



## REGULAR MEETING MINUTES

**Date:** 9/25/2017  
**Time:** 7:00 p.m.  
**City Council Chambers**  
**701 Laurel St., Menlo Park, CA 94025**

### A. Call To Order

Chair Drew Combs called the meeting to order at 7:00 p.m.

### B. Roll Call

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

Absent: Katherine Strehl

Staff: Deanna Chow, Principal Planner; Ori Paz, Planning Technician

### C. Reports and Announcements

Principal Planner Deanna Chow said the City Council at its September 26, 2017 meeting would potentially take action on the 500 El Camino Real mixed-use project including its development agreement. She said at the same meeting they would consider another Stanford project, the 2131 Sand Hill Road annexation project, which had been continued from a prior meeting.

Replying to a question from Chair Combs regarding a constituent's remark on procedural differences between City Council deliberation and Planning Commission deliberation, Principal Planner Chow said that the Commission and the Council both conducted their deliberations after the close of public comment suitably. She said how the Commission has deliberated and taken action has worked well and was procedurally correct as was the Council's deliberations and action taking.

### D. Public Comment

There was none.

### E. Consent Calendar

Recognized by the Chair, Principal Planner Chow said that Commissioner Henry Riggs had provided some suggested changes to the August 28, 2017 minutes, a printout of which were before the Commission at the dais.

Commissioner Riggs noted that the project under item E2 had a very limited scope and had been approved by the representative Homeowner's Association (HOA). He asked why it had to come

before the Planning Commission. Principal Planner Chow said the project was within a Conditional Development Permit zoning district, which has architectural control review. She said staff might approve some minor revisions within that zoning, but this project's proposed change was such that staff believed it should be reviewed by the Planning Commission. Responding to further questions from Commissioner Riggs, Ms. Chow said staff felt such changes in the X-zoning district should come to the Planning Commission for review for consistency in approach.

Commissioner John Onken said he did not think the Commission wanted to review minimal project changes as those in item E2 and suggested that changes to square footage and such were items that the Commission would want to review. He said however as an HOA was not necessarily an architectural review body that the Commission's review did protect the rights of a property owner.

Commissioner Susan Goodhue noted some corrections to the August 28 minutes:

- Page 6, 2<sup>nd</sup> bullet point, "Diane Bailey, Director of Menlo Sparks," remove the "s" to read "Spark," (note: occurred in several places);
- Page 10, 1<sup>st</sup> partial paragraph, "the Caltrain Joint Power Board," that "Power" should be "Powers";
- Page 11 some instances of "Sparks" to be corrected to "Spark;" and
- Page 12, bottom, "Hetch-Hetchy Water," remove the dash between "Hetch" and "Hetchy." (note: occurred in several places)

Commissioner Goodhue moved to approve the consent calendar with the suggested modifications to the August 28 minutes.

Commissioner Larry Kahle said he also supported staff approving minor changes as those presented in item E.2 unless it was an absolute requirement of the zoning district for the Commission to review for approval. He seconded the motion made by Commissioner Goodhue.

**ACTION:** Motion and second (Goodhue/Kahle) to approve the consent calendar including the following modifications to the minutes in item E1; passes 6-0-1 with Commissioner Strehl absent.

- E1. Approval of minutes from the August 28, 2017, Planning Commission meeting.
- Page 6, 2<sup>nd</sup> bullet point, "Diane Bailey, Director of Menlo Sparks," remove the "s" to read "Spark," (note: occurred in several places);
  - Page 7, 3<sup>rd</sup> bullet point: replace "Skip Helton" with "Skip Hilton"
  - Page 9, 2<sup>nd</sup> line: replace "paved parking" with "paid parking"
  - Page 10, 1<sup>st</sup> partial paragraph, "the Caltrain Joint Power Board," that "Power" should be "Powers";
  - Page 11 some instances of "Sparks" to be corrected to "Spark;" and
  - Page 12, bottom, "Hetch-Hetchy Water," remove the dash between "Hetch" and "Hetchy." (note: occurred in several places)
- E2. Architectural Control/Kathryn Low/26 Susan Gale Court:  
Request for architectural control to make exterior modifications to the left side (west) elevation of an existing single-family townhouse in the R-E-S(X) (Residential Estate Suburban, Conditional Development) zoning district. (Staff Report #17-060-PC)

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 architectural control subject to the following **standard** conditions:
  - a. Development of the project shall be substantially in conformance with the plans provided by Moore Architects, consisting of seven plan sheets, dated received September 11, 2017, and approved by the Planning Commission on September 25, 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 applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, Recology, and utility companies' regulations that are directly applicable to the project.
  - c. Prior to building permit issuance, the 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 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.

