



REGULAR MEETING MINUTES

Date: 12/9/2019
Time: 7:00 p.m.
City Council Chambers
701 Laurel St., Menlo Park, CA 94025

A. Call To Order

Chair Andrew Barnes called the meeting to order at 7:00 p.m.

B. Roll Call

Present: Andrew Barnes (Chair), Chris DeCardy, Michael Doran, Larry Kahle, Camille Kennedy, Henry Riggs (Vice Chair)

Absent: Michele Tate

Staff: Ori Paz, Associate Planner; Kaitie Meador, Senior Planner; Corinna Sandmeier, Senior Planner

C. Reports and Announcements

Senior Planner Corinna Sandmeier said the City Council on December 10, 2019 at 5:30 p.m. would conduct a study session on the Climate Action Plan and on December 16, 2019 would hold a Special Meeting at 4:30 p.m. with an overview of the Notice of Preparation for the proposed Willow Village mixed-use project at 5:15 p.m.

Commissioner Chris DeCardy thanked staff for their response regarding the integration of proposed changes to the Climate Action Plan and Planning Commission. He said at the Council's study session the next evening part of the potential path forward would be to propose a study session on the Climate Action Plan proposal with the Planning Commission sometime in 2020. He encouraged Planning Commissioners to attend the study session to learn more about its potential impact and overlap with the Planning Commission's work.

D. Public Comment

There was none.

E. Consent Calendar

- E1. Approval of minutes from the November 18, 2019, Planning Commission meeting. ([Attachment](#))

ACTION: Motion and second (DeCardy/Henry Riggs) to approve the consent calendar as presented; passes 6-0-1 with Commissioner Michele Tate absent.

F. Public Hearing

- F1. Use Permit and Variances/Hao Zhong/276 Hedge Road:
Request for a use permit to add a second floor, as well as conduct interior modifications, 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 also exceed 50 percent of the existing floor area and is considered equivalent to a new structure. The subject parcel is a substandard lot with regard to minimum lot width and lot depth in the R-1-U (Single-Family Urban) zoning district. The proposal includes variance requests to construct a portion of the second-story addition within the required rear setback (on the functional left side) and for the structure to partially encroach into the daylight plane (on the right side). ([Staff Report #19-086-PC](#))

Chair Barnes said Commissioner Larry Kahle was recused from this item as he was the project architect.

Staff Comment: Associate Planner Ori Paz said staff had no additions to the staff report.

Questions of Staff: Commissioner DeCardy asked about staff's finding that the property configuration, a triangle shape, was not a hardship. Planner Paz referred to the additional alternative sheets to the plan set. He said those illustrated that although the lot shape was unique there were reasonable and feasible alternatives to accomplish a second-floor addition within the allowable buildable area. He said the variance would allow for a simplified design and some convenience rather than a true hardship from staff's perspective.

Applicant Presentation: Larry Kahle, project architect, referred to the site plan shown on the screen that showed it was a unique lot with three property lines. He said the two straight property lines formed an acute angle in the back and the front property line was curved. He referred to the second slide that showed the setbacks. He said the left property line was treated as the rear property line that had a 20-foot setback requirement. He said if the left property line had been treated as a side property line no variance would be needed as only a five-foot setback would be required. He referred to a slide showing where the existing home encroached into setbacks. He said he visited with different Planning staff in July and August to discuss a proposed second floor addition with a variance request and received favorable feedback on that both times. He said the final application was developed and submitted at which point they received comment that the variance was not supported by Planning staff and were asked if they wanted to redesign and resubmit. He said the owners wanted to go ahead with this proposal, which they liked very much. He said sheets D1, 2 and 3 in the plan sets were not proposed as alternate plans. He said the sheets were in response to Planning staff's question whether it was possible to design the house so a variance would not be required. He showed various slides demonstrating the comparable visual impacts of the proposed second floor with variances and the alternate designs without variances. He said they thought the lot was unique and the variance request was modest. He said given the setbacks and the location of the existing house on the property that they were working with they requested approval of the variance request.

Hao Zhong introduced his wife Shel and said they were the property owners. He said that they hoped to build their dream house and enjoyed the community in which they lived.

Commissioner Riggs asked if the architect had kept notes of the meetings with Planning staff in

July and August. Mr. Kahle said basically yes.

Chair Barnes referred to the part of the garage that currently encroached in the rear setback and confirmed with staff that was a legal nonconforming structure and would continue as such as no work was proposed to it.

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

Commission Comment: Commissioner Michael Doran said he understood that there were alternative plans that could be built that would not require a variance. He said the reality was that housing and rooms were built around squares and rectangles and furniture was designed as well with that in mind. He said it was not insignificant that the cost of building nonstandard shapes was more expensive and he believed complicated roof plans would drive up construction costs considerably. He said he agreed with the contention that this project was in fact a “poster child” for a variance. He said he could make the findings for the variance request and support the project.

Commissioner Camille Kennedy said she tended to agree with Commissioner Doran and the architect, whom she noted did due diligence to clarify that the proposal with a variance was an acceptable design. She said the proposal was more attractive than the alternative plans and the intrusion into the daylight plane was such a small part of the overall second floor area that she thought it could be codified in such a way that there was no possibility of a precedent being set. She said like Commissioner Doran she could support the project.

