



## REGULAR MEETING MINUTES

**Date:** 5/6/2019  
**Time:** 7:00 p.m.  
**City Council Chambers**  
**701 Laurel St., Menlo Park, CA 94025**

### A. Call To Order

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

### B. Roll Call

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

Absent: Katherine Strehl

Staff: Cecelia Conley, Contract Assistant Planner; Ori Paz, Assistant Planner; Kyle Perata, Principal Planner; Corinna Sandmeier, Senior Planner; Chris Turner, Planning Technician

### C. Reports and Announcements

Principal Planner Kyle Perata welcomed Michele Tate and Chris DeCardy, who were recently appointed by the City Council to serve on the Planning Commission. He said the City Council at its May 7, 2019 meeting would hold a study session on Facebook's Willows Village project.

### D. Public Comment

- Peter Edmonds said he resided in District 3 and was the applicant for an appeal of a Heritage Tree Removal Permit permitting the removal of seven heritage redwood trees along the frontage of 1000 El Camino Real. He said that the heritage tree removals were predicated for approval on the basis of the absence of any reasonable or feasible alternative to removal for a project to proceed. He said last week he submitted to the City a new proposal for a much simpler retrofit scheme that required no access to the waterproofing membrane on top of podium concrete roof of the below grade parking area. He said he had eight copies of the new proposal for distribution to the Commission.

### E. Consent Calendar

- E1. Architectural Control/Gordon Bell/812 Willow Road:  
Request for architectural control to increase the height and width of an architectural feature on an existing commercial structure located in the C-4 (General Commercial) zoning district. The architectural modification is being proposed as part of an upgrade to an existing cellular antenna system. ([Staff Report #19-032-PC](#))

Commissioner Henry Riggs said he wanted the item pulled for discussion, which Vice Chair Barnes

acknowledged.

Commissioner Riggs said reference was made to an architectural fin to be increased in width by one-and-a-half feet. He said the starting point was not indicated. He said he visited the site and confirmed with staff that the existing architectural fin was about eight inches.

Commissioner Riggs said this was a significant increase to what was meant architecturally as a narrow sort of marquee. He said as proposed this would be a heavy element and asked what benefit local residents would get from this approval. He said there were exposed conduits on the east side of the fin. He said there was also a wood structure on top of the roof and suggested that could be removed.

Planning Technician Turner said the intent of the overall project was to hide new cellular antenna and existing equipment. He said for residents in the surrounding area the resulting fin would hide all of the equipment including what was currently visible with the existing fin from the street.

Commissioner Riggs asked if the new box would hide the antennas and the currently exposed conduits, and if staff had asked that the derelict wood structure be cleaned up. Planning Technician Turner said the applicant was present.

Gordon Bell, applicant, said he was representing AT&T. He said the intent of the project was to provide a benefit to the community by hiding and camouflaging the existing equipment. He said the proposed work was requested by the property owner. He said they were adding remote radio units, bulky little boxes that would be inside the fin as well. He said all the equipment would be screened as well as the cable tray. He said they could speak with the property owner about the wooden box on top of the roof to remove it as part of this project. Commissioner Riggs said that would be appreciated. He said it did not appear the project would address the exposed conduit on the other side. Mr. Bell said that it did not. He said they could put that in a cable tray and paint it to match the building. Replying to Commissioner Riggs said the metal cable tray was about one foot wide and four inches tall. He said it would extend the length of the building.

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

Commission Comment: Vice Chair Barnes said he appreciated Commissioner Riggs' attention to the specifics. He said he was familiar with the site and thought the proposal would be fine. He moved to approve as recommended in the staff report. Commissioner Camille Kennedy seconded the motion.

**ACTION:** Motion and second (Barnes/Kennedy) to approve the item as recommended in the staff report; passes 5-1-1 with Commissioner Riggs opposed and Commissioner Catherine Strehl absent.

1. Make a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current California Environmental Quality Act (CEQA) Guidelines.
2. Adopt the following findings, as per Section 16.68.020 of the Zoning Ordinance, pertaining to architectural control approval:

- a. The general appearance of the structure is in keeping with the character of the neighborhood.
  - b. The development will not be detrimental to the harmonious and orderly growth of the City.
  - c. The development will not impair the desirability of investment or occupation in the neighborhood.
  - d. The development provides adequate parking as required in all applicable City Ordinances and has made adequate provisions for access to such parking.
  - e. The property is not within any Specific Plan area, and as such no finding regarding consistency is required to be made.
3. Approve the architectural control subject to the following **standard** conditions:
- a. Development of the project shall be substantially in conformance with the plans prepared by Gordon Bell, consisting of 14 plan sheets, dated received April 18, 2019, and approved by the Planning Commission on May 6, 2019, 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. 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.
  - e. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance

