



## REGULAR MEETING MINUTES

**Date:** 4/23/2018  
**Time:** 7:00 p.m.  
**City Council Chambers**  
**701 Laurel St., Menlo Park, CA 94025**

### A. Call To Order

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

### B. Roll Call

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

Absent: Susan Goodhue

Staff: Deanna Chow, Principal Planner, William McClure, City Attorney, Matt Pruter, Associate Planner, Corinna Sandmeier, Senior Planner

### C. Reports and Announcements

Principal Planner Deanna Chow thanked Chair Combs and Commissioner Kahle, expressing gratitude and appreciation for their service as Chair and Vice Chair in the Planning Commission, respectively. She also stated that Arlinda Heineck, Community Development Director who is retiring, and Jim Cogan, Housing and Economic Development Department Manager who is leaving the City, would both be receiving proclamations at the April 24 City Council meeting.

Commission Comment: Commission Strehl commented on a residence located on her street, valued at \$3.8 million, that was listed on an English short-term lodging website similar to Airbnb for \$750 per night. She expressed concern at this operation, and asked whether the City could allow any of these short-term rentals.

Principal Planner Chow stated that the City has no regulations that restrict short-term rentals of this nature. She noted that there were tenancy requirements, however, for secondary dwelling units.

### D. Public Comment

- Matthew Zito, Chief Facility Officer, Sequoia Union High School District, stated that the School District had not yet received any communication from The Sobrato Organization. He said that the School District wants to look at The Sobrato Organization's plans, expressing concern that the new high school adjacent to the Sobrato project will be quite close. He also stated that the School District wants to collaborate with The Sobrato Organization in designing their open space together. Lastly, he expressed interest regarding the areas formerly zoned as M-2 (General Industrial District), particularly the areas that are now zoned R-MU (Residential Mixed

Use District), emphasizing the obstructions from the third floor deck at the new high school and the fact that 400 students will be attending.

Chair Combs said that he found it interesting that the School District is speaking at this time from the same perspective of concern that many local residents and stakeholders had conveyed when the School District was obtaining the permitting necessary for their new high school.

#### **E. Consent Calendar**

None

#### **F. Public Hearing**

##### **F1. Use Permit/Joseph R. Junkin/415 Pope Street:**

Request for a use permit to demolish an existing one-story single-family residence with a detached garage and construct a new two-story single-family residence with a detached one-car garage on a substandard lot with respect to lot width in the R-1-U (Single Family Urban Residential) zoning district. ([Staff Report #18-037-PC](#))

Staff Comment: Associate Planner Matt Pruter said there were no additions to the staff report.

Applicant Presentation: Roger Kohler, the project architect, said that he and the property owner, Joe Junkin, talked with all neighbors and completed a number of revisions per their commentary. He said the improvements included adding trees along the side yard and bulk and massing improvements. He also stated that the main residence would be two stories in height, the existing garage would be demolished, and the materials would include horizontal boards and real wood siding. Mr. Junkin stated that his family needed additional space in their home.

Commissioner Larry Kahle commented on the fact that the base flood elevation (BFE) on site was 34.5 feet, yet the finished floor of the first floor was 36.9 feet in height, and asked why there was a nearly 2.5-foot difference. Mr. Kohler stated that they were avoiding pressure-treated wood, and that they had done work similar to this on many homes in the flood zone before. Commissioner Kahle then confirmed with Mr. Kohler that there would also be duct work below the first floor. Commissioner Kahle then asked whether the home's corner boards would be painted to match the siding or not. Mr. Kohler said that a different color would be used for the corner boards, noting that typical homes that his company had worked on in the area have been painted in a similar manner. Commissioner Kahle then suggested that they could consider matching the siding and not paint the corner boards differently.

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

Commission Comment: Commissioner Riggs asked the applicant about why they chose to use privet trees. Mr. Junkin said that they currently had healthy privets in the front yard that they found to be evergreen and hearty. He then described their height of 15 to 20 feet, their bushy form, and their ability to provide adequate screening as preferred qualities. He expressed their overall preference for this planting choice, and that their neighbor had also requested this choice as well. Commissioner Strehl suggested using podocarpus as it was a healthy plant and grew relatively fast and could be a hedge or tree.

Commissioner Kahle said it was a well designed project that would fit the neighborhood. He moved to approve as recommended in the staff report. Commissioner Riggs seconded the motion. He said he agreed with Commissioner Kahle to paint the corner boards the same color as the body of the house. He said it was only a suggestion and mentioned there were homes in the Willows that the applicant could look at to see how painting the corner boards the same as the house harmonized and allowed the trim they wanted to be highlighted such as eaves, rake, and window and door frames to stand out appropriately.

Commissioner Barnes said it would be a nice addition to Pope Street and the Willows. He said it was architecturally in keeping with the spirit of that street.

**ACTION:** Motion and second (Kahle/Riggs) to approve the use permit as recommended in the staff report; passes 6-0-1 with Commissioner Goodhue 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. Development of the project shall be substantially in conformance with the plans prepared by Kohler Architects, consisting of 13 plan sheets, dated received April 9, 2018, and approved by the Planning Commission on April 23, 2018, 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 Kielty Arborist Services, LLC, dated received February 23, 2018.

4. Approve the use permit subject to the following project-specific conditions:

- a. Simultaneous with the submittal of a complete building permit application, the applicant shall submit revised project plans that indicate flood vents on both proposed structures to satisfy FEMA requirements (1 sq. in. for every 1 sq. ft. of enclosure below BFE). The revised project plans shall be subject to review and approval of the Planning Division and/or Engineering Division.

F2. Use Permit/James L. Chesler/24 Sunset Lane:

Request for a use permit to perform excavation within the required left side and rear setback to a depth greater than 12 inches for landscape modifications, including the construction of a new retaining wall, on a standard lot in the R-1-S (Single Family Suburban Residential District) zoning district. ([Staff Report #18-038-PC](#))

Staff Comment: Associate Planner Pruter said there were no additions to the staff report.

Questions of Staff: Commissioner Riggs confirmed with staff for the record that there were no building or architectural changes and the application was related to a site issue.

Applicant Presentation: Patrick Whisler, project landscape architect, introduced the property owner Jim Chesler. He said their application was for grading within a setback due to an upslope in the rear yard that was restricting the usable area for the family and recreation in the backyard. He said this work would open that space up a bit with a retaining wall system. He said to blend with the slope they used terracing with a smaller planter wall in front. He said the shaded area on Exhibit D3 showed the area of excavation within the setback. He said Exhibit D4 went through the sections of the wall that demonstrated the terracing. He said on Exhibit D5 they could see the intent for the final buildout to install a swimming pool and spa, which would be under a separate building permit.

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

Commission Comment: Commissioner Onken said the project was straightforward and he did not see any harm done by the retaining wall. He moved to approve as recommended in the staff report. Commissioner Barnes seconded the motion.

**ACTION:** Motion and second (Onken /Barnes) to approve the use permit as recommended in the staff report; passes 6-0-1 with Commissioner Goodhue 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. Development of the project shall be substantially in conformance with the plans prepared by Michael Benison, consisting of eight plan sheets, dated received on April 6, 2018, and approved by the Planning Commission on April 23, 2018, except as modified by the conditions contained herein, subject to review and approval by the Planning Division.
    - b. Prior to building permit issuance, the applicants shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
    - c. Prior to building permit issuance, the applicants shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
    - d. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval by the Planning, Engineering and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
    - e. Simultaneous with the submittal of a complete building permit application, the applicant shall submit 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.
    - f. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance and the recommendations in the arborist report by Kielty Arborist Services, LLC revised July 30, 2017.
- F3. Use Permit/Philippe and Sayeh Morali/1076 Santa Cruz Avenue:  
Request for use permit to demolish an existing one-story, single-family residence to construct a new two-story home on a substandard lot with regard to lot width in the R-E (Residential Estate) zoning district. As part of the proposed development, two heritage-size redwoods, one heritage-size palm, and one heritage-size fig tree are proposed for removal. The project includes a six-foot-tall front fence that would meet the height and design standards for fences on residential properties fronting Santa Cruz Avenue. ([Staff Report #18-039-PC](#))

Staff Comment: Principal Planner Chow said staff had no additions to the written report.