Commissioner Riggs said variances under state law had to meet very specific findings to avoid favoritism in variance judgements. He said in reading the staff report he had agreed with staff that two of those findings were difficult to meet. He said Menlo Park had other rounded corner lots and people worked with those. He said he had an issue with process when an applicant did due diligence and was told a proposal would or could meet the standard for a variance. He said the hardship for this lot while initiated by the lot shape was brought forward by the process. He said that happened and was inadvertent but when it happened, he did not like to see the applicant penalized. He said time and money was involved and as Commissioner Doran expressed people expected to work with rectangular rooms. He said they also knew that the project architect here was quite diligent in creating consistent forms that were not unduly complicated and in particular roof forms. He said he could support the findings for a variance in this case based on the applicant team’s efforts and that the incursion into the setbacks and daylight plane were modest. He said on both the right and left sides functionally it would be hard to say that those incursions would have impacts on the neighbors. He moved to approve the use permit and make the findings for the variance.

Commissioner DeCardy asked about the garage encroaching into the 20-foot setback which was designated here as the rear property line. He asked if that was the designation when the original house was built. Planner Paz said it appeared the house had been built under the assumption or interpretation that it would be a five-foot setback and a left side property line and not a rear property line.

Commissioner DeCardy said he thought if it had been clear that the side in question had been the rear with a requirement for a 20-foot setback that the original construction of the house might have used a different configuration, and that would now be the house under consideration for adding a

second story. He said while he appreciated Commissioner Riggs' comment and he completely agreed with the hardship due to the process, he still thought that if the hardship was not the shape of the property it was where the original house was put on that lot that created difficulty and expense in being able to add a compliant second story.

Chair Barnes said they had received comments on the process that until confirmed were more or less hearsay. He asked if staff wanted to comment on the process and what might or might not have transpired. Planner Paz said it was regrettable if misleading information was received at the counter. He said at the counter staff did not have full information and the information relayed was preliminary until a complete review could be done. He said information was subject to change when reviewed in detail. He said in this case it appeared that this was what happened and with more detailed review by additional staff and higher levels of staff the review led to finding that this proposal was not the only way a second-story addition could be constructed.

Chair Barnes asked if it was customary for staff to provide guidance on a supportable variance request prior to Planning Commission review. Planner Paz said typically staff was hesitant to commit to support for a variance primarily because it would need to see each of the five findings made.

Planner Sandmeier said there were two variance requests; one was for encroachment into the rear setback and the other was for encroachment into the daylight plane on the right side. She said both would require a finding that there was a hardship peculiar to the property and approval of the variance was required for the preservation and enjoyment of substantial property rights. She said the Commission might want to approve one variance and deny the other one.

Chair Barnes said the property was unique but that in itself was not a basis for a variance. He said the design created the problem and not the property. He said he was having a very difficult time as the second story could be designed without a variance, but it was the preference of the applicant to go with this proposal with the variance request.

Commissioner Doran said he had intended to second the motion on the floor but would not as it seemed the motion needed amendment as there were two variance requests. He said the existing house was the result of either a misunderstanding or different understanding of the setback requirements. He said the hardship was caused by the lot shape and the existing building.

Commissioner Riggs withdrew his motion.

Commissioner Doran moved to approve the use permit and two variance requests. Commissioner DeCardy asked if the motion needed to include the findings. Planner Sandmeier said the findings needed to be made for both variance requests.

Commissioner DeCardy seconded the motion.

Chair Barnes asked the maker of the motion to make the findings for the variance requests.

Commissioner Doran said regarding the first finding that he thought it was clear that the hardship was not created through any act of the owner with the remaining question was there a hardship. He said the combination of the unusually shaped lot and the existing nonconforming building

created the hardship. He said the second finding asked if the variance was necessary for the preservation and enjoyment of substantial property rights. He said in his view to develop a building using standard and economical construction techniques to the extent building was allowable on the lot required a variance. He said the next finding was that the variance would not be detrimental to the public health, safety, and welfare and staff was in agreement with that so there was no controversy with that one. He said the fourth finding was that the conditions upon which the variance request was approved would not be applicable generally to other property in the same zoning classification. He said although there were other triangular lots in the City with curved edges that this was not generally applicable and certainly not with this property's preexisting nonconforming building that was built under a prior understanding of setback requirements. He said the fifth finding was not applicable as the property was not within any Specific Plan area.

Chair Barnes asked if staff was recording Commissioner Doran's findings and making a judgement on their validity. Planner Sandmeier said that staff was recording the findings, but staff's position was the findings could not be made.

Chair Barnes asked Commissioner Doran to make the findings for the second variance request for the intrusion into the daylight plane. Commissioner Doran said he thought what he said applied to both variance requests. Planner Sandmeier noted that the previous interpretation of the setbacks did not affect the daylight plane intrusion. Commissioner Doran said it might have affected what was built on the property.

Commissioner DeCardy said he was comfortable with the findings as the maker of the second.

Commissioner Riggs said if the existing house had been built under today's regulations it clearly would have been built forward closer to Hedge Road.

ACTION: Motion and second (Doran/DeCardy) to approve the use permit and make findings to approve the variances; passes 4-1-1-1 with Commissioner Barnes opposed, Commissioner Kahle recused, and Commissioner Tate 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 the following findings as per Section 16.82.340 of the Zoning Ordinance pertaining to the granting of variances to construct a portion of the second-story addition within the required rear setback (on the functional left side) and for the structure to partially encroach into the daylight plane (on the right side):
 - a. Both the unique three-sided shape of the parcel, and the location of the existing nonconforming building, create hardships, given the extent of the required rear setback and the limitations on an economical expansion of the residence that meets the setbacks and daylight plane.
 - b. The requested variances would allow for a simplified roof structure that would limit the cost of construction through the use of standard construction methods, which would represent substantial property rights that need to be preserved.

