



PLANNING COMMISSION MINUTES

**Regular Meeting
June 9, 2014 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, Combs, Eiref (Chair), Ferrick, Kadvany, Onken (Vice Chair), Strehl

INTRODUCTION OF STAFF – Jean Lin, Associate Planner; Kyle Perata, Associate Planner; Thomas Rogers, Senior Planner; Corinna Sandmeier, Contract Planner

A. REPORTS AND ANNOUNCEMENTS

A1. Update on Pending Planning Items

- a. General Plan Update – Consultant Selection Process – City Council – June 3 and 17, 2014

Commissioner Kadvany reported that Place Works was selected as the consultant to work with the City on the General Plan Update, noting there were five consultants that had provided proposals. He said a scope of work was now posted on the website for the General Plan Update process. He said the main focus of the Update was the M-2 district and potential for revenue stream enhancement.

Senior Planner Rogers said approval of the consultant's contract for the General Plan Update was scheduled before the City Council on June 17, 2014.

Commissioner Bressler said he had heard there had been discussions regarding a proposed railway undercrossing at Ravenswood Avenue. Senior Planner Rogers said the City's Public Works staff has had some discussion with the Caltrain Joint Powers Board regarding the potential project but he had no information at this time on those discussions.

Responding to several Commissioners regarding the Specific Plan Initiative, Senior Planner Rogers said that this was being handled by the City Manager's Office and if a report was to come before the Planning Commission for consideration, he would provide that information as soon as it was available.

B. PUBLIC COMMENTS

There were none.

C. CONSENT

Based on observations made that Commissioner Strehl was not at the May 5 meeting and would abstain on approval of the May 5 minutes and Commissioner Onken was recused from commenting or voting on C3 due to a potential conflict of interest, Commissioner Ferrick moved to approve the consent calendar with the two noted caveats, and Commissioner Kadvany seconded the motion.

C1. Approval of minutes from the May 5, 2014 Planning Commission meeting

Commission Action: M/S Ferrick/Kadvany to approve the May 5, 2014 minutes as submitted.

Motion carried 6-0 with Commissioner Strehl abstaining.

C2. Architectural Control/Wegner Construction/21 Hallmark Circle: Request for architectural control to modify the rear and left side of an existing single-family townhouse by modifying the windows and doors on the rear elevation and enclosing an existing recessed area of approximately 132 square feet on the first and second floors. As part of the proposal, the roof would extend to meet the existing roof line and cover the new floor area, and balconies on the side elevation would be modified to align with new doors. The proposed project is located in the R-E-S(X) (Residential Estate Suburban, Conditional Development) zoning district.

Commission Action: M/S Ferrick/Kadvany to approve architectural control for the project at 21 Hallmark Circle as recommended in the staff report.

1. Adopt a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current California Environmental Quality Act (CEQA) Guidelines.
2. Adopt the following findings, as per Section 16.68.020 of the Zoning Ordinance, pertaining to architectural control approval:
 - a. The general appearance of the structure is in keeping with the character of the neighborhood.
 - b. The development will not be detrimental to the harmonious and orderly growth of the City.
 - c. The development will not impair the desirability of investment or occupation in the neighborhood.

- d. The development provides adequate parking as required in all applicable City Ordinances and has made adequate provisions for access to such parking.
 - e. The property is not within any Specific Plan area, and as such no finding regarding consistency is required to be made.
3. Approve the architectural control request subject to the following **standard** conditions of approval:
- a. Development of the project shall be substantially in conformance with the plans submitted by the applicant, consisting of seven plan sheets, dated received by the Planning Division on May 19, 2014, and approved by the Planning Commission on June 9, 2014, except as modified by the conditions contained herein, subject to review and approval by the Planning Division.
 - b. Prior to building permit issuance, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, San Mateo County Health Department, and utility company's regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
 - 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 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.
4. Approve the architectural control request subject to the following **project-specific** condition of approval:
- a. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a complete application for easement(s) for all proposed or existing balconies intruding into the common area, subject to review and approval of the Engineering Division. The easement(s) shall be approved and recorded prior to the issuance of the building permit.