## F. Public Hearing

- F1. Use Permit/Erica Hsu/510 Olive Street:  
Request for a use permit to demolish an existing single-family residence and construct a new two-story single-family residence on a substandard lot with respect to lot width in the R-1-S (Single Family Suburban Residential) zoning district. **Continued by the Planning Commission at the March 11, 2019 meeting.** (Staff Report #19-033-PC)

Staff Comment: Contract Assistant Planner Cecilia Conley said there were no additions to the written report.

Applicant Presentation: Tony Ngai, project architect, said the property owners Erica Hsu and her mother Angie Hsu were present. He said Ms. Hsu's father, Eric, was not able to attend this evening but had attended the March 11 hearing. He said the project proposal hearing was continued from March 11 when they were asked to provide additional clarification for the project. He said they had submitted a revised project description with the four items the Commission had asked them to address.

Mr. Ngai said the Commission asked for a landscape plan to show screening along the side property line to address privacy for the two bedrooms facing that property line. He said the landscape plan on sheet L1.1 showed all the existing trees and the newly planted five trees on the north side that were currently about 16 feet tall. He said those were fast growing trees expected to reach about 40-feet in height. He said within the anticipated one year of construction they expected the trees would grow sufficiently tall to block the side project windows from the neighbors' windows. He said they reduced by six inches the width of both of the master bedroom windows that would face the neighbor's property.

Mr. Ngai said they were requested to properly delineate the 20-foot radius at the corner property line. He said sheet A1.2 clearly showed the 20-foot radius and an area of 100 square feet that the property owner would dedicate to the City because of the narrowness of the sidewalk at that corner so the sidewalk would have accessibility and width improvements.

Mr. Ngai said they were asked to better clarify the turning radius lines at the driveway facing Middle Street, which could be a busy street. He said they had shown that a vehicle coming into the property had ample space to do a turnaround and drive into Middle Street headfirst making it less dangerous for pedestrians and vehicles coming down Middle Street.

Mr. Ngai said they were asked to address the perceived massive scale on the corner of Middle and Olive Streets. He said sheet L1.1 showed the corner that was heavily wooded. He said because of the dense trees they had planned an extra tall window at that corner to bring in light. He said they had now reduced that window by two-and-a-half feet and lowered the structure itself by one foot. He said the neighbor across the street had provided a letter in support of the proposed design for that corner. He said they provided a sample of the stone veneer they would use that was almost white. He said the sample had sparkle but the actual stone they would use would not have that and would be a flat finish.

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

Commission Comment: Commissioner Riggs said it appeared to him that the applicant had made efforts to address the concerns raised by the Commission in March. He said the landscape plan indicated the neighbor had planted the arbutus marina on their side, which was good planning. He said he appreciated the applicant's reassurance about the stone. He said he supported the response made to the Commission.

Vice Chair Barnes said he appreciated the applicant's attention to the Commission comments and that those had specifically been addressed. He said he thought the design was enhanced. He asked about the sidewalk improvement at the corner. Planner Conley said that was a pedestrian access easement dedication that would support the construction of the sidewalk and the ADA compliant ramp, which the applicant's contractor would build to City standards.

**ACTION:** Motion and second (Barnes/Doran) to approve the item as recommended in the staff report; passes 6-0-1 with Commissioner Strehl 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 Nee Design, consisting of 14 plan sheets, dated received April 22, 2019 and approved by the Planning Commission on May 6, 2019, subject to review and approval by the Planning Division.
  - b. Prior to building permit issuance, the applicants shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies’ regulations that are directly applicable to the project.
  - c. Prior to building permit issuance, the applicants shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
  - d. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval by the Planning, Engineering and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
  - e. Simultaneous with the submittal of a complete building permit application, the applicant shall submit plans indicating that the applicant shall remove and replace any damaged and significantly worn sections of frontage improvements. The plans shall be submitted for review and approval of the Engineering Division.
  - f. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a Grading and Drainage Plan for review and approval of the Engineering Division. The Grading and Drainage Plan shall be approved prior to the issuance of grading, demolition or building permits.
  - g. Heritage and street trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance and the arborist report by Kielty Arborist Services LLC dated October 9, 2018.

