



REGULAR MEETING MINUTES

Date: 5/7/2018
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 7:03 p.m.

B. Roll Call

Present: Andrew Barnes, Drew Combs (Chair), Susan Goodhue, Camille Kennedy, John Onken, Henry Riggs, Katherine Strehl

Staff: Deanna Chow, Principal Planner; Fahteen Khan, Contract Planner; Ori Paz, Assistant Planner; Kyle Perata, Senior Planner; Thomas Rogers, Principal Planner

C. Reports and Announcements

Chair Combs welcomed newly appointed Planning Commissioner Camille Kennedy noting her prior service on the Housing Commission and other city-related initiatives, including Imagine Menlo. He recognized former Commissioner Larry Kahle for his service to the Planning Commission noting he appreciated and valued Mr. Kahle's insight, detail and preparation for meetings. He expressed some disappointment with the City Council deliberation process to appoint commissioners in that he thought Mr. Kahle had brought a high level of voice to the Planning Commission, and he did not consider his own service on the Planning Commission to meet any quota. He said he thought his contributions and experience spoke for themselves, and had been substantive. He said he did appreciate Vice Mayor Mueller's comments specifically on the value of diversity when he was speaking to the number of African-American commissioners on city commissions. He said he was concerned with another voice on the Council who made had comments over Vice Mayor Mueller's remarks, and thought Menlo Park was better than those petty and divisive comments. He said that it had been an honor for him to serve four years on the Planning Commission and he was looking forward to the next four years of service. He expressed admiration for the level of expertise and knowledge of his fellow commissioners.

Principal Planner Thomas Rogers said the City Council at its April 24 meeting conducted a study session on the downtown parking garage. He said his understanding was that general interest was expressed in pursuing a garage project and looking at possible non-garage uses to be developed concurrently. He said that the project was generally understood to have potential delay due to various factors such as the departure of Housing and Economic Development Manager Jim Cogan. He said the City Council at its May 8 meeting would consider selecting a preferred alternative for a Ravenswood Grade Separation project. He said the project name was a bit misleading as the project had the potential to address other Caltrain railroad crossings, depending upon which alternative was selected. He said the Housing Commission at its May 9 meeting would consider an anti-discrimination ordinance, which was a Housing Element implementation measure.

He said it would not alter the BMR code, and the Housing Commissioner's recommendation would go directly to the City Council.

Commissioner Katherine Strehl thanked Chair Combs for his comments, welcomed Commissioner Kennedy, and noted former Commissioner Kahle's voice would be missed.

At Chair Combs' invitation, newly appointed Commissioner Kennedy expressed surprise and appreciation for her appointment noting the high caliber of fellow commissioners. She said she was committed in her service to the City and its constituents.

D. Public Comment

There was none.

E. Consent Calendar

- E1. Approval of minutes from the April 9, 2018, Planning Commission meeting. ([Attachment](#))

ACTION: Motion and second (Strehl/Onken) to approve the minutes as presented; passes 7-0.

F. Public Hearing

- F1. Use Permit/Chi-Mei Chang/600 Olive Street:
Request for use permit to construct a new two-story single-family residence on a vacant substandard lot with respect to width and depth in the R-1-S (Single-Family Suburban Residential) zoning district. One non-heritage street tree is proposed to be removed and replaced. ([Staff Report #18-041-PC](#))

Staff Comment: Assistant Planner Ori Paz noted a correction to the project description in that the lot was substandard with respect to width but not depth. He said that had been corrected in the documents. He said a number of correspondences received after the staff report was published had been forwarded to the Commission by email. He said copies of those were at the dais and the table in the back for the public. He said those items included an updated timeline of neighbor outreach undertaken by the applicant. He said the correspondence included concerns about parking and pedestrian safety at the intersection of Olive Street and Oakdell Drive, concerns about stormwater and the proposed basement, and general concerns about groundwater. He said another expressed concern about a tree that might have been removed between the time the previous home was demolished and the time of the application submittal for a use permit. He said also there were privacy concerns. He said in response to those staff, was able to review the demolition permit and it did appear that a heritage tree was removed without permit by a previous owner. He said that a project-specific condition had been added for the provision of a heritage tree replacement on the left side of the lot. He said staff confirmed with the architect on behalf of the property owner that they would be agreeable to raising the sill height of the window closest to the left side neighbor, which was project-specific condition 4.c.

Applicant Presentation: Roger Kohler, project architect, Palo Alto, said they had been working with the homeowners to design a home for them to live in, and had multiple meetings with staff to devise a plan that would be approvable. He said the garage doors were not visible from the street

and the second floor was pushed back. He said the large bedroom window facing the left would be shrunk and windows would face front and back. He said they had also agreed to replace the tree that appeared to have disappeared between the time the previous home was demolished and now.