Motion carried 7-0.

C3. Architectural Control/Karin Freuler/152 Stone Pine Lane: Request for approval for architectural control for exterior modifications to the front and rear facades of an existing residence in the R-3 (Apartment) zoning district, including the addition of new gross floor area.

Commission Action: M/S Ferrick/Kadvany to approve architectural control for 152 Stone Pine Lane as recommended in the staff report.

1. Adopt a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current California Environmental Quality Act (CEQA) Guidelines.
2. Adopt the following findings, as per Section 16.68.020 of the Zoning Ordinance, pertaining to architectural control approval:
 - a. The general appearance of the structure is in keeping with the character of the neighborhood.
 - b. The development will not be detrimental to the harmonious and orderly growth of the City.
 - c. The development will not impair the desirability of investment or occupation in the neighborhood.
 - d. The development provides adequate parking as required in all applicable City Ordinances and has made adequate provisions for access to such parking.
 - e. The property is not within any Specific Plan area, and as such no finding regarding consistency is required to be made.
3. Approve the architectural control request subject to the following **standard** conditions of approval:
 - a. Development of the project shall be substantially in conformance with the plans prepared by K. R. Ledford, Architect, consisting of seven plan sheets, dated received by the Planning Division on May 28, 2014, and approved by the Planning Commission on June 9, 2014, except as modified by the conditions contained herein, subject to review and approval by the Planning Division.
 - b. Prior to building permit issuance, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, San Mateo County Health Department, and utility company's regulations that are directly applicable to the project.

- c. Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
- 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 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.

Motion carried 6-0 with Commissioner Onken recused.

D. PUBLIC HEARING

D1. Use Permit/William Young/1691 Bay Laurel Drive: Request for a use permit to construct a new two-story, single-family residence on a vacant lot that is substandard with regard to lot width, in the R-1-S (Single Family Suburban) zoning district. Two heritage trees are proposed for removal as part of the proposed development: a 17-inch diameter English walnut in fair condition in the rear yard (tree #16) and a 13-inch diameter coast live oak in fair condition in the front yard (tree #40).

Staff Comment: Planner Lin said that since the publication of the staff report that one piece of correspondence from Brett and Wendy Fisher, left adjacent neighbors to the project site, had been received. She said the neighbors expressed concern about impacts to privacy, massing, noise, and tree removals and that those had not been addressed by the applicant. She said they asked that the second story be located further from their residence, the windows on the left second story side be eliminated, the entire project home be located further away from their home, fast growing species be used for the replacement plantings, the second story be reduced in size to reduce massing impact, and to have the rear covered porch oriented away from their property to prevent noise impacts. She said they were also concerned that the proposed height of the residence would impact tree canopies, recent trimming would impact the health of trees, and drainage and utilities installation would negatively impact trees.

Questions of Staff: Chair Eiref asked about the sequence of plan submittal, neighbor correspondence and property ownership. Planner Lin said the project proposal had been submitted the previous year and they had received eight comment letters from neighbors on that proposal. She said ownership changed in the beginning of this year and a redesign was submitted. She said the City sent another notice to neighbors and staff summarized the project proposal changes for the neighbors who previously had had concerns with the first project proposal. She said four neighbors commented on

that first revision, and there was a second revision to address those comments. She said with that staff sent emails to all the neighbors who had previously submitted comments. She said with the second revision staff received three neighbor responses. Commissioner Strehl asked if those responses were positive or negative. Planner Lin said one of the comments was positive and that was to reiterate a positive comment in support of the project. She said the other two comments expressed some concerns. She said one expressed that while some of their privacy concerns had been addressed, they would be supportive of further measures to increase privacy. She said the third comment on the second revision was from the Fishers, who had submitted the most recent comments, which basically restated their prior comments.

Mr. Jim Maliksi, Maliksi and Associates, Menlo Park, introduced Mr. Gary McClure, the project manager for the proposed project. Mr. Maliksi said 70% of his company's work was in Menlo Park and they were very sensitive to building in Menlo Park. He said the original project had been for a 9,000 square foot home with a basement. He said the proposed project was about 5,000 square feet with a 500 square foot second story.

