone would prefer a tall building closer to their living space than a lower height vehicle.

Mr. McNair said Ms. Moran had indicated the parking would be about seven feet from her living room windows. He said the uncovered parking was 19-feet away and the building structure was 29-feet away. He said he also planned to replace the existing fence with a seven-foot high fence. He said regarding the design presented by the speaker that this was one of a dozen designs they had prepared for the property, and while the neighbors had indicated he was not

communicating with them, he had shared multiple design studies with them. He said his team had decided the plan shared by Mr. Marshall this evening was not viable as it would still require two variances. He said although the parking they were proposing was not preferred by Ms. Moran, it complied with the zoning ordinance. He said the design proposed by the neighbor group would probably shift the parking concern to the neighbor in front. He said the other reason they decided that plan was not viable was because of the sheer massing and the structural wall, which as he recalled would be 79 to 90 feet long. He said also the turning template for the front parking was difficult with that plan.

Mr. Dan Rhodes, architect, said they visited the site with an arborist and did measurements recently to see where the buildings would intersect with the tree. He said they took the fence line and property line and measured out 10 ½ feet to get to the first floor. He said measuring vertically from the first floor wall line the lower branch was about 15-feet away. He said they had proposed trimming that branch. He said measuring vertically from the second floor wall line that the upper part of the branch was at 20-foot seven-inches, and the gutter line was at 21-feet so it was very close. He noted the limb was growing horizontally and the further it extended the more likely there would be limb failure.

Chair Ferrick said there was much agreement that people wanted the Oak tree saved. She said the neighbors with their proposal recognized that this is an R-2 lot and there were two separate units being proposed rather than one structure. She said she preferred two separate structures. She said she visited the site and the limb referenced did seem to be growing out from under the canopy to get some light and was very horizontal. She asked if they wanted to revisit moving the project further back away from the tree and put the uncovered parking in the front noting the neighbors' support. Mr. McNair said they had looked at multiple designs and felt the one they were proposing was the best.

Commissioner Onken asked why story poles weren't used. Planner Rogers said the question has arisen before. He said when it was required in other cities that it typically in coastal cities or hilly areas with unusual topography. He said they would welcome hearing about any models used by cities on flat land that Commissioner Onken was aware of. Commissioner Onken said with a discretionary project the use of story poles would resolve questions. He asked if there was damage to the Oak tree whether there was a formal mechanism for liability under the City's heritage tree policy. Planner Rogers said if the Oak tree was damaged by construction it could be remedied or enforced through a fine under the Heritage Tree Ordinance. He said if it died for other reasons and could not be linked to the action of any specific person that was out of the purview of the City. He said if it could be proven with certainty that it was due to negligence on the part of the applicant that was enforceable by the City.

Chair Ferrick said she could make the findings for the variance because of hardship due to the t-shape of the lot in front and the property line designation which was unusual. She said the Oak tree seemed to be the greatest concern and that it appeared every effort to preserve it would be made. She said the lot coverage could be up to 35% and 2,800 square feet but the applicant was building only 1,561 square feet of covered space which she appreciated. She said that would help the roots of the Oak tree which were probably under the property and needed to get water and air. She said everything was in compliance except for the non-conforming lot width.

Commissioner Riggs said this lot was why variances existed. He said a rule was written to apply to one instance but then has to apply to a different instance, with unintended

consequences. He said the applicant responded well to the Commission's comments at the study session. He said also the variance request did not result in additional buildable land. He said he agreed with multiple neighbors that the Oak tree was the primary concern. He said it was obvious by Mr. Rhodes' comments that this architect took a very professional and capable approach, and the team had responded diligently to the issue. He said at this point he thought they needed to put faith in both the city and the consulting arborists. He said the precautions being recommended were those seen before by the Commission for other projects with Oak tree issues. He noted that Oak trees were unpredictable however but he did not think this project would be unduly impactful. Commissioner Riggs moved to make the findings for the variance and use permit as presented by staff including the updated conditions 5.b and 5.c as staff noted this evening. He said 5.b asks that the paving of the panhandled driveway be conventional and pervious materials such as asphalt or concrete so the existing base material would not need to be disturbed as this was potentially the mat in which the Oak tree has feeder roots unless the applicant could show that the base rock would not have to be excavated to put some other type of paving. He said condition 5.c was the requirement that excavation around the tree use air spade. Commissioner O'Malley seconded the motion. He said that he was fine with the variance request and he agreed with Commissioner Riggs' comments about the Oak tree.