Applicant Presentation: Dave Terpening, project architect, said they had brought a project to the Commission for this site in 2008 that was approved. He said due to financing and delays the project was never done. He said the proposed project was much the same as the project that had been approved in 2008.

Commissioner Strehl asked if the proposal was the same or not. Mr. Terpening said in 2008 the variance from the daylight plane was not approved but the building with adjustments was. He said this proposal was that building with the adjustments. Commissioner Strehl confirmed in 2008 that the applicant had requested removal of the heritage redwood trees, and asked what happened. Mr. Terpening said the tree removals were approved.

Commissioner Kahle said the lot was very deep and two redwood trees, #20 and #21, at the front were proposed for removal. He asked if they had considered moving the new structure further back and keeping the two redwoods as they seemed to be in fairly good condition. Mr. Terpening said they had not as they wanted to keep the backyard as it was and the site had numerous redwood trees on it. Commissioner Kahle confirmed with the applicant that the roof tiles were two-piece and the shutters were operable.

Chair Combs opened the public hearing.

Public Comment:

- Ashley McReynolds introduced her husband Zach McReynolds. She said they lived next door. She said their home was on Arbor Road and the neighbor's home was on Santa Cruz Avenue. She said the redwood trees in the front were very important to keep. She said the lot subdivision resulting in her parcel and the subject parcel left her lot with most of the backyard taken up with a retaining wall to maintain the redwoods. She said they were concerned with the effect of the drought on those trees. She said they were also concerned with the removal of heritage trees near the trees on her lot that there could be damage done. She said they already felt the trees were in a precarious state on Arbor Road and they wanted to log that as a concern. She said the distance between their home and the proposed home was very tight and they would like that carefully reviewed. She said they had significant privacy concerns. She said the subject lot was very large with a lot of space that broadened significantly in the rear yard and the project home was proposed on the narrower part of the lot. She said it appeared that her master bathroom window would be only 10 to 15 feet from one of the project windows with a direct view. She said the two wonderful homes should be able to sit together on these lots with privacy and the beauty of the neighborhood through the trees being retained.
- Zach McReynolds said they would like the Morali family to consider moving the house back on the lot rather than putting it within a foot exactly of the shadow of their home. He said once heritage trees were removed they could not be returned. He said they requested the Commission and applicants consider planting additional trees to replace the removed trees.

Chair Combs closed the public hearing.

Commission Comment: Commissioner Kahle said the proposed design was nice and would fit with the neighborhood. He said that an existing well shown on the site plan might be the hindrance to

moving the house back on the lot. He asked if there was support on the Commission to save the two redwood trees and move the structures back on the property some distance to make that work.

Chair Combs said the City Arborist had approved the request to remove three heritage trees as they were located in the path of construction. Principal Planner Chow referred to the staff report statement that the City Arborist had relayed that removal of the other three heritage trees, the palm and two redwoods, was not justified based on health, structure, or similar issues; however, the trees were in the path of construction, which the Heritage Tree Ordinance permits as a basis for removal. She said the tree removal permits would be issued if the Planning Commission approved the use permit.

Commissioner Onken said the fig tree was in the path of construction and its removal would not affect the neighborhood. He said the palm tree was within the footprint of the new home. He said the proposed project was tight to the front setback line maximizing the front yard. He said given the pressure on the trees and some of the concerns he would like to see the house shifted back five or 10 feet. He said that might allow one of the redwoods to be saved in the front. He said the proposed design was well planned and he liked the L-shape of it. He said overlooking of the neighbors was minimal as there was only a small bit of a second story with some small windows.

Commissioner Barnes said he did not think moving the house back would prejudice the overall enjoyment of the lot. He said he could support the house being set back more although he did not know what distance that should be and would wait to see if others supported 10 feet or what.

Commissioner Strehl said she agreed with the idea of moving the house back. She said she was curious to hear if the applicants would be willing to move the house back and potentially save one of the redwood trees.

Philippe Morali, property owner, said they designed the home with great thought to the neighbors including not having a view to others properties. He said one of the reasons they wanted to move into the area was the trees, and the oak tree was one of the reasons they loved this lot. He said they would like to protect as much as possible their backyard noting the lot was on a busy street. He said the house was designed to put enough space between the house and the street, and move all the living areas toward the back.

Commissioner Riggs asked if the design could still meet the owners' goals and move the house west enough to keep the two redwood trees. Recognized by the Chair, Mr. Terpening said it was feasible but he questioned the reasons for doing it. He said the site had a jungle of redwood trees at its corner and there were a number of redwoods both on the property and immediately adjacent. He said for the record that the arborist addressed all the trees on the lot and the trees just off the lot. He said the reason the home was positioned where it was relative to the side yard was to maintain a garden for the office/study on that side of the house and not just to provide distance from the active well. He said regarding privacy that the majority of the windows were oriented to the street or to the east and west, and not north and south, and where it abutted Arbor Road most of the building was single-story. He said the windows on that side of the house would look at the fence. He said if they pushed the house back it increased the driveway and had some implications. He said they could move the house back but he did not think it was needed. He said also it should be noted that they were replacing the heritage trees with additional heritage trees and additional trees that could go to heritage size as shown on the landscape plan.

Commissioner Riggs said the issue seemed to be the redwoods in front that were sort of an extension of the street canopy. He said the oak tree was in the street canopy and then seen from the street about 40 feet back you see redwood trees that helped define the street and neighborhood. He asked if the replacement trees would be in that line of sight and redwood trees. Mr. Terpening said the trees would be replaced on the fence in the rear yard. He noted his experience working in heavily wooded residential areas. He said the two dominant trees from the street were the valley oak in the middle and the Deodar cedar essentially in the front setback in the middle of the garage. He said there was a stand of redwoods abutting the corner of the property the majority of which were off the site. He said two redwoods being proposed for removal did not have a significant visual impact on Santa Cruz Avenue whereas the redwood in the corner being saved had more visual impact on Santa Cruz Avenue. Commissioner Riggs asked if the applicant was open to planting a redwood tree in the front yard. Mr. Terpening said certainly.

Commissioner Riggs said redwood trees grew fairly fast. He said the front of this property had two large and two potentially large trees. He said Deodar cedar seemed to never stop growing. He said he thought the oak tree was the more valuable species and would benefit from a break from other species. He asked the Commission to consider that a replacement redwood tree in the setback area would, in 15 years or so, continue the redwood theme along the street as a compromise to relocating the building. He said the architect had gone to some trouble to arrange windows and consider privacy to neighbors.

Commissioner Onken asked the applicant about the driveway as it seemed to create a very odd angle for a car to pull out onto Santa Cruz Avenue. He asked if they should be worried about safety. Mr. Terpening said they examined this with the civil engineer and landscape architect. He said there was enough room on the driveway because of the position of the gate and the distance between the gate and street to position a car so it was pretty close to 90° by the time the car was negotiating the exit. He said the curb cut was straight when it crossed the sidewalk. He said regarding the replacement of the redwood tree that he had looked at the plans and thought that one or two would best be planted to the right of the driveway in the triangular area as no trees were proposed there, it was a good distance from the oak and better than in the south area where there was a stand of redwoods.

Commissioner Kahle said moving the house back would help the relationship to adjacent structures and noted the distance between the back of the house and rear property line was 135 feet. He said regarding fronting a busy street that keeping two mature redwood trees would help screen visually and diminish noise. He asked staff if the Planning Commission should suggest a distance to move the house back and then have the Arborist review. Principal Planner Chow said the Planning Commission could provide a number. She said however since it was related to trees that it would be wise to get an updated arborist report to see what would be needed to protect the trees, if that was the direction of the Commission.