4. Approve the use permit subject to the following **project-specific** condition:
  - a. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a legal description and plat for a pedestrian access easement dedication for sidewalk and an ADA-compliant ramp, subject to review and approval by the Engineering Division

F2. Use Permit/Chris Dolan/119 Baywood Avenue:

Request for a use permit to demolish an existing single-family residence and a detached garage and construct a new two-story single-family residence with either an attached front-loading one-car garage and adjacent uncovered space at the front or a detached side-loading one-car garage and adjacent uncovered space at the rear on a substandard lot with respect to lot area and width in the R-1-U (Single-Family Urban Residential) zoning district. Two heritage-size tree of heaven trees are proposed for removal. **Continued by the Planning Commission at the November 5, 2018 meeting (Staff Report #19-034-PC)**

Staff Comment: Assistant Planner Ori Paz said he had no updates to the written report.

Questions of Staff: Commissioner Chris DeCardy said on page 5 of the staff report it stated: *Staff is aware that alternate home models by the manufacturer could be pursued by the applicant that may comply with the daylight plane and meet all other Zoning Ordinance requirements and City standards.* He asked for clarification if that implied anything regarding the two options proposed or if it had been discussed and was feasible.

Assistant Planner Paz said he might defer to the applicant as well to answer the question. He said these were modular homes for which there were multiple different models. He said the applicant's choice was Model 8. He said the two options assessed were based on selecting Model 8 as the home. He said staff's statement was that there were other models that potentially could have been proposed that would meet City requirements. He said for the model selected that the second option would not meet the City requirements given the site constraints and daylight plane.

Commissioner Doran said on page 2 of the staff report it stated: *...however the detached garage option does not appear to be able to comply with the daylight plane requirement due to the confluence of the minimum driveway width, daylight plane, design limitations from the specific model of the proposed modular home, and City Engineering Division finished floor requirements relating to FEMA compliance.* He asked if the modular home was a problem for the attached garage whether it was possible to use a stick-built garage. Planner Paz said the garage was proposed to be stick-built. He said the home and porch were modular and the garage would be built onsite. Commissioner Doran said the paragraph he read indicated that a detached garage would not work, which he found confusing. Planner Paz said the issue with the modular home was that it was a certain width and the minimum driveway width was also a certain width. He said in the detached garage option the applicants in using their chosen home model did not have enough space for the home width, the driveway width and meet the daylight plane.

Applicant Presentation: Chris Dolan said he was the project sponsor. He said after the November 5, 2018 meeting, they looked at the four major comments made by the Commission. He said the first was to explore options to reduce the perceived massing of the building. He said in comparing the elevations from the previous elevations and the renderings, they reduced the massing by increasing the height of the porch parapet wall and extending the wing wall past the linear footage across the front façade and wrapping that wing wall down along the right side of the front of the

home. He said they added an awning to the right side and changed some of the materials between the windows on the second floor to reduce the perceived massing. He said they were installing a green wall trellis on the right side of the garage.

Mr. Dolan said regarding the second item on neighborhood outreach that they held a neighborhood meeting at the neighbor's house across the street from the subject property. He said they held another meeting at another residence, and lastly a phone call meeting where they reviewed the revised and modified plan since the November meeting. He said the third item was the roof pitch, which had been revised. He said the fourth item was to reduce the curb cut, which in the revised plan was now 20 feet not 24 feet.

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

Commission Comment: Vice Chair Barnes read the March 20 email from the neighbor across the street to staff that expressed continuing neighbor concern with the prominence of the garage. Vice Chair Barnes said he too found that element not in character with the homes in the neighborhood. He said the project was not materially different than what the Commission saw in November. He said they needed a design that would be more congruent with the homes in the neighborhood. He said offsite construction was an innovative technology with benefits. He said in this instance a choice between offsite and onsite construction was not being directed rather for the applicant to choose a design that met design standards and worked on the site and for the neighborhood. He said the garage had to be integrated into the main footprint of the house or behind or along side it.

Commissioner Riggs said he thought the building design had come along well, and if proposed in an Eichler neighborhood would fit well. He said the neighborhood character was strongly classic, so it was a challenge to bring a modern home into such a cohesive style neighborhood. He said if the City had design guidelines that would help to support that and better inform property owners and applicants. He referred to Vice Chair Barnes' comments and suggested the proposed revision addressed those but not the challenge of style. He said perhaps if the face of the garage had a corresponding low wall like the front side of the property that would make the front of the garage appear to be part of the house.

Commissioner Doran said he did not object to modern architecture and he thought modular home construction had many benefits. He referred to the staff report and comments that the confluence of the City's requirements and the specific model of home the applicants wanted to order made the requirements of the daylight plane infeasible. He said he found that objectionable. He said the applicant needed to choose modular designs to be constructed offsite that would comply with City requirements.