Commissioner Eiref said previously he was concerned about the variance request but he was supportive of it now having studied the situation in greater depth. He said the design was very handsome and much improved from the last proposal. He said acknowledging the concerns of the neighbors about the Oak tree he questioned what could be done when trees are so much on another property owner's lot that it was an encumbrance. Planner Perata said trees crossing lot lines was a civil matter and would be between two neighbors, and was not something the City would get involved with typically. Commissioner Eiref said he has two large Oak trees on his property, one of which was growing into the neighbor's yard. He said at the neighbor's request, they had the tree pruned and it was doing very well. He said he thought trimming would be helpful for the subject tree not just for maintenance but also to give it a more symmetrical shape.

Chair Ferrick said that upon general reading about Oaks that limbs growing extensively to the side needed to be maintained whether a project was built on this property or not. She said she could make the variance findings. She said everyone as concerned about the Oak tree, but it appeared the protection and preservation measures were well thought out, and that the applicant would talk with the arborist about spreading mulch around the trunk area to create a protective layer. She said she liked the neighbors' counter proposal with the driveway as there seemed to be a reduction of paved area and more yard area. She said however the applicant had considered numerous designs.

Commissioner Bressler said there seemed to be a perception that the variance was just for lot configuration. He said pushing the house back raised the question of other issues. He said there was a trust factor about the protection and preservation of the Oak tree and its roots but it was good that they were not going to change the driveway. He said he had some concerns but he supported the project.

Commissioner Kadvany said he could make the variance findings and he was confident the tree would be protected and would thrive barring no other difficulties as this type of pruning was done regularly. He said he was concerned that the two homes were now only 20-feet apart and had bedrooms with sliding glass doors facing each other directly. He said that in the earlier

design there was 26 feet between the residences and so there was space to do tree planting to screen.

Commission Action: M/S Riggs/O'Malley to make the findings for the variance request and use permit and approve as recommended in the staff report with the addition of conditions 5.b and 5.c specifically written to strengthen the protection measures for the Oak tree.

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. 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 panhandle access to the lot and the resulting shallow depth of the lot, create a constraint to the design potential for the redevelopment of two residential units on the site within the required front and rear setbacks without approval of the requested variances.
 - b. The proposed variances are necessary for the construction of two detached units with a site layout that is consistent with the typical neighborhood pattern, and therefore, the preservation and enjoyment of substantial property rights possessed by other conforming properties in the same vicinity, in particular with regard to "L" shaped panhandle lots, and the variance would not constitute a special privilege of the recipient not enjoyed by neighbors.
 - c. Except for the requested variances, the construction of the two units 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 will otherwise conform to the required setbacks, provide adequate on-site parking, and meet the FAL, building coverage, height, and landscaping requirements per the R-2 zoning district. Additionally, the development would be designed to contain increased side yard setbacks to limit impacts to the neighboring parcels.
 - 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 dimensions of the lot and the location of the panhandle access.
4. Approve the use permit and variance requests subject to the following **standard** conditions:

- a. Development of the project shall be substantially in conformance with the plans prepared by Young and Borlik Architects, consisting of 17 plan sheets, dated received November 9, 2012, and approved by the Planning Commission on November 19, 2012, 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.
 - h. Prior to building permit issuance, the applicant shall submit proposed landscape and irrigation documentation as required by Chapter 12.44 (Water-Efficient Landscaping) of the City of Menlo Park Municipal Code. If required, the applicant shall submit all parts of the landscape project application as listed in section 12.44.040 of the City of Menlo Park Municipal Code. This plan shall be subject to review and approval by the Planning and Engineering Divisions. The landscaping shall be installed and inspected prior to final inspection of the building.
5. Approve the use permit and variance requests subject to the following **project specific** conditions:
- a. Simultaneous with the submittal of a complete building permit application, the applicant shall revise the plans to include the species for the two unidentified heritage tree replacements, subject to review and approval of the Planning

Division and City Arborist. The heritage tree replacements shall be a minimum of 15 gallon in size.