- c. The rear setback encroachment and daylight plane encroachment at the right side 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 their limited size and distance to the property lines.
 - d. The combination of the shape of the lot and the location of the existing building together are conditions that would not be applicable, generally, to other property in the same zoning classification.
 - e. The property is not within any Specific Plan area. Hence, a finding regarding an unusual factor does not apply.
3. Approve the variances.
 4. 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. Approve the use permit subject to the following **standard** conditions:
 - a. The applicant shall be required to apply for a building permit within one year from the date of approval (by December 9, 2020) for the use permit to remain in effect.
 - b. Development of the project shall be substantially in conformance with the plans prepared by Metropolis Architecture consisting of 12 plan sheets, dated received November 26, 2019 and approved by the Planning Commission on December 9, 2019, except as modified by the conditions contained herein, subject to review and approval of the Planning Division.
 - c. 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.
 - d. 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.
 - e. 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.
 - f. 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.

- g. 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.
- h. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance and the arborist report prepared by Kielty Arborist Services LLC., dated revised December 3, 2019.

F2. Architectural Control, Variance and Major Subdivision/Vasile Oros/706-716 Santa Cruz Avenue: Request for architectural control for the demolition of an existing commercial building and the construction of a new three-story mixed use building with below ground parking, retail and parking on the first floor, office on the second floor, and office and four residential units on the third floor in the SP-ECR/D (El Camino Real/Downtown Specific Plan) zoning district. The project includes a request for a major subdivision to create a vesting tentative map not to exceed four residential condominium units and one commercial area, with rights reserved for up to ten commercial condominiums, and a Below Market Rate (BMR) housing agreement for payment of an in-lieu fee in compliance with the City's below market rate housing program. The project also includes a variance request for skylights on the third floor to exceed the 38-foot height limit. Removal of one on-street parking space on Chestnut Street would be required to meet fire access requirements. As part of the proposed project, two heritage trees would be removed: one on-site tree located in the parking lot at the rear of the property and one street tree on Chestnut Street. The Planning Commission will serve as a recommending body and the City Council will be the final decision making body and take action on the proposed project at a future meeting date. ([Staff Report #19-087-PC](#))

Staff Comment: Senior Planner Kaitie Meador said one comment had been received since publication of the staff report, a copy of which was at the dais for each Commissioner and had been emailed to them earlier in the day. She said also at the dais was a revised tentative map. She said the only revision was to the description of the map. She said in the plan set it referenced four commercial parcels and the tentative map was changed to reflect one commercial area. She said the staff report was written based on the map description as now shown revised.

Questions of Staff: Chair Barnes asked why the Commission was only the recommending body to the Council for this project. Planner Meador said because it was a subdivision. She said a subdivision of five or more went to the City Council for approval.

Applicant Presentation: Bob Giannini, project architect, Form4 Architecture, San Francisco, said also present was the property owner Vasile Oros. He made a visual presentation on the project located in the area of the Downtown Specific Plan. He said the building had clear windows and bay windows and would interact with the street. He said the design was warm modern. He noted that much of the articulation was due to the prescriptiveness of the Specific Plan. He said except for the major modulation not much of the third floor was visible from the street. He said the tower thus seen was four-foot higher than the 38-foot height and also a requirement of the Specific Plan. He reviewed the Chestnut Lane elevation noting they had worked with their neighbor on Chestnut

Lane. He said they would create a five-foot sidewalk for pedestrians to use to enter the parking plaza and get through Chestnut Lane. He said one of the hardships of this project that would lead to the skylight variance request was that they had to pull the building back five feet for the walkway that would benefit the City. He said for the neighbor they moved the garage to the far edge of the site. He said that allowed for a straight shot down into the garage so cars coming from Chestnut Street and Chestnut Lane could move quickly down into the garage and not really create a queuing problem on Chestnut Lane. He noted the rendering showed the rollup grill for the garage at the face, but it would be setback 20 feet. He said it was shown correctly in all of the plans. He said they were required to keep 18 parking spaces in the Plaza on their property as well as providing required parking for the office building. He said the project had to be carved back to allow room for the extra cars and room for the sidewalk on Chestnut Lane. He said regarding the variance requests they believed the site had two unique hardships that were imposed by the provision of the five-foot sidewalk on Chestnut Lane and the other that they accommodate 18 extra parking spaces. He said he was not aware of any other property in the downtown that would have those requirements. He said the importance of those requirements related to the project working financially as it was the office component that made the project financially feasible. He said the residential portion of the project drained the economics somewhat and the retail was hoped to be financially neutral. He said they had to maximize to the amount of office they were allowed to support two levels of underground parking. He noted that the office space was on the third floor and that while it could be accomplished differently that would push the second floor out to the property line on every edge. He said the building then would not have the articulation as proposed and it was that which gave the building character and a good fit within the downtown.

Mr. Giannini said the 38-foot height limit was quite low for three stories. He said residential could work with low ceiling heights of eight feet but leasing office space with low ceilings would be difficult. He said the solution was six skylights to open up the ceiling which they thought would mitigate the low ceilings and make the office space more desirable for people to lease. He said the skylights would not be visible at all from the street and often times they were the same height as the parapet at 42 feet. He said that was the height needed for the skylights, so the slope was sufficient for them to drain and not leak. He said they outlined findings for the variance for the skylights.

Commissioner Doran said the staff report indicated that the second-floor plate height might be reduced to provide equal ceiling heights for the second and third floors at 11.4 feet, which would eliminate the need for a variance for skylights. Mr. Giannini said that was a good height for residential but for an office building that was 12,000 square feet and could likely be one open space, it was not. He said it was not an 11-foot ceiling rather it was 11 feet from floor to floor. He said within that was the thickness of the floor with two-foot deep beams at least, because unlike residential this was spanning an office floor and that required a deep beam. He said adding in the mechanical the ceiling would be pretty low and uncomfortable for an office space.