Commissioner Strehl noted that currently there were 13 heritage trees with four proposed for removal, leaving nine heritage sized trees of which some were redwood and one was a substantial oak tree. Recognized by the Chair, Mr. Terpening said there were 12 redwood trees on the property and additional ones just adjacent to the property line that straddled that line. He said they were also replacing four heritage sized trees and would have 28 trees in total on the lot.

Commissioner Strehl said she had asked about relocating the house but after Commissioner Riggs' comments and the willingness of the applicant to replace one of the heritage redwood trees

with a redwood tree in the front of the property that she could support the project as recommended in the staff report. She moved to approve the use permit as recommended in the staff report with the addition of a new redwood tree at the front of the property in the triangle next to the driveway. Commissioner Riggs said he would like to second the motion. He said he noticed that the screening trees on the left side of the property were proposed as fruit trees. He asked if those were intended to be evergreen fruit trees. Recognized by the Chair, Mr. Terpening said he did not know if they were intended for screening as there was a fence and hedge on that side already. He said they might screen by virtue of height. Commissioner Riggs said the landscape plan indicated they were for screening. Mr. Terpening said he would have the landscape architect label them as evergreen on the final plan or make a note of it now. He said in any case they were willing to plant evergreen type trees there.

Commissioner Riggs asked the maker of the motion if she wanted to include that. Commissioner Strehl accepted that addition to her motion. Commissioner Riggs said he would second the motion to approve that would include the addition of the redwood tree in the front and confirming the left side property line trees indicated for screening of the second story windows were evergreen.

Commissioner Kahle said he was about to make a motion to move the house back and would not support the motion made.

Chair Combs said he could support the motion but shared Commissioner Kahle's concern and belief that the house could be possibly pushed back. He said he did not know whatever dependencies would arise from doing that.

**ACTION:** Motion and second (Strehl /Riggs) to approve the use permit with modifications; failed 3-3-1 with Commissioners Combs, Riggs and Strehl supporting and Commissioners Barnes, Kahle, and Onken opposing, and Commissioner Goodhue absent.

Commissioner Kahle moved to approve the design of the home with the conditions in the staff report and moving the structure back approximately 10 feet to be verified by an arborist with the goal to maintain and preserve the two redwood trees in the front, and to verify that the screening trees on the left side property line were evergreen.

Commissioner Strehl asked if the applicant would have to return to the Commission and whether it was the City Arborist who would determine how far the house should be set back. Chair Combs said the City Attorney had indicated that was correct. Commissioner Strehl asked if it could be done by conformance memo. Chair Combs said that the Arborist would need to confirm the distance for preservation of the redwood trees. Commissioner Strehl asked what if the Arborist said the house had to be set back 15 or 20 feet to preserve those redwoods. She said that could result in other trees needing to be removed. Chair Combs asked if Commissioner Kahle wanted to put an upper limit on how far the house should be moved back to accommodate the trees, and default to the approval as outlined in the staff report. Commissioner Kahle said he would not as if the Arborist proposed something excessive the applicant had chance for recourse. Chair Combs said the applicant's recourse would be to come back to the Commission unless something was in the action to allow for an alternate outcome. Commissioner Kahle said the backyard was very deep and he saw no unintended consequences in moving the house back from the street.

Commissioner Barnes said he could support moving the house back as so many lots have the inability to work around heritage trees. He said he did not like creating delay for the project.

Principal Planner Chow said the Commission could approve with the recommendation to move the house back subject to receiving additional input from an updated arborist report from City Arborist and determine what that setback was. She said if that setback was something the applicant felt was a hardship the approval could have a condition that they could come back and have more discussion, but if they were fine with the requirement, the project could move forward to the building permit and the Commission would not need to see it again.

Commissioner Strehl said Commissioner Riggs had pointed out a heritage tree in the backyard that might need to be removed if the house was pushed back. She said the applicant had gone a long way in making concessions, planting an additional redwood tree to replace one of the redwood trees, and this project had been approved back in 2008. She said she presumed the same issues were before the Commission at that time. She said she did not think what the motion proposed was fair to the applicant. She said she was a great supporter of trees but the property would have 41 trees as proposed, many of which were heritage. Replying to Chair Combs, Commissioner Strehl said she could not support the motion as proposed.

Commissioner Riggs said they were really talking about heritage tree #21 as it appeared to be within the footprint of the garage. He said he had done an addition next to a very mature redwood tree where he added to the existing building and built a wall 18-inches from the tree. He said the foundations were to be bridging foundations if necessary. He said if the goal was to preserve that tree he would let the arborist's guidelines indicate how far back to move back the house. He suggested modifying the motion that rather than define 10 feet as the distance to move the house back to state move the house clear of the trunk with no major roots cut or interrupted by the foundation per arborist guidance.

Commissioner Kahle said he would remove the 10 foot distance and leave it to the Arborist. He said he was confident this could be handled at the staff level. Commissioner Onken seconded the motion. Chair Combs said the motion was to approve the use permit as recommended in the staff report with a condition that the structure be moved back to a distance determined by the City Arborist as a goal to preserving the redwood trees in the front of the lot and confirmation that the trees on the left side of the property were evergreen. Commissioner Strehl asked if an upper limit was being placed on the distance the house would need to be moved. Chair Combs said it was not. Chair Combs said if this motion was approved the applicant would have an approved project and the applicant would make some determination about what the arborist recommended and whether that was something he wanted to move forward with or not. He asked if the applicant did not want to move forward if he had the ability to appeal the Commission's decision to the City Council. Principal Planner Chow said the applicant could return for a reconsideration of the Planning Commission's decision, if the Commission wanted to build that into the motion. She said the applicant might not necessarily want to appeal as they might not have the information within the next 15 days needed for their appeal.

Commissioner Strehl asked if they could weigh in with the applicant. Recognized by the Chair, Mr. Terpening said he was not happy with having the project put in the hands of the City Arborist to make this design decision, and he did not want to bring the project to the Planning Commission again. He said the last time they brought this project to the Commission they had waited for almost four months to get there. He said to date an extensive amount of money had been spent with no building plans in sight, which he was stating for the record. He said he did not want an arbitrary decision made by the City Arborist about where the house should be placed. He mentioned his

years of experience and building homes within 18 inches of trees in Atherton, Woodside, and Portola Valley. He said they had a project arborist and he would want him to be involved in this decision making process. He said he wanted a decision on the distance for the house to be moved now. He said if the City Arborist said 40 feet the project would have to go back through the Commission review process, which he did not think was appropriate.

Principal Planner Chow said to clarify that staff would ask the applicant to have their arborist prepare an updated arborist report and the City Arborist would evaluate the recommendations in that document, and either agree with the recommendations made or work with the consulting arborist.

Commissioner Onken asked if the motion could be changed to move the house back eight feet, preserve tree #29, and grant the use permit. Principal Planner Chow said to confirm that the two heritage trees the Commissioner wanted to preserve were trees #20 and #21. She said tree #29 was non-heritage and asked if it was to be preserved. Commissioner Onken clarified that the house would be moved back eight feet, tree #21 would be preserved, and the trees on the left side would be confirmed as evergreen. Commissioner Riggs suggested that rather than guessing from the site plan what the distance was to recommend that the building be three feet clear of tree #21 at breast height. He said the conditions already included that an arborist approval was needed for any foundation within the dripline. Commissioner Kahle asked about the two-foot roof overhang. Commissioner Riggs asked if he thought it should be two or three feet clear of the roof overhang. Commissioner Kahle said that was why he pulled the distance from his motion as he was not an arborist and did not know what should be recommended. He said he did not think something egregious like 40 feet would be recommended. He said he understood the applicant's frustration and was also looking at the neighbor's frustration with the screening trees. Chair Combs confirmed with Commissioner Onken he could still support the motion as the maker of the second. He said although the motion would restrict the applicant it was the best alternative for the applicant getting an approved project this evening.

