



## REGULAR MEETING MINUTES

**Date:** 10/5/2015  
**Time:** 7:00 p.m.  
**City Council Chambers**  
**701 Laurel St., Menlo Park, CA 94025**

Chair Onken called the meeting to order at 7:01 p.m.

### Roll Call

Present: Combs, Ferrick, Kadvany, Kahle, Onken and Strehl

Absent: Goodhue

Staff: Thomas Rogers, Interim Principal Planner, Tom Smith, Associate Planner

### A. Reports and Announcements

Principal Planner Thomas Rogers said the City Council would consider the General Plan update (ConnectMenlo Project) and the El Camino Real/Downtown Specific Plan Biennial Review at its October 6 meeting.

Commissioner John Kadvany said he was preparing a memo to the City Council regarding the need to define value and metrics in a meaningful way for public benefit. Commissioner Katherine Strehl confirmed with Commission Kadvany that the memo would be coming from him as an individual and not from the Commission

### B. Public Comment

- Mr. Bill Sanders, Menlo Park, said that vehicle lanes were being reduced to create bicycle lanes and that was making traffic worse. He asked the Commission to not reduce the number of vehicle lanes. He said he appreciated the right of bicyclists to use the road but said that there were safety concerns when they ignored road rules such as stop signs. He said a recent residential development on Henderson Avenue was too large for the surrounding area and another such project would be coming to the Commission in the near future.

Commissioner Katie Ferrick confirmed with Principal Planner Rogers that the Commission has not approved any projects in which traffic lanes were eliminated to create bicycle lanes.

### C. Consent Calendar

- C1. Approval of minutes from the September 21, 2015 Planning Commission meeting. ([Attachment](#))

Chair John Onken noted changes that Commissioner Kadvany had sent in via email. Commissioner Katherine Strehl said there were no minutes in her packet. Chair Onken said he had not received minutes either. Principal Planner Rogers said that Principal Planner Deanna Chow had sent those via email later than the mailed packets and they had been posted online, but

he had not received Commissioner Kadvany's proposed changes. Commissioner Kadvany said he had sent the changes via email today to Principal Planner Chow. Principal Planner Rogers said that Ms. Chow was not in the office today so he had not received those suggested edits.

Commissioner Ferrick suggested continuing the minutes as she had not seen the email or read the minutes. Principal Planner Rogers said that the draft minutes were being provided to City Council as part of their consideration of the General Plan Update. Chair Onken moved to approve the minutes with Commissioner Kadvany's changes. Commissioner Drew Combs said that whether they approved the minutes now or later Council would still see the draft minutes. Chair Onken withdrew his motion, and moved to continue the minutes to the next meeting. Commissioner Ferrick suggested adding the Commission was sending the minutes as draft and unapproved but indicated those draft minutes were probably a relatively accurate reflection of their discussion. Commissioner Kadvany suggested Commissioners look at the minutes online. Commissioner Kahle seconded the motion.

**ACTION:** Motion and second (Onken/Kahle) to continue the minutes; passes 6-0 with Commissioner Goodhue absent

#### **D. Public Hearing**

- D1. Use Permit/Ahmad Mohazab/338 Santa Monica Avenue:  
Request for a use permit to demolish an existing single-story, single-family residence and construct a new two-story, single-family residence on a substandard lot with regard to width in the R-1-U (Single-Family Urban) zoning district. The project also includes a request for excavation (removal of more than 12 inches of dirt) within the required right side setback associated with the creation of basement lightwells. ([Staff Report #15-016-PC](#))

Staff Comment: Associate Planner Tom Smith said two emails on the project were distributed to the Commission at the dais. He said one was originally sent to the Planning Commission in February 2015, which chronologically was a number of iterations prior to these final plans. He said the subject property owner had addressed the concerns expressed in that email. He said the second email was sent at 4:50 p.m. today.

Commissioner Combs said he had to recuse himself as the subject property owners were his landlords and it would be a conflict of interest for him to participate.

Questions of Staff: Commissioner Larry Kahle asked about the excavation and reference to 12 inches of dirt section and whether staff had any comments as to why there were so many plan revisions.

Associate Planner Smith said a use permit was required for excavation of more than 12 inches of dirt when there was a grade change within a required setback. He said because two lightwells were proposed on the right those would intrude into the side setback by two feet, which was also a use permit requirement. He said the initial design proposed more balcony spaces that had to be shortened to meet the Zoning Ordinance. He said the steel cable with the plantings was another design change. He said there were other tweaks related to Floor Area Limit (FAL) and building coverage.