## **F. Public Hearing**

- F1. Use Permit and Variances/Carl Hesse/145 Emma Lane:  
Request for a use permit for an addition to the first floor, interior modifications, and to add a second floor to a single-family residence that would exceed 50 percent of the replacement value of the existing nonconforming structure in a 12-month period. The proposal would exceed 50 percent of the existing floor area and is considered equivalent to a new structure. The proposal also includes a request for two variances: (1) an encroachment into the front yard setback (as defined in Subdivision Ordinance Section 15.16.110 -Setbacks), and (2) eave encroachments into both side setbacks on a lot in the R-1-U (Single-Family Urban) zoning district. (Staff Report #17-061-PC)

Staff Comment: Principal Planner Chow said the staff report incorrectly indicated the item was a Consent Calendar item, but it was a Public Hearing item. She said that was noted correctly on the agenda. She said the reference in the staff report to a 27 square foot addition was applicable only to the first floor as approximately 1100 square feet was being added as a second story.

Applicant Presentation: Carl Hesse, project architect, Square Three Design Studios, introduced the property owners, David Andeen (present) and Lori Callaghan (not present). He said the project was an existing, single-story ranch home on an approximately 8700 square foot lot. He said the lot was considered standard but due to its triangular shape it was a fairly constrained lot. He said one of the limiting factors on the property was the very acute angle at the frontage, which was just over 31-feet wide. He said with the special subdivision front setback regulation that the front building setback was almost twice the 20-foot front setback, and the existing home was set back 38 feet from the front property line. He said the work they intended on the first floor would be in the same footprint with only a small 27-square foot addition in the back where the new stair was located. He said the first floor proposal was to move all bedrooms upstairs and create a great room that opened up to the outdoors. He said that the roof alignment was cohesive with hips and valleys lining up at inside and outside corners. He said in the variance request they added a new front entry porch to emphasize the entry and downplay the garage, which currently was very prominent. He said with the articulation of the new entry porch, the new second story and the roof line that they had created relief in the front elevation as those broke down the mass and scale. He said they requested to keep the existing roofline encroachments into the side setbacks as those were very small encroachments on the right and left sides. He provided a full scale, 3-D visual of the two corners noting that the encroachments were only at the front as there was much more space on the sides of the house as it fanned out going back on the lot. He said the staff report found the eaves to be purely aesthetic and recommended denial. He said to him those were a functional and integral part of the house structure that provided a better line for rainwater management and the eaves were an important part of the house design in providing some shading in summer. He said if the eaves were clipped back there was no conventional way to do that without creating some awkward roofline details. He said the other item staff recommended for denial was the proposed garage trellis. He said they did not feel strongly about that feature if the Commission supported staff's recommendation of denial for that.

Commissioner Kahle disclosed that he has known Mr. Hesse a long time but their acquaintance did not require his recusal. He said the left side neighbor had privacy concerns and in response the applicant had raised the sill height of the window in the master bedroom. He said there were other windows along that line. He said the house next door was under construction so he could not really tell where privacy was a concern. He asked if the other windows were an issue. Mr. Hesse said the neighboring property owner was mostly concerned about the master bedroom window. He said the

next two windows, which were for the master closet and the master bath, would have translucent glass. Commissioner Kahle confirmed with Mr. Hesse that the neighbor wrote a support letter for the project after the window revision was made. He also confirmed with Mr. Hesse that the proposed first floor eave encroachments would have the same two-foot encroachment as the existing eaves. He confirmed that all the eaves were being removed and raised up two feet to allow for the second floor plywood to get to the outside wall.

Commissioner Onken asked about the removal of the Madrone at the back fence line. Mr. David Andeen, property owner, said they had no intention of removing any trees, heritage or otherwise. Commissioner Onken said it was tree #4 along the back fence that Kielty listed as 80% or not quite good condition that was proposed to be removed in the existing plan. He said in the new plan it was replaced with a fountain or sculpture. Mr. Andeen said he would rather have the tree.

Commissioner Andrew Barnes noted a variance request letter written by Mr. Hesse that said the eave encroachments were needed to properly reframe the roof. He asked what would be problematic if that variance request was not granted. Mr. Hesse pointed out the left side elevation and where the first floor roof came down the side and turned around to the front where there was a hip line. He said this made a continuous eave line, or continuous horizontal plane, which meant water was managed better. He said cutting off that corner would mean that those two perpendicular lines at the same elevation would get cut back at the pitch of the hip and they would have to slope uphill which would not permit the continuous gutter line to function properly. Commissioner Barnes asked about alternative solutions should the variance request not be granted. Mr. Hesse said one thing that someone might recommend would be to reduce the depth of the overhang or eaves. He said that would create a short, disproportionate eave for this particular style of house that would not work architecturally. He said another option would be to cut back both corners and create two short "rake" ends to that hip, which he felt would look incredibly odd. Commissioner Barnes asked about the result of shortening the eave lengths. Mr. Hesse said he thought it would result in having a less than 12-inch overhang.