Vice Chair Barnes said for the record that he had no problem with modern architectural aesthetic and was supportive of innovative building technology. He said it was the externalization of the garage in this design that did not work.

Commissioner DeCardy confirmed with staff that Option 2 with a garage on the rear of the property would not meet City standards such as daylight plane requirements. He noted that some neighbors had concerns with the garage being in the rear of the property. He said it was not clear if there was neighbor consensus supporting a garage in the back or in the front of the property.

Commissioner Doran moved to continue the project.

Vice Chair Barnes asked the applicant if he would prefer a vote to approve or deny, or a continuance. Mr. Dolan said a continuance was preferable.

Vice Chair Barnes said that the garage needed to be integrated into the footprint of the house and the detached garage in the front did not work. Mr. Dolan asked if the project would get approved if the design with the front porch across the entire façade was recessed eight feet with the garage attached. Vice Chair Barnes said that was not answerable. He said the applicant should take the Commission concerns and work with staff on a design that resolved concerns.

Commissioner Camille Kennedy noted the suggestion made by Commissioner Riggs to make the garage more like the style of the home to soften its effect. She said she loved the house, but the garage was predominant and suggested it match the style of the home.

Commissioner Riggs said his suggestion was for a low wall in line with the face of the garage brought across the front yard and at least 10 feet away from the garage to allow for the second required parking space. He said that would bring the face of the house out to the face of the garage. He said the garage was finished in vertical wood siding, which was also the finish of the porch façade. Mr. Dolan asked if he was suggesting a low wall in parallel with the front plane of the garage and across the front façade of the house. Commissioner Riggs said structurally a low wall would be a fence with similar wood siding. Responding to Vice Chair Barnes, commissioner Riggs clarified that his suggestion of a low wall is meant as an example of a way to integrate the garage facade, not as a preferred design.

Vice Chair Barnes confirmed with staff that the Commission direction to the applicant for continuance was clear.

Commissioner Kennedy seconded the motion to continue.

**ACTION:** Motion and second (Doran/Kennedy) to continue the project for redesign with the following Commission direction; passes 4-2-1 with Commissioners DeCardy and Michele Tate opposed and Commissioner Strehl absent.

Individual Planning Commissioners commented on the following topics for consideration with a revised project:

1. The prominence of the garage:
  - a. Please explore options for reducing the prominence of the garage. Avenues to accomplish this could include:
    - i. Relocating the garage to be better integrated into the footprint of the main residence; and/or
    - ii. Providing architectural or landscape features nearer to the front property line to balance the massing of the projection.
2. Materials:
  - a. Consider revising the proposed garage door material.

- F3. Architectural Control/Use Permit/Major Subdivision and Below Market Rate Housing Agreement/Florence Lane Ventures LLC/975 Florence Lane:  
Request for a major subdivision to create eight condominium units by converting six existing residential dwelling units and constructing two new units on one parcel in the R-3 (Apartment) zoning district. The applicant is also requesting architectural control for the construction of the two

new units and other exterior work, and a use permit for work on an existing legal nonconforming structure that exceeds 50 percent of the value of the existing structure. The application is being submitted subject to the State Density Bonus Law, Government Code Section 65915 and relevant amendments, which permits exceptions to the City's Zoning Ordinance requirements. One below market rate unit is proposed for a moderate income household. The project also includes the removal of one heritage-size Japanese maple tree. The Planning Commission will serve as a recommending body and the City Council will be the final decision making body and take action on the proposed project at a future meeting date. ([Staff Report #19-035-PC](#))

Staff Comment: Senior Planner Corinna Sandmeier said staff received three additional emails since publication of the staff report, two of which supported the project and one which expressed concerns about parking for the new units. She said staff confirmed with the Police Department and the City Attorney that this property would not be eligible for on street, overnight parking permits as it was not developed prior to the current R-3 development requirements. She said a condition of approval was that the CC&Rs include language that on street parking permits would not be issued.

Questions of Staff: Commissioner Doran confirmed with staff that previously the project proposal had been to convert the six existing units to condominiums, and asked why the applicants decided to add two units. Planner Sandmeier said the applicant originally proposed to pay BMR in-lieu fees. She said to do that the applicant had to provide documentation that a project could not be developed with the addition of a BMR unit. She said the applicant did not submit documentation that staff deemed sufficient. She said staff worked with the applicant on how to provide a BMR unit onsite. She said the applicant then applied under the State Density Bonus Law and was adding one BMR unit and one market rate unit.