Mr. Gary McClure said he had worked with the property owners, the neighbors and with the arborist to ensure their plans were accurate and reflected the arborist's concerns. He said he had been the lead working with the neighbors and had tried substantially to address the neighbors' concerns.

Mr. Jason Pfannenstiel, property owner, introduced his wife Charlotte and indicated they currently lived on Oakdell Drive, which was a busy street that presented safety concerns for their young children. He said his wife had delivered gift baskets and invited neighbors on Bay Laurel Drive to meet with them to discuss their proposal but no one responded to the invitation. He said since then they have had numerous meetings with the neighbors to try to address concerns.

Mr. McClure said removing the master bedroom suite from the right second floor plan to the ground floor caused the second floor to appear more massed to the left side. He said in working with various versions of the plan it seemed they needed to locate the garage next to 1701 Bay Laurel Drive. He said if the garage was located on the left on the Fisher's side that could create congestion in the morning for the two neighbors trying to leave at the same time. He said having the garage on the right side established the relationship with the other rooms that steered the design.

Responding to a question from Commissioner Kadvany, Mr. McClure said clients typically request tall ceilings and eight-foot high doors. He said their proposal has a nine-foot plate height on the second floor but in the bathrooms the plate heights were dropped to eight-foot-four-inches to minimize the straight line massing on the second floor. He said they dropped other plate heights where they could, noting the stair has a plate height of seven feet which was the second floor massing facing the Fishers.

Mr. Brett Fisher said he was also representing his wife. He noted they had lived at their residence for 15 years enjoying a park like setting. He said that they knew eventually this open area would be developed but they hoped for a more sensitive design in terms of context and privacy than the applicants' proposal. He said the project would impact his home more than other neighbors. He said his home built in 1947 was oriented directly to the subject site. He said they would be a side lot neighbor to the applicants' home but the applicants would be a front lot neighbor to them. He said the subject property has had three owners since October 2013. He said the proposed design has remained fairly constant through all three ownerships. He said they suspected with the changeover that had already occurred that the current owners might well sell the property soon, too. He said he and his wife wanted some protection from whatever structure was built and whoever owned it. He said they would prefer the proposed residence to be situated further back on the lot noting the proposed residence would be much larger and taller than other one and two-story homes on the cul de sac. He said eight neighbors on the cul de sac expressed concerns with the project and the one neighbor supporting the project did not live on the cul de sac but owned the vacant lot next door to the subject property. He said they would like to see less overall massing and less of the second story pushed toward their side. He said they were told that the location of the driveway was driving much of the design. He said they were open to other solutions for the driveway particularly if it would help the design issues. He said the windows on the left side of the second story would look into the front of their home. He said the stairway window that was seven feet tall and three feet wide provided a view into their living room, office and daughter's bedroom. He said they would prefer the windows on the left side be removed to preserve privacy. He said from their viewpoint trees, types of glass and window treatments were not sufficient to protect privacy. He said the family room and porch corridor appeared to be a great place for gatherings for entertainment but those spaces were pointed directly at their residence and they were concerned with noise impacts. He said the porch could be oriented to the rear of the property so the noise would dissipate into the creek. He said there had been extensive removal of trees on the property which raised their concerns about the remaining trees. He said they had provided photos of the effects of too aggressive tree trimming noting they would not want coast live oak screening their property to be jeopardized or thinned during the construction process. He said the design of the second floor and chimney meant excessive tree trimming would have to occur. He said their arborist said the best way to assess potential impact to tree canopies would be to erect story poles. He said they were also concerned that the drainage and swale system would create problems for the trees. He said they liked the idea of more trees being planted along the border adjoining the project site but they suggested larger and faster growing species so the screening could become effective sooner. He said their main concerns were related to the massing, windows, trees and the porch. He asked that these things be addressed before the project received approval.