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

Commission Comment: Commissioner Kahle said the City's subdivision ordinance was odd and he knew of no other city that had one quite like it. He said it had a severe impact on properties that fell under it. He said he agreed with staff's recommendation for allowing the extra floor area in the front setback and the porch. He said he tended to agree with staff on not approving the eave encroachment. He said however he looked at a project he had done some years ago, which was very similar to this one, and that had been approved with a cul de sac and little bits of eaves extended into the setbacks. He said the eaves made a huge difference to the design and was a function of reusing the existing house. He said although he supported staff's recommendation he would agree to allow the eave encroachment into the setbacks. He said he was not inclined to support the trellis at the garage. He said although he could see where it might help the appearance of the garage that the roof was being raised two feet, creating extra space. He said he could go either way on the trellis. He said the design was really nice and he appreciated how the hips and valleys would meet on the second floor. He said the covered porch was rather deep and tall and recommended that it be given more presence. He said he thought the project was approvable.

Commissioner Onken said he generally supported Commissioner Kahle's comments. He said in general he could support the uniqueness of the project's challenges enough to support it as a variance, and he did not see that would set any precedence. He said neighbors had expressed

concern about the windows on the west, left side of the house. He said he could not see how the master bedroom window at the back of the house was a concern because of the diagonal and the way it was setback. He said he would be slightly concerned about the side window on the front bedroom facing right down into the front of the neighbor's house. He said he did not think a change to it should be prescribed but for the record he urged the applicants to be mindful that the possibility of a window looking down into a neighbor's front window was typically concerning. He noted that he was not completely sure of the angles for that window. He said he could support the project with retention of the Madrone tree in the rear and approving the variance requests.

Commissioner Riggs asked what Commissioner Kahle found unique about the project and whether that was in terms of the overhangs and/or trellis. Commissioner Kahle said in clarification that he found the overhang corners were specific to the project and unique and that by allowing them to continue, they would not set an unfair precedence in terms of the City's policies regarding setbacks. He said he did not have a problem with the trellis, although a trellis that encroached in the setback generally would not get his approval. He said in this instance due to the shape of the lot and all items being requested for variance that he was happy to support the whole package as proposed.

Commissioner Riggs said he could not make the findings for the eaves and trellis variance requests as all the homes on this cul de sac had the same issue as this one, and this lot had a couple of extra thousand square feet to work with due to its notable depth. He said he did not see the lot as constrained. He said however he thought the regulations for these lots were not serving the community well if they prevented an existing first floor plan from being reused in an architecturally acceptable manner. He said it was not acceptable to clip the corners of eaves on a relatively traditionally formed home. He said if the zoning code prevented that then it lacked flexibility. He said Commissioner Kahle pointed out the subdivision ordinance was perhaps not like other cities' regulations. He said the issue was with the code in this case. He said trellises that were nine feet or lower should not be regulated by Planning. He said there were building code restrictions on how close you can go to a property line with a trellis. He said because a trellis did not provide weatherproof cover, mass, or the potential for sleeping that feature should not be regulated by Planning. He said he would support staff's recommendations with great reservations about the limits doing so would place upon this project.

Commissioner Barnes said it was a very nice project and would do the cul de sac justice with good use of the existing footprint. He said in his reading of the variance requests and staff's findings that he found special privilege would be given in extending variance to the roof eaves and trellis as much as he could see that those would be complementary to the project. He said he was inclined to support staff's recommendation to approve the entryway/porch and second story addition but not the roof eaves and trellis with encroachments in the front and sides.

Commissioner Onken noted on page 5 in the staff report it was stated that approval of variance required making all five findings and that staff did not believe all five findings could be made for the encroachment of the roof eaves and the trellis. He said the next paragraph stated that staff could make the five findings for the variances to the building footprint and second story encroachment, and asked for clarification. Principal Planner Chow said staff believed all five findings could be made for the porch encroachment and the second floor addition but that not all five findings could be made for the roof eave overhangs and the trellis above the garage.

Commissioner Onken referred to Commissioner Riggs' comment about imperfections in the City's zoning code and said that his understanding was the remedy for these anomalies of the City's zoning code was the variance process. He said if other homes on Emma Lane were also to come forward with variance requests for similar minor encroachments he thought those would be approvable as the point of the zoning code as well as to allow these variance procedures.

Commissioner Goodhue said that she came to the meeting agreeing with staff's recommendations about the roof eave encroachments. She said she was struggling now with the fact that when the house was built those were a conforming condition. She said that they would remove the roof, put on the second story and put the roof back on as it was with the existing encroachment was causing her to struggle with supporting the variance denial recommended by staff. She said as an attorney she felt the law should be flexible. She said to Commissioner Onken's point that there was concession by staff for making the five findings for the front porch and addition. She said as the project was not in the Specific Plan area only four of the five findings listed were possible to make. She said this was a situation where she thought common sense would need to apply. She said she agreed that they should not endorse lopping off roofs just to adhere to the letter of the zoning code. She said the eave overhang was originally conforming.

