



REGULAR MEETING MINUTES

Date: 3/13/2017
Time: 7:00 p.m.
City Council Chambers
701 Laurel St., Menlo Park, CA 94025

A. Call To Order

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

B. Roll Call

Present: Andrew Barnes, Drew Combs (Vice Chair), Susan Goodhue, Larry Kahle, John Onken, Katherine Strehl (Chair)

Absent: Henry Riggs

Staff: Michele Morris, Assistant Planner; Thomas Rogers, Principal Planner; Tom Smith, Associate Planner; Kaitie Meador, Associate Planner

C. Reports and Announcements

Principal Planner Thomas Rogers said the City Council at its February 28 meeting approved some minor revisions to the City's building code related to green building regulations, in particular vehicle chargers, and at the same meeting Stanford University made a presentation on its General Use Permit update. He said the General Use Permit was an entitlement granted by Santa Clara County to Stanford, and that Stanford was proposing changes to it. He said Stanford was presenting to other local communities having an interest in the topic. He said the City Council at its March 14 meeting would review for approval the annual Housing Element Report. He said there were no substantive changes to the report since the Commission's review of it on February 6.

D. Public Comment

There was none.

E. Consent Calendar

E1. Approval of minutes from the February 6, 2017 Planning Commission meeting. ([Attachment](#))

Commissioner John Onken said he had a minor edit on the February 6 minutes. He referred to the first page, item C, under Reports and Announcements, and the statement: *Commissioner John Onken noted an oak tree, which had been the showpiece for the 1022 Alma Street project design, had fallen during recent storms, and what happened regarding that.* He asked that the statement clarify he was asking what the procedures for replacement or penalties might be.

ACTION: Motion and second (Andrew Barnes/Onken) to approve the minutes with the following modification; passes 5-2 with Commissioner Strehl abstaining and Commissioner Riggs absent.

- Page 1, Under Reports and Announcements, 2nd paragraph, statement to read as modified here: “Commissioner John Onken noted an oak tree, which had been the showpiece for the 1022 Alma Street project design, had fallen during recent storms, and asked what ~~happen~~ ~~regarding the~~ **the procedures for replacement or penalties might be.**”

E2. Architectural Control/Michael Babiak/6 Carter Way:

Request for architectural control for exterior modifications to an existing single-family residence in the R-1-S(X) (Single Family Suburban Residential, Conditional Development) zoning district. The modifications would include new windows and doors, but no change in floor area. (Staff Report #17-014-PC)

ACTION: Motion and second (Susan Goodhue/Andrew Barnes) to approve the item as recommended in the staff report; passes 6-0 with Commissioner Riggs absent.

1. Make 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 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 Tristan Warren Architect, consisting of 11 plan sheets, dated received March 7, 2017, approved by the Planning Commission on March 13, 2017, 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 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. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance and the Project Arborist's recommendations.

F. Public Hearing

- F1. Use Permit/Brian Nguyen/445 Oak Ct:
Request for a use permit to demolish a single-story residence and detached garage and construct a new two-story residence including a basement, detached garage, and secondary dwelling unit on a substandard lot with regard to lot width located in the R-1-U (Single-Family Urban Residential) zoning district, at 445 Oak Court. The proposal includes two heritage tree removals. The project was previously reviewed at the January 9, 2017 Planning Commission meeting and continued with direction for changes including a height reduction. *Item continued to a future meeting.*
- F2. Use Permit Revision and Architectural Control Revision/DES Architects & Engineers/
1430 O'Brien Drive:
Request for a use permit and architectural control to partially convert, expand, and architecturally update an existing research and development (R&D) building located in the LS (Life Sciences) zoning district. This project is a revision to approvals for a use permit and architectural control previously granted by the Planning Commission on July 25, 2016. The applicant is also requesting a use permit for indoor use and indoor and outdoor storage of hazardous materials in association with life sciences and biotechnology R&D. All hazardous materials would be stored within the building, with the exception of diesel fuel for a proposed emergency generator. In addition, the applicant is requesting a use permit for an outdoor seating area associated with cafe operations to be hosted within the building. In addition, two heritage flowering pear trees (19 inches and 17 inches in diameter), in fair condition, at the center of the property would be removed. The project includes a Below Market Rate (BMR) Agreement for the payment of an in lieu fee or the delivery of equivalent off-site units. ([Staff Report #17-015-PC](#))

Chair Strehl noted a letter from the SFPUC on this proposed project.