Commissioner Doran said the staff report referred to Government Code Section 65589.5(d)(2), which he reviewed. He said it talked about housing development projects for very low-, low- or moderate-income households. He asked if one single BMR unit was enough for the whole project to be considered a low- or moderate-income housing development project. Planner Sandmeier said yes, noting they had worked closely with the City Attorney to confirm they were applying this section correctly. She said the State Bonus Density Law allowed waivers to development standards that would prohibit construction of the BMR unit and the market rate bonus unit.

Commissioner Doran asked if staff could put the statute on the screen for all to see. Planner Perata said that might be a little difficult but he would try. Commissioner Doran said the staff report referenced the part (d)(2) of that government code section. He said he also looked at the part (d)(1). He said it indicated that if the City was in compliance with its Housing Element requirements then it had discretion under (d)(1) to deny the application. He said he believed Menlo Park was in compliance with its Housing Element for all income levels. Planner Perata said the City of Menlo Park was in compliance with SB 35, the bill discussed most recently in terms of the City's prorated implementation of their units and meeting certain income levels. He said for Commissioner Doran's question staff would need to do research on the overall Housing Element. He said he would have to get back to the Commissioner separately on that.

Vice Chair Barnes asked that staff be prepared to outline for the Commission what was discretionary for Menlo Park regarding waivers and incentives as applied to this project and where the Commission's purview was, when the discussion came back to the Commission for action.

Applicant Presentation: Steve Kellond, project architect, said they were requesting that six existing residential units be subdivided into condominiums and adding two units under the State Density Bonus Law. He said maximum density for the project site was seven units and under the State Density Bonus Law they were allowed eight units by providing inclusionary housing. He said they originally wanted to subdivide the existing six units for condominiums. He said the City's zoning ordinance said for multi-family projects that had five to nine units *it was preferred that the developer provide BMR*. He said as staff noted there was some option to pay an in-lieu fee, which they discussed in detail with staff. He said they ran the financial analysis of taking one of the six existing units for a BMR unit, but that would result in major financial loss for the property owner. He said they worked further with staff to come up with what they hoped was a win-win situation, where the City of Menlo Park would benefit from more inclusionary housing and the project would benefit from having two additional units. He said they were requesting two waivers, one for coverage and the second for parking. He said as outlined in the staff report the zoning ordinance required more parking than what they could physically provide. He said by doing two new units ADA law requirements were triggered and two spaces were needed to provide ADA parking. He said regarding the heritage tree removal that ADA access was required, and a ramp to the first floor units was needed, which meant the tree had to be removed. He said a replacement tree would be planted on the rear of the property. He said overall he thought the project would be a big improvement for the Florence Lane area as the existing apartment building was old and dated.

John Hanna said he was the attorney for the applicant. He said he had an objection to proposed condition 6.b that *the CC&Rs shall state that no on-street overnight parking permits will be issued by the City for any units, including units with less than two parking spaces*. He said that this condition currently applied to all units in the area not just this one.

Replying to Vice Chair Barnes, Planner Sandmeier said for some R-3 properties that were developed before current parking regulations that applications could be made for overnight street parking for apartments with less than two off street parking spaces. She said the condition was added to provide clarity. Mr. Hanna said if it did not make any difference whether a person lived in this new project, if approved, or next door or across the street, the person could not apply for and obtain an overnight street parking permit. He said if that was so then the condition did not need to be added to the approval for this particular project. He said if the City did apply this condition and then the laws changed for other people on this street then the project residents would still be unable to obtain the same permit as others would.

Vice Chair Barnes opened the public hearing.

Public Comment:

- Kristen Leep said she lived in Betsy Nash's district. She said she understood that neighbors had concerns with the proposed project as there would be more residents but not spaces for cars. She said parking issues were a legitimate nuisance, but an opportunity to increase the number of BMR units in Menlo Park should not be passed up. She said she strongly supported the project. She said her father lived in Menlo Park and she continued to try to live in Menlo Park noting she was a teacher. She said low-income residents contributed to Menlo Park's vitality and value and the City could not continue to prosper without teachers, nurses, librarians, caretakers and other people who did not make \$100,000 annually for a one-bedroom household.