Principal Planner Chow said staff agreed that the eaves helped make a nice continuous appearance. She used the example of a wall as an example of an existing conformity analogous to this situation of the eave overhangs. She said the City would not allow as part of a project the removal of a nonconforming wall that was then rebuilt nonconforming. She said if there was the opportunity to rebuild that the rebuild should be to the existing standards. She said an 18-inch encroachment by an eave was allowable under code and this project's overhangs extended beyond 18 inches. She said staff did not see anything unique to the site to approve an encroachment beyond the 18-inches allowed in this zoning district. Commissioner Goodhue said she understood.

Commissioner Combs said he did not think the four findings could be made for the eave overhangs variance but he was willing to support the full variance request being made based on the idea that seven community members were reviewing the project holistically, similar to a trial by jury as opposed to a judge's sole ruling. He said the findings were a guide and if the idea was that they would follow the letter of the law each and every time then this was something staff could do and a commission review process would not be needed. He said he could support the variance requests made although it would be an uncomfortable vote for him.

Commissioner Onken moved to support the use permit and make findings in favor of the variance with the condition that tree #4 at the rear was retained. Chair Combs said to clarify that the motion was to approve the use permit and to make findings for all variances being requested with the added tree condition.

Principal Planner Chow said if Commissioners would state how the findings for the variance requests were being met that would be helpful for staff. Chair Combs said the staff report made findings for the variance request for the front encroachment and second floor. He asked if the Commission had to remake those findings and make findings for the other two variance requests not made by staff. Principal Planner Chow said the Commission might express support for staff's findings for the front encroachment and second floor addition variance requests and make the four findings for the variance requests for the eave overhangs and trellis over the garage. She noted

that as mentioned by Commissioner Goodhue the fifth finding was not applicable as the project was not located in the Specific Plan area.

Chair Combs asked if Commissioner Onken in his motion wanted to diverge from staff's recommendation for the eave overhangs and the trellis above the garage variance requests. Commissioner Onken moved that the Commission make the findings to grant the variance to allow the encroachments of the first floor eaves and overhangs beyond the permitted setback intrusion and the trellis above the garage and with an added condition to retain the Madrone. Principal Planner Chow said condition 6.a and 6.b would need to be deleted if the eaves and trellis were permitted. She noted that the Madrone was non-heritage and if they made it a condition of approval the tree would never be allowed to be removed. She clarified with Commissioner Onken that the tree was conditioned to be kept for now.

Principal Planner Chow restated the motion after ascertaining the Commission had no additional language for the findings for the variance requests to be approved. She said the Planning Commission recommended to make the findings per attachment A to the staff report with the deletion of item 2, include variances for eave overhangs and trellis over the garage in item 3, retain items 4 and 5 as written, and delete a and b under item 6 and add a new "a" to read: protect and preserve Madrone tree in rear yard.

Chair Combs asked if there was a second to the motion. Commissioner Goodhue seconded the motion.

Commissioner Riggs said he was reminded that perhaps a year before he made the rather pointed comment that he could find findings in conflict with the literal interpretation of the zoning ordinance when he found that doing so was nonproductive. He said it was consistent for him to do that again with this project.

Commissioner Onken moved and Commissioner Goodhue seconded to approve the use permit and make the findings for all the variance requests. Chair Combs called for the vote which was 5-1-1 with Commissioner Barnes opposed and Commissioner Strehl absent.

Replying to Chair Combs, Principal Planner Chow said that if the Commission had anything to add to the discussion supporting the findings for the eave overhangs that she could add that to the approval.

Commissioner Riggs said eaves were not strictly an aesthetic issue and served a function to be as responsive to solar gain as possible to have appropriate eaves on the south and west sides and that it would be a conflict of the City's own goals to shorten the eaves. He said he did not think it particularly helpful to the neighborhood to degrade the appearance of the eaves.

**ACTION:** Motion and second (Onken/Goodhue) to approve the use permit and make the findings for the variance request as recommended by staff with the following modification: passes 5-1-1 with Commissioner Barnes opposed and Commissioner Strehl absent.

4. Make a finding that the project is categorically exempt under Class 3 (Section 15303, "New Construction or Conversion of Small Structures") of the current California Environmental Quality Act Guidelines.