Commissioner Strehl asked why impermeable paving was being used rather than permeable paving. Mr. Kohler said there was a modest implication of pavers on the driveway. He said they would be using a pass through system in the driveway area and everything paved in front of the garage.

Commissioner John Onken said a basement movie theater under the two-car garage seemed an engineering feat, and asked if that was a final design. Mr. Kohler said his firm did a lot of such basements, and it required more structure than normal. He said the concrete depth on the floor above was 1 ½ inches to 3 inches.

Chair Combs opened the public hearing.

Public Comment:

- Lee Crowley said her home was next door and downhill from the proposed project. She said historically they have had trouble with rain runoff and the water table under their house. She said they were concerned with the large underground structure proposed and would like the project to absorb as much water as possible. She said she would give the balance of her speaking time to Kevin Harris and Jim Crowley.

Chair Combs said the next speaker was Jim Crowley and with time left from the previous speaker, Mr. Crowley would have 4 ½ minutes.

- Jim Crowley said they had met with the property owners of the subject property in January to discuss the proposed project plans. He said two of their concerns were addressed in the most recent plans, regarding the location and noise of the air conditioning units and parking spaces. He said that the scope and size of the proposed development had not changed at all. He said the lot was substandard and all the adjoining properties had the same classification. He said owners who lived in this area appreciated that they lived a bit closer together and needed to consider closer neighbors when developing properties. He said the proposal would be the largest structure in the immediate area and was appropriate for a much larger property. He said the floor area comprised of the basement, first and second floors, and garage was 6,665 square feet. He said the two adjacent homes on Olive Street had floor areas less than 2,500 square feet. He said the proposed project would be potentially detrimental to the neighborhood with respect to privacy, daylight, reflected light, parking, noise, and underground water absorption. He said the walled basement area of 3,400 square feet would displace at least 34,000 cubic feet of soil that would no longer be available for water absorption or retention. He said the only area for water absorption would be the perimeter of the property or the setbacks, which would mean runoff to other properties. He said it was not only runoff but an issue of soil saturation, and his property would most directly be impacted. He said their home was the raised floor construction type and that water percolates from the saturated surrounding soil area to the under-floor area of their house. He said the new proposed basement would have significant impact on the saturated soil in the vicinity of their house. He said they discussed this issue with the Planning Division and Public Works Department staff, and he thought a better

standing of rain and groundwater issues needed to be developed before projects like this one with large basements were approved. He asked the Commission to consider for this and future similar projects that the limitation on the size of a basement should take into account groundwater absorption retention, soil saturation and effects on surrounding properties. He said when a super basement was planned the impervious area worksheet and the grading and drainage plan should be required to be part of the project documentation submitted to the Planning Commission as the current process of requiring those items at the building permit phase did not allow for public review by neighbors who might be impacted by groundwater runoff or retention. He said for a super basement the water retention requirement should be revised so the water collected in a rain event could be pumped out to the street to protect the surrounding properties from runoff and soils saturation. He said they believed this project posed injury and harm to their home and property, and delayed until analysis could be presented to the Planning Commission from the developer on the impact of the large basement on the surrounding properties and plans to mitigate the risks to the surrounding properties.

- Kevin Harris said he lived on Olive Street and was also representing his Olive Street neighbors, Maurice and Marianne Schlumberger. He said they had observed a number of spec houses built on Olive Street over the last 10 years, and each of those followed the same process to come before the Planning Commission making representations about what they would do and that they would live in the house, but which after construction did not occur. He said they would like staff and the Commission to turn a stricter eye on developer spec house projects. He said the property owner was single and wanted to build a seven bedroom and eight bathroom house. He said the proposed project would cast a lot of shade on the Schlumberger's house noting houses next to the proposed project were set back from the street 40 feet and the proposal was set back 31 feet from the street. He said Mr. Schlumberger had observed that three trees were removed during the demolition and suggested that all of them should be replaced, and he was also concerned that setback measurements were from the existing fence as the fence was a foot into his property. Mr. Harris said a 3400 square foot basement was larger than any of the basements previously built on Olive Street. He said that these types of basements might be popular in Palo Alto but Palo Alto had adopted new rules on dewatering during basement construction as there were a lot of groundwater impacts. He said he was disappointed to find out that Menlo Park did not have such rules and did not monitor groundwater table during construction. He encouraged the City to look at the super-basement phenomenon and how that was measured in terms of the size of houses impacts on groundwater table. He said the project was too big and potentially detrimental in terms of flooding risks and the basement proposed should be revisited to address some of these issues.
- Doug Marks said he and his wife lived at 628 Olive Street, and their comments concerned vehicle parking, ingress and egress at the subject property, and general pedestrian and bicycle safety at the very busy T-intersection of Oakdell and Olive Street. He said they had a meeting in November with Michael Chang, the son of the property owner, and had shared those concerns. He said it appeared the plans submitted for approval addressed some of their comments by including a parking strip and more onsite parking. He said the referenced intersection was very busy especially in the morning and afternoon on school days and traffic related to both Oak Knoll and Hillview Schools, including students and adults walking and cycling. He said the configuration of seven bedrooms with attached bathrooms had the potential of housing a number of unrelated individuals. He said while a potential setup for an Air B&B and rental was a concern of theirs, they understood there was no prohibition against this