- Noel Smith, Florence Lane resident, said he sent emails with his concerns about the project. He said he opposed any reduction of parking spaces as they would have 10 parking spaces for eight units. He said next door to this site were four one-bedroom apartments that should have six parking spaces and only had three. He said the whole block was like that and that people often parked in front of his driveway. He said an already bad parking situation would be worsened by this project.
- Angela Evans said she worked with the Housing Leadership Council of San Mateo County. She said they work with communities and their leaders to build and preserve more affordable housing. She said typically they would not take a position on a small project as this. She said she was thinking about the petition of 29 people asking to stop the project because of the addition of two housing units and the parking related to two additional homes. She said she had found that Menlo Park residents wanted to make room for younger families and individuals. She said she thought the opposition being expressed related to traffic and parking. She suggested that the City look at making the area more accessible by offering different transportation modes, noting the area was transit accessible and should be pedestrian and bicycle accessible. She said she was pleased to see another BMR unit in the downtown.

Vice Chair Barnes closed the public hearing.

Commission Comment: Replying to Vice Chair Barnes, Planner Sandmeier said she understood that the Commission's main discretion would be for the design review for architectural control. She said the parking reduction request was one of the waivers required for the project to be built due to the physical limitations of the existing development. She said she believed that the State Density Bonus Law did not allow discretion on that one. Replying to Vice Chair Barnes, Planner Sandmeier said that was based on discussions with the City Attorney.

Commissioner Doran referred back to his request to have Government Code Section 65589.5(d) on the screen for all to see. He said in his reading of it under subpar (1) there was another avenue that would allow for discretion on the parking. He said he would like an opportunity to consult with the attorney on that question before the Commission made its recommendation to Council.

Vice Chair Barnes asked staff to respond to Commissioner Doran's request. Planner Perata said for this project the Planning Commission was a recommending body. He said it certainly could make recommendations on the different actions separately. He said regarding the City Attorney question and repeating Planner Sandmeier's earlier statement, staff worked closely with the City Attorney's office on this project determining how the State Density Bonus Law applied to it and specifically what waivers the City was essentially required to grant due to the feasibility of the project. He said the parking was a waiver necessary to make the BMR unit feasible on site. He said per State Density Bonus Law it was a waiver the City needed to grant for the project with the BMR unit on site.

Vice Chair Barnes suggested Commission's recommendation might be to evaluate the State Density Bonus Law more closely to conclusively find that the City either had to grant the waiver for parking for the project or some alternative.

Vice Chair Barnes asked Mr. Kellond asked what would need to happen so the BMR unit might be very low or low-income and why they had arrived at moderate-income. Mr. Kellond said in working with staff there was some flexibility on how they determined that – he said it came to financial models as these would be for-sale units.

Commissioner Riggs said he had no issue with the heritage tree removal or subdivision. He said refreshing older buildings was a benefit to the immediate neighborhood. He said he believed that rental units served the lower income level more than BMRs for sale units. He said he supported the project and he did not think the Commission had justification to tell property owners that they could not do something, which was allowable within city and state code. He said he thought the project-specific condition regarding parking made good sense. He said in this project area in particular he did not think street parking permits should be issued. He said when apartments were converted to condominiums regardless of whether they used a state density bonus he thought it was appropriate for the City to put additional restriction. He said he would not support removing the project-specific condition regarding parking.

Commissioner Tate said she had concerns about the BMR unit being proposed. She said a one-bedroom unit at moderate income definitely screened out a lot of people in need of housing. She said also it was not consistent with the other units that were two- and three-bedroom units. She said when the Housing Commission looked at this issue, they expressed concern about the unit size but the applicants said it was due to fiscal feasibility. She said she would encourage Council to take a better look at the unit mix and the income level.

Commissioner DeCardy said the applicant indicated the difference between the moderate-income level and low- or very low-income was not appreciable. He asked if staff had looked at that difference and could explain what the difference was. Planner Sandmeier said her understanding was the applicant was allowed to propose the income level up to the moderate-income level.

Recognized by the Chair, Mr. Kellond said as this was a development project they had to look at what numbers worked. He said if they went into the very low- and low-income levels there were other incentives and waivers that became available. He said they were trying to limit that as they did not want to create an excessively waived or incentivized project. He referred to Commissioner Tate's concern with the size and disparity. He said there was a certain amount of square footage available for the project and a formula associated with the State Density Bonus Law as was described in their cover page. He said fundamentally there was a certain amount of square footage you were allowed to increase to beyond existing. He said because they were utilizing the density bonus and needed two units it made it easier to create the small units that were consistent.

Commissioner DeCardy said he agreed with Commissioner Riggs' comment that a Japanese maple was very beautiful. He said it did seem to enhance the current property. He said the recommendation was a one-to-one replacement and he would recommend a two-to-one replacement.