- b. Simultaneous with the submittal of a complete building permit application, the applicant shall revise the material for the panhandle driveway to be an impervious material, such as asphalt or concrete, utilizing the existing base material, in order to minimize potential impacts on the root structure of heritage trees in proximity to the driveway. If the applicant can provide documentation that previous pavers would not increase the depth of excavation, compared to concrete or asphalt, then that previous pavers may be used, subject to review and approval of the Planning Division and City Arborist.***
- c. Simultaneous with the submittal of a complete building permit application, the applicant shall revise the notations on the plan sheets, and the arborist report to require that all new excavation for the widened panhandle portion of the driveway be conducted using an air spade, in order to minimize potential impacts on the root structure of heritage trees in proximity to the driveway, subject to review and approval of the Planning Division and City Arborist***

Motion carried 6-0 with Commissioner Onken abstaining.

D4. Use Permit and Architectural Control/David Bouquillon for DivcoWest/2460 Sand Hill

Road: Request for a use permit and architectural control for the demolition of the existing 32,721 square foot general office building located at 2460 Sand Hill Road (Quadrus Building 4) and the construction of a new 32,671 square foot general office building in the same location. The project would result in a reduction of approximately 50 square feet of gross floor area at the project site. As part of the proposal, the applicant is requesting to remove ten heritage size trees: three trees in poor condition, five trees in fair condition, and one tree in good condition. The proposed project is located in the C-1-C (Administrative, Professional, and Research, Restrictive) zoning district.

Staff Comment: Planner Perata said a colors and materials board was being distributed to the Commission.

Questions of Staff: Commissioner Kadvany asked if cementitious was not cement but looked like cement. Planner Perata said he thought it was tile made from cement.

Public Comment: Mr. Robert Remiker, the project architect, and Mr. David Bouquillon, the applicant, introduced themselves. Mr. Remiker said they had met with the Commission in June for a study session. He said since June they had simplified some railing systems, refined the colors which were the same as other Quadrus buildings, and introduced a cementitious cool roof made of cement, concrete and other fibers. He said they also had to refine the vehicular circulation due to continuing discussions with the Fire Marshall and that would require removal of ten heritage size trees. He noted that there would be tree replacements.

Commissioner Onken asked whether trees had to be removed to provide fire access to the southerly side of the building. Mr. Remiker said in June they knew they would lose six trees due to the construction of the building, one or two of which related to the widening of the driveway to

24-feet. He said to the left on the site plan there were three more trees being removed largely by the request of the Fire Marshall.

Commissioner Eiref said the existing building appeared dilapidated. Mr. Bouquillon said the building was originally built for Saga Foods and that the two bottom floors was to house the mainframe computers. He said it's been 10% occupied but mostly unoccupied for 10 years. Commissioner Eiref asked about excavation and impact on trees. Mr. Remiker said one motive was to preserve existing retaining walls and if the trees were above those they were most likely to be protected and undisturbed. Commissioner Eiref said this building was very close to Sharon Park Drive and asked whether there was access through to Sharon Park Drive. Mr. Bouquillon said all traffic would enter and exit onto Sand Hill Road.

Commissioner Kadvany asked about the checklist for LEED and noted they had given themselves low scores for paint and carpet with low emissions and asked if that had to do with longevity of the products. Mr. Remiker said that was completed by Devcon Construction but noted that paint had improved greatly in recent years and was much less emitting. Commissioner Kadvany asked about energy efficiencies. Mr. Remiker said they would use the Variable Refrigerant Zone HVAC equipment. He said until they had a tenant and did tenant improvements they could not address lighting efficiencies.

