



## REGULAR MEETING MINUTES

**Date:** 2/10/2020  
**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 7:01 p.m.

### B. Roll Call

Present: Andrew Barnes (Chair), Chris DeCardy, Michael Doran, Larry Kahle, Henry Riggs (Vice Chair) (arrived at 7:36 p.m.), Michele Tate

Absent: Camille Kennedy

Staff: Ori Paz, Associate Planner; Matt Pruter, Associate Planner; Corinna Sandmeier, Senior Planner; Christopher Turner, Assistant Planner

### C. Reports and Announcements

Senior Planner Corinna Sandmeier said the City Council at its February 11, 2020 meeting would consider the CitizenM project and the 661 through 687 Partridge Avenue project, which the Planning Commission had previously reviewed.

### D. Public Comment

None

### E. Consent Calendar

- E1. Approval of corrected minutes for November 4, 2019, Planning Commission meeting. ([Attachment](#))
- E2. Approval of minutes from the December 16, 2019, Planning Commission meeting. ([Attachment](#))
- E3. Approval of minutes from the January 13, 2019, Planning Commission meeting. ([Attachment](#))

**ACTION:** Motion and second (Chris DeCardy/Larry Kahle) to approve the Consent Calendar consisting of corrected minutes for November 4, 2019 and minutes of the December 16, 2019 and January 13, 2020 Planning Commission meetings; passes 5-0-2 with Commissioners Camille Kennedy and Henry Riggs absent.

### F. Public Hearing

- F1. Use Permit/Cynthia Thiebaut/333 Marmona Drive:

Request for a use permit to demolish an existing one-story, single-family residence and detached garage and construct a new two-story residence on a substandard lot with regard to minimum lot width, depth, and area in the R-1-U (Single Family Urban Residential) district. ([Staff Report #20-007-PC](#))

Staff Comment: Associate Planner Ori Paz said correspondence from the neighbor at 347 Marmona Drive had been received expressing concern about windows, which were on the right side of the building. He said the Commission had copies of the letter at the dais.

Applicant Presentation: Chelsea Breitz, Development Coordinator for Thomas James Homes, said also present was Cynthia Thiebaut, the Director of Development for the firm, and architect Jill Williams, KTGy. She said they had received the neighbor's concern in October 2019 and had raised the window sills of the master bedroom and frosted the windows in the master bathroom in response.

Commissioner Kahle asked about the letter received today and why it was sent if the concerns had been addressed. Ms. Breitz said it was a bit confusing and she thought the neighbor might not have noticed the note that the windows would be frosted in the bathroom as he was aware the window sills had been raised.

Commissioner Kahle noted the project had 10-foot ceiling heights on the first floor and nine-foot ceiling heights on the second floor. He said it appeared the front bedroom was two feet taller and wrapped around the side. He asked if consideration could be made to reduce ceiling heights to reduce the mass. He asked for the ceiling height of the front bedroom. Ms. Breitz said the second story was 9.1 feet and the first story was 10.1 feet. Commissioner Kahle asked about the front bedroom as the walls were taller.

Jill Williams, Principal at KTGy Group, said they had raised that room up about two feet to balance the elevation. Commissioner Kahle asked if that was a 12-foot plate height on the front side of the house. Ms. Williams said that was correct. Commissioner Kahle asked if they were willing to bring some of the ceiling heights down to offset the overall mass of the house. Ms. Williams said they would prefer to keep the 10-foot plate on the first floor, and could bring the front bedroom down to 10 feet.

Commissioner Kahle said fiberglass windows were noted and asked if they would be willing to upgrade to wood window and not so much for the outside but for the inside for resale values. Ms. Breitz said they chose fiberglass as they were easier to clean and maintain than wood windows.

Cynthia Thiebaut, Director of Development at Thomas James Homes, said originally that they had looked at vinyl windows but received a comment about that. She said they agreed the neighborhood would be better suited with fiberglass windows. She said they preferred fiberglass for its durability and had brought a sample.

Commissioner DeCardy asked if both panes of the master bathroom windows would be frosted. Ms. Breitz said that the bathroom windows were entirely frosted.

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

Commission Comment: Commissioner Kahle said the letter from the neighbor was confusing as it

seemed all the items had been addressed by the frosted windows and raised windowsills. He said in general he liked the project but was finding it hard to support because it was very tall. He said the second floor over the garage looked fairly massive with a minimal strip of lower roof that did not help. He said on the right and to the rear it was a tall two-story wall with a bellyband separating it. He said the garage was very prominent and that was not helped having a tall wall over the garage door. He said the roof plan seemed awkward and could be refined. He said he would like the height of the project reduced.

Chair Barnes said he lived 1,000 feet away from the project and asked if he needed to recuse himself. Planner Paz said not for a single-family residential project but he had the option to recuse if he deemed it necessary.

Chair Barnes said he was supportive of Commissioner Kahle's request to reduce the height of the first story. He said he knew the existing house and Marmona Drive well, noting the 5,500 square foot lot would be pretty much developed to the maximum. He said the project conformed to the development standards of the zone and he thought the design was acceptable. He said reducing height on the first floor would be helpful for the neighbors. He said he thought the frosted windows addressed privacy concerns.

Commissioner Kahle said 10-foot height was not out of the question but when it popped up to 12 feet on the right that was borderline unacceptable. He said he thought it reasonable to request that the first-floor ceiling height be reduced by one foot as a condition of approval. He moved to approve the project as recommended with that additional condition to reduce the ceiling height of the first floor by one foot. Chair Barnes seconded the motion.