type of floor plan. He said they would not support that type of use or business there should it occur. He said their concern was for the potential number of vehicles that could be entering and exiting this property at the intersection. He said where the proposed project was located currently had no sidewalk or parking strip. He said there had been a great deal of construction in this area of Olive Street so residents and construction vehicles routinely parked in the roadway beginning at 7 a.m. forcing pedestrians and bicyclists into the roadway as there were no marked bicycle lanes. He said they brought this safety issue to the Transportation Commission and City last fall but nothing yet had occurred to address it. He requested that the Planning Commission consider: 1) Require this project and other properties located on Olive and Oakdell Streets to have a seven-foot wide parking strip or sidewalk where vehicles could park off the street; 2) work with the Transportation Commission to paint a white line along Olive Street delineating safe bicycle space; and 3) consider carefully the large number of bedrooms and attached bathrooms proposed for the project and its potential to be multi-tenant or shared housing as if that was the use the question was whether the available parking was adequate for potentially seven vehicles and what could be done to improve the ingress/egress.

- Haleh Aboofazeu, Roger Kohler Architects, said the property owner was on a business trip in Europe. She said the parents would live on the first floor, the son on the second floor, and the sister in the basement. She said they intended to live there forever and were working hard to have good relationships with the neighbors. She said her company builds many basements and there were no problems as the contractor worked with the soils report and followed rules so there was no problem with groundwater.

Chair Combs closed the public hearing.

Commission Comment: Commissioner Henry Riggs asked about the borings for the geotechnical report and when those were done. Assistant Planner Paz said the geotechnical report and exploratory drilling had not been submitted to staff.

Commissioner Riggs noted a project in Portola Valley where they had relied on the geotechnical report showing no water down the depth of the boring. He said construction began and it turned out there was a natural spring running under the construction site. He said dependent upon when it was done, a boring might have very little indication on groundwater.

Commissioner John Onken said they had heard a number of comments about the size of the project and the hydrology. He said excavating large holes and dewatering might be a very large problem but it was outside the remit of the Planning Commission. He said the other comment was that the house was too big, and he questioned whether that was because of the number of bedrooms. He said the City had mechanisms to keep the project from being multi-tenanted if that became a nuisance. He said also no cars for the home could be parked on the street overnight so whatever cars were parked on site was a non-issue unless it became a nuisance. He said looking objectively at the proposed design the ceiling heights floor to floor were nine feet, which was not out of the ordinary. He said the house was long but was helped by the garage not facing the street.

Commissioner Kennedy said the home was large and was not the first home on the street to have that type of orientation. She indicated how the home would be used in the future was unknown and all they had was the property owner's stated intent to live there. She said having bathrooms with each bedroom would improve the resale value but many people wanted a private bathroom. She

said she agreed with Commissioner Onken about the size of the home.

Commissioner Susan Goodhue said she agreed with most of Commissioner Onken's comments. She said whether the house design was liked or the house was the right one for the neighborhood, the Commission had no lever to find that the house did not meet the development specifications for the lot. She said the lot was determined substandard because of width, but she did not think a 10,600 square foot lot was substandard considering the size of many lots in the City. She said she heard the neighbors' concerns, and if this project was built in her neighborhood, she would not like it. She said there was no law against developers building spec houses.

Chair Combs said a substandard lot gave the Commission additional purview. He said this project's basement would add a massive amount of space to the home and make it much bigger than in theory aboveground zoning would allow. He said his concern was whether this project based on its size might be substantively different from what was there currently. He asked staff about the City's processes for looking at rainwater and absorption for a parcel, and if that was standard, or whether in some areas of the City it was based on past flooding issues. He asked if the City would be looking closer at such massive basements that had been popular in Palo Alto for some time. Assistant Planner Paz said with the building permit process a number of reports would be submitted and if not, those would be requested by the Building and Engineering Divisions. He said Engineering Division in part would look at compliance with no net increase in stormwater runoff including the drainage systems designed for the site relative to their impervious areas. He said those divisions would review the geotechnical and hydrology reports for the site using a third party consultant to do that to ensure the soil would support the proposed structure.

Commissioner Andrew Barnes asked if the geotechnical report required some adjustment to the structure or footprint whether that would trigger the house to return to Planning for review. Assistant Planner Paz said it would depend. He said if it was reducing in size or intensity it might not come back but if it needed to change to make it a more intense use it would come back either as a memo or use permit revision. Commissioner Barnes asked about the property or others being used as Airbnb noting the City did not have an ordinance regarding that use. Principal Planner Rogers said he would read the definition of family from the City's zoning ordinance: *Family means a group of individuals living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an internally structured relationship providing organization and stability.* He said his understanding was that this definition was the result of non-local court cases based on some previous definitions of family that required relationships by blood or marriage, which were deemed to be discriminatory.