Ms. Laurie Goldman, Menlo Park, said her home was left of the subject property. She said when she did a rebuild she had to design her house differently in response to neighbors' concerns. She said the first proposal for this property was a 9,000 square

foot home which clearly would not fit in the neighborhood. She said those property owners left and that was not the right house for the lot. She questioned how staff could recommend that this project would not be detrimental to others in the area noting the Fishers have lived in their home 15 years and this project would face that home directly causing them discomfort. She said also their home property value would decrease significantly. She said the applicants had plenty of room on their lot to set the home back and design something that would not impact others so much. She said to truly see the impact of the massing that story poles and orange netting should be erected. She said the City should follow its own rules and regulations and not approve the project as proposed.

Mr. Paul Goldman, Menlo Park, said the lot had been vacant for 50-plus years and has never had a use permit associated with it. He said the project would have a detrimental impact on the Fishers' home and the proposed design needed to be situated further back on the site and the height decreased. He said the design needed to be redone and he did not think neighbors were being listened to.

Mr. William Young said he was the prior owner and they had reduced the size of the home significantly in the design. He said that no matter how many times he changed the design and met with the Fishers there was no resolution. He asked that the Commission approve the project as proposed. He said the staircase was situated in response to the Fishers' concern that they did not want any room where people could gather facing their property. He said the second story height was reduced because of the tree canopy. He said the home was moved back on the lot. He said the garage was on the right so the view from the cul de sac was not of a garage door. He said also the driveway sits further back so there was ample parking in front of the garage. He said they had spent six months meeting and responding to neighbors' concerns.

Chair Eiref closed the public hearing.

Commission Comment: Commissioner Onken said the cover page indicated that there was a maximum Floor Area Limit (FAL) of 5,510 square feet for this lot. He asked how an almost 9,000 square foot home would have been possible on the lot. Planner Lin said the original proposal that was almost 9,000 square feet had been a two-story structure with a full basement, which accounted for a significant amount of the square footage but did not count toward FAL.

Chair Eiref said one of the speakers had asked about the Class 3 CEQA determination. Planner Lin said the Class 3 CEQA determination was for types of projects that would be categorically exempt under the California Environmental Quality Act. She said in this case projects that were exempt were projects that would result in very minimal impacts.

Chair Eiref asked staff to comment on the meaning of detrimental as questioned by one of the speakers. Planner Lin said a use permit required making a finding that the project's proposed use would 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 would not be detrimental to property and improvements in the neighborhood or the general welfare of the City. She said detrimental was not specifically defined in terms of the level of detriment and part of that was up to the Commission's discretion, but detrimental generally would be something that would result in some form of negative impact overall to the community.

Commissioner Strehl said she visited the property and appreciated the invitation by the Fishers to visit. She asked which trees were proposed for removal and if any of those were part of the screening for the Fisher property. Planner Lin noted sheet A1.1 which showed the proposed site plan best illustrated the disposition of the existing trees. She said the trees in proximity to the Fishers that were proposed for removal were #41, a 7.7 inch diameter coast live oak and #33, 14.4 inch diameter English walnut. Commissioner Strehl clarified with staff that the stairway had two landings.

Commissioner Kadvany said the comment about the driveway seemed disingenuous as the property was quite large and the driveway could be situated anywhere. He said that Mr. Young had indicated he was used to building large residences and thought that original proposal became the template for the next two designs.

Chair Eiref recognized Mr. McClure, project manager. Mr. McClure said where a garage was located set a relationship of rooms starting with the mudroom, the kitchen, and then proceeding to the family room. He said they had looked at locating the garage on the left side and right side. He said they found the design with the garage on the left was not as good a design as one in which the garage was on the right. He said they believe the relationship of the home's rooms worked best with the garage on the right. He said also traffic flows in the morning with side by side driveways meant more congestion. He said it was a design decision to locate the garage on the right.

Mr. Maliksi said that none of his plans had been based on the builder's plans.

Commissioner Bressler said relative to detriment that having a home built on a vacant lot next to one's property could be an impact. He said he had seen all kinds of projects and their potential impacts on neighbors as a Commissioner and he thought this project had been designed considerably. However, he said the big window on the side should be frosted. He said he supported the project.