Commissioner DeCardy asked if the applicant might address any hardship the additional condition might present. Ms. Williams said they were agreeable to changing the first-floor plate height from 10 feet to nine feet.

**ACTION:** Motion and second (Kahle/Barnes) to approve the item with the following modification; passes 5-0-2 with Commissioners Kennedy and Riggs absent.

1. Make a finding that the project is categorically exempt under Class 3 (Section 15303, "New Construction or Conversion of Small Structures") of the current 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. The applicant shall be required to apply for a building permit within one year from the date of approval (by February 10, 2021) for the use permit to remain in effect.
  - b. Development of the project shall be substantially in conformance with the plans prepared by KTG Group Inc., consisting of 21 plan sheets, dated received January 30, 2020, and

approved by the Planning Commission on February 10, 2020, 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 existing driveway and replace with a new curb, gutter, sidewalk and landscape. Additionally, the applicant shall 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 Sierra Nevada Arborists, dated September 16, 2019 and addendum dated December 20, 2019.

4. Approve the use permit subject to the following **project specific** condition:

- a. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a revised arborist report that identifies the multi-trunk mock orange tree (tree #2) as a heritage tree and includes tree protection measures specific to potential impacts to tree #2, subject to review and approval by the Planning Division and City Arborist.
- b. ***Simultaneous with the submittal of a complete building permit application, the applicant shall submit revised plans reducing the overall height of the building by one foot by reducing the plate height of the first floor by one foot, subject to review and approval by the Planning Division.***

F2. Use Permit and Variance/Olivia Lee/617 Partridge Avenue:

Request for a use permit to demolish an existing single-family residence and detached carport and construct two new two-story, single-family residences and a detached side-loading two-car garage on a substandard lot with respect to lot width in the R-3 (Apartment) zoning district. The proposal

includes a use permit request to allow the detached garage to be on the front half of the lot, along with a variance request to reduce the required separation between the detached garage and the neighboring dwelling to the right from 10 feet to 9.4 feet. ([Staff Report #20-008-PC](#))  
Staff Comment: Associate Planner Matt Pruter said staff had no additions to the staff report.

Applicant Presentation: Olivia Lee said she bought this property in 2018 as she wanted to live in Menlo Park. She said the existing home on the lot was outdated and needed many repairs. She said it was more efficient to build new homes rather than repair the existing home. She said she would have to sell one of the homes to make the project financially viable and she would live in the other home. She introduced her architect Rick Hartman from Hometec Architecture.

Rick Hartman, Hometec Architecture, said with a 50-foot lot with side setbacks of 10 feet that left 30 feet of foot print for building. He said both neighbors were five feet away with one actually four and a half feet away. He said the rule of 20-foot separation from adjacent neighbors even when their setbacks were nonconforming brought the buildable footprint down to 22 to 23 feet wide. He said the issue was parking and found the garage had to be detached to make the project work. He said they needed a six-inch variance to allow for the 24-foot backup required by Engineering Division.

Commissioner Kahle confirmed with staff that in the R-3 zone 20-foot separation was needed between buildings. He said he thought that R-3 zone projects would need variances because of that and asked about the frequency of that occurring with projects due to neighbors not having the 10-foot side setback width. Planner Pruter said that there were a few examples. He said in this case the request was lesser in the sense it was just for the accessory building.

Commissioner Kahle referred to sheet A5, the east elevation, and said he was looking at a strip of siding in front of that bay and the window. Mr. Hartman said that was a drafting error. Commissioner Kahle said on the bottom right in about the same location there was a strip of white. Mr. Hartman confirmed it was not supposed to be there. Commissioner Kahle referred to sheet A8, the north elevation, and said on the right was a note for a belly band but he did not see the belly band. Mr. Hartman said the note disappeared. Replying to Commissioner Kahle's question whether it was supposed to be on all four sides, Mr. Hartman said yes but it stopped and started noting it did not go past the stairway window wall and it stopped at the fireplace as well. He said it lined up with the balcony floor.

Commissioner Kahle said the staff report indicated the project was a traditional Country style and asked the architect to talk about the style and the goal of it. Mr. Hartman said nothing was really traditional anymore. He said they called sided homes Country style now because no one knew what else to call them. He said the homes were wood sided and not stucco. He said they liked to use Hardy plank for everything as they wanted that sustainability with zero maintenance. He said he was not a fan of belly bands so he was open to getting rid of those if wanted. Commissioner Kahle asked if the reason for a two-story wall at the right side was because of the 15 foot 8-inch setback and the building next door. Mr. Hartman noted in response that the driveway side looked really good as he was not up against the setback there but on the other side he was up against the setback.

Commissioner Kahle noted the first-floor ceiling height of 11 feet and second-floor ceiling height of 10 feet. He asked about the two feet of framing shown between floors. Mr. Hartman said that was

his solution to a height question unresolved between staff and him. Commissioner Kahle said a two-foot floor joint would be reduced to one foot and that would give another foot of ceiling height.

Chair Barnes said for the record that Commissioner Riggs was present at 7:36 p.m.