Public Comment:

- Project architect Ahmad Mohazab, Tecta Associates, said he was thrown by the email received today. He said the project was a nice, contemporary two-story façade and mass, and was smaller and shorter in height than it could be, would be located further back from the back property line than it could be, all trees were kept, they were expanding the one-car garage to a two-car garage, and the house was shorter than the neighbor houses. He said he respectfully disagreed with the email concern that the basement would create problems for the street and neighbors as they would use earthquake resistant and waterproof retaining walls.

Commissioner Kahle asked if they had gotten a soils report and where the water table was in relation to the grade. Mr. Mohazab said they have a soils report and he did not know the answer to the question. He confirmed the shoring consultant would do a shoring plan.

Commissioner Kadvany asked about the front setback and locating the house in alignment with other homes.

Mr. Mohazab said the front of the house was never a concern. He said what was resolved was the concern about the garage location.

Chair Onken noted the arborist report and asked if there was a tree protection plan as part of the excavation plan.

Mr. Mohazab said such a plan would be submitted.

Commissioner Ferrick asked staff about concerns about basements. Principal Planner Rogers said the building permit review would stipulate whether shoring was needed and whatever stabilization was needed, and establish site specific techniques and other technical matters. He said the project was not particularly unique noting there were numerous basements throughout Menlo Park. He said to date without making a guarantee there had been no recurring issues related to subsidence related to excavation for basement projects reviewed through the building permit review.

Commissioner Kahle asked if the HVAC was exposed.

Mr. Mohazab said it was exposed to the sky but located behind a parapet.

- Ms. Rachel Rosner, Menlo Park, said she lived next door to the subject property. She read a letter signed by her and other nearby adjacent neighbors. (A copy of the letter was provided to the Commission and staff.) In summary she said she and other neighbors in February had expressed concerns about the design. She said since an initial meeting with the applicants at that time, there had been no effort made by the applicants to contact them further. She said the project would impact their property's light and view, and would impact the entire side of her home where her kitchen was located at the back of the property with the view of a two-story wall rather than trees and light. She said they had serious concerns with the proposed 1,300-square foot basement just feet from their home. She said they would like a geotechnical report and information on the shoring plan, and any information on any potential impact on the

integrity of their land and their home. She said if the project was approved the adjacent neighbors and those two doors down needed liability protection and to be added to the property owners' insurance policy as additional insured.

- Mr. Craig Cohen, Menlo Park, said his home was next door and this project would triple the size of the existing house. He said his main concern was the potential subsidence of such a large basement, and the impact on the view from their kitchen. He said he and Ms. Rosner were opposed to the project.
- Mr. Mark Tuschman, Menlo Park, said he was a neighbor of the subject property. He noted that the homes in the area were substandard and he thought it was inappropriate this project should be approved. He questioned if a basement had ever been built in Menlo Park so close to another person's home. He concurred that neighbors within the vicinity should be added to the subject property owners' insurance policies, noting recent reports about water tables and settling. He expressed opposition of the project.
- Ms. Jana Tuschman, Menlo Park, said her concern was with the structural integrity of the basement on a substandard lot and its proximity to the neighbor's house as well as the project's impact on the light plane of her neighbor's home.

Chair Onken closed the public hearing

Commission Comment: Chair Onken said the Commission did not adjudicate among neighbors on matters of tort or damages. He said the Commission has approved many basements. He said the Planning Commission's role was to consider the project's physical effect of mass and scale on neighbors and effect on trees and appropriateness for the neighborhood.

Commissioner Kadvany clarified with staff that within the City of Menlo Park about one-third to one-half of properties were substandard and that this project would bring the left setback into conformance. He noted that the lot was 44 feet deeper than the standard depth and was short five feet of the lot width standard.

Commissioner Kahle asked about neighborhood outreach.

Mr. Mohazab said project notices were sent several times because the design was changed. He said they heard from Ms. Rosner in February and met with her. He said Ms. Rosner's rear window was not a side window but a corner window. He said using a story pole he demonstrated that the back wall of their project was off to the side of that window. He said they offered to put lattice as screening. He said the neighbor's other objection was to the size of the lightwell in the side setback and they reduced the size of the lightwell in the side setback. He said the neighbor's third request was to have information on the shoring plan and structural work. He said they would provide that when they had the opportunity to provide a shoring plan and structural work. He said regarding the letter received today at 5 p.m. that he had not had time to respond. He said they had previously responded to neighbors who had concerns.

