



SPECIAL MEETING MINUTES

Date: 8/31/2020
Time: 7:00 p.m.
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Special Meeting

A. Call To Order

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

B. Roll Call

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

Absent: Michele Tate

Staff: Corinna Sandmeier, Senior Planner; Leo Tapia, Planning Technician; Chris Turner, Assistant Planner

C. Reports and Announcements

Senior Planner Corinna Sandmeier said the next meeting agenda would have an item to create a subcommittee to discuss accessory dwelling unit (ADU) regulations. She said the City Council would discuss its work plan on September 8, 2020 so depending on that or prior to that staff would not be able to support the subcommittee. She said that The Almanac had been publishing a series on the history of zoning in Menlo Park, which she said could be helpful information for the Commission. She said that at this time there were not staff resources to do research and support a study session on the topic. She said they understood the importance of the topic and as the General Plan's Housing Element was updated, noting potentially a new Environmental Justice element, that items on the history of zoning in Menlo Park might come up during those studies.

Commissioner Michael Doran asked about the Planning Commission's role in decisions related to closing Santa Cruz Avenue to provide outdoor space for businesses. Planner Sandmeier said this item had gone to the City Council several times with the last time being August 11, 2020. She said it was continued and she thought it would be on the Council's September 8 agenda. She said there was discussion in continuing the program through November/December to help the downtown merchants. She said there had also been concerns about street closures so that would be part of the discussion. She suggested persons interested participate in the Council meeting.

Commissioner Chris DeCardy expressed his dissatisfaction that the zoning history study would not be supported. Chair Riggs commented on City Council work priorities and proposed possibly two or three Commissioners might study a topic with no violation of the Brown Act.

Chair Riggs opened for public comment for items not on the agenda. Leo Tapia, Planning

Technician, explained how members of the public could participate in public comment.

There were no speakers.

Chair Riggs closed the public comment.

D. Consent Calendar

D1. Approval of minutes from the July 27, 2020, Planning Commission meeting. (Attachment)

Commissioner Larry Kahle said on page 4, 2nd paragraph, line 6, that a reference was made to “Colby” windows and that should be spelled “Kolbe.”

ACTION: Motion and second (DeCardy/Kahle) to approve the Consent Calendar consisting of the minutes from the July 27, 2020 Planning Commission meeting with the following modification; passes 6-0 with Commissioner Michele Tate absent.

- Page 4, 2nd paragraph, line 6: replace “Colby” with “Kolbe”

E. Public Hearing

E1. Use Permit/Wenfen Wang/488 Gilbert Avenue:

Request for a use permit to construct first-and second-story additions to an existing single-story, single-family residence on a substandard lot with regard to minimum lot width in the R-1-U (Single Family Urban Residential) zoning district. The project would exceed 50 percent of the existing floor area and is equivalent to a new structure. One heritage-sized plum tree is proposed for removal as part of the project. ***Continued from the April 6, 2020 Planning Commission meeting. (Staff Report #20-037-PC)***

Staff Comment: Assistant Planner Chris Turner said he had no additions to the written report.

Applicant Presentation: Huafang Cui, project designer, reviewed the changes made to the project in response to Commission comments at the April 6, 2020 meeting. She said the entrance had been relocated to be in the middle of the front façade and the front façade now had three symmetrical openings. She said the entrance had been enhanced with pilaster and crosshead moulding. She noted the roof pitch was changed to make it more like a Colonial style home. She said the window materials were now wood and double hung. She said the exterior wall material was changed to fiber cement siding for the Colonial style appearance.

Chair Riggs opened the public hearing and closed it as there were so speakers.

Commission Comment: Commissioner Doran said the plan was much improved since the last time the Commission saw it. He moved to approve as recommended in the staff report. Commissioner Kahle said he agreed and seconded the motion.

Commissioner Andrew Barnes thanked the Commissioners who had provided clear feedback to the applicants for an improved project and expressed his support of the project.

ACTION: Motion and second (Doran/Kahle) to approve the item as presented in the staff report;

passes 6-0-1 with 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 findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the use permit subject to the following **standard** conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by H&H Engineers Group, consisting of 7 plan sheets, dated received August 13, 2020, and approved by the Planning Commission on August 31, 2020, except as modified by the conditions contained herein, subject to review and approval of the Planning Division.
 - b. Prior to building permit issuance, the applicants shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies’ regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicants shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
 - d. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval by the Planning, Engineering and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
 - e. Simultaneous with the submittal of a complete building permit application, the applicant shall submit plans indicating that the applicant shall remove and replace any damaged and significantly worn sections of frontage improvements. The plans shall be submitted for review and approval of the Engineering Division.
 - f. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a Grading and Drainage Plan for review and approval of the Engineering Division. The Grading and Drainage Plan shall be approved prior to the issuance of grading, demolition or building permits.
 - g. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance and the arborist report prepared by Advanced Tree Care, dated July 13, 2020.