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

Commission Comment: Commissioner Kahle said it was unfortunate with the large structure to structure setbacks that it caused a large 15-foot offset to the front and the result of a two-story wall on the right side. He said he was having some problems with the proportions and materials but the major issue was the overall height with 11-foot and 10-foot ceilings and a sort of bonus foot within the two floors. He said he thought the overall structure should be reduced in height by two feet to make it work. He said he understood a concern with being locked into a height but he said that could be worked out in the construction drawing phase. He said regarding some of the items brought up in the staff report about the materials, the shingles and horizontal siding that he thought part of the problem was the shingled bays. He said he thought the stone at the bottom was a bigger problem because it did not continue very far and felt applied. He said he would propose removing the stone and reducing the height. He said the columns in the front were very skinny and should be looked at more closely. He noted the front bay on the second story. He said on the side views of it the roof stuck out very far and it seemed that the overall mass of the little gable for that bay was out of proportion. He said it should be addressed as it was not helping with the overall height.

Chair Barnes said single-family residential development maximum height was 28-feet and asked how he would get to that on this project. Mr. Hartman said the immediate neighbor was not an R-3 lot but was commercially zoned. He said that property was sold and that project would be significantly taller than the subject project. He said this property was a transition R-3 with two or three more R-3 lots before becoming R-2 lots and then much further away R-1 lots. He said up and down Partridge Avenue structures were not 28-feet in height and he thought some were taller. He said this was the transition lot and it was higher. He said the zoning allowed it to be higher but the owner wanted to sell one of the homes which was why they were trying to make them look like single-family residences. He said one way to make rooms feel larger was to make them taller noting the narrowness of building envelope. He said the roof height was a firm number that he must build under. Replying to Chair Barnes, Mr. Hartman said the first-floor plate height was 11 feet and the second floor was 10 feet. He said when built the ridge height would be 10 inches lower, which he was not allowed to show on the drawings.

Commissioner Riggs asked Mr. Hartman to repeat his last comment. Mr. Hartman said he thought he had done eight of these multi-family projects in Menlo Park and he had shown on the drawing what the allowable maximum roof height was and what he believed would actually be a lower roof height. He said he always wanted to have 10-inches recorded of a maximum ridge even though he thought they would be building under it. He said since staff was not amenable to that he built in fat floor joints to get his 10 inches.

Commissioner Riggs said he and another commissioner who was an architect have had to make sure they met the maximum height in a given zone but they had not needed to do what Mr. Hartman was doing. He said for example the architect could indicate a 10-foot height in the ceiling and know that if your engineer made things complicated you could have a nine-foot six-inch ceiling and have an ample ceiling. He said or you could say you want a taller building closer to 35 feet and

see if it would pass muster with the Commission as a transitional building. He said he appreciated he was aiming at 30.5 feet but had to support staff in that you needed to pick a number. He said if he had a concern that he could build the flexibility into the ceiling heights so he would not have to come back to Commission for a use permit revision. He said he was not opposed to the applicant's double floor joints or that in the field he might decide not to do.

Commissioner Riggs said he liked the rear unit and in part because it did not have a belly band. He said he agreed that the stone looked very much applied. He said the stone would look better if it continued around the building or if the front window had more dramatically penetrated the stone. He suggested an alternative to what was proposed.

Commissioner Riggs moved to make the findings for the variance and to approve the use permit but with direction that the applied stone on the front unit be reconsidered and brought back to the staff for review. Commissioner Kahle asked if Commissioner Riggs would consider requiring that the overall height be reduced in the range of one to two feet, that the corner boards be painted to match the adjacent siding material, and to do something with the front bay roof, second floor bedroom #3, perhaps using a simple shed roof or something to reduce it.

Commissioner Riggs asked the architect if a one-foot reduction would work for the plans. Mr. Hartman said it would. Commissioner Riggs said he was amenable to the height reduction and painting out the corner boards. He said he actually was entertained by the extended roofline. Commissioner Kahle asked Commissioner Riggs to look at the side elevation of that roofline. Replying to Chair Barnes, Commissioner Kahle referred to sheet A5 on the north elevation and noted the side views on the left on the east elevation showed it stuck out pretty far as well as on the west elevation. He said it was contributing to the overall massiveness of the height. Replying to Chair Barnes, Commissioner Kahle said he thought it protruded 18-inches to two feet.

Chair Barnes asked Mr. Hartman what the projection was. Mr. Hartman said 18-inches. Commissioner Riggs asked if it was the same overhang all around the building including that bay gable. Mr. Hartman said he could shorten the gable overhang to 12 inches. Commissioner Riggs said he thought it was a rendering issue. He said he was comfortable with it being the same overhang on those two gables as the rest of the house but not larger. Replying to Commissioner Kahle, Commissioner Riggs said he would accept the corner boards painted to match adjacent siding and the reduction of the overall building height. Commissioner Kahle said he would second the motion. He said he thought that they had not opened for public comment.

Chair Barnes said he had but as Chair he had the prerogative to open the public hearing again. He reopened the public hearing and closed it as there were no speakers.

Commission Comment (continued): Chair Barnes said the motion was to make the findings for the variance and approve the use permit with modification to reduce the overall height by one foot and corner boards painted to match adjacent siding. Replying to Chair Barnes, Commissioner Riggs said that the front gable was consistent with the roof overhang, the eave and rake depth would be the same on the gables as it was on the rest of the house. Chair Barnes said the architect indicated the overhang was a consistent 18-inches. He confirmed that was okay with the maker of the second. He asked about the stone treatment. Commissioner Riggs said his original motion included having the stone treatment presented either with a more significant coping or going all the way around the house. Commissioner Kahle asked if there was an option to remove the stone. Commissioner Riggs agreed to that as another option and with review and approval by staff.