Chair Barnes asked if Mr. Oros might speak to the project from the perspective of his process to bring it to the City. He said in disclosure he knew Mr. Oros and had probably chatted with him five times. He said he was a shopper at Ace Hardware and about a year prior he and Mr. Oros had a two-minute conversation about his project. He said that was between the study session and now, so he did not think he had any specific knowledge about the project or was biased about it in anyway.

Vasile Oros said he was the owner of Ace Hardware in downtown Menlo Park. He said the process for the project started near the end of 2014 and he had worked with Hayes Architects trying to follow the Downtown Specific Plan. He said they learned a lot and there was a lot of back and forth. He said he thought it was the first project under the Downtown Specific Plan. He said it had been a lengthy process noting that they were not professional developers and he was a small business owner. He said they came up with one project that was buildable and feasible, making financial sense at that time, but it was found to be too modern for the downtown. He said now he thought they had a really nice building proposed.

Commissioner Kahle asked the project architect about the parking in the City plaza and whether that was City property. Mr. Giannini referred to a site plan visual and said that everything in the rectangle was private property and on that private property were 18 parking spaces. He said a condition on this project was to provide the required parking for the project plus those 18 parking spaces. Commissioner Kahle asked if the spaces were open to the public. Mr. Giannini said no but that was they number of spaces they had to provide. Commissioner Kahle said the Commissioners had received an email from the property owner of a property on Chestnut Lane listing two issues regarding construction traffic and deliveries. Mr. Giannini said related to the construction logistics plan as soon as it appeared the proposal was actually a project, they would then engage a contractor to work with the City on a construction plan and schedule. He said deliveries were handled fairly well at the back of the project. He said they would have a relatively enclosed back area where there was storage right at the back of the retail so deliveries could come into that area and be distributed. He said he thought it should work better than most downtown buildings that likely had to feed deliveries through their front doors. Commissioner Kahle referred to the skylight variance and asked if they had considered something that was not as tall. Mr. Giannini acknowledged fiber glass cellular skylight products were flat, but he had stopped using it because it yellowed with age.

Commissioner Kahle noted the curved element, the sunshades that hung over the property line by up to six feet and asked the maximum distance those elements might extend over the property line. Planner Meador said she would have to look up the maximum allowable encroachment over the property line. She said she thought there was a limit on how far those could encroach and also a limit allowed to the amount of encroachment. She said a diagram in the plan showed the percentage of frontage that was encroached.

Commissioner Kahle said the sunshades seemed to project over the property line and asked if those were bay windows also projecting over the property line. Mr. Giannini said that was right. He said the Downtown Specific Plan very carefully regulated encroachment over the property lines and what they were proposing complied with all that. He said they had done diagrams that worked out the math involved. He said that they needed the year and a half after the study session to work out all the dimensions under the Specific Plan. Commissioner Kahle asked what the rationale was for the curved element as nothing else in the design was curved. Mr. Giannini said it was to relax the design some and provide some relief to a formulaic design driven by the Specific Plan. He said they thought the curved sunshades made it friendlier looking from the street.

Commissioner Kahle referred to rendering A2.3. He said he thought it showed the Santa Cruz Avenue side but was labeled Chestnut Street and the streetscape was Chestnut Street. Commissioner Kahle said the elevation in the rendering looked the same as what they were seeing in the screen which was Santa Cruz Avenue. Mr. Giannini said he did not have the Chestnut Street

rendering on the slides and showed the slide of Chestnut Lane and then showed the slide of Santa Cruz Avenue, acknowledging that they looked similar. Mr. Giannini said the numbers on the building were just artistic license. Commissioner Kahle asked if the gas meters were on Chestnut Street. Mr. Giannini said they were on Chestnut Lane. Commissioner Kahle asked if they were visible from the street. Mr. Giannini said they had changed a number of times. He referred to the trash room and the small alcove in that. He said the gas meters would be there but were not screened. He said he did not think they could be screened as PG&E needed access to them.

Commissioner Riggs asked if the backflow preventer and fire hose connection would be located in the zone just discussed. Mr. Giannini said all of that was on that side. He noted the five-foot sidewalk was clear of anything.

Commissioner DeCardy asked what gas was being used for in the building. Mr. Giannini said it was for hot water. Commissioner DeCardy asked if they had investigated making the building all electric. Mr. Giannini said they had not noting when they started the project that had not been so much of an option or the direction things were headed in now. Mr. Oros said all HVAC was electric. He said gas was for the kitchen for the restaurant and hot water. Commissioner DeCardy asked whether it was worth looking at that again what with the competitive cost of electricity versus gas. Mr. Giannini said that was one of the studies they would be anxious to get into once they knew they had a project. He said it might not be the right answer but that was too much detail for them to get into at this point of the proposed project, but it was something that they would consider. Commissioner DeCardy said they were nearly all electric now and with a bit more investigation might get to all electric which would be a great benefit for the downtown. Mr. Giannini said he agreed it needed to be looked at.

Commissioner DeCardy referred to the heritage tree replacements of a one-to-one ratio. He 48-inch box trees were proposed on Chestnut Street. He asked if utilities were underground there or whether there were utility lines overhead. Mr. Giannini said the lines were overhead now and they would be undergrounding a portion of it. He said the project could not afford to underground everything, but they were undergrounding Chestnut Lane and where it hit Chestnut Street. Commissioner DeCardy said the nice 48-inch box trees when they grew would get chopped because of overhead utility lines. He said he thought there should be something they could do so that the project either contributed to a tree planting fund or these replacement trees planted somewhere else in the City where they would look good. Mr. Giannini said they were also concerned with that and had developed a planting scheme for the third floor.