Commissioner Strehl said with the neighbors' concerns about hydrology and soil saturation she thought it would have been appropriate for the geotechnical report to have accompanied the use permit application for the Commission's review, noting that occurred for other applications. She suggested continuing the project so that information might be provided.

Commissioner Riggs said he had argued for many years that substandard lots should not be the only reason projects come forward to the Planning Commission as there had been instances where the environment might be harmed by a project. He said in this instance the City had not restricted the type of project that could be built. He said he thought the lower floor of this home would end up as a room for rent. He said they should address the trees and to require that any paving in the front would be pervious. He said he thought they could encourage Council to look at

an enforceable policy for a building that was used for rental in a single-family neighborhood and for dewatering. He said in this instance excavating 30% of the site would likely result in water. He said a geotechnical report for one week of a year was not sufficient to address that unless the geologist was requested to test for likelihood of groundwater so borings were done more than one time and to look at borings in the area, for example those done by the firm over the last 30 years. He moved to approve the use permit with the additional condition that the paving at the front of the structure be pervious paving. Commissioner Goodhue seconded the motion.

ACTION: Motion and second (Riggs/Goodhue) to approve the use permit with the following modification, passes 5-2 with Commissioners Combs and Strehl opposing.

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 Roger Kohler Architects, consisting of 16 plan sheets, dated received May 1, 2018, and approved by the Planning Commission on May 7, 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 applicant 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 applicant 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 15, 2017.
4. Approve the use permit subject to the following **project-specific** conditions:
- a. The applicant shall submit building permit plans that include an elevator, subject to review and approval of the Planning Division. Should the applicant elect to remove the elevator at any point, the applicant is required to provide revised plans, which account for the added floor area from the previously-exempt elevator and comply with the floor area limit, for review by the Planning Division. Any change to the exterior building envelope of the residence would require review and approval by the Planning Commission as a substantial conformance memorandum.
 - b. Concurrent with submittal of a complete building permit, the applicant shall submit revised plans that include a 24-inch box heritage tree replacement in the required left side setback, subject to review and approval of the Planning Division.
 - c. Concurrent with submittal of a complete building permit, the applicant shall submit revised plans that include a revision to the left side elevation to raise the sill height of the windows in the master bedroom facing the neighboring property to five feet, subject to review and approval of the Planning Division.
 - d. Concurrent with submittal of a complete building permit, the applicant shall submit plans that include the installation of permeable paving for the driveway at the front, subject to review and approval of the Planning Division.**

Responding to Chair Combs and the question of bringing the two concerns raised by neighbors to Council with a recommendation to consider establishing policy, Principal Planner Rogers said individual commissioners were welcome to reach out to the Council and under "Commission Reports" on every Council meeting agenda commission chairs might make remarks. He said regarding a more formalized approach that required a work plan that the Council set its objectives at the beginning of the year. He said they would write this up and send to the City Manager but it might not move ahead as there might be competing priorities.

Commissioner Strehl asked whether the Commission needed to have a portion of a meeting where it discussed action items it felt needed addressing and then have the Chair take that to Council. Chair Combs suggested having the next Chair synchronize that with Principal Planner Rogers to move forward to the Council. He reminded the individuals who had spoke on this item that they might go to City Council and address them under general public comment about super-sized basements and hydrology and soil saturation.

F2. Use permit/Calvin Smith/36 Politzer Drive:

Request for a use permit to partially demolish and construct first floor additions to an existing nonconforming single-family residence in the R-1-S (Single-Family Suburban Residential) zoning district. The work would exceed the 75-percent value threshold for work to a nonconforming structure within a 12-month period, and therefore requires Planning Commission review of the proposed project. ([Staff Report #18-042-PC](#))

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

Applicant Presentation: Steve Borlik, Young and Borlik Architects, said the property owners' primary goals for this project were to have a family-friendly, modernized house that worked within the neighborhood context and character of Pulitzer Drive, and to honor the neighbors' wishes for a single-story home. He said they designed a single-story home with the objective of expanding its size and making it appear smaller. He said the new project created a separate master bedroom wing with a large closet and dressing area, a master bathroom and poolside sitting area. He said the open family space and entertaining were all open, free-flowing, indoor and outdoor, with a great room to a courtyard. He said they pulled the garage forward to give more rear yard. He referred to sheet A31 and existing and proposed front elevations noting that they were knocking back part of the nonconforming gable roof to comply with daylight plane. He said the staff report contained a letter from neighbors that he believed was given to the selling agent when the property came on the market that expressed the neighborhood's preference for a one-story design.