Commissioner DeCardy asked the applicant through the Chair if any of those four conditions presented a hardship and/or were acceptable. Mr. Hartman indicated those were acceptable.

Chair Barnes said he ordinarily was not a fan of variance requests but thought the findings for this request were well articulated by staff.

**ACTION:** Motion and second (Riggs/Kahle) to make the findings for the variance request and approve the item with the following modifications; passes 4-2-1 with Commissioners Michele Tate and DeCardy opposed and Commissioner Kennedy absent.

1. Make a finding that the project is categorically exempt under Class 3 (Section 15303, "New Construction or Conversion of Small Structures") of the current 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:
  - a. The hardship at 617 Partridge Avenue is caused by the combination of the property being a narrow lot and a neighboring, nonconforming, multifamily residence, which creates a small area for the permitted building footprint. The hardship is unique to the property, and has not been created by an act of the owner.
  - b. The variance is necessary to provide adequate back-up space for the side-loading, detached, two-car garage. This encroachment would allow for the development of two detached, single-family homes with a detached garage. Further, this variance would not constitute a special privilege, as it would not be needed if the neighboring multifamily residence was built to provide the required 10-foot side setback.
  - c. The proposed garage would be modest in size, centrally located behind the front residential unit, and would adhere to the maximum allowable height and the required daylight plane for accessory buildings. All other development standards, for both the garage and the two two-story residences, would also be met. As such, granting of the variance would not be materially detrimental to the public health, safety, or welfare, and will not impair adequate supply of light and air to adjacent property.
  - d. Although there are a few other narrow parcels in the area that may be adjacent to properties that are not in conformance with the required 10-foot interior side setback, these are exceptions. As such, the conditions on which the variance is based would not be generally applicable to other property in the same zoning classification.
  - e. The property is not within any Specific Plan area, and as such, no finding regarding an unusual factor is required to be made.
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.



4. 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 Hometec Architecture, Inc., consisting of 15 plan sheets, received February 4, 2020, and approved by the Planning Commission on February 10, 2020, 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 requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
  - c. Prior to building permit final inspection, all public right-of-way improvements, including frontage improvements and the dedication of easements and public right-of-way, shall be completed to the satisfaction of the Engineering Division.
  - d. Prior to commencing any work within the right-of-way or public easements, the applicant shall obtain an encroachment permit from the appropriate reviewing jurisdiction.
  - e. Prior to building permit issuance, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
  - f. Simultaneous with the submittal of a complete building permit application, the applicant shall replace existing curb, gutter and sidewalk along the project frontage. The plans shall be submitted for review and approval of the Engineering Division.
  - g. Prior to building permit issuance, the applicant shall submit a Hydrology Report, including calculations, substantiating that on-site flows will not exceed existing conditions as a result of the proposed improvements.
  - h. Prior to building permit issuance, the applicant shall provide a new 24-inch box street tree, subject to review and approval of the Planning, Engineering, and Arborist Divisions.
  - i. Prior to building permit issuance, the applicant shall provide a detailed landscape plan concurrently with the building permit submittal package, subject to review and approval of the Engineering Division.
  - j. Prior to parcel map approval, the applicant is required to pay the Recreation In-Lieu fee (TIF) for the creation of one new single family residential unit, which is \$78,400.
  - k. Prior to building permit issuance, the applicant is required to pay the transportation impact fee (TIF) for the creation of one new single family residential unit. The TIF due is \$15,155.24. The original amount was calculated by multiplying the single-family unit fee of \$15,155.24 per unit by the one new dwelling unit that would be created.
  - l. 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 July 26, 2019.

5. **Approve the project subject to the following project-specific conditions:**

- a. **Simultaneous with the submittal of a complete building permit application, the applicant shall submit revised plans showing the building height reduced by one (1) foot, the corner boards painted to match the siding, and the roof overhang of the second story, front gable of Unit 1 reduced to match the rest of the second floor roof overhangs, subject to review and approval of the Planning Division.**
- b. **Simultaneous with the submittal of a complete building permit application, the applicant shall submit revised plans showing one of the following revisions, subject to review and approval of the Planning Division:**
  - i. **The addition of coping along the top of the stone treatment along the unit frontages, or**
  - ii. **The continuation of the stone treatment around all sides of both units, either with or without coping, or**
  - iii. **The stone treatment removed from both units.**

F3. Development Agreement Annual Review/ Stanford University/300-550 El Camino Real (Middle Plaza at 500 El Camino Real Project):  
Annual review of the property owner's good faith compliance with the terms of the Development Agreement. ([Staff Report #20-009-PC](#))

Staff Comment: Planner Sandmeier said she had no additions to the staff report.

Applicant Presentation: John Donahoe, Director of Planning and Entitlement for Stanford University, said he was the project manager for the entitlement of the subject property. He said he did not have anything to add to the staff report but was available for any questions.

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

Commission Comment: Commissioner Kahle said the staff report was very thorough and he appreciated the anticipated start and completion dates as those were very helpful. He moved to making the finding that Stanford University was in compliance with the terms of the Development Agreement. Commissioner Riggs seconded the motion.