Recognized by the Chair, Mr. Morali expressed his concern with the proceedings as he had many professionals expend a great deal of effort to design the best house for all. He said he was sorry that tree #21 had to be removed under the current design. He said they would have more trees on their property after the house was built than there were presently. He said if a solution to address the Commission's concerns was to commit to more trees they would. He said he did not know if shifting the structure would impact their well, which was something they wanted to keep functional. He said he felt that the Commission was trying to redesign the house and that caused him great concern. He said to change the design now to preserve one tree without knowing what the implications were on the whole property made no sense.

Commissioner Onken said it was not just the tree. He said when he saw a house on this size of a lot come tight to the front 20-foot setback that was arbitrary in location and needed to fit into the context of the lot. He said he also thought the front driveway was compromised by having the house at the 20-foot setback. He said he would support having the house moved back.

Commissioner Kahle said he agreed with Commissioner Onken's comments. He said regarding the well that the current design had a fireplace next to it so moving the house back would help to protect the well. He said the design of the house was great and they were not redesigning it. He said the project was approved 10 years ago and the trees had grown since then. He said if he had designed the house he would have tried to keep as many of the screening trees as possible. He

said he did not think it an imposition to keep this tree.

Principal Planner Chow said the applicant was proposing to remove heritage trees #20 and #21. She asked if the motion was to preserve just tree #21 or #20 as well. Chair Combs said the intent was that the City Arborist makes a determination regarding how far the structure needed to go back on the lot to preserve heritage trees #20 and #21.

Commissioner Riggs said if the landscape architect had been faithful to tree size measurements that the two redwood trees were significantly smaller than the Deodar cedar located in front of them. He said he suspected the two redwoods based on how fast the species grows were probably not heritage size in 2008. He asked staff for the diameter of the cedar and of the redwoods #20 and #21. Principal Planner Chow said the diameter of tree #20 was 15 inches, #21 was 16 inches, and the cedar was 23 inches. Commissioner Riggs said the redwoods were not particularly big and it was possible that the applicant could replant and get close to existing size for new redwood plantings.

**ACTION:** Motion and second (Kahle/Onken) to approve the use permit with modifications; failed 3-3-1 with Commissioners Combs, Kahle, and Onken supporting and Commissioners Barnes, Riggs, and Strehl opposing, and Commissioner Goodhue absent.

Commissioner Strehl moved to continue the item until an arborist report was made on how far the house needed to be moved to protect at least tree #21 as tree #20 was only 15 inches in diameter. Commissioner Barnes seconded the motion.

**ACTION:** Motion and second (Strehl/Barnes) to continue the item for a report from the City Arborist on how far the house needed to be moved to protect tree #21; passed 6-0-1 with Commissioner Goodhue absent.

Chair Combs noted a number of speaker slips for the next item F4. He said that he would open for public comment after the applicant's presentation and before the Commission's questions and discussion with the applicant. He indicated he could again open for public comment period at its usual place after the Commission's questions and discussion with the applicant.

- F4. Specific Plan and Zoning Ordinance Amendments/Architectural Control/Use Permit/Environmental Review/Peninsula Arts Guild/949 El Camino Real:  
Specific Plan and Zoning Ordinance Amendments to allow a live performance facility with community benefits, located in a feature building north of Live Oak Avenue in the ECR SW (El Camino Real South-West) sub-district of the SP-ECR/D (El Camino Real/Downtown Specific Plan) zoning district at a total bonus level FAR (floor area ratio) of 2.50, with a maximum above grade FAR of 1.50, and other associated amendments. The project includes a request for architectural control to construct a basement and a second story at an existing single-story commercial building and a use permit to allow small scale commercial recreation and a bar, at 949 El Camino Real. The proposed development would be at the Public Benefit Bonus level; the public benefit bonus would consist of allowing community events at the project site. In addition, the applicant is requesting approval of a Below Market Rate (BMR) Housing In Lieu Fee Agreement for this project. ([Staff Report #18-040-PC](#))

Staff Comment: Senior Planner Corinna Sandmeier said this was the Guild Theater Project. She said on January 29, 2018 the project was identified as a top City Council work plan priority and on

February 13, 2018 the Council held a special study session on the project. She said on March 23, 2018, the Peninsula Arts Guild submitted the formal application and on April 11, 2018, the project went to the Housing Commission. She said the Housing Commission recommended approval of the applicant's proposal to pay the Below Market Rate Housing (BMR) in-lieu fee. She said the project was a Specific Plan and Zoning Ordinance Amendment, architectural control to construct a basement and second story at the existing Guild Theater, a use permit to allow small scale commercial recreation and a bar, a public benefit of allowing community events at the project site, and a BMR Housing in-lieu Agreement. She said condition 5.a.ii had a typo so the correct Specific Plan preparation fee for the project was \$7,519.02 and for condition 5.a.iv.the applicant would like to include Monday through Thursday live entertainment events. She said the latter condition would be modified to read: *No more than three live entertainment or movie events shall be held between Friday and Sunday during the hours of 7:00 p.m.to 11:00 p.m. with adequate time for setup and close by staff before and after those hours. Occasional live entertainment or movie events may be held on weeknights during those same evening hours. Any movie or community event held outside of those hours shall not exceed the current theater capacity of 266 persons.* She said the condition in the staff report said 277 persons but the correct current capacity was 266 persons. She said if the Commission would like staff to move forward with this proposed condition they would review the applicant's updated parking information prior to the City Council hearing. She said for condition 5.a.v there was an update: *Prior to building permit issuance, the applicant shall submit a fee schedule that sets the maximum reduced rate for community groups, subject to review and approval of the Planning Division and City Attorney.*

Senior Planner Sandmeier said correspondence was received after publication of the staff report and most of it was very supportive. She said one email expressed concerns with a preference to keep the theater as it was. She said two other emails had concerns about circulation

Ms. Sandmeier said the next steps would be a City Council hearing scheduled for May 22, 2018 and a second City Council hearing for the second reading of the ordinance scheduled for June 5, 2018.

Questions of Staff: Commissioner Onken asked about the revised condition language of no more than three performances between Friday and Sunday as that could be read as 12:01 Saturday morning to 11:59 Saturday night. Senior Planner Sandmeier said perhaps a better way to state it would be Friday to Sunday. She said as noted the applicant would like to expand that and staff was seeking Planning Commission input on that.

Applicant Presentation: Drew Dunlevie, Menlo Park, said the project needed to move forward quickly or it might derail and go somewhere else. He said they were the Peninsula Arts Guild, a nonprofit and their Board members were Pete Briger, Thomas Layton and him. He said they formed simply to find a place to build, reconstruct, refurbish, or to put together to bring great performances to the Peninsula. He said the Guild was local and it needed help. He said single-screen art house theaters were in trouble. He said they wanted to continue showing movies at the Guild but enhance it so it allowed many more people in Menlo Park to experience great, enriching, and entertaining things.

Chris Wasney, CAW Architects, Palo Alto, said his firm had deep expertise in existing buildings and performance spaces. He said essentially they would be building a ship in a bottle as the site was very constrained, and they had a lot to fit within it. He said the parking behind the building belonged to a different property. He said the lot had about a zero lot line on the northern edge and a six-foot alleyway, noting the latter was an important amenity as all the ingress and egress would

go through there. He said demolition would be substantial. He said originally they thought all exterior four walls would be kept but their survey illustrated that the front façade and the northern façade were several inches over the property lines. He said they would build a basement and increase the height by 10 feet.

Chair Combs opened the public hearing.