Commissioner Onken confirmed with the applicant that no trees were being removed. He asked staff about the new spa next to the pool and whether there were restrictions on how close it could be to the neighbor's property. Assistant Planner Paz said spas were reviewed similar to pools and had a setback requirement of five feet unless it was abutting an alley.

Chair Combs opened the public hearing.

Public Comment:

- Earl Cisco, Menlo Park, said he was a water protector and earth defender. He commended the project for not removing any trees. He questioned why the Commission had not addressed the removal of trees for the previous project.

Chair Combs closed the public hearing.

Commission Comment: Commissioner Barnes commended the one-story project for a great design and fitting within the neighborhood context. He moved to approve as recommended in the staff report. Commissioner Strehl seconded the motion.

ACTION: Motion and second (Barnes/Strehl) to approve the use permit as recommended in the staff report; passes 7-0.

1. Make a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current California Environmental Quality Act (CEQA) Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort

and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.

3. Approve the use permit subject to the following **standard** conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Young & Borlik Architects, Inc. consisting of 22 plan sheets, dated received May 1, 2018, and approved by the Planning Commission on May 7, 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 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 prepared by Urban Tree Management, Inc. on February 28, 2018.

F3. Use Permit/Kevin Rose/635 Pierce Road:
Request for a use permit to partially demolish and construct a new addition and interior modifications to an existing nonconforming one-story single-family residence in the R-3 (Apartment) zoning district. The structure is nonconforming with respect to the right side setback. The value of the work would exceed the threshold for new work to a nonconforming structure within a 12-month period. ***Continued to a future meeting.***

F4. Use Permit/HongJie Ho/2058 Menalto Avenue:

Request for a use permit to demolish an existing single-story single-family residence and construct a new two-story single-family residence on a substandard lot with respect to lot area and width in the R-1-U (Single-Family Urban Residential) zoning district. The proposal includes a request to remove one heritage-size multi-trunk plum tree. ([Staff Report #18-043-PC](#))

Staff Comment: Senior Planner Kyle Perata said staff had no additions to the written report.

Applicant Presentation: Chris Spaulding, project architect, introduced the property owner HongJie Ho. He said they would remove a fruiting plum tree that was located in the center of the building envelope and replace it with a coast live oak tree. He said while the new house would be larger than the existing house the impervious coverage was not increased. He said the home being on a corner lot meant it only had one neighboring property and the subject property was located north of that so no shade would be cast. He said they placed the bulk of the windows facing the streets rather than facing the neighbor's property. He said the right side elevation second story had only four windows, three of which were secondary for ventilation and one into the stairwell.

Chair Combs opened the public hearing.

Public Comment:

- Peter Altman said his home was on Menalto Avenue, and that the window at the top of the stairs and the one in bedroom #2 on the second story would look directly into his child's bedroom. He said particularly the window in bedroom #2 needed to be changed to protect his family's privacy. He said the project's driveway was creating an alley on the left side of his house and requested that it be moved one foot further away. He noted also the project had large awnings on that side and he thought his home was set back further than theirs. He said the project proposed tearing down a fence but that fence was his.
- Earl Cisco said he supported the comments made by the previous speaker. He said he operated a residential VA affiliated home with six beds on Menalto Avenue. He said another adjacent project tore down a fence his facility had already replaced. He said they were seeing more and more two-story homes being constructed in the area that maximized lot coverage and removed trees.

Chair Combs closed the public hearing.

Commission Comment: Commissioner Onken said he thought the proposed home was fine. He said that he would like the applicant to consider smaller and higher windows for the bedroom located on the side facing the neighbor's home who spoke. He said he did not see a privacy issue with the window on the stair. He said the windows in the master bedroom were far enough away from the property line.

Commissioner Goodhue asked about the 12-foot setback on the left and the five-foot setback on the right and if that was a function of the house being on the corner or if the property had been under county jurisdiction previously. Senior Planner Perata said the 12-foot setback was a corner side setback requirement. He said in the R-1-U zoning district the interior side setback was 10% of the minimum lot width and it was not uncommon to have 50-foot wide lots throughout that district. He said the minimum required lot width was 65-feet. He said a five-foot interior side setback was

fairly common in the R-1-U.

Recognized by the Chair, Mr. Spaulding said that only about 40% of the house would have the smaller setback and noted the second story was set back another four feet. He said most of the house had a 14 to 15-foot setback. He said the current fence wandered across the property line about three feet into the subject property. He said they had intended to build a new fence and return the land to the site but they could leave the fence. He said they were happy to make the referenced windows either have a high window sill or leave them as they were and use obscure glass.

Commissioner Riggs asked about adding a window to the blank wall on the front elevation. Mr. Spaulding said that wall would have a car parked in front of it and was back far enough on the property that he did not think it needed anything.