Chair Barnes asked how things were going and where they were in the process. Mr. Donahoe said things were going well commenting that for those who had been involved in the project's entitlement it was a very complicated project from a construction standpoint. He said the existing site was crisscrossed by a series of utility lines including water and gas lines that had to be relocated before construction could begin. He said one of the conditions of approval was to get an initial approval from Caltrans for the left turn lane from El Camino Real into the project. He said Caltrans' response took about one year. He said he thought they were moving quickly now and working on the office and residential components concurrently. Replying further to Chair Barnes, Mr. Donahoe said generally speaking that occupancy of the offices would occur faster as the office construction was easier than residential construction. He said they expected office occupancy

would occur two years from now although hopefully sooner. He said he thought the occupancy of the residential would occur in phases and would occur in about three years. Replying to Chair Barnes' question about their role in an undercrossing of the train tracks, Mr. Donahoe said their role essentially ended with the overall approval of their project. He said as part of the entitlement process, Stanford did its own studies on the crossing, a couple of years ago, and gave those to the City staff to give background on the various options. He said their role now was to support staff as they could attending meetings staff had invited them to. He said once the City finalized the plan itself for the crossing and all the approaches that lead to the crossing, they in turn would adjust their plaza design to match.

**ACTION:** Motion and second (Kahle/Riggs) to make the finding that Stanford University is in compliance with the provisions of the approved Development Agreement for the period of October 2017 through February 2020; passes 6-0-1 with Commissioner Kennedy absent.

## **G. Regular Business**

- G1. Review of Determination of Substantial Conformance/Andreas Hoffman/1074 Del Norte Avenue: Request for a substantial conformance memo for the addition of an exterior ducting chase to a previously approved two-story, single-family residence on a substandard lot in the R-1-U (Single-Family Urban Residential) zoning district. ([Attachment](#))

Staff Comment: Assistant Planner Christopher Turner said the house was originally approved by a use permit. He said with modifications to a project under a use permit the Planning Commission had to be notified. He said depending on the scale of the modification(s) the applicant might need to get a use permit revision requiring a hearing before the Planning Commission or if staff believed that the modification was in substantial conformance with the approved plan a substantial conformance memo was written to the Planning Commission noting staff's finding but deeming the modification great enough to be noticed to the Commission. He said the memo was emailed to each of the Commissioner and any Commissioner could request that the item be placed on a regular agenda for discussion.

Applicant Presentation: Andreas Hoffman, property owner, said the contractor during construction noticed that the original place for the furnace was not large enough to accommodate it. He said they then looked for an alternate location and the only suitable location was in the office closet but that required the rerouting of the ducting. He said they routed some of the ducting through a closet at the front of the house but then had to route the ducting for the second floor partly using a bedroom closet and partly outside. He said it was a small chase that ran on the back of the house and then into the house and roof.

Chair Barnes opened for public comment and closed it as there were no speakers.

Commission Comment: Commissioner Riggs said he was surprised to see the chase on a new home and it needed to get approval as it was outside of the house. He said he was surprised they had not used a chimney as it was about the size of a chimney. He said he thought this could and should be done better as well as the fact approval should have been sought before doing something differently. He said the design needed to be resolved.

Commissioner Kahle said he agreed with Commissioner Riggs' comments and he liked the suggestion to make it look like a chimney. He said if it had been visible from the street, he would not have approved this.

Chair Barnes said it was the back of the house and found staff's findings for substantial conformance such he could support substantial conformance. He moved to find the project in substantial conformance.

Commissioner Michael Doran said he agreed with Chair Barnes. He seconded the motion.

Commissioner Riggs said that something on the second floor at the back of the house was particularly in view from other properties' backyards and windows and in this case about five homes. He asked if they might see if the applicant would make the chase look like a chimney.

Mr. Hoffman said he thought that was possible.

Commissioner Riggs asked if the item might be continued to allow the property owner the opportunity to provide plans to enhance the appearance of the chase. Planner Sandmeier said tonight's vote was whether the modification was in substantial conformance or not.

In response to Commissioner Riggs, Planner Sandmeier said changes would need to go through a use permit revision process or potentially for a substantial conformance review if the applicant submitted revised plans.

**ACTION:** Motion and second (Barnes/Doran) to approve the substantial conformance memo for the project; passes 4-2-1 with Commissioners Kahle and Riggs opposed and Commissioner Kennedy absent.

## H. Study Session

### H1. Study Session/Accessory Dwelling Units (Secondary Dwelling Units) and State Law/Consideration of Future Direction ([Attachment](#))

Staff Comment: Planner Sandmeier said the City Council at its February 11, 2020 meeting would receive an informational item providing timelines for different work items. She said the suggestion for the Accessory Dwelling Units (ADU) going beyond the urgency ordinance for ADU changes would occur in 2021 through 2022. She said the urgency ordinance was tentatively scheduled before the City Council February 25, 2020 and that would bring the City's ADU ordinance into compliance with new state law.

Chair Barnes asked if the Reach Code was drafted. Ms. Sandmeier said that would occur within a year, and the timeline for that was provided as part of the informational item mentioned as 2021 through 2022. Chair Barnes asked how the study session this evening would fit within the timeline for the Reach Code. Planner Sandmeier said the topic was requested by the Commission and Chair to be on an agenda for discussion. Chair Barnes confirmed that Commissioner Doran was the lead on the item.

Commissioner Doran said as was generally known there had been recent changes to state law regarding ADUs effective January 1, 2020 that preempted Menlo Park zoning ordinance and

required the City to permit certain ADUs that it had not permitted in the past. He said he thought it was useful to discuss those changes and within the context of the state mandates to also talk about other changes they might want to make in the Menlo Park ordinance. He said the state laws were not fully fleshed out and that they did not have the level of detail their zoning ordinance had. He said he thought it was a good time to examine the City's whole approach to ADUs and think about implementing the state mandates such that the construction of ADUs was encouraged and to spell out things that were not spelled out in the state law. He said that was his impetus to have this item on an agenda for the Commission to discuss. He said he was pro-ADUs and thought the City could do a lot of things it had not done in the past to facilitate and encourage the construction of ADUs.