Staff Comment: Associate Planner Tom Smith said SFPUC had emailed recommending four conditions for approval of the use permit revision and architectural control revision. He said two of the conditions appeared to be addressed through the design of the proposal and the recommended conditions for approval but two had not been clearly addressed. He said regarding staff's recommended conditions that condition 6.f indicated monthly reporting of the hazardous materials inventory but in the staff report he had indicated quarterly reporting. He said staff believed that quarterly reporting was suitable for this project as done for similar project. He said he would like to make the modification accordingly to condition 6.f.

Commissioner Barnes said that there was one reference to minutes for the SFPUC project review committee for June 26, 2016 and another reference of minutes for June 10, 2016 and asked if there were two different meetings and additional actions. Assistant Planner Smith said there was one set of SFPUC minutes and actions.

Applicant Presentation: Mr. John Tarlton, Tarlton Properties, said they were requesting modifications to their previously approved project. He said that their projects underwent peer review and through that review none of the engineers were comfortable putting a pool on top of the roof. He said they revised the project to put the pool underground and split the building into two. He noted they improved the architectural design with the addition of architectural metal screening. He said their goal in the business park was to update all the buildings but not to make them the same. He said for this site they wanted to make the building fun-looking and a place where one would want to hang out.

Commissioner Larry Kahle said he recalled a red elevator tower and elevated walk in the previously approved project. Mr. Tarlton said the previous design had an elevated walk to provide access to second story suites. He said in the revised design there were three lobbies with three separate elevators and no elevated walk or exterior stair and elevator tower.

Commissioner Barnes asked why they chose to revise rather than apply for a new permit under the new zoning. Mr. Tarlton said the most immediate factor was time as the building had been empty for some time. He said also whereas the Life Science zoning district allowed for 1.2 floor area ratio (FAR) that was for sites north of O'Brien Drive. He said this site was south of O'Brien Drive and limited to .55 FAR as it was located directly adjacent to single-family residences.

Chair Strehl opened the public hearing, and closed it as there were no speakers.

Commission Comment: Commissioner Onken said he did not see a significant change to what the Commission had approved last summer and thought the project revision was an improvement.

Commissioner Barnes said he thought the project looked better with the proposed revisions. He said that the provision for under-parking was still the right thing to do.

Commissioner Onken moved to approve and asked Planner Smith about the conditions requested by SFPUC.

Chair Strehl recognized Mr. Tarlton to speak.

Mr. Tarlton said they had been taken aback by SFPUC's comments a year ago. He said they have a legal document with the SFPUC, an easement agreement from 1983, which their legal counsel advises would not obligate them to provide what SFPUC was requesting. He asked that the

Commissioner not take action in that regard noting it was an agreement between his company and SFPUC and did not involve the City.

Associate Planner Smith said two conditions in the email from the SFPUC were part of the standard conditions recommended by staff including second containment for storage of diesel as mentioned in the staff report and condition 6.a that states the use will have secondary containment for hazardous materials and wastes. He said that the location of the generator at the rear of the property was where it was shown presently and did not necessarily require a condition. He said the last condition requested listing the contact for Millbrae dispatch. He said that was something the City has regularly added for previous hazardous materials use permits. He said SFPUC's first condition was an executed consent letter from the SFPUC. He said that was something the City had not seen previously from SFPUC.

Mr. Tarlton said the vast majority of users of SFPUC property are on a lease. He said that in their case it was not a lease but an easement granted in perpetuity.

Commissioner Onken said the contractual agreement between the property owner and the SFPUC as the easement provider was between those two, and he questioned any kind of language in the City's use permit that would formalize anything between those two entities.

Principal Planner Rogers said when the City was not party to a private agreement that the City did not necessarily have to consider the terms of such agreement. He said with the SFPUC the City has tried to be good neighbors and to comply with that agency where feasible, such as adding Millbrae dispatch information. He noted that most of the conditions requested by the SFPUC were included in the approval and process.