Commissioner DeCardy said that the project goal was LEED silver and most of the points in the Transportation Demand Management (TDM) Plan for that were due to the location of the project. He asked at what point in the process would they actually have a robust TDM plan. He said the EIR for the Specific Plan was done in 2012 and traffic impacts were completely different now. Mr. Giannini said his firm had developed office buildings in a couple of cities' downtowns in this area. He said this project was one of the good guys in that it provided all of its parking onsite. He said he could not address the intricacies of the TDM plan. Commissioner DeCardy said for the record that getting the cars parked was actually a problem as that just encouraged cars to come. He said the problem for the residents was that the cars were on the streets driving around to begin with and not where they parked. He said there were a number of ways to strengthen the TDM Plan and he suggested between now and going to Council that those were looked into to incorporate as currently it was very weak.

Commissioner DeCardy said the project would provide one unit of affordable housing and the fees for that was \$400,000. He said it was his understanding that a unit of affordable housing now cost \$700,000 to \$750,000. He said for the record that however this was being calculated was not working at all for the City if they were going to have below market rate (BMR) housing that somehow was supposed to get generated through the developments. He said it was not a criticism of what the applicant was doing in that mix but a point that this was simply not working for equity in housing in areas where they needed to have it. He said it seemed there was an option that the second floor of the project could convert to housing. Mr. Giannini said it was residential condos on the third floor and the possibility of office condos on the second floor. Commissioner DeCardy asked staff to confirm that the project would never offer any more housing and that other than the four units nothing else could be converted into housing. Planner Meador said the current proposal was the four housing units and potentially commercial condos up to 10 units. She said in the future they might look at converting space to housing but that was an unknown now. Commissioner DeCardy asked if that were done whether that would obviate the provision of BMR units as housing would be provided in two phases. Planner Sandmeier said the current proposal was for the four residential units and the commercial space. She said if the property owner wanted to change the project in the future it would have to go back through a public hearing process and have everything reevaluated.

Replying to Chair Barnes, Mr. Giannini said construction cost for underground parking was averaging \$119,000 per space.

Commissioner Riggs referred to the main rendering on the cover of the presentation. He said it showed the lower three and a half blocks were a different color than the blocks above and asked if they would purchase the fourth row of blocks in the appropriate tone. After looking at the rendering with Commissioner Riggs, Mr. Giannini said it was a rendering error. He said in real life there would be a joint between the two different colored stone materials. Commissioner Riggs asked if they would also apply the character bands at the second floor. Mr. Giannini said wherever there was different color there would be a stone joint.

Chair Barnes opened the public hearing.

Public Comment:

- Fran Dehn, Menlo Park Chamber of Commerce, said the project had been seen a number of times with two study sessions and five years of proposal developing. She said it was a great project and had matured. She said they understood the Specific Plan had some innuendos that perhaps the City would like to update. She said this project was a new mixed-use project that addressed all the things they had wanted under the Specific Plan. She said the applicant had listened and responded over the past five years that the project had been in development. She urged the Commission to send its recommendations for approval of the project to City Council.
- Evelyn McClellan said she was the owner of the building on Chestnut Lane most affected by the proposed project. She said she appreciated that the Planning Commission had listened to their concerns two years ago. She said they appreciated that the garage had been relocated. She said their remaining concerns that they had outlined in an email today were related to deliveries. She said the architect indicated delivery vehicles would park on the ramp to the

garage. She said there were no designated delivery parking spaces so they requested that perhaps a designated parking space for deliveries could be placed on Chestnut Street. She said it was mentioned there was no construction plan yet, but one was included in the packet. She said it showed all construction traffic coming to the site down and she assumed out Chestnut Lane. She said it also showed Chestnut Lane being narrowed from 25 feet to something closer to 20 feet and that would put big construction trucks going right past her building. She said she did not think the tenants would be able to stay in the building during the construction project because of the noise. She said most of the tenants had been there for decades and some would have trouble finding new small spaces. She requested that mitigating factors for construction impacts be sought.

Chair Barnes closed the public hearing.

Commission Comment: Commissioner Kahle asked if it was possible to have one of the surface parking spaces along Chestnut Street designated for delivery parking. Planner Meador said she spoke with Transportation Division staff and that was not being pursued at this time. She said any changes to downtown parking spaces would require Complete Streets Commission review.

Commissioner Kahle said it would be valuable to add a delivery space. He said it was a bit of a drawback that the City was losing 18 surface parking spaces for public parking. He said he agreed it would be great if they could offer additional trees perhaps in another location to replace the loss of heritage trees at the project site. He said he was on the Commission for the original presentation in 2017 and commended the property owner for improving the design. He said the five-foot setback along the lane for the sidewalk improved safety along Chestnut Lane. He said that this was a very handsome project and a welcome addition to the downtown. He said he supported any recommendation for approval to the City Council.

Planner Meador clarified that the 18 parking spaces on the site were never available for the public and limited to customers of the business there. She said only one public parking space was lost on Chestnut Street due to the project.

Commissioner Doran said he was seeing the project for the first time. He said it looked great and he thought would create interest in the downtown. He said overall that he supported the project but had a hard time with the variance request. He said he thought there was some way to build it without exceeding the height requirement. He said he did not see anything unique about the property to justify the variance request.

Commissioner Riggs said the intention of the code language was to deal with differences of public opinion that felt raising the Santa Cruz Avenue building height limit from 30 feet was already asking a lot and 38 feet sounded a lot better than 42 feet although they knew they were constricting three stories. He said he would be making recommendations regarding the Specific Plan. He said this project triggered three of them. He said he was inclined to agree with Commissioner Doran about the variance request. He said in terms of architectural planning this was an impressive project. He said a lot was asked with the Specific Plan Guidelines and the architects had done a great job of meeting those diverse requirements. He said at the last study session, the Commission urged the applicants to put as much emphasis as they could on the pedestrian scale. He said although he could not identify any changes specifically, he found there was a scale and rhythm there that was

very successful. He said he liked that the stone was being used as a dominant material including expressing the running bond and the open honest use of glass.