~~2. Make the following findings as per Section 16.82.340 of the Zoning Ordinance pertaining to the denial of variances to allow encroachments of first floor roof eave overhangs into the required side setbacks beyond the maximum permitted intrusion allowed by the Zoning Ordinance and for a garage trellis to encroach into the required front setback, as defined by the Subdivision Ordinance:~~

~~a. The roof eave and trellis encroachments are aesthetic elements and do not impact the desired goal of creating a functional second floor addition and interior layout that meets the clients' needs. The roof eaves can be rebuilt in such a manner that they do not exceed the maximum permitted intrusion of 18 inches, as required by the Zoning Ordinance. Minimizing the presence of the garage can also be accomplished by design alternatives that would not require a variance. The architectural elements appear to be driven by aesthetics elements, which is not considered in the variance findings.~~

~~b. The roof eave and trellis encroachments are aesthetic elements, and these would not be necessary to be constructed in order for the owners to enjoy the same privileges as neighboring properties, or to effectively use the building. The maximum permitted encroachments of architectural features are prescribed by the Zoning Ordinance, which every property needs to abide by and granting of the variance could be considered a special privilege.~~

~~c. The proposed encroachments would not be detrimental to the public health, safety, and welfare, or impair an adequate supply of light and air to the adjacent properties, given that the encroachments are modest in size, and the remodeled and expanded residence would comply with all other development regulations prescribed by the Zoning Ordinance, such as building coverage, side and rear setbacks, daylight plane, and building height.~~

~~d. The proposed first-floor roof eave overhangs that would exceed the maximum permitted intrusion allowance (on the left side and right side) is not directly related to the property's unique, unusual lot shape or a result of the nonconforming front yard setback, as defined by the Subdivision Ordinance. Encroachments of architectural features are regulated by the Zoning Ordinance, and this requirement is applicable to all properties. The proposed cantilevered trellis over the garage would encroach into the required front yard setback, as defined by the Subdivision Ordinance. This and the roof eave overhangs are aesthetic elements that do not need to be constructed in order to effectively use the building and could be considered a special privilege since the variance request could be broadly applicable to other lots in the area.~~

~~e. The property is not within any Specific Plan area. Hence, a finding regarding an unusual factor does not apply.~~

~~3. 2. Make the following findings as per Section 16.82.340 of the Zoning Ordinance pertaining to the **granting** of a **variances to allow encroachments of the first floor eave overhangs into the required setbacks beyond the maximum permitted intrusion allowed by the zoning ordinance, and for a garage trellis**, a new front entry and second floor encroachments into the required front yard setback, as defined by the Subdivision Ordinance:~~

~~a. A hardship is presented given the unique condition of the existing, relatively-narrow and triangular-shaped parcel that was created in unincorporated San Mateo County and only~~

later annexed into the City, after which the requirements of the Subdivision Ordinance Section 15.16.110 have been applied to create an almost doubling of the front yard setback. This hardship is peculiar to the property and was not created by any act of the owner.

- b. The requested variance for the building footprint encroachments into the required front yard setback are necessary to allow the property owners to conduct typical modifications that other conforming properties would be able to more easily achieve on a typical rectangular-shaped lot with a standard 20-foot required front setback in the R-1-U zoning district. The requested variance is necessary for the preservation and enjoyment of substantial property rights possessed by other conforming properties in the vicinity, and the proposal would maintain a setback greater than the typical 20-foot setback of the R-1-U district, and does not grant the property a special privilege.
  - c. Although the proposed front porch and second floor encroachments would affect the required front yard setback, the encroachments would not be detrimental to the public health, safety, and welfare, or impair an adequate supply of light and air to the adjacent properties, given that the encroachments are modest in size, and the remodeled and expanded residence would comply with all other development regulations prescribed by the Zoning Ordinance, such as side and rear setbacks, daylight plane, and building height.
  - d. Because the variance would be based on the unique conditions of a narrow, triangular shaped parcel at the end of a cul-de-sac street and at the placement of the existing residence, the conditions would not be applicable, generally, to other properties within the same zoning classification.
  - e. The property is not within any Specific Plan area. Hence, a finding regarding an unusual factor does not apply.
4. 3. 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.
5. 4. Approve the use permit and variance ~~for~~ **to allow encroachments of the first floor eave overhangs into the required setbacks beyond the maximum permitted intrusion allowed by the zoning ordinance, and for a garage trellis**, front porch entry and second floor encroachments into the required front yard setback, as defined by the Subdivision Ordinance, subject to the following **standard** conditions:
- a. Development of the project shall be substantially in conformance with the plans prepared by Square Three Design Studies, Inc, consisting of 14 plan sheets, dated received September 12, 2017, and approved by the Planning Commission on September 25, 2017, 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 and street trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance and the arborist report by Kielty Arborist Services, LLC dated March 15, 2017.
6. 5. Approve the use permit and variance for ***encroachments of the first floor eave overhangs into the required setbacks beyond the maximum permitted intrusion allowed by the zoning ordinance, and a garage trellis***, a new front entry and second floor encroachments into the required front yard setback, as defined by the Subdivision Ordinance, subject to the following ***project-specific*** conditions:
- ~~a. Simultaneous with the submittal of a complete building permit application, the applicant shall submit revised plans demonstrating that the new left side and right side first floor roof eave overhangs do not exceed the maximum permitted side yard setback intrusion of 18 inches, as required by Zoning Ordinance Section 16.60.010. The revisions shall be subject to Planning Division review and approval.~~
  - ~~b. Simultaneous with the submittal of a complete building permit application, the applicant shall submit revised plans without a cantilevered trellis over the garage. The revisions shall be subject to Planning Division review and approval.~~
  - a. ***Protect and preserve Madrone, tree # 4, in the rear yard.***