Public Comment:

- Ray Mueller, Vice Mayor of Menlo Park, said he was speaking as a resident. He said he knew about this project before it came forward. He said Council had known for years that the Guild was threatened. He said projects for the Guild had come forward and he had also worked with Judy Adams' group, *Save the Guild*. He said none of those projects brought applications to the City. He said that Mr. Dunlevie had talked to him about building an entertainment venue somewhere on the peninsula, and he had suggested Menlo Park to him. He said Mr. Dunlevie met with the property owner and came forward quickly with a project. He said the City had not put entertainment into the Specific Plan, thus the need for an amendment. He said one of the topics the Commission would consider was public benefit. He said it was a benefit and quality of life for residents to be able to go dancing with their friends and listen to live music. He said another issue for discussion was parking. He said the City had many lots downtown that were not used. He said if the parking directed toward this use was downtown, people visiting that venue would be parking downtown near restaurants. He said if there was enough demand they might charge for parking at night.
- Judy Adams, Menlo Park, said she fully supported the project. She said she looked at the proposal from the public benefit category and from the interest she had been representing in film. She said she was impressed with the proposal's efforts to accommodate balancing arts programming in addition to live entertainment, including film arts. She said from that viewpoint the groundwork had been conscientious and creative. She said the building design included a reconfigurable floor space with basement storage for theater quality seats, preserving the cinema capability as another public benefit. She said the proposed façade and Guild sign or reproduction of it respected the long history of film at the Guild. She said the consulting group's research on parking and circulation also addressed scheduling issues to mitigate impacts of a multi-use venue. She said the transformation of the Guild would allow it to become a base for Indie films and film festivals.
- Karli Cleary, Menlo Park, said she was a strong supporter of the Guild. She said as a pediatrician and mother she knew that theater and cultural activities were important for youth, and it would be great to have those opportunities closer to home. She said this project was not only concerts, movies and culture but would support education as a place for children and parents to convene. She said she strongly supported the project as a resident and professional in the community.
- Jean Forstner, Executive Director, Kepler's Literary Foundation, said they were the nonprofit partner of Kepler's Books, located in Menlo Park for 65 years. She said they produced about 200 literary events annually at Kepler's and in local schools. She said they did their large events in a variety of theaters up and down the peninsula. She said they sought to provide programming to meet everyone's needs in their community. She said they were excited about

the opportunity to have the Guild also producing high quality and great cultural programming in the community. She said having such a venue was a great public benefit.

- Skip Hilton, Menlo Park, said he was a live music fan. He said one of the goals of the Specific Plan was to open up development to all kinds of opportunity and make Menlo Park a more vibrant town. He said projects along El Camino Real would bring more residents and employees and it was important to have things in town for them to do and spend money. He said although the Guild's location was somewhat constrained it was a benefit toward a more walkable City. He said this project would provide public benefit in providing cultural activities and a venue for other programming locally. He said having music events on weeknights would bring well known artists usually booked for weekends to put on a wonderful intimate show in Menlo Park.
- Eugene Perez said he owned a business in Menlo Park and lived in Belmont. He said his business was two stores down from the Guild. He said construction on Live Oak had disrupted his business several times already. He said this would be a big project, and asked where they would house the construction equipment, noting how tight space was there. He said they already had other businesses using their parking and sometimes their clients could not park because of movies at the Guild. He said the project would be great for the community but there was limited parking in the area.
- Jeffrey Son, San Jose, said the Menlo Park Japanese restaurant he owned was right next to Menlo Flooring, and he was worried with people's access to their businesses especially with the roads being so tight. He said his was a new business competing with four to five other Japanese restaurants within a 5 to 10 minute drive from his. He said he was concerned that he would lose potential customers and business due to construction interruptions and inconvenience of access to the restaurant and parking lot.
- Mert Mehmet, Fremont, said he also owned Menlo Flooring. He said his concerns were with the logistics when construction started as there was not much space to work in and there would be a lot of construction. He said construction ongoing next to them currently had already impacted their business with construction blocking access to their parking lot.
- Mark Bryman, Menlo Park, said he was a vibrant downtown advocate. He said Menlo Park deserved a state of the art, arts and community events venue. He said the architect indicated a lot was being squeezed into a small space. He said he did not know if all that was needed. He said he thought they could have a bigger, better, and a higher use venue that would serve the community in more ways but would ask less in terms of exclusions of certain requirements and things. He said he did not think all the possibilities had been explored and he did not think they were talking about a two to five year delay to determine the best way to get a state of the arts facility in Menlo Park that represented all of Silicon Valley.
- Alex Delly, Menlo Park, said he was in favor of the Arts Guild project but as it was currently proposed it was probably not as beneficial as it could be as numerous concessions had to be made to move it forward. He said he and his wife owned the two properties on either side of the Guild Theater and to date no one had approached them to discuss the proposed project. He said there should be dialogue with the adjacent property owners and noted he was open to having a discussion that could lead to a very improved project and make it much more worthwhile.

- Naya Chatterjee, Menlo Park, said that a small music venue would be an opportunity for the community to come together collectively to enjoy music of all genres. She said music had the power to bring about social closeness and a more vital and stronger community. She said the project would be a strong asset to the community.
- Daniel Abrams, Menlo Park, said he wanted to express his enthusiasm for the new Guild. He said he was a music fan and the venue would encourage the community to come together in new ways around music. He said he thought as a prior acoustical engineer that technology for sound isolation had advanced so that would not be an issue.
- Fran Dehn, Chamber of Commerce, said the Chamber asked the Council at its goal setting meeting to prioritize this unique advancement opportunity by the Peninsula Arts Guild. She said the ramifications of it went beyond the realms of entertainment and community gatherings as the project would also provide benefits to complementary businesses within Menlo Park. She said obvious synergy was with food and beverage businesses but when completed the project would extend benefits to and complement other established businesses and approved and planned mixed-use projects such as Middle Plaza, Station 1300, and the Merrill Street Santa Cruz Avenue project. She said a priority of the El Camino Real / Downtown Specific Plan had an established vision goal to revitalize, enhance and provide opportunities for a vibrant downtown. She said Peninsula Arts Guild would develop, fund and deliver this project that would have a positive ripple effect to all the local businesses.
- Catherine Carlton, City Council member, said she ran for City Council because she was so passionate about making efforts to enliven the downtown. She said she was speaking to the Commission tonight not as a Council member but a mother with two children. She said she was a live music and movie fan, especially art house movies. She said she was coming to speak to the Commission as she was very concerned with the time aspect of the project for if they did not move quickly the project would dissolve. She said there were traffic and parking issues but they would work through them. She assured the business owners near the project site that their businesses would be stronger in the end.
- David Tuzman, Menlo Park, said his home was across the street from the project site. He said being a nonprofit it would keep prices low and make it accessible to diverse audiences. He said as a musician he saw it not only as an opportunity to consume entertainment but an opportunity for local performers and organizers, particularly youth-led and organized performances and would offer enrichment other than the typical academic excellence and structure path. He suggested partnering with existing booking agencies to understand the mechanics and get wedged into connections for acts that would draw a crowd.

Chair Combs closed the public hearing.

Commission Questions of the Applicant:

Commissioner Onken asked about the existing theater capacity. Senior Planner Sandmeier said existing capacity was 266 persons. Mr. Wasney said the capacity was dependent upon the use and for cinema would be considerably less than the upper capacity for standing room general admission show, which if really packed would be just below 500 persons, measuring five square feet per person. Replying to Commissioner Onken, Mr. Wasney said expected capacity for movies

was about 135 persons. Commissioner Onken noted concerns about construction impacts, that the lot in back was not owned by the Guild's property owner and the business was located on a state highway, and asked how they would construct the project. Mr. Wasney said they had submitted a construction logistics plan required for their application. He said they had not yet selected a contractor but one of the firms on the short list was Vance Brown Builders that was currently working in Menlo Park. He said they wished they owned the parking lot behind but did not and could see no opportunity to service the construction or theater from there. He said the project would need to be built from El Camino Real. He said they would keep the sidewalk open and would involve two fulltime flaggers to control both vehicular and pedestrian traffic. He said it would be a great challenge for a very experienced general contractor. He said they would only use companies used to working on large projects on constrained sites. He said he was very sensitive to the business owners who spoke. He said the construction would be inconvenient but it would end, and he thought their businesses would benefit from the vitality.