Commissioner Barnes said there appeared to be flexibility of the applicant to work with the neighbor for resolution of the fence and modifications to the bedroom windows. He moved to approve the project with a condition for resolution of the fence and windows. Senior Planner Perata said the fence was a civil matter between the two property owners. He said the City regulated fences in terms of height but their location and construction was between the two neighbors and recommended that the fence should probably not be in the Commission's recommended actions. Commissioner Barnes asked about the windows. Senior Planner Perata asked for clarification on which windows on the second story right side. Commissioner Barnes said his understanding was to modify the windows for bedroom #2. Chair Combs recapped that the motion would be to approve with some treatment of the windows for bedroom #2 for privacy by either increased window sill height or use of obscure glass. Senior Planner Perata said that condition might read: Simultaneous with the submittal of a complete building permit, the applicant shall revise the window within bedroom #2 to either raise the sill height or modify the glass to be obscure, subject to review and approval by staff. Commissioner Barnes said that was acceptable. Commissioner Onken seconded the motion.

ACTION: Motion and second (Barnes/Onken) to approve the use permit with the following modification, passes 7-0.

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 Chris Spaulding Architect consisting of eight plan sheets, dated received April 26, 2018, and

approved by the Planning Commission on May 7, 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 Arborlogic Consulting Arborists, dated April 18, 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 raise the sill height or use obscure glass for the southern facing (interior side) window in Bedroom 2, subject to review and approval by the Planning Division.***

- F5. Use Permit/Sepideh Agah/1655 Magnolia Court:
Request for a use permit to demolish a single-story, single-family residence and construct a new two-story, single-family residence with a basement on a substandard lot with regard to lot width in the R-1-S (Single-Family Suburban Residential) zoning district. ([Staff Report #18-044-PC](#))

Staff Comment: Contract Planner Fahteen Khan said she had a correction to the staff report on page 3, paragraph 3, to show the number of heritage trees as 12 rather than eight.

Applicant Presentation: Jack McCarthy, project designer, San Jose, said the subject property was

very unusual with twists and turns. He said the Agahs had owned the home since 2002. He said the project would reorient the house so they could enjoy the backyard and that they wanted to keep all the existing trees. He said one dead magnolia tree had been removed through the heritage tree removal permit process. He said a pine tree in the front was recommended for removal but they wanted to try to keep it for the privacy of the lot. He said on the second story the bathroom windows were small and the corner bedroom window small to protect neighbor privacy. He said a master bedroom deck would look out into their own yard. He said the property owners talked to their neighbors about their project and the neighbors did not have any comments or questions on the project.

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

Commission Comment: Commissioner Barnes asked about illumination from the light well to the immediate right of the front door. Recognized by the Chair, Mr. McCarthy said they had centered it behind a large magnolia tree and that would filter the view of it.

Commissioner Riggs asked on the drawings, sheet 6, about an area indicated with horizontal lines similar to cable railings on the second story. Mr. McCarthy said he was going to do horizontal wood siding on the front and sides to break up the expanses to soften the view for the neighbor.

Commissioner Onken said the house was difficult to fully understand the impacts of without seeing the location of trees and such in relationship. He said the rear elevation or right side facing the neighbors had potential problems with huge windows but the huge living room window was behind a huge light well and railings. He said the tall and rather monumental stair window was located behind a healthy redwood tree. He said it appeared that potential impacts had been carefully considered. He moved to approve the use permit as recommended in the staff report. Commissioner Riggs seconded the motion.

ACTION: Motion and second (Onken/Riggs) to approve the use permit as recommended in the staff report; passes 7-0.

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 Jack McCarthy Designer, Inc., consisting of 14 plan sheets, dated received April 19, 2018, 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 Advanced Tree Care dated April 7, 2018.

F6. Use Permit Revision/City of Menlo Park/333 Burgess Drive:
Request for a use permit revision to use and store hazardous materials on site for use with an emergency well previously permitted at the City's Corporation Yard. The materials will either be stored within an existing building or within a separate storage tank on site and will be used to help ensure safe drinking water during an emergency. The subject site is located in the P-F (Public Facilities) zoning district. *Continued to the Planning Commission meeting of May 14, 2018.*

F7. Zoning Ordinance Amendment/City of Menlo Park: Review and provide a recommendation to the City Council on an ordinance updating the community amenities requirement for bonus level development in the R-MU (Residential Mixed-Use) zoning district. *(Staff Report #18-045-PC)*