F2. Use Permit/Adam Bittle/1047 Del Norte Avenue:

Request for a use permit to construct a second story addition and perform interior and exterior modifications to an existing, nonconforming, single-story single-family residence on a substandard lot with respect to width in the R-1-U (Single Family Urban Residential) zoning district. The value of the proposed work would exceed 50 percent of the existing replacement value of a nonconforming structure within a 12-month period, and therefore require use permit. ((Staff Report #17-062-PC)

Staff Comment: Planning Technician Ori Paz said that just prior to the meeting he was forwarded a piece of written correspondence from Jeff and Sarah Phillips, 1051 Del Norte Avenue, expressing their support for the project proposal.

Applicant Presentation: Adam Bittle, project architect, introduced Brian Wise, one of the property owners. He said they proposed to remodel the ground floor to open up the space more and add a modest second story of just over 700 square feet. He said a second-story addition was made recently to the property next door by the writers of the support letter received for this project. He said the project's second floor massing was pushed toward the existing adjacent second-story home rather than to the opposite side, which was a single-story structure. He said they opened up the second floor addition toward the front street side of the property and toward the rear adjacent to Flood Park. He said they tried to achieve privacy on the sides. He said homes in the neighborhood tended to be single-story with really large attic space often at eight-foot plate heights. He said for the second story they were trying to integrate with existing framing to make use of that attic space.

Commissioner Kahle said he had concerns about the number and varied sizes of the gables facing the street. He asked if the applicants would be open to modify the gables in some manner to give the project more balance and harmony. Mr. Bittle asked if Commissioner Kahle was referencing an existing gable. Commissioner Kahle said the gable over the garage and the smaller one on the second floor. Mr. Bittle said the smaller one on the second floor was for the bedroom being added there. He noted that in making use of the existing attic roof form there was not really any wall or room on the side to add appropriate egress for windows and if windows were there, they would look down on the adjacent property. He said they could probably extend the eave straight across if this was a significant issue. He said they were trying to break up the single, massive roof plane. He said the gable for the garage was into an attic storage area. He said they tried to tie the garage in with what they were doing across the rest of the project. He said they added the gable form at the entry porch and had to reduce the entry porch area due to lot coverage restraint. He said he did not know if losing the gable over the garage or potentially over the bedroom would help balance the design. Commissioner Kahle said of the two gables the small one over the bedroom caused him more concern. Mr. Bittle said the pop out at that bedroom window was for a window seat.

Commissioner Riggs said he agreed with Commissioner Kahle and had a similar reaction to the front elevation. He suggested having the second floor gable move over about eight inches to align with the entry below as that would not only reinforce the entry's importance but also simplify the appearance. He confirmed that the gable over the garage was shingled and shingles were composite. He suggested making the gable over the garage the same as the gable over the entry as he thought that would simplify the plan. He noted that the existing full house gable on the right side was plain rake and stucco. He asked if there was any interest in putting a feature on that right side even if it was just a gable vent. Mr. Bittle said he believed that part of the home was nonconforming over the setback but they would like to add something there for interest.

Planning Technician Paz said provided that no framing members were removed and proposed to be replaced that would be fine. He said a window could be cut into a nonconforming wall but a nonconforming wall could not be removed and rebuilt nonconforming with windows. Commissioner Riggs confirmed with staff that a gable could be cut in on this nonconforming wall. He said sheet A9 seemed to document the degree of nonconforming work and whether a project needed to go to Planning Commission. Planning Technician Paz said that was correct and was part of the requirements for an application submittal. He noted for reference that it appeared on D9 in the staff report and sheet A8 in the plan set.

Chair Combs open the public hearing and closed it as there were no speakers.

Commission Comment: Commissioner Barnes said he liked the project and he thought it would be a nice addition to the neighborhood. He said he appreciated the low height of the house. He said he thought the gables were fine and perfectly approvable as presented. Chair Combs said he agreed.

Commissioner Riggs asked about the second floor gable that seemed just eight inches offset from the entry way gable. Chair Combs asked the architect what their thoughts were about the suggestion to align the second floor gable with the entryway gable. Mr. Bittle said they would sacrifice the centering of the gable for a child's bedroom by aligning it with the entryway. Chair Combs said that if the applicant had no objections to centering that gable then he had no objections. Commissioner Kahle said he had noticed that gable was slightly off center and recommended it be shifted over to align with the entryway. He said he thought there was still one too many gables and suggested either losing the one for the second story bedroom or the one over the garage.