Chair Barnes said study sessions were generally informational in which they received objective information about a topic. He said through that factual information the Commission derived its own opinion versus advocacy, which was intending to drive a particular outcome or point of view. He asked how Commissioner Doran would navigate that.

Commissioner Doran said that state statutes were concrete. He said the supplementary material provided in the staff report was a summary prepared by a housing analyst at San Mateo County of the changes to the state law. He said that was a good entry point. He said he asked to have the actual text of the statutes available on the monitors that had links if anyone wanted to drill down beyond the summary. He said the natural flow seemed to first review the changes to state law, have public comment, and then have the Commission comment on the ADU statutes and what the policies in Menlo Park ought to be.

Replying to Chair Barnes, Planner Sandmeier said at a study session no actions or voting could take place and she would be recording Commissioner comments.

Chair Barnes asked Commissioner Doran to present the study session item.

Commissioner Doran said a question was raised about whether he had a personal interest in ADUs and if he would need to recuse himself from any discussion. He said the City Attorney looked into that question. He said he was a property owner and someday he might build an ADU but the City Attorney determined that was not a conflict of interest. He said for the record any ADU he would want to build was already permitted by City ordinance.

Commissioner Doran said there were a number of state bills passed that took effect January 1, 2020. He said three had direct effect on ADUs and a few that were more tangential. He said AB 671 required going forward that Housing Elements needed to incentivize and promote the creation of ADUs at all income levels. He said it was a mandate and also, he thought a statement of policy from the state regarding incentivizing and promoting ADUs. He said AB 68 and AB 881 most directly affected requirements related to permitting ADUs. He said a big change from the existing Menlo Park zoning ordinance was to allow permitting of one ADU unit and one Junior ADU unit on a single-family lot. He said junior ADUs were a smaller than ADUs and could go into existing structures like garages and if those structures were nonconforming, they could have a zero setback if the existing structure already had that. He said for new construction the City would have to allow ADUs with no more than a four-foot setback from the side and rear property lines. He said he thought the existing Menlo Park ordinance required 10-foot setback or five foot with consent of the neighboring property owner. He said there was no minimum lot size for ADUs and that was a big change from the City's existing ordinance. He said they had to allow ADUs with a minimum of

800 square feet for one bedroom and if the unit provided for more than one bedroom, they had to allow 1,000 square feet. He said minimum 16-foot foot height was not a big change as he thought current ordinance allowed for 17 or 17.5-foot height. He said the new law imposed a 60-day limit for review of an ADU application. He said no replacement for parking for garage conversions to ADUs was required. He said for new construction if the property was near transit there was a waiver of the City's existing parking requirements and no impact fees on ADUs less than 750 square feet. He said currently the City required either a main house or the ADU to be owner occupied but that would be waived at least for the next five years. He said there was also a five year stay on enforcement of unpermitted ADUs. He said the City had a number of those in the City that were preexisting and nonconforming ADUs and the City could not at least for five years do any enforcement to shut down those units except for health and safety reasons.

Chair Barnes opened for public comment.

Public Comment:

- Wendy McPherson said she was currently on the City's Housing Commission and the ADU subcommittee. She said she was speaking for herself this evening. She said she would report back to the Housing Commission and ask staff to figure out ways for the two commissions to work together and achieve their objectives. She said her personal opinion was she was very supportive of setting up a smoother, quicker and easier process for Menlo Park residents. She said she was excited to see the direction of the council so they could craft a responsive outreach project.
- Ernesto Reyes, Menlo Park resident, said state laws recently passed were to facilitate the building of ADUs and Junior ADUs throughout the state. He said in this area garages had been converted into living spaces. He suggested permitting those as Junior ADUs. He noted the intent of legislation signed by Governor Brown since 2016 to advance ADUs for housing. He said that not much had been done to fulfil the spirit of those bills in Menlo Park and especially in Belle Haven. He said there had been many excuses not to talk about it. He asked that they do that and implement the state requirements. He asked also that the City consider not requiring a use permit review by Planning Commission for work exceeding 75% of the existing value in a 12-month period. He said these reviews could be done internally in the Planning Division on a project basis and would not waste tax and clients' money for simple revisions such as the change from wood siding to stucco or from flat roof to pitch roof.

Chair Barnes closed public comment.

Commission Comment: Commissioner Doran said he thought there was broad agreement that they had a housing shortage in the state and locally. He said he thought ADUs had the potential to help alleviate the house shortage in terms of the numbers of additional units that could be added to the supply. He said he thought ADUs were important beyond contribution to the number of units available. He said he thought they potentially were uniquely capable of softening some of the hard edges of the housing shortage that most affected people in very personal ways. He said he thought ADUs could be expected to add lower price housing to the stock and allow some people to live here who might have a hard time doing that otherwise. He said he thought they might also help people struggling with their mortgage payment with rental income. He said ADUs allowed seniors to age in place, allowed parents to accommodate boomerang children, and allowed multi-generational living which might be more common now that it was when the City was laid out and