Commissioner Barnes asked about parking ratios for a venue with a spread of occupancy from 135 to almost 500 people. Senior Planner Sandmeier said the consultant who worked on the parking study was present.

Andrew Kluter , CHS Consulting Group, said they were the applicant's parking consultant. He confirmed that Commissioner Barnes wanted to know parking ratios for theaters. Commissioner Barnes asked if prescriptive parking ratios were used per 1,000 square feet or if it was based on the intensity of use. Mr. Kluter said in doing a parking generation study for these types of projects they went by the expected number of patrons and that there was no onsite parking provided. He said looking at it from an off street parking perspective it was usually governed by the number of seats.

Commissioner Barnes asked under the Specific Plan amendment whether parking ratios for this proposed use had been contemplated, and what the methodology was. Senior Planner Sandmeier said this was a use not described in the Specific Plan parking chart. She said the Transportation Manager in that case determined the required parking. She said in this case the Transportation Manager reviewed the consultant's study and approved it. Principal Planner Chow said for reference that page K4 of the staff report said the worst case parking demand expected would be 271 vehicles for a 550-patron event. Replying to Commissioner Barnes, City Attorney Bill McClure said the parking was usually based on seats as for example restaurants. He said it included the parking ratio, if parking was required onsite, or if allowed off site, what the availability of the offsite parking was and if it was adequate. Commissioner Barnes said parking for restaurants under the Specific Plan was based on 1,000 square feet of gross floor area. Counsel McClure said in designing a restaurant they started with per seat and then converted it to square footage so it was consistent. Commissioner Barnes said his interest was to be given applicable parking ratios for this proposed use.

Commissioner Kahle said he was excited about live music, plays and book readings but he was a big movie fan. He said he had gone to the Guild for over 30 years. He said it seemed that movies would not be regularly scheduled as they were currently. Mr. Dunlevie said it would not be analogous to a Landmark Theater that showed a single movie for weeks but there could be movies regularly scheduled noting there was flexibility. He said he met with Noah Callan, who ran the San Francisco Film Festival and SF Film, to learn about how exhibition distribution happened and how those costs worked. He noted major changes in distribution and availability to purchase movies at home upon release. He said rather than have one movie for weeks they might show the 10 Oscar

finalist movies. Commissioner Kahle asked if movies were one of the three events per week. Mr. Dunlevie said that they would hold two discounted events per month and everything else would be made as cheap as possible. He said movie night might be one of the three events per week. He said they would like to have the bulk of their events on weekends when people were generally freer. He said what the flexibility of the weekday events alluded to was the possibility of drawing a big act showing locally on the weekends and coming to this venue on the way to their next big show elsewhere. He said an artificial cap on their performance numbers unless there was a reason to do that did not make sense otherwise. He said they were proving there was no traffic problem as the events would always be in the evening and demonstrated parking was plentiful then. He said if Ms. Adams wanted to put on a film festival on a Tuesday they would want to work with the community to make it available. He said the way they were constructing the theater was to have great flexibility on what events were held or movies shown. Commissioner Kahle said personally he did not see the need for a cap. He said there was no projection booth shown. Mr. Wasney said it was mounted in the ceiling. Commissioner Kahle asked if the technology was equivalent to the quality film shown in movie theaters. Mr. Dunlevie said it was high quality. Commissioner Kahle asked if the screen size was comparable to the Guild's current screen size. Mr. Wasney said it was smaller as the stage was smaller. He said the proportion of the house would change. He said the screen and stage were smaller but the distance from the front of the stage to the back of the theater was considerably shorter than currently. He said the Shalett Collaborative System designers out of Berkeley would handle everything from the audiovisual and theater projection system.

Commissioner Kahle asked if the intent in taking the marquee down was to preserve it as much as possible or if it would be partially saved and rebuilt. Mr. Wasney said their intent and hope was to take it down and have the best neon expert in Oakland do its restoration. Commissioner Kahle asked if they had considered other materials than stucco for the front façade or something to break up the stucco. Mr. Wasney said they could study that once they got into design development. He said it was a concrete bunker and hadn't a lot of depth to add skins and rain screens and such. He said the basic massing, fenestration and proportions of the building were well thought out. Commissioner Kahle suggested they look at the one squarish window for the box office where currently there were two and consider wrapping it into the opening to help open it up some. Commissioner Kahle noted interior features like the gold wings and asked if thought had been given to using some of those features in the new design. Mr. Wasney said they had not gotten to the interior design noting it had an eclectic collection of things salvaged from all over that did not have historic value in the sense of a listed resource. He said however they were character defining features and they were open to looking at those for keeping. Commissioner Kahle asked about the expected time for construction to opening the venue, and construction staging. Mr. Wasney said the project completion would take 16 months and they did not have an offsite location for staging construction equipment yet.

Commissioner Riggs asked about the EIR process and potential for traffic study. City Attorney McClure said there was an Addendum to the Program EIR that was part of the package. He said a checklist was done with the conclusion that there was no potential significant impact that was not evaluated as part of the Program EIR and the mitigation measures in the Program EIR were sufficient to address the impacts of the project. He said the site was an existing 266 person capacity venue with an increase of 250 or so for the largest events and was off peak in terms of traffic. He said the City did not have a traffic peak from 7:00 to 10:00 p.m. any night let alone on a weekend night. He said essentially by definition there would not be a significant impact. He said normally the project would be exempt from environmental review as it was less than 10,000 square

feet of net new area. He said as it was not part of the Program EIR it was simpler to do an addendum than to make a finding of exemption due to the size of the project.

Commissioner Riggs said in addition to the event population it was posited the venue would have a staff of 23 persons. He asked how the 23 employees would be parked. City Attorney McClure said they believed the employee parking was accounted for in the parking study. Commissioner Riggs said in his experience staff and performers arrived at a venue one to two hours prior to the show and 5:00 p.m. was not an ideal time to find parking. He asked if that had been considered. City Attorney McClure said he did not know if that had been considered in terms of when the employees would report to work.

Commissioner Riggs asked what the nexus was for a BMR Housing requirement for an entertainment facility. City Attorney McClure said the City's BMR ordinance required that all net new square footage comply with it. Commissioner Riggs asked if the requirement could be waived by City Council or if the ordinance would have to be modified to allow that waiver. City Attorney McClure said he had not thought about that. He said the project would have employees and some of those might be lower income earners that could benefit from BMR housing. He said if the applicant requested an exemption and the Council wanted to do it that was something that could be reviewed.

Commissioner Riggs asked about the type of chairs for movie events. Mr. Dunlevie said those were not folding, card table chairs but cinema style chairs, which would be brought up with risers from the basement and set up.

Commissioner Riggs said the proposed design was handsome and simple but was not quite theater and fitting with the marquee. He said it appeared there was an opportunity to use something besides the natural matte appearance of stucco, such as terra cotta or metal panels applied in an interesting way as opposed to rectilinear. He said the project would not save the Guild but the City would get an art and entertainment venue the residents had wanted for a long time. He said with that clarity he supported moving forward with the project. He said a lot was being asked for to support the project. He said parking might be the most visible of that but also the City's code was to be modified in terms of construction from El Camino Real and that would be felt.