Commissioner Onken said the homes in this area were whimsical and idiosyncratic. He said the proposed addition was not doing any harm and maintained its slightly idiosyncratic qualities. He said although it was not his preference for every gable to have a downspout on both sides and gutters as he found that looked messy, he did not see anything with the proposed design that would prevent approval.

Commissioner Riggs moved to approve the project and make the findings with two changes to center the second story gable over the entry and permit the applicant the flexibility to add a gable vent on the right side. Commissioner Onken seconded the motion.

**ACTION:** Motion and second (Riggs/Onken) to approve the use permit as recommended by staff with the following modifications; passes 6-0-1 with Commissioner Strehl 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 use permit subject to the following **standard** conditions:
  - a. Development of the project shall be substantially in conformance with the plans prepared by Allure Architecture consisting of 10 plan sheets, dated received September 20, 2017, and approved by the Planning Commission on September 25, 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.
4. **Approve the use permit subject to the following project-specific conditions:**

- a. **Simultaneous with the submission of a complete building permit, the applicant shall provide revised plans for second floor bedroom gable to align with entryway gable and if desired to add an architectural feature to the right side existing gable wall such as a gable vent or window subject to review and approval of the Planning Division.**

- F3. Use Permit Revision/Shannon Thoke/116 O'Connor Street:  
Request for a use permit revision to improve and expand the area of the basement and for exterior modifications to an existing nonconforming two-story, single-family residence. The proposed value of the work would exceed 50 percent of the existing value of the nonconforming structure in a 12-month period. The subject property previously received a use permit revision in January 2017. (Staff Report #17-063-PC)

Staff Comment: Planning Technician Paz said staff recommended an additional condition 4.b: *Prior to building permit issuance, the applicant shall submit revised plans to meet applicable residential building code requirements, which may require modifications to the stairway and openings.* He said this added condition was the result of review earlier today that revealed the egress for the basement would need to be revised to have a three-foot wide egress door.

Questions of Staff: Commissioner Barnes asked if that changed anything about the steps going down, where the door was located, or how it was shown in the plans. Planning Technician Paz said those might change and they intended to give the applicant some flexibility in how they addressed that. He noted the proposed floor plans on sheet 4 that showed a two-foot, eight-inch door. He said that would have to be widened by four inches. He said to achieve that the applicant could go either into the game room or out toward the front, which would in turn shift the stair location slightly.

Commissioner Barnes said he looked at the project site that day and his expectation was there was enough room for the stairway without it bumping into the driveway. He asked if the driveway would end at the entrance of the steps. Planning Technician Paz said the two elements would be adjacent to each other as designed.

Chair Combs said a letter from neighbors, Dianna Wynne and Scott Marshall, 120 O'Connor Street, had been received by email earlier that day. He confirmed with other Commissioners that they also received this email. Principal Planner Chow said the correspondence did not sound familiar and asked if the Chair could summarize its contents.

Chair Combs read: *Our neighbors, Shannon Toke and Jason Watson, at 116 O'Connor Street, have a growing family of four, and we can definitely understand the desire to expand the basement and turn it into extra living space. However, we are writing to express our concerns regarding the use permit revision. The expansion of the basement and moving the current internal staircase to the exterior of the structure makes us concerned that in the future the downstairs area could be used as another separate dwelling or rental unit on the property. There is already a second unit on the property and the neighbors would be very unhappy if a third potential residential unit is added on. The property zone is a single-family urban residential district.* Chair Combs stopped reading indicating he thought that was sufficient to provide the theme and tone of the email.

Applicant Presentation: Shannon Toke, property owner, said they were currently doing an addition to the kitchen and the second story. She said during that process they found they did not really have any foundation, noting it was about two-inches deep and the floor was about an inch-and-a-half deep. She said there were no piers or footings. She said they have a six-foot high basement that they use for storage and the water heater and other mechanical equipment. She said because of the foundation issues they decided they wanted to make the basement a little deeper to make a room with a bathroom to be used as a playroom. She said they had no plans to have a bedroom in the space, and that the second room there would be for storage. She said during the last two additions they have done that they replaced about 75% of the foundation on the house, which was 100 years old. She said the question of where to put stairs for the basement was a concern from the beginning. She said they looked at putting them outside in the back but that was too close to the garage. She said currently they were doing drywall upstairs so they were through most of the permitting process for the inspections. She said in about a month they would be done upstairs after which they would like to go finish up downstairs what they were requesting to do this evening. Commissioner Kahle asked if they had considered an internal staircase noting there was a large

closet behind the front bedroom. Ms. Toke verified that was the downstairs bathroom. Commissioner Kahle confirmed that the basement would have a seven-foot, six-inch ceiling.