- E2. Use Permit/Sean Amiri/1121 Westfield Drive:
Request for a use permit to increase the maximum permitted fence height to segments of six and seven feet where a height of four feet is permitted within the required 20-foot front setback. The property is a corner lot in the R-1-S (Single Family Suburban) zoning district. ([Staff Report #20-038-PC](#))

Staff Comment: Planning Technician Tapia said written public comment had been received after publication of the staff report. He said he would read those under public comment.

Questions of Staff: Commissioner DeCardy referred to C2 and asked if there was any portion of the street facing side of the property that would allow for a higher fence. Planning Technician Tapia said any portion of the fence within the front setback of 20 feet, which was the Westfield Drive side, was subject to the four-foot maximum fence height requirement. He said in theory for any other property setbacks the fence could be seven feet in height and that included a portion of Westfield Drive.

Chair Riggs opened the public hearing.

Public Comment:

Planner Turner said Ashley Carroll indicated she would like to speak.

- Ashley Carroll said she submitted a letter in April and again last week about the project. She said she lived at 745 Arbor Road, which was around the corner from the subject property. She said the fence could be moved behind the three heritage trees where right now there was a translucent fence showing trees and dirt with no real usable private space and that would be within City regulations. She said she had spoken to neighbors at 644 and 700 Arbor Road and 1121, 1124 and 1161 Werth Avenue outside and they all had expressed concern with this proposed fence creating a potential blind corner.

Chair Riggs said sheet A2 showed the fence on the house side of three large trees. Planning Technician Tapia said that the trees would be enclosed within the fence. Replying to Chair Riggs, Ms. Carroll said she did not understand what benefit would be had by enclosing those trees by the fence as that would have a visibility impact and the area where the trees were located was not usable space.

Chair Riggs closed the public hearing.

Planner Sandmeier said the applicant had not spoken and there were three written comment letters to be shared with the Commission.

Chair Riggs asked Mr. Tapia to share the comment letters and reopened the public hearing.

Mr. Tapia read the first written letter from Ashley Carroll.

I'm the owner of 745 Arbor Rd and would like to again express my strong disapproval of a fence greater than 4' being erected within the 20' front setback at 1121 Westfield Drive. The proposed fence presents a significant safety hazard to the neighborhood.

I expressed concern back in April (you can see my original note at the bottom of this thread) and the developer revised the plans, but the new proposal doesn't materially change the concerns I originally voiced: the proposed fence will still be an unwelcome and uncommon visual degradation of our community. After seeing a mockup of where the fence will stand, even more concerning is that the fence will also significantly obstruct the view around the bend of Westfield. There is no sidewalk on Westfield, making this even more hazardous for pedestrians including the many young children that live in the neighborhood. See the attached photo illustrating the significant reduction in visibility this fence will cause. Even with a driver abiding by the speed limit, the proposed fence would only give a second or two reaction time for both driver and pedestrian.

Additionally, there's seemingly no reason to put the fence this close to the road. As designed, it encloses a few large trees, which doesn't increase usable backyard space, so it's unclear why the developer doesn't simply put the fence on the other side of these trees and abide by city guidelines. The private yard would still be quite spacious, especially relative to others in the neighborhood.

In the developer's recent rebuttal, he states that he spoke with two neighbors (Dan and Peggy Hilberman as well as neighbors at 1151 Westfield). He also mentions outreach to neighbors at 1120, 1130, 1140, 1150, 1131 and 1141 Westfield, but doesn't state whether he actually interacted with any of them. (There's currently no house at 1130 Westfield so it's unlikely there was a neighborly discussion with a resident at this address.)

Our family, including our young daughter and my senior mother, walks/runs/bikes Westfield nearly every day and we strongly feel that the risks to the neighborhood outweigh any benefit to the developer who will not even be residing there. Perhaps it would be a different matter if there was an owner-occupier making this request to solve some concrete annoyance. However, I cannot imagine any reason to grant this exception to a developer to solve the imagined annoyance of a hypothetical owner-occupier when there is such clear and concrete expense of the safety of our community.

Please feel free to contact me if you'd like to discuss further.

Thank you.

Ashley Carroll

Mr. Tapia read a second letter received that afternoon.

Dear Members,

There is no good reason for 1121 Westfield Drive to have permission to increase the permitted fence height.