the housing stock built. He said he would like to have a conversation about how they could implement the state's mandates in a way that was proactive and permissive. He said also more broadly recommendations that they could make to promote the construction of ADUs and the legalization of existing ADUs. He said one question was whether the City wanted to only minimally comply with the state's mandates or did they want to embrace the spirit of them and encourage construction of ADUs. He said he supported the latter but would like to hear from other Commissioners. He said he had a list of items for discussion and time permitting ideas on things that they could do. He said an example of how the state laws were not fully fleshed out was that they required the City to allow ADUs up to 1,000 square feet if it had more than one bedroom but were silent on how many bathrooms were allowed. He said a two-bedroom he thought would be more attractive to a wider group of people if it had two bathrooms. He said state legislation did not mandate two-story ADUs and only that they allow them up to 16-feet in height but perhaps this was the time to think about two story ADUs. He said he thought it would be hard to get a 1,000 square foot ADU on smaller lots in the City without going to a second story. He said he did not think people wanted to see a two-story ADU with a four-foot setback. He suggested it might be a good time to think about some two-story ADUs on some lots that could accommodate those and what the setbacks and daylight plane should be. He said the state mandate was they had to allow ADUs with no more than a four-foot setback and up to 16-feet in height. He asked if that meant they would have to allow a flat roof ADU four feet from the property line. He said he thought it was very difficult to separate the exercise of implementing the state legislation from the exercise of revising the zoning ordinance more generally, which was why he thought it was a good time to do the latter. He said finally there was the moratorium directed by the state on enforcement actions against preexisting, nonconforming ADUs but there was still the requirement that health and safety issues be addressed. He said he thought it was appropriate to think about what was a health and safety issue and what sort of guidelines or guided approach would they take in deciding what was a healthy and safety issue. He said San Mateo County had some guidance about that if they wanted to talk about that later.

Commissioner Kahle said regarding height limits the City of Palo Alto allowed if a property was in a flood zone a 50% increase over the maximum height based on what the base flood elevation was. He said that was something they might want to consider as many of the residential lots in the City were located in flood zones. He said regarding the 60-day permit process there was a 30-day limit for the review of a project when you submitted plans but that did not have teeth to it. He said he thought that needed to be thought through as that 60-day got implemented. He said if you have maxed out your maximum floor area you were allowed a bonus 800 square feet toward an ADU. He said he verified that this applied also to lot coverage. He said as to whether they should embrace and encourage ADUs he thought absolutely yes and especially concerning existing, unpermitted structures. He said he thought there was a lot more of those than they could imagine throughout the City and the more they could encourage those to be permitted and legalized would help a lot. He said regarding more than one bathroom he thought absolutely yes. He said regarding guidelines for health and safety issues he thought that was a yes. He said that would be very helpful if a property owner had an unpermitted ADU and could get that information to know what had to be done to meet health and safety, electrical, and all other things needing consideration. He said regarding two-story ADUs that he was very hesitant about that as he was worried about the visual impact especially as there was no architectural control over them. He said a second-story ADU over a one-story garage could make a lot of sense as opposed to a two-story freestanding ADU.

Commissioner Riggs thanked staff and Commissioner Doran for the effort as he thought they were long overdue for pressing ADUs. He said when ADUs were initially brought before Council, he had found a lot of resistance to ADUs, not in concept, but in practice noting the 10-foot setback, the size, the bathroom, the lack of flexibility for conversions. He said without question they should embrace the spirit and take a step forward. He said with increased ADU square footage he thought an additional bathroom should be allowed. He said his opinion was a two-story ADU could be acceptable if the lot size was large enough to allow for landscaping and setbacks at least similar to the main home. He said he agreed they needed to develop reasonable guidelines to legitimize the nonconforming ADUs. He noted for the converted garages which were common, that it was a great hurdle if told to bring all to code. He said there was a provision in the code that said essentially the Building Official might waive and interpret codes applied to a project. He said if Council could stand behind the Building Official to allow certain waivers from the code to come up with a reasonable list of what the Building Division would inspect for. He said he put that proposal directly to Council about three years prior but without the gravity of having the Commission behind it. He said he agreed that a 16-foot pitch roof and 16-foot modern box were not the same. He said he thought that was an issue that should be addressed on base code as well. He said he also supported the wise observation that they had to address flood zone as well.

Commissioner Tate said regarding an amnesty program she agreed that it had to be well defined as to what things would be able to be passed through and not. She said her biggest fear was people being displaced if code enforcement took every part of the structure apart. She said it would be just like it was now where people had not come forward with their ADUs to bring them up to code, which was supposed to be available after the Housing Element was updated. She said that was a big issue in the Belle Haven community, the fear of not having a place to live if they self-reported that they had an ADU or if code enforcement happened to see it. She said she hoped that was something the Commission could influence to define what would be looked for and what would be okay.

Commissioner DeCardy thanked staff and Commissioner Doran for initiating this discussion. He asked if the City had a census of existing ADUs or the potential for ADUs. Planner Sandmeier said she did not have the number of existing ADUs. She said there was a large potential for ADUs as there were many residential parcels that did not have ADUs or Junior ADUs.

Commissioner DeCardy asked if other jurisdictions addressed distinct income levels and rents with ADUs such as rent control or caps. He said he was interested in not only providing supply but also looking at providing different levels of affordability, and how incentive structures might be set up. He said he thought it was good to look at this across different commissions and Council. He said he thought the Environmental Quality Commission also had a role looking at energy efficiencies and other sustainability goals that they could reinforce. He said if the top reason someone was not housed was because of the rent level, then the next was lack of transportation, or utility bills were too high. He said he would be interested in those things being looked at. He said regarding the four questions posed by Commissioner Doran he agreed wholeheartedly that they should do more than what was required minimally and actually find a way to achieve a set of goals which he thought Commissioner Doran nicely outlined at the beginning. He said even on smaller than one acre lots he was amenable to understanding two-story ADU construction. He said if they were going to have to address this question long term it was around density and they had to be thoughtful about what density looked like and all types of land use environment in the City. He said it was a great topic to explore that had some thoughtfulness and potentially was a model for down the road so he would encourage them wholeheartedly to go in that way.