Commissioner Kahle noted there was wood siding on three elevations but not on the front

elevation and suggested the front façade also needed similar treatment to warm its appearance.

Mr. Mohazab said they had thought about putting wood on the front façade but with the eyebrows, several different planes, and balconies, they did not think it was necessary to add another material to enhance it. He said they could look at more wood if review could be done at the staff level.

Chair Onken said the project was more oriented to the single-story home on one side and not to the second-story on the other side.

Mr. Mohazab said the genesis of the project started with the location of the existing home and the one-car non-conforming garage.

Chair Onken asked if the design could be reversed.

Mr. Mohazab said it could, but restated that the project addition made no impact to the Rosner's view from their kitchen as they would continue to look directly into the subject property's backyard.

Chair Onken said his questions related to scale and mass related to the neighborhood and not the neighbor's one window. He said generally the project architecture was fine. He said regarding scale and mass that the design was more sculpted than other designs they see in terms of mass and bulk, which deserved kudos.

Commissioner Kahle said he had no great concerns with the architecture but wondered how the Commission was supposed to rule as this was his first experience as a Commissioner where there were strong neighbor objections. Principal Planner Rogers said that the Commission wanted to weigh other project decisions made when a project met numeric numbers under the Ordinance Code but required changes due to unique factors. He referred to Attachment A and the specific finding the Planning Commission was asked to consider which was whether the proposed use, in this case the construction and new house, would 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 whether it would be detrimental to property and improvements in the neighborhood or the general welfare of the City. He said if the Commission considered project denial they would consider how that condition of finding was not being met.

Commissioner Kahle said the second-story wall on the right side was broken up by siding and stainless steel cables but on the plans it appeared a tall, two-story wall. He said to approve this he would like to see some measure of alleviation of that in respect to massing toward the back and the neighbor's kitchen, and some softer texture on the front façade to warm its appearance.

Commissioner Kadvany said the cable was for bougainvillea plantings and he thought that was sufficient screening. He said with the building requirements in place he did not see a risk with the basement. He said the separation between the houses was 13 to 14 feet and that was more than the separation between many other homes in Menlo Park. He said there was a limit to what view one could expect from the side of homes and there was a lot to suggest that the impact to the neighbor's kitchen was minor. He said the project was recommendable.

Commissioner Strehl said she appreciated concerns about the basements but the building permit

process and requirements for the construction of a basement had safeguards for the community and adjoining neighbors. She said she understood the neighbor's concerns with a change from a one-story to a two-story structure. She said she agreed with Commissioner Kadwany that this was an approvable project and the neighbors' concerns had been addressed.

Commissioner Ferrick said she had great empathy for the neighbors noting her own lot was very substandard and her home was a one-story. She said a tall and imposing two-story was constructed on the adjacent property which her kitchen faces, and she now sees a house instead of the moon. She said she wanted however to maintain the potential to build a two-story house on her property which was why she had not felt she could oppose the neighbor's project. She said this project would bring the home into conformance. She said if the neighborhood wanted to do an overlay to control what was allowed in development they could consider doing that. She said the project was nicely designed and was similar to the size of other homes in the area.

Commissioner Kahle asked if other Commissioners would support requiring additional architectural breaks on the second-story right-side wall. Commissioners made a few comments but there was not support for such a condition. .

Commissioner Kahle moved to approve as recommended in the staff report with a condition to add some warmer wood-like materials to the front elevation for review by Planning staff. Chair Onken seconded the motion.

**ACTION:** Motion and second (Kahle/Onken) to approve the item with the following modification; passes 5-0, with Commissioner Combs recused and Commissioner Goodhue absent.