Westfield Drive is a quiet seldom driven street. Let's not permit high walls around property in Menlo Park.

We are a friendly city and need to be friendly in our home sites

Sincerely,

Eleanor Rakonitz

Mr. Tapia read a third letter that was received that afternoon.

Dear MP Planning Commission,

I live in the neighborhood near Westfield Dr and was reviewing the 1121 Westfield Dr permit request to add a 6 ft tall fence in the front setback of the property. It seems the fence is a clear violation of the front setback rule of 20ft. I think the 6ft fence in the front setback would affect the "open" feel of the street, which is already quite narrow. Anything encroaching on the visibility along a narrow, winding street is dangerous for pedestrians, cyclists, and cars.

Please ask the owner to move the fence back to 20 ft from the property line.

*Terry Quan
1161 Werth Ave*

Chair Riggs said public comment referred to corner visibility but the yellow line on the plan was not actually at what might be called the corner of the lot. He asked if it was an interior side. Mr. Tapia referred to the triangular sight area restriction and said that the proposed fence was behind that so the Transportation Division did not have any comments on the proposal.

Commissioner DeCardy asked if the owners of such a property as this could have the configuration of the front and sides switched. Mr. Tapia said there was a process for that but property owners had to consider if in doing that whether the new property lines would conform with the zoning minimum lot width and lot depth. Commissioner DeCardy asked whether Mr. Tapia knew if the property would be conforming if that reconfiguration was done. Mr. Tapia said his best judgment was it would not be conforming given that the front lot width was 80 feet. He said if that became the side the rough average between that side and the adjoining side would not be equal to the minimum lot and minimum depth required in the zoning district.

Chair Riggs asked if there was any view concern about a six-foot fence near a neighbor's driveway at 631 Arbor. Mr. Tapia said there was 10-foot distance between the property line and the valley gutter. He said based on discussions with Transportation Division having that distance provided visibility for that neighbor down Westfield Drive and around the bend when backing out of the driveway.

Applicant Presentation: Sean Amiri, applicant, said even though the property was not on a corner it was considered a corner lot. He said it was his assumption that Ms. Carroll was on a neighborhood email group but he had been in error. He said he spoke with five Westfield Drive neighbors and did a mockup of the fence he was originally considering. He said the neighbors looked at that and expressed concerns. He said they made changes by moving the fence back from the property line by almost three feet and reducing the fence length on Westfield Drive from 45 feet to 29 feet and increased the height of the fence from five to six feet. He referred to C2 and noted that per the Transportation Division the proposed fence height and location was not in the restricted sight view triangle. He said the changes they made were to make sure that no one's view would be blocked.

Chair Riggs closed the public hearing and comment period.

Commission Comment: Commissioner Barnes said he understood the fence proposal was the preference of the developer but he did not understand why the contravening of Section 16.64 should be allowed. He said he had heard nothing that was overriding to allow that and he did not support granting a use permit.

Commissioner Doran said he agreed as he had not heard anything persuasive to support granting the use permit. He said any difficulty was from the developer's design. He said there was neighbor objection but nothing from the developer that persuaded him of the need for the fence location and height.

Commissioner DeCardy said in general he was sympathetic to lots that were unique and complicated. He said in this instance the developer had tried to change the height, length and location of the fence to address neighbor concerns. He said he would not support the fence being placed on the other side of the trees.

Chair Riggs asked if the applicant had considered a less opaque enclosure to the backyard using landscape materials instead. Mr. Amiri said up to this point they had not. He said as this was a corner lot that when one walked past this lot without a six-foot fence to screen that the backyard and home were completely visible from the street. He said whether the fence was built on the setback line or closer to the property line that six to seven feet in height was needed for privacy. He said that was his original thought and making the backyard bigger was his secondary thought. He said the area under the trees was usable area. He said for privacy the other only option would be tree plantings but that would take time to grow.

Chair Riggs said staff had recommended approval of the proposal. He said although it would not block view lines it was a request to push a fence out to where most of Menlo Park tried to use the 20-foot setback as a landscape with generally no vertical obstructions to a broader streetscape. He asked if staff had looked at the proposal in terms of streetscape or only in terms of whether it was a traffic issue.

Mr. Tapia said it was a consideration of different factors. He said one of the main components of this proposal was neighborhood outreach noting the original submittal had generated comments and concerns from neighbors. He said the applicant had provided information and revisions that seemed to address the neighbors' comments and concerns. He said additionally the proposed fence was not located in the triangular area of view restriction and that the Transportation Division did not have any additional comments. He said based on that staff believed the project was sufficient for approval.