Commissioner Onken moved to approve as recommended in the staff report and for the applicant to take note of the SFPUC document that was provided as part of the staff report as a matter of record.

Commissioner Barnes asked if there was a need to check in with City Attorney on the matter. Principal Planner Rogers said with other applications involving private agreements, the City found no reason to continue the item as the matter was between the parties to the agreement.

Commissioner Combs seconded the motion made by Commissioner Onken. He said for the SFPUC to request conditions under its contractual agreement that they should have had someone at the meeting to explain the basis for the request. He said he did not think it was high in importance as they had sent an email with no follow up.

ACTION: Motion and second (Onken/Combs) to approve the item with the following modification; passes 6-1 with Commissioner Riggs absent.

1. Make 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. 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 Below Market Rate (BMR) Housing Agreement.
4. 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.
5. 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 DES Architects + Engineers consisting of thirty-five plan sheets, dated received February 14, 2017, as well as the Project Description Letter, dated received January 19, 2017, the Transportation Memorandum for 1430 O'Brien Drive, dated January 19, 2017, and the Hazardous Materials Information For (HMIF), dated January 19, 2017, approved by the Planning Commission on March 13, 2017, 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 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 and the Project Arborist's recommendations.
6. Approve the use permit and architectural subject to the following **project-specific** conditions:
- a. Concurrent with the submittal of a complete building permit application, the applicant shall submit a plan showing the location of the shuttle stop and signage, and apply for an encroachment permit if applicable. The submitted plan shall also show a connection from the proposed central pedestrian entry path to the crosswalk at the western side of the O'Brien Drive and Adams Drive intersection. The shuttle stop location and signage, as well as the connection between the pedestrian path and the crosswalk, would be subject to review and approval of the Engineering, Transportation, and Planning Divisions.
 - b. The property owner shall retain a qualified transportation consulting firm to monitor the trips to and from the project site and evaluate the effectiveness of the TDM program one year from commencement of operations within the subject building and shall submit a memorandum/report to the City reporting on the results of such monitoring for review by the City to determine the effectiveness of the TDM program (Attachment F). This report shall be submitted annually to the City subject to review by the Planning and Transportation Divisions. If the subject site is not in compliance with the anticipated trip reductions from the TDM program the applicant shall submit a detailed mitigation and monitoring plan identifying steps to be taken to bring the project site into compliance with the maximum Daily, AM and PM trips identified in the trip generation analysis and TDM program.
 - c. Prior to issuance of a building permit, the applicant shall provide written status identifying the completion of, or where applicable, on-going compliance with the ten follow-up items listed in June 29, 2016 minutes of the SFPUC Project Review Committee.
 - d. Prior to building permit issuance, the applicant shall pay a Transportation Impact Fee (TIF) at a restaurant rate of \$4.63 per square foot of gross floor area (GFA), at a health/fitness club rate of \$3,107.87 each of the 38 PM peak hour trips, and at an R&D rate of \$3.33 per square foot of GFA for a total estimated TIF of \$153,385.75, subject to the Municipal Code Section 13.26. The fee rate is subject to change annually on July 1 and the final calculation will be based upon the rate at the time of fee payment. The TIF rate is adjusted each year based on the ENR Construction Cost Index percentage change for San Francisco.
 - e. The aggregate total quantity of hazardous materials used and stored, per control area, within the building shall not exceed the quantities listed in Table 5003.1.1(1) of the 2016 California Fire Code and subsequent updated codes, including the amounts allowed per footnotes d (sprinklers) and e (cabinets) of the table.