Commissioner Strehl said that it might be worthy of the City Council to take consideration of whether the BMR requirement was necessary. She asked if live events would be standing room only or if there would be any seats available. Mr. Dunlevie said there would be seats and that it depended on the show. He said if they were doing a jazz quintet show they might use cabaret seating that they could bring in. He said rock and roll shows would be standing room only. Commissioner Strehl asked how guests would be directed to park in parking lots not parked to capacity. She said parking lot 8 that physically was closest to the Guild was parked at capacity even after 7:00 p.m. Mr. Dunlevie said that they would communicate that through ticket exchange and website. He said they would be very clear about where one should park and where one should not park. He said they would work with employees on commute and parking solutions. Commissioner Strehl said neighboring business owners indicated they had not been communicated with about the project. She asked how they would communicate with them more thoroughly about the plans and how the impacts on their businesses would be mitigated. Mr. Dunlevie said one of the first people he met with was Ben Tashon, the owner of the end lot and the rear parking lot, and asked what he wanted them to do in terms of meeting with their tenants. He said Mark Bryman had contacted him a number of times at the behest of Mr. Delly. He said he had

conveyed they had a plan and were happy to talk with them about it, but they had not yet heard back from them.

Commissioner Strehl said she understood the necessity to move quickly and for all projects, and especially as witnessed tonight with residential development that it was incumbent upon the Commissioners to do it right but also facilitate projects move forward.

Chair Combs said as part of the public benefit they were offering a reduced rate for community events and staff was countering that it would be better if those events serving as public benefit should have a maximum daily rate. He asked the applicant to address why they thought their proposal was better than staff's proposal, and if there was middle ground between the two options. Mr. Dunlevie said they did not know exactly yet how much things were going to cost to run at the venue. He said he did not think the time based concept would not always map to the complexity of it. He said for example that they might do a movie event for two hours but the night before there was a standing room only event, so labor would be needed for the movie event setup. He said in addition to the two events discounted very month they would keep costs low as possible.

Replying to Commissioner Barnes, Mr. Dunlevie said Peninsula Arts Guild was a California corporation applying for 501.3c status. He said costs would need to be covered and any profit would go back into the business. Commissioner Barnes asked what entity would hold title to the property. Mr. Dunlevie said he believed that Peninsula Arts Guild would. Commissioner Barnes asked if they would have deed restrictions in return for the concessions made to keep the entitled facility from being sold. Mr. Dunlevie said he was out of his depth with that question. He said their motives were pretty pure. He asked whether he could follow up later on that after talking with attorneys.

Commissioner Barnes asked other than community events how many events and what type would they expect to host. Mr. Dunlevie said they thought a typical week would probably be one to three shows, noting they targeted weekends because those were more fun. He said what they were worried about that was changed today was the freedom to do events during the week. He said they needed the ability to be spry and if they could get a big name on a week night that was performing in the area on the weekend through their music connections that was best. Replying to Commissioner Barnes, Mr. Dunlevie said they were only contemplating doing events in the evening timeframe to not exacerbate parking or have traffic problems. Commissioner Barnes asked if they were willing to have that called out in the use permit that their venue would operate in the evening. Mr. Dunlevie agreed. Commissioner Barnes asked about community events in the day time and whether they would expect to staff those. He asked how parking would work for 250 people coming in at noontime on Tuesday. Mr. Dunlevie said he did not know and that it was up to the City to tell them what it wanted to do. Commissioner Barnes said it was important for the community to know what to expect so there were no surprises later on. He asked how they would differentiate between adult serving space and child appropriate space. Mr. Dunlevie said he did not see the problem but there were solutions. Mr. Wasney said the theater business was wonderful at transforming environments using things like pipe and drape. He said for a user group whether a community or school group that did not want to see the back bar and alcohol bottles that there could probably be an easily deployable system of pipe and drape to conceal. Commissioner Barnes asked about hygiene. Mr. Dunlevie said the venue would be cleaned well after events. Commissioner Barnes asked about feedback from the Menlo Park Fire District. Mr. Wasney said the building would be much better than currently as now it had one exit out the front door, one of the two other exits would put a person in the backyard of Clockworks with no exit which was illegal, and the other

went to the alleyway festooned with trash cans its length. He said the building had no current seismic integrity nor was it sprinklered. He said the building would be brought to current building code for seismic safety. He said for fire safety it would have a full sprinkler and alarm system. He said the gurney size elevators for means of egress worked fine. He said there were no fire access issues from the point of view of hose length as any fire could be fought from El Camino Real. He said they had a pending application with the Fire District and had not yet received comments. He said from his knowledge of the building code they had met all the fire safety requirements.

Commissioner Barnes noted that it did not take long for cars to get backed up on El Camino Real and asked if they would have car share, Lyft and Uber queue in front of the building. Mr. Dunlevie said if it became a problem they would address it with the companies. Commissioner Barnes asked about the five minute loading zone in front of the theater. Mr. Dunlevie said he thought the theater needed that. Commissioner Barnes asked about the caterer deliveries and the performers' vehicles arriving. Mr. Wasney said for a typical day at the Greek Theater or Fillmore Auditorium, the first persons to arrive would be those stocking food and beverage from about 10 a.m. to 1 p.m. He said the venue would have a house lighting and house sound system so the band would not need to bring heavy speakers, and would carry just their own state setup. He said artists typically arrived about 1 p.m. and there would be a designated load in time for them. He said most of the time acts that would play at this venue would be in a medium to large bus, and a small trailer. He said they could unload their instruments from the front or side stage door. He said the artists lived on the buses and this venue would have really nice amenities for them. He said the bus would then move offsite away from the Guild to park. He said by show time there was no more in and out of musical acts or concession support so the loading zone could be used potentially as a drop off area.

Replying to Commissioner Barnes, Mr. Dunlevie said that private events were likely where they would make their money so he would not want those prohibited. He said however they would do plenty of public events.

Short discussion ensued on commission meeting policy as to meeting length and commissioner availability. One commissioner indicated a need to leave by 11 p.m.

Commissioner Barnes said he was concerned it would become a private venue for corporate parties. Mr. Dunlevie said they wanted to bring bands for the public and do things for the community. He said they needed the freedom to do private events but they in no way saw that as what they would do all the time. Commissioner Barnes said what he noticed in the outreach and support response was nothing from residents past Middlefield Road or Belle Haven. He said an important component of the facility was access to get there. He said the modeling looked at quarter mile walking distance and most likely that would be people from El Camino Real or west Menlo Park. He said from the turnout it felt like this would be a venue for west Menlo Park. Mr. Dunlevie said that was unintentional and that once bands were booked those would spark interest anywhere in the City. Commissioner Barnes said he would want use of the venue for community event to be equitable across the City.

Commission Comments: Commissioner Onken said in the context of the Specific Plan that parking had saved this project. He said previous redevelopment proposals for this block of Menlo Park did not work because they could not be parked. He said in terms of how this project would be parked he would go along with the idea that it was going to work with existing parking in the City. He noted community events that would be held more appropriately at the library, Kepler's, or Menlo-Atherton Performing Center. He said this venue was somewhat self-selecting and would fill a void the City

had. He said he knew the architecture was being developed and he was very pleased with the upgrade. He said he supported the project.

Commissioner Kahle said this was a great project for Menlo Park that was sorely needed. He referred to the overwhelming support for the project from the emails received. He said the marquee was key to the project and he was pleased it would be preserved and made to work as much as possible. He said it was not really mentioned but there would be windows on either side of the marquee that would help focus on that. He noted comments earlier about the materials on the El Camino Real façade and for the box office. He suggested they might save the golden wings in the interior. He said the staff report posed a question about having a maximum daily rate and half-day rate versus 50%. He said it sounded like that could be explored and might be better than just a 50% cost. He said regarding the BMR in-lieu fee and the potential for waiving it that the staff report indicated it was about \$61,000, which he did not think was exorbitant for a \$10 million-plus project. He said if the City Council wanted to consider some reduction that was something he could see. He suggested the City and City Attorney consider what would happen if the property was sold after being entitled. He said regarding the age appropriateness of the venue that it sounded like it could be set up for groups not 21 years or older and partitioned for a drinking area and the bar closed off for younger age groups.