Chair Eiref asked about the impact of the large window and why the porch and patio were not situated toward the creek area. Mr. McClure said the designer and owner were open to solutions for privacy related to the stairway windows, noting it was what was called a floating stairway. He said the window was three-foot wide and six-foot tall. Chair Eiref noted that the sill heights on the second story windows were raised, which he found reasonable. He questioned the large size of the second story bank of windows on the second story. Mr. McClure said the plate height was dropped there and it was one window. Mr. Maliksi said they had presented this design to the Fishers and it was only tonight that they had heard the Fishers had a concern. He said there would be screening planted between that space and the Fishers. He said regarding the patio and porch that it was situated to the side rather than toward the back as that would have divided and decreased the backyard and created an unusable side yard. He said there

was a lot of space between the neighbors and the patio and the applicants wanted to have full use of their backyard. Chair Eiref said there seemed to be a location for a pool and noted that usually patios and a pool were configured in the same area.

Commissioner Ferrick said she empathized with the neighbors who had enjoyed the open space area but the subject property had been zoned residential for many years so they also certainly had an expectation the property would be developed at some time. She said the lot was nearly a standard size and the only non-standard was the lot width where 80-feet was standard. She said this lot was 77.80 feet wide. She said the building coverage was capped at 35% and this project was only using 23.7%. She said the daylight plane requirements were met. She noted that the peak of the roof was close to the maximum height so it was a relatively tall structure but the setbacks to 1680 Bay Laurel Drive were very wide and the closest point from the second story to 1680 Bay Laurel Drive was 57.8 feet which was wider than most lots in her neighborhood. She said she liked the driveway on the right and that location allowed keeping more of the street trees. She noted the concern as to who might own the property in the future but the project was meeting and even exceeding most of the City's rules and regulations. She said the front setback was 28 feet where the requirement was 20 feet. She said the proposed design was appropriate for the lot and once the vegetation filled in, the home would fit nicely. She asked if there was a way to do extra planting and screening on the 1680 Bay Laurel Drive side where the structures on the subject lot and neighbor lot were separated by 36 feet.

Mr. Maliksi said they could plant trees, hedges, or whatever was wanted in that area. He said they could get neighbor approval for the species of trees and/or hedges so all would be happy.

Commissioner Onken said that this was a large home that was trying to squeeze onto a difficult lot. He said there were many conforming features of the home to the development limits but there were undesirable property relationships that could be resolve. He said the covered porch could easily swing around to the family room and then there would be a large yard on the side rather than a large back yard. He said the home could easily be moved back 10 feet and many of the 1680 neighbors' concerns would be relieved without redesigning the house. He said the design needed another turn to get it designed appropriately for the lot.

Commissioner Strehl said there was much about the design she liked and it was consistent with the development standards. She moved to approve as recommended in the staff report.

Chair Eiref said he met with the Fishers and he understood some of the concerns. He said from a Planning Commission perspective that the proposed design was not unusual for the area noting similar homes on the other side of Bay Laurel Drive. He said the lot has a beautiful canopy of trees and trees were being preserved on the side property lines. He said that there was not going to be a basement which was unusual for this type and size of home and that meant massive quantities of dirt would not be trucked out from excavation. He said he hoped the applicants would do everything possible to protect privacy including landscape screening. He noted that the closest

point of the second story to the neighbors' lot was 60 feet. He said he thought it would be a handsome home when it was built. He seconded the motion to approve.

Commissioner Ferrick asked if a condition for increased planting and landscape screening in the area between the Fishers' property and the subject property could be added. Mr. Maliksi said they could show the landscape plan to the Fishers for their approval of what was planned in the area between their home and the new home.

Responding to Commission direction regarding plantings between the subject property and the Fishers' property, Planner Lin noted the property was heavily wooded and asked if the Commission could identify areas they wanted to see have more plantings. Commissioner Ferrick said her thought was screening between the subject property second story windows and the Fishers' bedroom window directly facing.