Commissioner Riggs said he had mentioned some problems in 2018 that had not been improved. He said while it was a great idea to have planter boxes on the roof of the second floor for the sake of the third floor that having the multi-colored flowers protruding to the edge of the thin line roof reminded him of one of Queen Elizabeth's hats. He said he thought this was an effort that was not successful. He urged the applicants to pull the plantings back for the benefit of the third floor. He said his larger issue and that had been discussed in 2018 was the concept of a modular break. He said it was required by the Specific Plan under formulaic guidelines. He said aesthetically part of what was wrong with the recessed tower was that its stone face had a lot of presence and mass. He said he was restating what he said in 2018 and that was the building looked like a two-story building that had crashed into a three-story building or a three-story building that had been inserted, wedged in between two, two-story buildings. He said the result was a problem with architectural unity and it was important enough to look for possible solution. He said Santa Cruz Avenue was the City's core main street and was what people considered downtown Menlo Park. He said one solution would be to make the tower glass so that it did not dominate and overtake the two-story building.

Mr. Giannini said they had not considered using glass for the tower. He said given that they had the rules to work with they did that and were proud of what they produced in the design and that it hung together very well. He said he did not feel it was a confused building. He said if they had used glass for the tower the building might have felt more like a Silicon Valley business park building. He said it never entered their minds to go in that direction but rather to keep the more downtown and high-end materials. He said the gray material for the tower was not stone but was tile.

Commissioner Riggs said another suggestion was to help the two-story presentation by actually connecting a portion, the slender portion of the roof across that entry, over and in front of the railing. Mr. Giannini said one could do that. He said he thought they were better pleased with the aesthetics of breaking it. Commissioner Riggs said the building was really important to Santa Cruz Avenue and to have it 99% successful did not quite make it. Mr. Giannini said he was a 37-year resident of Menlo Park and it had been a labor of love to come up with something that would be 100% successful. He said he did not discredit Commissioner Riggs' aesthetic take on the building. Commissioner Riggs said they could look forward one way or the other for the building to be referred to and described for many years.

Commissioner Kennedy said she was on the Commission in 2018 and had a lot of positive things to say about the project. She said she agreed with Commissioner Kahle and some of the public comment that it was a very attractive building. She said she would support voting favorably for the variance as it was stated that the Downtown Specific Plan was not a perfect document and would undergo a significant overhaul. She said the height constraint of 38-feet in the downtown really limited the effective and forward-thinking transformation of that block. She said with what they knew now with the El Camino Real corridor and development in that proximate area she thought the variance was for the right reasons. She said a large open floor plan with low ceilings was not desirable and would limit the type of businesses wanted in the downtown. She said she had a concern about Chestnut Lane. She said that it would have to be one way for construction traffic and no left turn and exiting out onto Oak Grove Avenue. She said it was time for this building and it

was appropriate in size and massing. She said the tower satisfied the intent of what the Specific Plan called for to break up the flat three-story massing. She said she agreed with Commissioner Riggs that the third-story greenery was a bit too much. She said she would vote to approve the entirety of what was before them.

Commissioner DeCardy said the project looked good and he could definitely support it from an architectural control standpoint. He said he liked some of the recommendations in that regard but would not mandate those. He said he could support the variance for the skylights for the reasons stated. He said he would like two-to-one heritage tree replacement and to do as planned on the site and then add four 48-inch boxes somewhere else in the City at the discretion of the City Arborist. He said that was needed to maintain the type of tree canopy they wanted to have to keep their community looking the way it had. He said it was important to put a pin on the need to have a robust and enforceable TDM plan that would convey with the building. He said right now it was weak. He said he appreciated the architect's comments about revisiting the energy use mix in the building. He said he was ready to support.

Chair Barnes noted Ms. McClellan's comments. He said in the event Chestnut Lane was narrowed to less than 25 feet and in any event as it related to the construction plan, the Fire Department would have a say in what type of fire truck access they needed. He asked if that was correct. Planner Meador said it was and the Fire Department reviewed that as part of the building permit. Chair Barnes referred to reasonable fencing and shoring plans and asked if that was part of the building permit and construction plan approval process. Planner Meador said that was correct. Chair Barnes referred to the neighbor's concern regarding hazards to her building and her tenants and asked what the oversight for that was and how it was dealt with. Planner Meador said the Building Department would monitor construction of the project throughout so if there were concerns about safety staff could receive those and have the Building Department look into it. Chair Barnes referred to the construction plan and said the Building Department would look at what the progression of construction phasing was, what activities were during the phasing, and making sure that the appropriate ingress/egress, safety, and security measures were taken. Planner Meador said the construction plans in the plan set were preliminary. She said they would receive a full construction plan at building permit stage. Chair Barnes asked related to short-term pickup and deliveries what City department would look at where that was appropriate for this project. Planner Meador said that would be the Transportation Division. Chair Barnes asked if they would decide on that and what factors were involved. Planner Meador said the project did not need any loading zones and those were available on Chestnut Street and the parking plaza as they currently occurred. She said there would be no loading, stopping or parking allowed along Chestnut Lane.

Chair Barnes said the project as proposed did what the Specific Plan asked and this time in a more refined fashion than the first design proposal. He said he thought the proposal was well done and would be a benefit for the community. He moved to recommend to the City Council for approval. He said they could take the variance separately. Commissioner DeCardy referred to the staff's recommendation to look at six items and asked if that could be referenced.

Chair Barnes asked about the parking space removal. Planner Meador said that a public parking space needed removal for fire access.