Replying to Commissioner Kahle, Principal Planner Chow said the Commission was requested to make a recommendation to the City Council. She said the project was scheduled for the City Council's review and action on May 22, 2018.

Commissioner Riggs commented it was unusual the Planning Commission would not do the architectural control approval for the project. Principal Planner Chow said there were architectural plans in the packet for the Commission's review. Commissioner Riggs said Commissioners had commented on the architecture and materials as presented, particularly the stucco. He said that it was quite right to raise the idea of a deed restriction. He said he could support the proposed amendments for this project but he thought the 20 some employees should be parked, either with annual parking permits or for the project to buy 20 spaces in the proposed parking structure. He said the latter was his preference. He said the bulk of the employee parking would be before the office buildings were empty or stores had closed and people had stopped shopping. He said it was a great project and he wanted to make sure the City could keep it moving.

Chair Combs said he was supportive of the project but noted the City was making a number of exceptions for it such as the parking for event goers and employees, the construction impact to neighboring businesses and properties, and an amendment for increased floor area ratio (FAR). He said that in return the public benefit might be nothing. He said the theory posed was there were community associations and organizations that would see value in having events there at whatever the rate was determined. He said if that was not true then the public benefit could be nothing or minimal. He said given the extraordinary exceptions being requested that this was an extraordinary project, and in that sense it deserved support. He said it, in and of itself, would provide a great benefit to the community. He said given the hour he would make a motion. He moved to accept the recommendations as outlined in the staff report regarding the Addendum to the Specific Plan Program EIR, the FAR increase, finding architectural control compliance, approve a use permit to allow a small scale recreation bar, and acceptance of the BMR Housing in-lieu Agreement in compliance with the City's BMR Housing Program. Commissioner Strehl said if Chair Combs agreed she would like Commissioner Riggs' recommendation that they include a requirement for a parking program for the employees. Chair Combs said he accepted that addition. Commissioner

Strehl said it might be good to recommend a deed restriction regarding the use. Chair Combs said perhaps the City Attorney could address although he thought that the use would run with the land and if the property sold the use would have to continue as approved. City Attorney McClure said with the City's conditional development permits they recorded a memorandum of the conditional development permit setting forth the conditions of approval. He said the entitlements would not be the same if it was for a for-profit organization and that it should not be able to be sold and used for a for-profit basis. He said they needed to tighten up that condition, and so recommending the direction to do that as part of the motion was appropriate. He said they would work with the applicant to tighten up some of the language on these items.

Commissioner Barnes said he would like to offer recommendations that the programming for community groups be representative of all geographies in the City for equal access to use the venue. Chair Combs said it was okay in theory but he did not know if it might be an unnecessary restriction. Commissioner Barnes said he was interested in the spirit of equal access to the facility. He said the staff report indicated there would be a meeting between staff and applicant about how that would be done. Chair Combs said he could support the idea that the applicant should strive to make sure that community organizations in all areas of the City were represented to be able to avail themselves of the public benefit. Commissioner Barnes asked if Chair Combs would consider requesting more clarity on how often the venue would be utilized for events and how many days would be available for community event use. Chair Combs said he could include that.

Commissioner Strehl said she was not sure what was meant. Commissioner Barnes said the applicant had given a range of how many times they would use the facility. He said it would be important for the City to know how many days the venue would be available for community events. Recognized by the Chair, Mr. Dunlevie said they needed to have flexibility as it was the events that would pay the bills. Commissioner Barnes said he thought there would be a long queue of people wanting to hold events there so he thought expectations should be clarified. Commissioner Strehl said she did not see how that could be done as the applicant did not know at this time what their programming would be. After discussion with the Chair, Commissioner Strehl said she could support a recommendation to the Council for the applicant to provide a forecast of range of availability of the venue for community events. Commissioner Riggs said if the agreement was to have the facility for community programming a certain number of days per year that was appreciated. He said he agreed that having the facility was the public benefit. He said he did not think the community program restrictions would be helpful.

Chair Combs said the motion was to recommend that the City Council make the necessary findings and take actions for approval of the Guild Theater Project with additional elements with clarity of linking the project's entitlement benefits to the property as to any future owners, an employee parking program, encouragement that the programming for community events represented a cross section of Menlo Park and organizations from across the City were able to avail themselves of those opportunities, and some clarity on programming and scheduling to forecast what dates might be available for community organizations. Principal Planner Chow said that staff had asked whether to allow the expansion of the live entertainment venue use outside of Friday, Saturday and Sunday and for the public benefit how the calculation would occur - whether it was on a daily rate in a limited set two per month or a standard rate that would apply.

Chair Combs said he understood the City was looking at one way to calculate that benefit. He said he tended to side with the applicant on the 50% discount rather than setting a daily rate for those organizations that would fall under the benefit. Commissioner Onken said if the entire project was defined as community benefit then the applicant every one or two years would report to City

Council on what they had been doing as community benefit. Chair Combs said the staff report said the public benefit for allowing the project bonus development was the two dates a month discounted for community events. He said he saw it as a reduction of the rate as indicated by the applicant of 50%. He said he also saw accepting the expansion of the dates outside of Friday, Saturday and Sunday. Commissioner Barnes said it was somewhat premature to stipulate 50% but suggested a sliding scale.

**ACTION:** Motion and second (Combs/Strehl) to make the following recommendations to the City Council; passes 6-0-1 with Commissioner Goodhue absent.

#### Environmental Review

1. Adopt a Resolution of the City Council of the City of Menlo Park adopting the EIR Addendum.

#### Amendment to the Specific Plan

2. Adopt a Resolution of the City Council of the City of Menlo Park Approving an Amendment to the El Camino Real/Downtown Specific Plan.

#### Architectural Control and Use Permit

3. Adopt a Resolution of the City Council of the City of Menlo Park Approving Findings and Conditions for the Architectural Control and a Use Permit to allow small-scale recreation and a bar for 949 El Camino Real.

#### Below Market Rate (BMR) Housing Agreement

4. Adopt a Resolution Approving a Below Market Rate Housing Agreement with the Peninsula Arts Guild for 949 El Camino Real Project.

The Planning Commission also recommended the following:

- Require the applicant to provide an employee parking program as structure by Council;
- That the City Attorney look at language of condition and method of memorializing such that the entitlements for this project were specific to a nonprofit California Corporation and could not be used by a for-profit organization should the property be sold;
- That the applicant strive to ensure that community organizations in all areas of the City were represented to be able to avail themselves of the public benefit to hold community events at the venue;
- For the applicant to provide a forecast of range of availability of the venue for community events;
- That fee for community event use of the venue be on a sliding scale; and
- Modification of Condition 5(a)(iv), subject to verification of the parking data by staff: No more than three live entertainment or movie events shall be held between Friday and Sunday during the hours of 7pm to 11pm, with adequate time for set up and close by staff before and after those hours. Occasional live entertainment or movie events may be held on weeknights during those same evening hours. Any movie or community event held outside of those hours shall not exceed current theater capacity of 266 persons."

## **G. Informational Items**

### **G1. Future Planning Commission Meeting Schedule**

- Regular Meeting: May 7, 2018

Principal Planner Chow said they had a number of single-family residential development projects for the May 7 meeting. She said also for discussion would be potential revision of the recently adopted R-M-U BMR requirements.

- Regular Meeting: May 14, 2018
- Regular Meeting: June 4, 2018

Commissioner Barnes asked staff to add a column on the Downtown Specific Plan calculations when projects came forward to show how close it was to the aggregate.

## **H. Adjournment**

Chair Combs adjourned the meeting at 11:25 p.m.

Staff Liaison: Deanna Chow, Principal Planner

Recording Secretary: Brenda Bennett

Approved by the Planning Commission on May 14, 2018