Commissioner Kadvany said he visited the site twice and he supported a screening hedge running the whole length of the side shared property lines to the rear fence.

Commissioner Strehl said she thought the applicant could confer with the neighbors on screening planting subject to approval of the Planning Division.

Chair Eiref asked if the screening could be planted before construction began on the project. Senior Planner Rogers said there was at least one example of a condition regarding demolition fencing being constructed between properties prior to construction, but he was not aware of any exact precedent for landscape screening planted prior to the project construction. Commissioner Strehl said landscape was done usually all at once toward the end of construction. Mr. Maliksi said he could include the screening as part of the tree protection plan.

Commissioner Strehl, as the maker of the motion to approve, said her recommendation was for the applicant and their neighbors to work together with staff to determine what the appropriate screening was. Chair Eiref, as the maker of the second for the motion, agreed.

Commission Action: M/S Strehl/Eiref to approve the item with the following modification:

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 J Maliksi and Associates, consisting of 15 plan sheets, dated received on June 2, 2014, and approved by the Planning Commission on June 9, 2014, 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.
4. **Approve the use permit subject to the following project-specific condition:**
 - a. ***Simultaneous with the submittal of a complete building permit application, the applicant shall submit revised plans to install additional landscaping along the left side yard for the purpose of increasing privacy screening for second floor bedrooms at 1680 Bay Laurel Drive, subject to review and approval by the Planning Division. In developing the revised plans, the applicant shall provide an opportunity for input from the neighbors at 1680 Bay Laurel Drive.***

Motion carried 5-1 with Commissioner Onken opposed and Commissioner Kadvany abstaining:

Commissioner Kadvany said there was no site planning for this project noting it was a cul de sac. He said the Fishers did not plan to position their home but that was how it was constructed in 1947. He said the proposed project could have been situated on the lot differently to create a better building relationship between the Fishers' property and the subject property.

Commissioner Onken recused himself from consideration of Item D2.

D2. Use Permit and Variances/Danny Vo/324 Haight Street: 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 to construct a two-story, single-family residence on a substandard lot in the R-1-U (Single Family Urban) zoning district. The proposal includes a request for variances for the building to encroach into the rear and side setbacks, and for a second-level deck to encroach into the rear balcony setback. As part of the proposed development, eight heritage oak trees in fair to good condition are proposed for removal.

Staff Comment: Senior Planner Rogers said the applicant had provided 3-D renderings of the proposal and those had been distributed to the Commission. He said there was one other copy if anyone from the public wanted to view it.

Public Comment: Mr. John Onken said he was the project architect and introduced the property owner, Ms. Cindy Nguyen. Ms. Nguyen said she and her husband live next door to the subject property. She said they bought this property to build a home for her sister's family. She said the proposed design would fit within the context of the neighborhood. She said the rear wall of the proposed house would be thick to keep noise and dirt out as this was near Hwy. 101 and sound wall. She said there was lush vegetation on the lots and many trees that had never been maintained and were now overgrown. She said they would like to keep trees in the front and rear to provide screening and shade. She said the trees and Hwy. 101 wall made the lot very unique and they were requesting variances to allow for a greater buildable area.

Chair Eiref asked about the history of the lot. Senior Planner Rogers said the original subdivision was done in 1926 and what became Highway 101 was then Bayshore Boulevard. He said the unusual configuration of some of these lots was due to the land acquisitions to build 101. He said also Haight Street became a dead end street with a bulb so people could turn around. He said these constraints gave this lot a very unique small shape.

Commissioner Strehl said there was a pre-design of the Willow Road Freeway Interchange in the works and asked if it was known whether this project would be further impacted or this lot would face eminent domain proceedings. Senior Planner Rogers

said that the drawings he had seen indicated no impact to this lot. Commissioner Strehl suggested the applicant contact Caltrans to get information on that. Mr. Onken said they have researched this with Caltrans and there were no known impacts to this lot.