Chair Riggs asked if there was a list of neighbors that either supported or had no objections to the proposal. Mr. Tapia said in Attachment F (correspondence) was an email thread from the applicant F1 to F6 that summarized the conversations he had with neighbors and in that thread was discussion of approval or at least acceptance of the revised fence proposal.

Chair Riggs said as a designer that having a deeper yard along the side of property line with 631 Arbor would be a nicer feature for the new resident but as Commissioners Barnes and Doran had noted that did not seem quite enough reason to amend codes and policy. He asked if it was common to make adjustments to the fence ordinance. Planner Sandmeier said the code allowed the use permit process for fences and it was meant as a case by case consideration. She said if the use permit findings could be made it would make sense to approve the project. She said if a

Commissioner wanted to make a motion for denial that should include specific reasons, for example, that the fence would impact the health, safety and general welfare of the neighborhood with specific information on how it would impact those factors.

Commissioner Barnes moved to deny the use permit request and Commissioner Doran seconded the motion. Commissioner Barnes said his motion to deny was based on the general welfare of the persons residing or working in the neighborhood noting that the location of the proposed fencing was not done on other lots in the neighborhood and that it would impact visibility with reference to public comment.

Planner Sandmeier said the findings being made to deny included visibility and safety. She asked if he wanted to address the streetscape or aesthetics. Commissioner Barnes said he would include only visibility and safety. Commissioner Doran, who seconded the motion, said he thought an additional finding was that granting the use permit would be detrimental to the comfort of the persons residing or working in the neighborhood due to its effect on the aesthetics and visual streetscape. Commissioner Barnes said he would accept the additional finding as the maker of the motion.

Commissioner DeCardy asked if there had to be a compelling reason to make an exception to the regulations. Planner Sandmeier said it was not an exception but was a use permit request such as that for constructing a two-story home on a substandard lot. She said there was a process built into the zoning ordinance to allow such requests.

Chair Riggs said that the property owner could plant a hedge in the same location as desired for the fence and that it would eventually grow even taller than the six foot requested for the fence. He said that it was hard to make findings to deny this use permit request for an increased fence height in the front setback as the proposed location was 11-feet away from the valley gutter and curb and was not near a neighborhood's driveway. He said he thought this type of denial might be overturned by City Council.

Planner Sandmeier clarified that the Municipal Code limited fences and hedges to four feet in the front setback. She said to plant a hedge taller than four feet in the front setback would require use permit approval.

Replying to Chair Riggs. Mr. Amiri said while he respectfully disagreed with the proposed denial that he heard it. He said he would move the fence to the setback line noting however that more than 90% of the neighbors he spoke with were satisfied with the proposal as currently made.

Replying to Chair Riggs, Planner Sandmeier said a six-foot fence would be allowed behind the required 20-foot front setback area. Mr. Tapia said if the fence was built at the setback line or behind it that the fence could be up to seven feet in height.

Commissioner Doran asked if the Commission could possibly have the project continued.

Replying to Chair Riggs, Mr. Amiri said if the project was continued that he might be able to respond in writing in more detail. He clarified that he would request a continuance if possible.

Chair Riggs suggested a substitute motion. Commissioner Barnes said he moved to deny and he did not want to have his motion replaced. Commissioner Doran said he agreed.

ACTION: Motion and second (Barnes/Doran) to deny the item; passes 4-2-1 with Commissioners Barnes, Doran, Kahle and Kennedy supporting, Commissioners DeCardy and Riggs opposing and with Commissioner Tate 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 would be detrimental to the health, safety, comfort and general welfare of persons residing or working in the neighborhood as the proposed fence would impact traffic safety for pedestrians and automobiles by limiting visibility around the street corner and would negatively affect the aesthetics of the streetscape by placing the fence in close proximity to the front property line and enclosing the existing heritage oak trees located on the property.
3. Deny the use permit.

F. Informational Items

- F1. Future Planning Commission Meeting Schedule
- Regular Meeting: September 14, 2020

Planner Sandmeier said on the September 14 agenda would be an item to create an ad hoc committee on accessory dwelling units (ADU) regulations and to consider a project at 211 Oak Court.

Chair Riggs said in discussion with Ms. Chow that the Commission could without creating a subcommittee have two or three Commissioners study a topic and that could be placed on a future agenda.

- Regular Meeting: September 28, 2020
- Regular Meeting: October 5, 2020

G. Adjournment

Chair Riggs adjourned the meeting at 8:40 p.m.

Staff Liaison: Corinna Sandmeier, Senior Planner

Recording Secretary: Brenda Bennett

Approved by the Planning Commission on September 28, 2020