Staff Comment: Principal Planner Deanna Chow provided a brief overview of the proposed Zoning Ordinance Amendment. She said the City Council in 2016 adopted the ConnectMenlo General Plan Update and the M-2 Zoning Area Update, with the latter creating three new zoning districts in the Bayfront Area: Office (O), Life Science (L-S), and Residential Mixed-Use (R-MU). She said they were now looking at potential changes to the R-MU zoning district, which was a residential and office land use designation. She said as part of the zoning update additional development opportunities were offered. She said for bonus level development if chosen and approved, applicants and developers might get higher floor area ratio and higher density in exchange for

provision of community amenities. She said in the R-MU zoning district for bonus level development, the first community amenity had to be housing and an opportunity for the City to get affordable housing, and was established at a time when the City could not enforce its inclusionary zoning requirements. She said since then AB 1505 was adopted by the state and the City was now able to do exclusionary zoning. She said the City Council recently adopted changes amending the Below Market Rate Housing (BMR) Ordinance and BMR Guidelines to require 15% affordable housing units for bonus level development. She said currently bonus level development in the R-MU was requiring that in addition to the 15% affordable housing requirement as a community amenity that another 15% of affordable housing requirement was required to comply with the City's BMR Ordinance, or to provide 30% affordable housing. She said staff heard from various property owners that requirement was not feasible. She said from a study session held by the City Council they had heard that had not really been the intent. She said staff had made some modifications to the zoning ordinance that were presented to and supported by the Housing Commission, and were now brought to the Planning Commission for its review and recommendation to the City Council. She said essentially they were removing the 15% affordable housing requirements from community amenities as projects would comply with the City's inclusionary zoning requirements. She said community amenities from the list created by the ConnectMenlo update were now available for use.

Commissioner Strehl asked if the 15% affordable housing applied across all housing in the R-MU whether it was rental housing or for sale multiple units, and for bonus level development whether the community amenity would be something other than housing. Principal Planner Chow said that was correct adding that the BMR Ordinance was applicable citywide and the R-MU zoning district had its own community amenity requirement. She said as the zoning ordinance was now written additional housing could be offered as a community amenity but it was an option and not a requirement.

Commissioner Riggs referenced the bottom of page 4 through page 5 of the staff report that indicated once a community amenity from the list was selected then it was no longer available for the next bonus development applicant to use as a community amenity. He asked if all of the community amenities were such that could be accomplished with one project. He said for streetscape improvements on the community amenity list for instance that it would seem that would apply to the block adjacent to the project. He asked if how this was written would prevent another project on another block to do streetscape improvements as a community amenity. Principal Planner Chow said she did not think so but they would clarify. She said staff could review with the City Attorney to see if there was ambiguity and address that.

Commissioner Riggs said further down on page 5 there was a discussion about smaller projects. He said it indicated there would be a market effect that would offset additional costs to the smaller project. He said he did not see why doing a smaller project would be given an advantage in the market that would outweigh the extra costs. Principal Planner Chow said it was not considered an advantage but a consideration for how it would impact an applicant's contribution toward community amenities. She said the consultant BAE and the City Attorneys had discussion indicating that the constraints of doing potential development on a smaller site would be included as part of the appraisal process. She said if there were monies reflected in that appraisal then the applicant would not spend as much toward the community amenity.

Chair Combs opened the public hearing.

Public Comment:

- Sateez Kadivar said he was a property owner in the R-MU zoning district, and hoped to bring forward a 90-unit rental housing project. He asked the Commission to recommend to the City Council ordinance language along the lines of the following: *Projects on less than an acre or that were producing less than 100 dwelling units shall be allowed to meet all of its BMR and community amenities requirements by providing 15% moderate level income rental dwelling units.* He said R-MU and BMR were discussed at recent Council meetings and it seemed clear that the Council and community supported accomplishing two main objectives in the R-MU: 1) incentivize smaller parcel developments, and 2) provide affordable housing for moderate income levels. He said the language he suggested would support both objectives. He said the staff report indicated discussions between BAE and the City Attorney regarding smaller parcels and economic impact of developing. He said there was a higher fixed cost for undertaking and completing a small project compared to a larger project, and that was true in most cases. He suggested for smaller parcel projects that all of the 15% BMR required be at the moderate income level. He said for all projects that 15% BMR, publicly accessible open space, street improvements, and undergrounding power lines were required.

Chair Combs closed the public hearing.

Commission Comment: Replying to Commissioner Barnes, Principal Planner Chow said a resident in Belle Haven who might not live in an affordable unit would be the preferred individual to move into a designated affordable unit in the ConnectMenlo area. She said that was part of the originally adopted ConnectMenlo based on the sentiment that residents in the neighborhood feeling the potential impacts most from increased development levels should also benefit through the community amenities. Commissioner Barnes asked about the time frame for what was considered recently displaced. Principal Planner Chow said that would need to be defined. Commissioner Barnes asked why BMR provided at the moderate income level would be preferable to the developer of a smaller housing project. Principal Planner Chow said this was something that came up during the Council's study session and was included in the staff report for consideration.

Recognized by the Chair, Mr. Kadivar said it was financing for the pro forma to work as rents for moderate income level housing would be higher than that for low and very low income levels. Commissioner Barnes asked whether a blend of moderate, low and very low income level affordable housing might work. Mr. Kadivar said he could do 80% moderate income level and 20% low income level. He said the strategy he was seeing was that the Mid-Pen type organizations were providing the very low income level affordable housing, tech companies were providing the low income level affordable housing and private developers were providing the moderate level income affordable housing.