Mr. Tom Ratzlaff said he lived on Haight Street on the other side of the street from the subject property. He said he supported the project if the Commission deemed the variances appropriate. He noted that Page B4 showed Tree #1 and Tree #2 that were proposed for removal. He said those trees were nearly directly across from his house and provided some relief from the freeway and off ramp noise. He said he proposed the Commission approve the proposal except for those two tree removals.

Mr. Paul Buchholz said he was a neighbor. He said that the lot was only 3,800 square feet and the home was proposed for 1,800 square feet. He said it was a strange project for the City to approve but noted the design itself was nice, and would be a good addition to the neighborhood. He said the two trees in the front mentioned by the previous speaker were large and messy but he agreed that they helped with the sound coming over the freeway wall. He also asked that trees not be over-trimmed during construction. He asked if the architect would consider sound deadening as part of the second floor treatment as it was taller than the sound wall. He said another neighbor has a two-story home that was taller than the sound wall and the sound reflected off that wall onto his home.

Commissioner Ferrick said from the site plan it appeared Tree #1 and Tree #2 should be able to remain and asked why they wanted to remove them.

Mr. Onken said Tree #3, a similar tree and slightly healthier tree, was remaining. He said the concern was Tree #1 and Tree #2 were overly large and unkempt dominating the site view and there were signs of the roots lifting up the next door neighbor's driveway. He said there were concerns with the long term management of the trees.

Commissioner Ferrick asked about sound baffling materials on the side of the house facing the freeway. Mr. Onken said the materials on the back of the house would potentially reflect the sound back to the sound wall and obscurely reflect the sound across the cul de sac. He said there had been no consideration of this noting the rear façade would be stucco. He said potentially the material could be rougher to absorb the sound more or disperse it. He said they could possibly use paneling. He said the applicant could consider a wait and see position to see what the impact was and then install acoustic panels if needed.

Commissioner Strehl asked about the windows. Mr. Onken said they were double-paned wood clad windows. She confirmed there was an egress window for one of the bedrooms.

Chair Eiref closed the public hearing. Mr. Onken left the Chambers during Commission comment and deliberation.

Commission Comment: Commissioner Strehl said she was concerned with how close the house would be to the sound wall.

Commissioner Kadvany asked about Commission interest in maintaining Tree #1 and Tree #2. Commissioner Ferrick said she agreed to keep the two trees until any point when it was apparent that they were destroying pavement. She said living near a wall next to a busy street herself she found that trees did help with noise and dirt impact. She encouraged the applicants to use some sound baffling on the rear façade. She said she would not generally support a 15-foot side setback for a second story but noted the uniqueness of the lot and the fact that the adjoining home was owned by the same property owners. She said the project was supportable as long as the two trees mentioned were maintained and there was some kind of sound absorbing material used on the back of the home.

Commissioner Kadvany asked if the insulation in the wall would be sound absorbing. Commissioner Ferrick said the rear wall was thicker for the applicants but noise protection was important for the neighbors as well. Commissioner Bressler said the applicant should have the discretion to use sound absorbing materials on the rear façade subject to Planning Division staff review.

Commissioner Kadvany moved to make the findings and approve the use permits and variance requests subject to retaining Tree #1 and Tree #2 and the opportunity to pursue sound absorbing materials for the rear façade.

Senior Planner Rogers said that the tree removal application was not strictly under the Planning Commission's jurisdiction unless tree removal was an integral part of the project, such that it could not be built unless trees were removed. He said tree removal applications were subject to the City Arborist's approval with appeal rights to the Environmental Quality Commission (EQC) as well as appeal of EQC's decisions to the City Council with public noticing. He said the removals of Trees #1 and #2 did not appear integral to the construction of this proposed project. He said the City Arborist reviewed the proposed tree removals and found the long term health of Tree #3 to be suitable justification for the removals of Tree #1 and Tree #2. He said the Commission could request that the Arborist revisit the removal approval for the trees based on the input received this evening. Commissioner Kadvany said that was fine with him as the maker of the motion. Commissioner Ferrick seconded the motion.