Commissioner Kennedy noted that the BMR was one of the two smaller units being built. She suggested it was possible that one of the existing units being renovated might be the BMR unit. Mr. Kellond said that was correct.

Vice Chair Barnes said for the record that he liked these were for-sale units and the availability of that housing stock was really good for the community.

Vice Chair Barnes said recommendations made were to require a two-to-one tree replacement ratio for the heritage tree and for Council to look at which unit was appropriate to designate as BMR and at what income level with the specificity of low-income suggested.

Commissioner Doran said he would like to ask the City Attorney to investigate the applicability of 65589.5(d)(1) before the City Council heard this item. He said most of the project was not discretionary as presented because of the BMR unit. He said if 65589.5(d)(1) applied then the approvals were discretionary.

Commissioner Tate said if the one-bedroom unit was the BMR unit then it definitely should be low-income. She said if Council understood that was limiting then she felt a two-bedroom unit was supportable at moderate-income.

Commissioner Riggs said he recommended keeping project-specific condition 6.b regarding including in the CC&Rs that no parking permits would be issued for this site.

Commissioner DeCardy queried Commissioner Doran as to his intent in having more discretionary control over the project. Commissioner Doran said it related to parking.

Recognized by the Chair, Mr. Kellond said regarding the heritage tree removal that the arborist's report found the Japanese maple to have poor vigor, poor form, and in heavy decline.

Vice Chair Barnes moved to recommend to the City Council to make the necessary findings and approve the project as outlined in Attachment A with the following attendant recommendations. Commissioner Riggs seconded the motion.

**ACTION:** Motion and second (Barnes/Riggs) to recommend to the City Council to make the necessary findings and approve the project as outlined in Attachment A with other recommendations as listed; passes 6-0-1 with Commissioner Strehl absent.

### **Architectural Control, Use Permit, and Tentative Map**

1. Adopt a Resolution of the City Council of the City of Menlo Park Approving Findings and Conditions for the Architectural Control, Use Permit, and Tentative Map for a project at 975 Florence Lane (Attachment B)

### **Heritage Tree Removal Permit**

2. Adopt a Resolution of the City Council of the City of Menlo Park Approving a Heritage Tree Removal Permit for a project located at 975 Florence Lane (Attachment C)

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

3. Adopt a Resolution Approving a Below Market Rate Housing Agreement with Florence Lane Ventures LLC for a project located at 975 Florence Lane (Attachment D)

Additional recommendations of the Planning Commission are:

- The heritage tree proposed for removal shall be replaced at a 2 to 1 ratio.
- The City Council shall review which size unit is appropriate to designate as the BMR unit and if low-income is the appropriate income level, then the one-bedroom unit would be appropriate to designate as the BMR unit.
- Condition of approval 6(b), requiring the CC&Rs to state that no on-street overnight parking permits will be issued by the City for any units, including units with less than two parking spaces, shall continue to be included with any project approvals.
- The City Attorney shall investigate if Government Code Section 65589.5(d)(1) applies to the project.

## **G. Regular Business**

### **G1. Review of Determination of Substantial Conformance/556 SC Partners LLC/556-558 Santa Cruz Avenue:**

Request for a substantial conformance memo for modifications to a previously approved mixed-use development in the SP-ECR/D (El Camino Real/Downtown Specific Plan) zoning district. The proposal includes minor modifications to the approved gross floor area as well as exterior modifications to all elevations. ([Attachment](#))

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

Vice Chair Barnes opened the public comment period and closed it as there were no speakers.

Applicant Presentation: Jeff Galbraith, Hayes Group, asked if the Commission might share what the concerns were that led to the item being placed on the agenda so he might address those specifically in his presentation.

Vice Chair Barnes declined the applicant's request and asked him to present the modifications they desired for the project.

Mr. Galbraith said they had presented a substantial conformance memo of the requested changes, and the feedback received from staff was there was concern with the new elevations they submitted in their building permit set, and how those compared to those approved in the entitlement set.

Mr. Galbraith provided a visual presentation noting that this project at 556 Santa Cruz Avenue was next door to 506 Santa Cruz Avenue, which was currently under construction. He said the two projects were entitled together. He said 556 Santa Cruz Avenue was a narrow lot about 50 feet wide and 200 feet deep with two-stories of commercial use and a third story with four residential units. He said despite apparent differences in the graphics between the elevations that were approved in the entitlement and those submitted now that the materials palette had not changed. He showed a slide comparing the entitled elevation and the proposed elevation in the building permit set. He said the latter was slightly different from the one the Commission received initially with the substantial conformance memo in that it was now colored in rather than black and white.