Chair Barnes said he moved to recommend approval of items 1, 2 and 4. Commissioner Riggs suggested taking the items separately.

ACTION: Motion and second (Barnes/Kahle) to recommend to the City Council approval of the architectural control for the demolition of an existing commercial building and the construction of a new three-story, mixed-use building with below-grade parking, retail space and parking on the first level, office uses on the second level, and office uses and four residential units on the third level; passes 5-1-1 with Commissioner Riggs opposed and Commissioner Tate absent.

ACTION: Motion and second (Barnes/DeCardy) to recommend to the City Council approval of a Major Subdivision to create a Vesting Tentative Map not to exceed four residential condominium units and one commercial area, with rights reserved to allow up to ten commercial condominiums; passes 6-0-1 with Commissioner Tate absent.

ACTION: Motion and second (Barnes/Doran) to recommend to the City Council approval of removal of one on-street parking space on Chestnut Street; passes 6-0-1 with Commissioner Tate absent.

ACTION: Motion and second (Barnes/Riggs) to recommend to the City Council approval of the Below Market Rate (BMR) Housing Agreement for payment of an in-lieu fee in compliance with the City's below market rate housing program; passes 6-0-1 with Commissioner Tate absent.

Chair Barnes said the next question was the variance request. Commissioner Doran said he appreciated Commissioner Kennedy's observation that the skylights would make a nicer space, but he was having a hard time making the findings for the variance request.

Commissioner Kahle said he was having a hard time making the findings for the variance.

Commissioner Kennedy moved to recommend to the City Council approval of the variance request to allow skylights on the third floor exceeding the 38-foot maximum height limit. Commissioner DeCardy seconded the motion.

Planner Sandmeier said the recommendation had to include the findings to make the variance. Commissioner DeCardy suggested tabling the motion and taking a straw poll. After discussion, the agreement was to keep the motion on the table and state the findings supporting the variance request.

Commissioner DeCardy articulated findings for the variance.

Chair Barnes said this was a tough question. He said variances were a function of externalities, and those relative to this project were less about the project site but the externalities of the zoning, requirements for below grade parking, concessions made by the project to the rear of the property to bring it in, and to modifications and modulations. He said to him it felt less about preference and more a need as it related to the project. He said he would vote for the variance approval recommendation.

ACTION: Motion and second (Kennedy/DeCardy) to recommend to the City Council approval of the variance request to allow skylights on the third floor exceeding the 38-foot maximum height limit with the following findings; fails 3-3-1 with Commissioners Barnes, DeCardy and Kennedy supporting, Commissioners Doran, Kahle and Riggs opposing, and Commission Tate absent.

- a. The Specific Plan's limitation on height requirements and requirement to provide a sidewalk create a hardship. To make the project feasible for owner and provide office on the third floor the variance would be required.
- b. That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other conforming property in the same vicinity and that a variance, if granted, would not constitute a special privilege of the recipient not enjoyed by his/her neighbors. The property owner has been through multiple iterations to maximize the space and uses to create a feasible project. The property owner does not have another way to address the limitations on the plate height of the third-floor office. Eliminating the skylights may make the project not feasible.
- c. The skylights would not be particularly detrimental to the public health, safety, and welfare, or impair an adequate supply of light and air to the adjacent properties.
- d. The project is unique being that it is in the downtown and designed as a mixed use project. There would not be other projects put together in this same way in the downtown.
- e. This topic was not discussed as part of the Specific Plan process.

Commissioner Riggs moved to recommend approval to the City Council of the Heritage Tree Removal Permits for two heritage trees and one on-site replacement tree located in the parking lot at the rear of the property and one street replacement tree on Chestnut Street. The motion died for lack of a second.

Commissioner DeCardy moved to recommend to the City Council approval of the Heritage Tree Removal Permits for two heritage trees and one on-site replacement tree located in the parking lot at the rear of the property and one street replacement tree on Chestnut Street with the added requirement of working with the City on four additional heritage tree replacements to be utilized in the downtown area in consultation with appropriate staff on appropriate location.

Planner Sandmeier asked to clarify that the motion was for four additional heritage tree replacements in addition to what was recommended in the staff report. Commissioner DeCardy said taking everything that was recommended regarding heritage trees in the project and adding four additional heritage tree replacements not to be planted on site but in the downtown area and paid for by the applicant and placed and directed by the City and staff.

Chair Barnes asked what the thesis was behind the four additional trees. Commissioner DeCardy said for him the thesis behind the four additional trees was that there should be a two-to-one replacement and that the point of the heritage tree policy was that they should have high quality trees with the potential to actually grow into heritage trees and to provide the type of canopy and the type of aesthetic appeal that a heritage tree provided. He said given the constraints of the site in addition to where there was the potential issue with overhead power lines exactly where the replacement trees would be put that onsite they did not have the ability for the replacements to grow into those heritage trees that have that type of feel and look for the community. He said that it then was reasonable for a project that would maximize the use of the property as opposed to what was existing where trees had been in that parking area and helped contribute to the aesthetics of

the community and would be removed. He said he thought it was helpful for the City to utilize the other areas of downtown to ensure that the City had a canopy that was robust and remained.

Chair Barnes said the site would lose two heritage trees that would be replaced onsite. He asked if Commissioner DeCardy was recommending four additional heritage tree plantings. Commissioner DeCardy said that was what he recommended. Chair Barnes said the operative word was working with the City so the recommendation was not prescriptive as to where the replacement trees would be planted but best efforts to find four locations. Commissioner DeCardy said that was working with the City staff, the City Arborist and noted that there were preferred sites where trees have been lost; there were opportunities to put trees in unique places, and that was the City's discretion. Chair Barnes said that was not prescriptive in terms of trunk size. Commissioner DeCardy said he was fine leaving that to the discretion of the City Arborist. He said sometimes the Arborist preferred a smaller tree as it had the opportunity to flourish and be taken care of as opposed to a larger one.