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 Tecta Associates, consisting of 15 plan sheets, dated received on September 14, 2015, and approved by the Planning Commission on October 5, 2015, 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 propose horizontal wood siding accents on the front elevation of the new residence, consistent with the bands of horizontal wood siding proposed for the side and rear elevations of the new residence. The location and amount of horizontal wood siding treatment proposed for the front of the residence is subject to review and approval of the Planning Division.*

D2. Use Permit/Craig Stark/461 Middle Court:

Request to demolish an existing single-story, single-family residence and two accessory structures, and construct a new two-story, single-family residence with a basement on a substandard lot with regard to width in the R-1-S (Single-Family Suburban Residential) zoning district. ([Staff Report #15-017-PC](#))

Commissioner Combs rejoined the meeting. Chair Onken noted that Commissioner Strehl was being excused from the remainder of the meeting.

Staff Comment: Associate Planner Smith said there was one minor error with the recommended actions in that condition 3.a listed the wrong architect and the plans were developed by Fergus Garber Young Associates.

Public Comment:

- Project architect Craig Stark, Fergus Garber Young Architects, introduced Dan Garber and other members of the design team as well as the property owners Scott Gaffney and Sam Bufton. He said since publication of the staff report they had reached out to the neighbor at 451 Middle Court and she had no objection to the project.

Commissioner Kahle noted most of the surrounding homes were one-story and asked about the thoughts behind the two-story development proposal.

Mr. Stark said that the indoor-outdoor living space was important to their clients. He said the clients needed more living space with family members coming for extended stays. He said to mitigate the second story they stepped back the second story from the front and side yard setback.

Commissioner Kahle asked about window placement.

Mr. Stark said a big part of the contemporary design being used was the placement of windows and they tried to keep all the windows on the sides of the home smaller.

Chair Onken closed the public hearing.

Commission Comment: Chair Onken noted the placement of the garage doors which was not preferable.

Commissioner Kahle said the project design was handsome but like Chair Onken the garage seemed to jump out, and he did not see a finish material for it.

Mr. Stark said the garage door material was intended to be the same wood finishes on the front façade and to appear as part of the front volume, and not as a garage door.

Commissioner Combs said the project was nicely designed and would fit well into the cul-de-sac. He said he thought the garage doors worked with this design.

Commissioner Ferrick said it appeared the left side two-story overlooked the neighbor's pool. Mr. Stark said that neighbor had expressed some concern with that. He said his clients and the neighbor agreed that his clients would plant mutually agreeable plantings on that side.

Chair Onken said that two of the windows overlooking the swimming pool were for bathrooms and asked if they would be treated.

Mr. Stark said that no treatment was proposed but noted there were automatic shades in the bedrooms. He said they could add frosting but based on the neighbor's acceptance of the windows as proposed they would rather not do that but handle screening with vegetation.

Chair Onken said the window sill height was low for the bathroom windows as shown on the application.

Mr. Stark said one of the bathroom windows was at two-foot eight-inches and the other one was three-foot.

Chair Onken suggested that additional window treatment for those windows might be needed and that might be done through staff review and approval.

Commissioner Kadwany said he thought matching the siding on the garage doors with the house

siding would work well. He said this home created a nice paradigm for future development in this area. He moved to approve as recommended in the staff report. Chair Onken said he would second the motion if Commissioner Kadvany was open to requiring some permanent treatment of the second-story windows as discussed to reduce privacy impacts subject to staff review and approval.

Commissioner Ferrick asked how such glass treatment was monitored or enforced. Associate Planner Smith said that as part of the building permit package they would review to insure that the obscure glass treatment was called out and also do a Planning inspection in the field to make sure it was done when constructed.

**ACTION:** Motion and second (Kadvany/Onken) to approve the item with the following modification; passes 5-0 with Commissioners Goodhue and Strehl absent:

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 ~~Tecta Associates~~ *Fergus Garber Young Architects*, consisting of 19 plan sheets, dated received on September 17, 2015, and approved by the Planning Commission on October 5, 2015, 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 revise the approved plans to reduce potential privacy impacts from the proposed second-story windows facing 451 Middle Court. Potential treatments include the addition of screening landscaping along the left side of the property, permanent treatments to obscure the second-story window glass, and/or raising the sill heights of the windows. The revised plans shall be subject to review and approval of the Planning Division.*

**G. Regular Business**

G1. There is no regular business item.

**H. Commission Business**

H1. There is no commission business item.

**I. Informational Items**

I1. There is no informational item.

**J. Adjournment**

Chair Onken adjourned the meeting at 8:38 p.m.

Staff Liaison: Thomas Rogers, Principal Planner

Recording Secretary: Brenda Bennett

Approved by the Planning Commission on November 2, 2015