Mr. Galbraith summarized that window systems had been adjusted to eliminate intermediate columns where not required. He said the initial building design assumed the third floor would be wood framed and would need posts more often in the glazed openings. He said during design development they decided to change to a light frame metal structure at the third floor. He said everything below the third floor remained as concrete. He said they were able then to eliminate a few columns in the glass. He said the mullion and pane above the optimal pane was now omitted. He said they decided to increase the height of the operable unit as they felt it did a better job of matching the datums in the façade and created a larger operable unit. He said that window arrangements were modified to better suit interior spaces. He noted on the right elevation that the interior space changed as to where the bedrooms were so the windows were shifted to respond. He noted a tree in the top elevation covering a set of double doors. He said that double door was changed to a single door as it was now in the corner of the master bedroom and was there to provide an egress path. He said they added another single door to allow connection between the terrace and the interior residential space. He said there were two recesses in the façade that were exterior terraces on the second floor and were screened with what in the entitlement package was called out as a perforated metal screen colored to match M5, which was the gray flat panel. He said in the substantial conformance memo they called out that they were currently studying different alternatives for that material. He said the intention for the terrace screens was to provide increased privacy for those units as they would look out over the McDonald's parking lot next door. He said the intention was to have greenery growing on the perforated screening. He said the related façade for the screens was right on the lot line, which was fire rated and could not have windows. He said without the screens the façade would be a solid wall. He said the greenery shown in the conceptual image was shown growing from the top down and was engaged on the screen itself. He said they learned through design development that the panel as it was facing south would be too hot to allow for a plant to be attached to it and survive. He said the modification would be to have bamboo growing from the bottom up and an alternative to perforated metal that might feel more open. He presented slides of what they were looking at noting their preferred option was a straight woven metal mesh that would be about 75% open with more visibility through it.

Vice Chair Barnes noted he had opened and closed public comment before the applicant presentation.

Commission Comment: Commissioner Riggs said he appreciated the applicants bringing the item forward as it was now readable and comparable. He said the presentation also was necessary to clarify about the proposed screening and noted the three options were good and intention was high caliber. He moved to find the proposed modifications in substantial conformance. Commissioner Kennedy seconded the motion.

**ACTION:** Motion and second (Riggs/Kennedy) to make the determination of substantial conformance for the modifications proposed; passes 6-0 with Commissioner Strehl absent.

G2. Selection of Planning Commission Chair and Vice Chair for May 2019 through April 2020. ([Staff Report #18-036-PC](#))

**ACTION:** Motion and second (Riggs/Kennedy) to nominate Commissioner Barnes for Planning Commission Chair for May 2019 through April 2020; passes 6-0 with Commissioner Strehl absent.

**ACTION:** Motion and second (Barnes/Doran) to nominate Commissioner Riggs for Planning Commission Vice Chair for May 2019 through April 2020; passes 4-2 with Commissioners Kennedy and Tate opposed with Commissioner Strehl absent.

## **H. Informational Items**

### **H1. Future Planning Commission Meeting Schedule**

- Regular Meeting: May 20, 2019

Principal Planner Perata said the May 20 agenda would have some single-family residential development projects and a study session for 555 Willow Road, which was a boarding house proposal.

Chair Barnes said the dilapidated structure at 555 Willow Road had a large hornet nest that was a public safety hazard. Planner Perata said he would work with Chair Barnes outside the meeting on resolution of that situation.

- Regular Meeting: June 3, 2019
- Regular Meeting: June 24, 2019

## **I. Adjournment**

Chair Barnes adjourned the meeting at 9:21 p.m.

Staff Liaison: Kyle Perata, Principal Planner

Recording Secretary: Brenda Bennett

Approved by the Planning Commission on May 20, 2019

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**From:** Henry L Riggs [mailto:h!riggs@comcast.net]  
**Sent:** Sunday, May 19, 2019 2:11 PM  
**To:** Perata, Kyle T <ktperata@menlopark.org>  
**Cc:** Andrew Barnes <andrew@barnes210.com>  
**Subject:** Minutes May 6

Hi Kyle,

For the May 6 minutes, a couple of notes.

1. On page 1 Role Call and on page 2 ACTION, commissioner Strehl's first name is misspelled.
2. On page 8, following the 3rd para, suggest you insert something like "Responding to Vice Chair Barnes, commissioner Riggs clarified that his suggestion of a low wall is meant as an example of a way to integrate the garage facade, not as a preferred design."

Thanks,

Henry