Commissioner Kennedy said she had last served on the Housing Commission, and that one of the ideas for allowing moderate income level affordable housing was that it created more financial stability in the structures themselves. She said if a person was living in a BMR unit and had a better financial prospect he/she were forced out of the unit and sometimes the unit would sit empty. She said if there was a way to shift the balance within the development of the units so it was a percentage of the units that allowed for greater community building and greater stability for families. She said regarding displacement in Belle Haven one idea that had been discussed was

looking at residents displaced at the downturn of the economy in 2009.

Principal Planner Chow said the City Council recently adopted the flexibility for applicants to do a range of BMR income levels. She said applicants were able to request moderate level income BMR housing as part of their project, and that it required City Council approval.

Commissioner Strehl said it sounded as though someone displaced from Belle Haven 10 or 8 years ago and now having a permanent address somewhere else would not qualify for BMR units. She asked how that would now be different. Commissioner Kennedy said if that person was on the BMR list they were eligible. She said some of the issue was finding affected individuals and letting them know their eligibility.

Chair Combs said in theory the public speaker's proposal seemed reasonable but it was not clear what number of units would be applicable for such allowance. He said also this flexibility was already available through City Council purview.

Commissioner Onken said he was glad that the 15% BMR requirement was no longer doubled for bonus level development but was not precluded either.

Commissioner Goodhue asked what defined moderate income level. Principal Planner Chow said it was 80 to 120% of the area median income or for San Mateo County. Commissioner Goodhue said she thought the speaker's comments made sense but agreed she did not think she had the requisite information to determine what was a small project or not. She said to provide predictability to business owners and developers was preferable. She said she would urge the Council to determine what the number for a small project was and then language to provide all moderate income level housing for that defined small project. She said having to take a request proposal to Council could involve a lot of preparation and lack of predictability.

Chair Combs said the three provisions in theory for the Commission to make recommendations on were the minimum 15% BMR housing for all housing projects, 20% BMR if it was bonus level as an option or another community amenity from the list. Principal Planner Chow said the proposed language change in the zoning ordinance was shown as track changes in the staff report and clean text in the attached proposed zoning amendment ordinance. She said as mentioned by Chair Combs this would eliminate the 15% BMR requirement as part of the required community amenities. She said it was stating also that the affordable housing needed to be onsite. She said AB1505 provided flexibility of where and how BMR housing could be provided but the City's Housing Commission and City Council still thought it was appropriate to have units built rather than providing an in-lieu fee so this language kept it as an onsite requirements. She said there was cleanup deleted language as the appraisal process would be different if the 15% BMR requirement was not part of the community amenity list.

Commissioner Barnes said he thought it odd that a request for all moderate level income BMR housing would go directly to the City Council and not through Housing or Planning Commissions. He said the proposed amendment was fine as written and if a definition of small project was needed that was the Council's decision. He moved to recommend that the City Council approve the proposed ordinance amendment as written. Commissioner Onken seconded the motion.

ACTION: Motion and second (Barnes/Onken) to recommend that the City Council approve an

ordinance updating the community amenities requirement for bonus level development in the R-MU(Residential Mixed-Use) zoning district as recommended in the staff report; passes 7-0.

G. Regular Business

- G1. Selection of Planning Commission Chair and Vice Chair for May 2018 through April 2019. ([Staff Report #18-046-PC](#))

ACTION: Motion and second (Strehl/Riggs) to select Susan Goodhue as Planning Commission Chair for May 2018 through April 2019, passes 7-0.

ACTION: Motion and second (Strehl/Goodhue) to select Andrew Barnes as Planning Commission Vice Chair for May 2018 through April 2019, passes 7-0.

H. Informational Items

H1. Future Planning Commission Meeting Schedule

- Regular Meeting: May 14, 2018

Principal Planner Chow said the May 14 meeting agenda would have the item for 333 Burgess Drive continued from this evening's agenda, a new office building at 40 Middlefield Road, the 1125 Merrill Street, 506-508 Santa Cruz Avenue mixed use project, a single-family residential project and consideration of the CIP consistency with the General Plan.

- Regular Meeting: June 4, 2018

Principal Planner Chow said staff was working on a number of projects and the EV Charger Ordinance was expected to come back to the Planning Commission for review in June.

Commissioner Goodhue said she would be away and not able to chair the June 4 meeting.

- Regular Meeting: June 18, 2018

I. Adjournment

Chair Combs adjourned the meeting at 9:49 p.m.

Staff Liaison: Thomas Rogers, Principal Planner
Deanna Chow, Principal Planner

Recording Secretary: Brenda Bennett

Approved by the Planning Commission on June 4, 2018