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

Commission Comment: Commissioner Onken said if the project when it was before them before for a use permit had the stair and the basement that he would have found the project completely approvable. He said to safeguard the neighbors' interest that he would be happy to approve the findings of the use permit with the condition that the basement not be used as a dwelling unit under this use permit approval. Chair Combs said that it could not be used as a dwelling unit whether or not the Commission made that condition. He asked if they had to make that provision for the basement to be used in a certain way. Commissioner Onken said he thought so in view of the concerns expressed by the neighbors.

Commissioner Barnes said item 4.a of the recommended approval was a project specific condition that the basement could not be used as a bedroom. He said if it could not be used as a bedroom it could not be a dwelling unit. Commissioner Onken said per building code it could not be used as a bedroom due to lack of ventilation and windows. He said separate from that the neighbors were concerned about a self-contained dwelling unit and an extra car in the driveway. He said not allowing its use as a self-contained dwelling unit might be a better condition than it not being used as a bedroom.

Chair Combs said the neighbors' were valid. He recognized also that there were project constraints.

Recognized by the Chair, Ms. Toke said they looked at putting the staircase internally and that it had been in the back corner of the kitchen. She said the problem was it took up a whole cabinet space and prevent the space from being a square, which was why they changed the egress to a hatch. She said if they could have found anywhere in the house to put the staircase in they would have done so.

Commissioner Onken moved to make the findings, approve the use permit as recommended by staff with a modification to condition 4.a to remove "bedroom" and insert "self-contained dwelling unit" instead. Commissioner Goodhue seconded the motion.

**ACTION:** Motion and second (Onken/Goodhue/) to approve the use permit revision with the following modifications; passes 6-0-1 with Commissioner Strehl 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 use permit subject to the following **standard** conditions:



- a. Development of the project shall be substantially in conformance with the plans prepared by Michelle Miner Design consisting of 8 plan sheets, dated received September 18, 2017, and approved by the Planning Commission on September 25, 2017, 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** conditions:
- a. As designed, the basement of the main residence shall not be used as a **bedroom self-contained dwelling unit**. Any future modifications to the space may require Planning Commission review and approval.
  - b. Prior to building permit issuance, the applicant shall submit revised plans to meet applicable residential building code requirements, which may require modifications to the stairway and openings.**

## G. Informational Items

### G1. Future Planning Commission Meeting Schedule

- Regular Meeting: October 16, 2017

Principal Planner Chow said that the Facebook conditional development permit revision would

potentially be on the October 16 meeting agenda.

- Regular Meeting: October 23, 2017

Principal Planner Chow said she anticipated some single-family residential development projects and potentially a commercial development project on the October 23 meeting agenda.

- Regular Meeting: November 6, 2017

Commissioner Barnes said in the study session for the first project under the new ConnectMenlo Zoning for C-S Bio they had a discussion about height, which was clearly something that needed further discussion and review. He asked where that stood. Principal Planner Chow said staff has had internal discussions. She said the applicant had submitted some graphics on how they were doing a more volume approach, which staff was still reviewing. She said that they were continuing with the average height calculation as presented in the study session and considering what the applicant has proposed. Commissioner Barnes asked if this was a global discussion and whether there was a conclusion. Principal Planner Chow said height and average height were established in the zoning regulation. She said a determined calculation for average height would be applied to all applicable projects consistently in that zoning district. Commissioner Barnes said some property owners in that area had expressed concern with how average height was calculated.

Commissioner Barnes said he wanted to highlight the community benefit process and how that worked and the structure of it. He suggested holding a study session on what the process was for working through a community benefit discussion as there would be a number of such projects coming forward in the future. He asked if that discussion was happening in Planning. Principal Planner Chow said the community benefits discussion was put aside as there were other development regulations they wanted to highlight for that particular project. She said staff was working with a consultant to determine how the appraisal instructions, which were the important part in determining what that value was, would work. She said they were in the second draft and would like to share that with applicants for feedback. She said once they have the instructions they could come to the Planning Commission with how to determine community amenities. She noted however that there was a list community benefits that was created as part of ConnectMenlo that needed to be followed. She said there was an opportunity to change what was on the list through a resolution process with City Council. She said the Commission would use that list identified through ConnectMenlo as a template in identifying what would be the greatest needs for community amenities. She said also regarding an identified community amenity that once it was used it could not be used again. She said it had been structured that way to prevent a plethora of one particular amenity and not addressing other community concerns.

## **H. Adjournment**

Chair Combs adjourned the meeting at 8:52 p.m.

Staff Liaison: Deanna Chow, Principal Planner

Recording Secretary: Brenda Bennett

Approved by the Planning Commission on November 6, 2017