Commissioner Doran said regarding Commissioner DeCardy's comment on affordability and rent control and ADUs in other jurisdictions that he was not aware of any jurisdictions that had separate rent control ordinance for ADUs. He said he did not think ADUs would be the magic bullet for affordability. He said he thought demand would continue to increase for housing and one thing was to add to the supply. He said he thought if the rent was restricted that might restrict construction. but adding to the supply was generally good.

Commissioner Riggs said the effort to make an ADU energy efficient might run in conflict with the need to keep it simple, to not tear it apart, or kick people out. He said in every instance the roof could be insulated, which he thought should be a minimum. He said for the record that Commissioner Doran listed four or five reasons why ADUs were helpful to the community at large. He said anyone of those five for him was a reason to back ADUs.

Commissioner Doran said San Mateo County had a pilot program for a one-stop shop using a nonprofit to coach people through the process of doing an ADU project. He said all of them here were aware of how intimidating this process could be particularly without professional advice. He said the County started their program last summer. He said there was a cost and he heard it was around \$50,000. He said he spoke with the Mayor about doing something similar. He said another possible measure they could take that would come at a low cost probably was like some jurisdictions publish a standard, official building plan that had already been reviewed by the building department. He said if someone liked that plan, they would not have to hire an architect. He said permitting fees for ADUs in the past had been a big hurdle. He said state legislation went some way toward redressing that but there were things the City could do to help encourage ADU construction. He asked in a concrete way what could the Commission do to move this process forward so it was not just talk this evening and maybe again in a couple years. He said one thing they could do was to put on a future agenda to form a subcommittee of the Planning Commission that was less than a quorum that could work on this and come up with recommendations for the Planning Commission and City Council on how to effectively encourage these things moving forward. He said as part of that he thought they could investigate asking the City Council to create a joint working group with a subcommittee of Council, subcommittee of Planning Commission, and subcommittee of the Housing Commission that could work together so that nothing would fall between the cracks. He said there were things that were clearly in the Planning Commission's purview and that were not and he thought the same could be said for the Housing Commission.

Chair Barnes said if they were contemplating two-bedroom ADUs a consideration of impact on school districts with the incremental addition of school age children had to be considered, noting that an ADU would not provide impact fees. He asked how the schools would stay whole with that and what kind of percentage increase might be expected, and what type of provisions needed to be made. He said as a result of Proposition 13 they had in many respects a calcification of ownership into a demographic at a particular point in time. He said as that demographic has aged ownership at a certain point time allowed them the ability to get subsidized tax rates over time. He asked how that would fit into the larger picture of young people who wanted to buy into their own home and be homeowners. He said property owners passed the properties to the heirs and more and more of those were rental properties and not occupied by original owners. He said now those lots would have the opportunity to have another income producing asset on an already subsidized below market rate property tax basis. He asked what that did for the mobility and the ability for people to get into housing and how that perpetuated a calcification of ownership and perpetuated rental class as opposed to the ownership class. He said he did not know the answers to the

questions he was raising but he thought when they looked at the context of housing and where it was going, and how it was being subsidized to try to make sure it was equitable across the board for everyone. He said that might be addressed by requiring an ADU to be at below market rate. Commissioner Riggs said it might be simpler to say what they wanted after laying out all the options. He said what they wanted most was for housing units to be built and then leave for a much more on hands group to decide whether or not rent controls should be applied or conditioned.

Commissioner Tate said even with Proposition 13 that additional structures still counted as square footage so taxes would increase. She said just because ADUs were legal did not mean everyone would want one. She said people often tended to rent to people they knew such as their boomerang children or their aging parents. She said with that rents tended to be lower anyway.

Commissioner Doran said he thought the Chair's questions were good and merited further study. He asked about the process to get an agenda item to create a subcommittee. Chair Barnes requested that staff agendaize an item on the next available agenda for the creation of a subcommittee on ADUs.

Planner Sandmeier said she checked with the City Attorney regarding ad hoc subcommittees. She said there was a one-year limit and if the subcommittee was appointed now that year might end before the final actions took place at the City Council. She said it might be better to wait to form the subcommittee especially once there was more direction from the City Council on what the timeline would be.

Commissioner Doran said he supported doing the subcommittee now as he thought they needed to do something to get it moving and if the subcommittee expired before final actions were taken, he thought hopefully within a year there would have been some motion made on it.

Chair Barnes said the Planning Commission would proceed as soon as possible to create the ad hoc subcommittee noting that it would have a one-year term.

## **I Informational Items**

### **I1. Future Planning Commission Meeting Schedule**

- Regular Meeting: February 24, 2020

Planner Sandmeier said the February 24 agenda would have two single-family homes and a two-home development on one lot.

- Regular Meeting: March 9, 2020
- Regular Meeting: March 24, 2020

## **J. Adjournment**

Chair Barnes adjourned the meeting at 9:40 p.m.

Staff Liaison: Corinna Sandmeier, Senior Planner

Recording Secretary: Brenda Bennett

Approved by the Planning Commission on March 9, 2020