Chair Barnes said he would view the four additional replacement trees somewhere in the downtown as a community benefit. He asked staff if they were clear on what the recommendation was. Planner Meador asked if the four new trees had to be in the downtown Specific Plan area or anywhere in the City. Commissioner DeCardy said he would be surprised if they could not find four places in downtown. He said the reason it made sense to him was if they allowed a precedent where it was allowed to wipe out all areas to develop that they would take out all of their trees and not have replacements to match existing canopy then they should have as much canopy downtown to make up for that loss. He said he would specify downtown.

Chair Barnes said he was looking at a rendering of Santa Cruz Avenue and there were no trees there. He asked why trees could not be planted there. Mr. Oros said it was a mistake on the rendering. Chair Barnes asked how many trees they would have between frontage of their property on Santa Cruz Avenue and the frontage of their property on Chestnut. Commissioner DeCardy said it was shown on L2.1 and L4.0. Mr. Giannini said none of the trees were on their property as they were zero lot line. Commissioner DeCardy asked looking at L2.1 whether the trees on Santa Cruz Avenue would remain. He said the three on Chestnut on L2.1 were new street trees that would be the replacement trees. Mr. Oros said the overhead wires on Chestnut Street would disappear with the proposal and he did not see why they would not grow to heritage size. Commissioner DeCardy said that was not what he understood from the architect which was that utilities on Chestnut Lane would be undergrounded but Chestnut Street would not be undergrounded.

Planner Meador said a portion of Chestnut Street would be undergrounded. She said there was a power pole about midway down that elevation. She said starting at that power pole going toward Chestnut Lane the utilities would be undergrounded. She said the two trees closest to Chestnut Lane would not have power lines over them. She said for the third tree that the pole might be right next to it, but she would have to compare it through the civil plans. Commissioner DeCardy said there was a discrepancy between L2.1 and L4.0 regarding the trees. Planner Meador said L4.0 showed what was existing and what was being removed. She said they were replacing two of the existing trees and adding one new tree.

Chair Barnes said one tree he saw being removed was at the corner of Chestnut Street and Chestnut Lane. Commissioner Kahle said the tree being removed was in the middle of the project on Chestnut Street on L4.0.

Chair Barnes asked if there was any opportunity to add street trees on Chestnut Street or Santa Cruz Avenue. Mr. Giannini said that was directed by the City Arborist on how many and where street trees were planted. He said on L2.1 it appeared they were pretty well populated with trees along the street. He said this had been worked out with the City Arborist and utility companies. Planner Meador said after working with the City Arborist there was no room to put additional street trees around the frontage.

Commissioner DeCardy said the existing trees impacted by the overhead utility lines were now the three or four plus the first replacement in the center of the block and moving back towards Santa Cruz Avenue on Chestnut Street. He said looking at L4.0 the trees 10, 9, 8, 7 and 6 all had the potential to be topped off or would be topped off due to the overhead utility lines. Planner Meador said she thought that was correct. Commissioner DeCardy said five trees would be topped off because of the power lines and there would be two replacements that would have the potential to grow.

Chair Barnes said he understood now.

Commissioner Kahle said he would second the motion made by Commissioner DeCardy.

Mr. Giannini said all three of the trees shown large could stay large because the pole was just to the left of that center tree but then it went straight across Chestnut Street and did not continue down Chestnut Street. He said the smaller trees were the ones under the power lines that would be remaining. Commissioner DeCardy referred to MP0.3. He said there was a photo in the lower left-hand corner and asked for them to explain. Mr. Oros said there was only one power pole in the center that took the power line across Chestnut Street and the other pole with the transformer would be undergrounded. Commissioner DeCardy said it then appeared that none of the trees would be topped. He said it was a question now of the one-to-one tree replacement rather than two-to-one. He said he would stay with the four additional tree replacements recommendation.

Commissioner Riggs said the City had a fund for undergrounding utility lines sourced from PG&E per the San Francisco Public Utilities Commission to be used in public spaces such as streets downtown. He said if he understood the program correctly this project would be an excellent candidate for Chestnut Street to be put on a future list for undergrounding hopefully before the trees reached their 10 to 15-year growth.

Chair Barnes said two additional replacement trees were fair, but he would support the four being recommended.

ACTION: Motion and second (DeCardy/Kahle) to recommend to the City Council approval of the Heritage Tree Removal Permits for two heritage trees and one on-site replacement tree located in the parking lot at the rear of the property and one street replacement tree on Chestnut Street with the additional requirement of four more replacement trees (for a total of 6 replacement trees). The location of the replacement trees will be prioritized in the downtown area and coordinated with City staff and paid for by the applicant; passes 6-0-1 with Commissioner Tate absent.

Commissioner Riggs said he agreed with the Chair that two replacement trees would be fairer. He said his opposition vote to the architectural control recommendation for approval was not based on

one specific part of the project so much as he foresaw based on comments he had received so far that he might be asked after this project was built to explain the central tower. He said he was glad the project was recommended for approval without him having to vote in the affirmative.

G. Informational Items

G1. Future Planning Commission Meeting Schedule

- Regular Meeting: December 16, 2019

Planner Sandmeier said the December 16 agenda would have the Menlo Uptown EIR scoping and study session as well as a single-family development project.

- Regular Meeting: January 13, 2020
- Regular Meeting: January 27, 2020

H. Adjournment

Chair Barnes adjourned the meeting at 9:53 p.m.

Staff Liaison: Corinna Sandmeier, Senior Planner

Recording Secretary: Brenda Bennett

Approved by the Planning Commission on January 13, 2020