- f. The property owner shall provide a ~~quarterly~~ ~~monthly~~ update of the current Hazardous Materials Inventory Statement (HMIS) for the entire building and any changes to specific tenants consistent with the requirements of the California Fire Code (CFC) to the Menlo Park Planning Division, the Fire District, the West Bay Sanitary District, and the San Mateo County Environmental Health Division. The submittal shall include a narrative of the changes in quantities and types of materials, and operations for each business at the facility.
- g. When chemical quantities exceed the reportable limits as defined by the California Fire Code, each tenant shall provide a Hazardous Materials Management Plan (HMMP), standard form or short form, or equivalent document to the Menlo Park Fire Protection District and the West Bay Sanitary District.
- h. When chemical quantities exceed the reportable limits as defined by the California Health and Safety Code, each tenant shall provide a Hazardous Materials Business Plan (HMBP), or equivalent document, to the San Mateo County Environmental Health Division and the West Bay Sanitary District.
- i. The Fire District shall provide a copy of the annual inspection report for the facility to the Menlo Park Building and Planning Divisions, the West Bay Sanitary District, and the San Mateo County Environmental Health Division. The property owner shall provide a copy of their response to any deficiencies identified in the inspection report to all applicable agencies.
- j. Testing of the generator shall be limited to the hours between 8:00 a.m. and 6:00 p.m., Monday through Friday.
- k. Prior to or concurrent with submittal of a complete building permit application, the applicant shall provide a noise study specific to 1430 O'Brien Drive indicating that the generator noise level at the nearest residential property line would not exceed 60 dB(A) during permitted testing hours.

G. Regular Business

- G1. Review of the Determination of Substantial Conformance/David Ruth/350 Sharon Park Drive: Review of the staff determination of substantial conformance for exterior modifications to 18 apartment buildings and a clubhouse located at 350 Sharon Park Drive in the R-3-A-X zoning district. Review requested by Commissioner Riggs. (Attachment)

Chair Strehl noted that this item was on the agenda at the request of Commissioner Riggs.

Commissioner Kahle said he looked through the package sent by email and had no concerns with it. He suggested since the applicant was present that they could hear about the changes.

Principal Planner Rogers said procedurally the item was on the agenda as Commissioner Riggs had indicated that he did not think the proposed external modifications were in conformance with the previous use permit approval. He said similar to a consent item there was no need for a

presentation or discussion if no other Commissioner had the same opinion as Commissioner Riggs.

Replying to Commissioner Kahle, Principal Planner Rogers said Commissioner Riggs asked that the item be pulled for further consideration and had mentioned that the changes seemed cheaper choices but had offered no specifics or suggested alternatives.

None of the Commissioners present made a motion to find that the changes were not in substantial conformance. As such, the staff determination that the changes are in substantial conformance remained effective, and no further Planning Commission review will take place.

H. Informational Items

H1. Future Planning Commission Meeting Schedule

- Regular Meeting: March 27, 2017

Chair Strehl said the Stanford project, 500 El Camino Real, Middle Plaza, was scheduled for the March 27 meeting. Principal Planner Rogers said also there might be an informational item about the Capital Improvement Program and a substantial conformance memo for that meeting.

Commissioner Onken said he would need to be recused from the Stanford project consideration. The Chair confirmed there would be a quorum for the meeting.

- Regular Meeting: April 10, 2017

Principal Planner Rogers said there would be a study session for potential revision of the Facebook project as well as some small residential projects on the April 10 agenda.

- Regular Meeting: April 24, 2017

Principal Planner Rogers said so far some standard residential projects were slated for the April 24 meeting as well as the 2131 Sand Hill Road project that would involve annexation to the City.

Commissioner Barnes said that Commissioner Kahle and he went to Los Angeles for two-and-a-half-day City Planning Commission Academy. He said the emphasis was on how to run meetings, details about communications, complete neighborhoods, complete streets, and revitalization.

Commissioner Kahle said there was a presentation about the cost of parking. He said the speaker made the case for paid parking as that helped pay for street improvements. He said for some planning commissions, commissioners were required to make site visits prior to considering a project at the meeting or would need to recuse from the project's consideration.

Chair Strehl asked about the California Supreme Court's finding that individuals' private emails and texts regarding city business could be subject to the public records act. Principal Planner Rogers said the City Attorney and City Clerk were studying this, and the City Attorney would provide a written analysis.

Adjournment

Chair Strehl adjourned the meeting at 7:49 p.m.

Staff Liaison: Principal Planner Thomas Rogers

Recording Secretary: Brenda Bennett

Approved by the Planning Commission on April 10, 2017