Chair Ferrick asked about water efficiencies and collecting rainwater from roofs, noting the Commission had recently seen an application for a commercial building that was going to do graywater recycling for irrigation. Mr. Remiker said the points were for bio-retention of stormwater and not from graywater collection. Chair Ferrick asked if they were interested in doing a collection system to capture storm water. Mr. Bouquillon said it could be discussed with their facilities staff but there was nothing planned at this time.

Chair Ferrick closed the public hearing.

Commission Comment: Commissioner Riggs said he had a discussion with the Menlo Park Fire Protection District staff about the heritage tree removals on this site, and that he came to agree that access to this site was limited. He said a number of the requirements came directly from code, and regrettably, the trees did need to be removed. He said there were a lot of trees on the site and most were well maintained.

Commission Action: M/S Eiref/Ferrick to approve the use permit and architectural control as recommended in the staff report.

1. Make a finding that the project is categorically exempt under Class 2 (Section 15302 "Replacement or Reconstruction") of the current CEQA Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Make the following findings, as per Section 16.68.020 of the Zoning Ordinance, pertaining to architectural control approval:

- a. The general appearance of the structure is in keeping with the character of the neighborhood.
 - b. The development will not be detrimental to the harmonious and orderly growth of the City.
 - c. The development will not impair the desirability of investment or occupation in the neighborhood.
 - d. The development provides adequate parking as required in all applicable City Ordinances and has made adequate provisions for access to such parking.
4. Approve the use permit and architectural control subject to the following **standard** conditions:
- a. Development of the project shall be substantially in conformance with the plans prepared by Robert Remiker Architect, consisting of 31 plan sheets, dated received November 9, 2012, and approved by the Planning Commission on November 19, 2012, except as modified by the conditions contained herein subject to review and approval by the Planning Division.
 - b. Prior to building permit issuance, the applicants shall comply with all Sanitary District, Menlo Park Fire Protection District, Recology, 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 Group that are directly applicable to the project.
 - d. Prior to demolition permit and building permit issuance, the applicant shall comply with the requirements of Chapter 12.48 (Salvaging and Recycling of Construction and Demolition Debris) of the City of Menlo Park Municipal Code, and is subject to review and approval by the Engineering and Building Divisions.
 - e. Concurrent with the submittal of a complete building permit application, the applicant shall submit a plan for any new utility installations or upgrades for review and approval by 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, dimensions, and colors of all meters, transformers, junction boxes, relay boxes, and other equipment boxes. The utility plans shall also show backflow and Double Check Detector Assembly (DCDA) devices.
 - f. Concurrent with the submittal of a complete building permit application, the applicant shall submit a Grading and Drainage Plan for review and approval by the Engineering Division. The Grading and Drainage Plan shall be prepared based on the City's Grading and Drainage Plan Guidelines and Checklist and the Project Applicant Checklist for the National Pollution Discharge Elimination System (NPDES) Permit Requirements. The erosion and sediment control plans shall be attached to the Grading and Drainage plans and may be similar to the erosion control plan provided for the demolition permit. The Grading and Drainage Plan shall be approved prior to or concurrent with the issuance of a building permit.
 - g. Concurrent with the submittal of a complete building permit application, a design-level geotechnical investigation report shall be submitted the Building Division for review and

confirmation that the proposed development fully complies with the California Building Code. The report shall determine the project site's surface geotechnical conditions and address potential seismic hazards. The report shall identify building techniques appropriate to minimize seismic damage.

- h. Prior to building permit issuance, 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.
- i. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance.

Motion carried 7-0.

E. COMMISSION BUSINESS

There was none.

ADJOURNMENT

The meeting adjourned at 9:24 p.m.

Staff Liaison: Thomas Rogers, Senior Planner

Recording Secretary: Brenda Bennett

Approved by Planning Commission on December 17, 2012