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

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 variances:
 - a. Relative to other properties in the vicinity, the subject parcel is both unusually small and oddly-shaped. The three-sided nature of the parcel, in combination with the Zoning Ordinance's lot line definitions and setback requirements, create a uniquely small area for the permitted building footprint. These hardships are unique to the property, and have not been created by an act of the owner.
 - b. The allowable building footprint is extremely limited, and would be dominated by the required garage element. Absent the requested building setback variances, a single-family residence with a proportional FAL does not appear feasible. Similarly, the balcony setback variance would provide usable, private space for the master bedroom, which otherwise would be difficult to achieve on this uniquely small lot. These variances would allow for the preservation and enjoyment of substantial property rights possessed by other conforming property in the same vicinity. Given that other properties in the vicinity do not have similar constraints with regard to size and shape, the requested variances would not represent a special privilege.
 - c. The residence would generally be oriented to the side fronting the US-101 right-of-way, and as such should have limited impacts on the adjacent residential parcels. On the property line directly adjoining 320 Haight Street, the requested 10-foot rear setback would well exceed the equivalent five-foot side setback on the neighboring property, and the main building element in this area (the garage) would be limited to one story. The second-level deck would be limited in size and set back 15 feet, which is close to the 20-foot requirement for side property lines. No variances are requested on the front, which is the part of the property that would have the most effect on Haight Street as a whole. As such, granting of the variances would 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.
 - d. The prevailing neighborhood standard is of R-1-U lots with a rectangular shape and an area of approximately 6,500 square feet. The subject parcel is uniquely small and oddly-shaped relative to this standard. As such, the

conditions on which the variances are based are not generally applicable to other property in the same zoning classification.

- e. The property is not within any Specific Plan area, and as such no finding regarding an unusual factor is required to be made.
4. Approve the use permit and variances subject to the following ***standard*** conditions:
- a. Development of the project shall be substantially in conformance with the plans prepared by John Onken Architects, consisting of 11 plan sheets, dated received May 27, 2014, and approved by the Planning Commission on June 9, 2014, 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.
5. ***Approve the use permit and variances subject to the following project-specific conditions:***
- a. ***The Planning Commission recommends that the City Arborist reconsider the tentative approval of the heritage tree removal***

permits for Trees #1 and #2. If the City Arborist revises either/both of the tentative approvals, the applicant shall modify the proposal accordingly, and submit revised plans and arborist report simultaneous with the submittal of a complete building permit application, subject to review and approval of the Planning Division.

- b. Simultaneous with the submittal of a complete building permit application, the applicant may submit revised plans to limit the sound reflectivity of the left (US 101) side facade, subject to review and approval of the Planning Division.***

Motion carried 6-0 with Commissioner Onken recused.

D3. Use Permit Revision/Tony Kim, Town Consulting for Sprint/300 Constitution Drive:

Request for a use permit revision to modify an existing wireless telecommunications facility located on the roof of an existing building in the M-2 (General Industrial) zoning district. An existing radome would be removed and a new shelter is proposed to house three existing antennas, three proposed antennas and associated equipment.

Staff Comment: Planner Sandmeier said there were no additions to the written report.

Public Comment: Mr. Tony Kim said he was representing Sprint. He said the request for the additional antenna was for data transmission primarily but they would also support existing voice transmission antenna. He said the antenna would point in three directions and needed to be certain distances apart which required a new shelter for screening of the equipment.

Chair Eiref closed the public hearing.

Commission Action: M/S Onken/Ferrick to approve the item as recommended in the staff report.

1. Make a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current 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 Town Consulting dated received May 28, 2014, consisting of eleven plan sheets and approved by the Planning Commission on June 9, 2014 except as modified by the conditions contained herein.
- 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.
- d. If the antennas or any portion of the antennas and associated mechanical equipment discontinue operation at the site, the antennas and associated equipment shall be removed from the site within 30 days.

Motion carried 7-0.

E. COMMISSION BUSINESS

There was none.

ADJOURNMENT

The meeting adjourned at 9:04 p.m.

Staff Liaison: Thomas Rogers, Senior Planner

Recording Secretary: Brenda Bennett

Approved by the Planning Commission on July 21, 2014