



PLANNING COMMISSION MINUTES

Regular Meeting
May 6, 2013 at 7:00 p.m.
City Council Chambers
701 Laurel Street, Menlo Park, CA 94025

CALL TO ORDER – 7:05 p.m.

ROLL CALL – Bressler, Eiref (absent), Ferrick (Chair), Kadvany (Vice Chair), Onken, Riggs (arrived 7:07 p.m.; departed 10:12 p.m.), Strehl

INTRODUCTION OF STAFF – Fernando Bravo; Engineering Services Manager; Momoko Ishijima, Planner; Jean Lin, Associate Planner; Ruben Nino, Assistant Public Works Director; Deanna Chow, Senior Planner, Thomas Rogers, Senior Planner

A. REPORTS AND ANNOUNCEMENTS

A1. Update on Pending Planning Items

- a. 1273-1281 Laurel Street – City Council – May 7, 2013

Planner Rogers said the Commission had recommended approval of the major subdivision proposed for 1273-1281 Laurel Street and that would be considered by the City Council at their May 7 meeting.

- b. Housing Element – City Council – May 21, 2013

Planner Rogers said the Housing Element, which the Planning Commission considered at two meetings in April and made recommendations, would be considered by the City Council at their May 21 meeting.

Chair Ferrick noted that Commissioner Riggs had arrived.

B. PUBLIC COMMENTS

There were none.

C. CONSENT

Chair Ferrick asked if staff had any comments. Planner Chow said there were two corrections to the Item C2 staff report and a revised memo with the corrections had been distributed to the Commission. She noted the changes were to Attachment A2, Development Regulations Table, and that the maximum façade height should be 25

feet, not 32 feet. In Attachment B2 Secondary Dwelling Units and minimum yards, the minimum rear yard setback should be five feet and not 10 feet.

Commissioner Bressler noted page A11, item 4 of the Housing Element, stated that the Community Development Director and his or her designee shall make a determination of compliance and this shall be final and not subject to appeal. He said the previous paragraph indicated the Planning Commission would review the high housing density developments but that was a non-binding decision. He asked if that was required for the Housing Element to be certified. Planner Chow said it was required by the state to be non-discretionary but they were adding the non-advisory Planning Commission review as part of the compliance review. She said staff would then review that information and make the determination if the proposed development was compliant with development standards and the design standards.

Commissioner Riggs said there were two or three changes to the Secondary Dwelling Units section since the Commission's last meeting and one of those was that secondary dwelling units would be no more than nine feet for discretionary approval. He said he thought that should be noted.

Commissioner Kadvany asked about neighbor notification for a non-discretionary secondary dwelling unit development. Planner Chow said when a building permit was granted, notification was sent to adjacent neighbors to the project site.

Commissioner Onken noted a change on page 14 of the April 8 meeting minutes, 3rd full paragraph, 3rd line: Replace ".....it was next to a narrow cul de sac street" with ".....it was a narrow cul de sac street."

C1. Approval of minutes from the April 8, 2013 Planning Commission meeting

Commission Action: M/S Riggs/Onken to approve the minutes with the following modification:

- Page 14, 3rd full paragraph, 3rd line: Replace "...it was next to a narrow cul de sac street" with "... it was a narrow cul de sac street."

Motion carried 5-0, with Commissioner Strehl abstaining and Commissioner Eiref absent.

C2. Review of Planning Commission's Recommendations to the R-4-S (High Density Residential, Special) Design Standards and Guidelines and Secondary Dwelling Units

Commission Action: M/S Riggs/Onken to approve the item with the following corrections distributed by staff at the meeting.

1) Development Regulations Table for the R-4-S District (Attachment A2)

The maximum façade height should be 25 feet, not 32 feet.

2) Secondary Dwelling Units (Attachment B2)

4(b) Minimum yards for detached secondary dwelling units:

The minimum rear yard is 5 feet, not 10 feet.

Motion carried 5-0 with Commissioner Strehl abstaining and Commissioner Eiref absent:

D. PUBLIC HEARING

- D1. Use Permit/Mehdi Jazayeri/850 Cambridge Avenue:** Request for a use permit to demolish an existing two-story, single-family residence and construct a new two-story, single-family residence on a substandard lot with regard to lot width in the R-2 (Residential Low Density Apartment) zoning district. As part of the project, the applicant is proposing to remove a heritage buckeye tree (22-inch diameter, poor condition) located on the left side of the property. An initial version of the proposal was reviewed by the Planning Commission at the meeting of March 18, 2013, and was continued with direction for redesign. The proposal has since been revised, with changes to elements such as the addition of second story bedroom windows for better cross-ventilation, offsetting and separating the garage door, modifying the height of the chimney, reducing the massing and simplifying forms on the front elevation, and reducing the overall height.

Staff Comment: Planner Ishijima said a drawing of the modified chimney had been distributed to the Commissioners at the dais.

Public Comment: Mr. Jack McCarthy, Jack McCarthy Designer, Inc. said the staff report covered most of the changes. He said on page one that they were also proposing having a planter strip between the two garage doors to soften the look.

Commissioner Onken noted the changes were to the chimney, the garage doors, rear bedroom double window on the second floor, and the side windows. Mr. McCarthy noted page 3 of the staff report. He said they added accent windows to the master and rear left bedrooms. He said a window on the left side that had faced a neighbor had been moved to the rear. He said they kept the window between the stairwell and the closet. He said the Fire District was requiring they keep the two-foot six-inch window as egress window. He said on the front façade originally there had been gable ends above the door in the master bath and a gable end in the living room. He said those were changed to hip. He said one hip in the living room was slightly higher to provide an accent. He said they continued the chimney up and have narrowed it.

Chair Ferrick closed the public hearing.

Commission Comment: Commissioner Onken thanked the applicant for doing the redesign and noted it addressed the concerns of the Commission. Commissioner Riggs agreed that the applicant had been responsive, and noted the new design would fit in nicely with the neighborhood. He said he also appreciated the change to the chimney massing. He moved to approve the item to include the chimney design provided to the Commission this evening. Commissioner Kadvany seconded the motion and noted the improvement to the garage façade with the addition of a planter strip and changes to the garage doors.

Commission Action: M/S Riggs/Kadvany to approve the item with the following modification:

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 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 10 plan sheets, dated received April 18, 2013, and approved by the Planning Commission on May 6, 2013, 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 trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance.
4. Approve the use permit subject to the following **project-specific** conditions:
- a. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a revised site plan to include a new heritage replacement tree, subject to revision and approval of the Planning Division.
 - b. *Simultaneous with the submittal of a complete building permit application, the applicant shall submit revised plans incorporating the alternate chimney design submitted at the Planning Commission meeting of May 6, 2013, subject to review and approval of the Planning Division.***

Motion carried 6-0 with Commissioner Eiref absent.

D2. Use Permit/Nona Ybarra/1919 Menalto Avenue: Request for a use permit to operate a dance studio (private recreational facility) in an existing commercial building on a property that is substandard with regard to parking in the C-2 (Neighborhood Shopping) zoning district.

Staff Comment: Planner Ishijima said there were no changes to the staff report, and a letter of support presented this evening had been circulated to the Commission at the dais.

Commissioner Strehl noted she needed to recuse herself as she had previously signed a petition related to this item. She left the dais.

Commissioner Onken noted that the location map was for the 850 Cambridge Avenue project. Commissioner Riggs suggested that change be made before the information was put online.

Public Comment: Ms. Nona Ybarra, Menlo Park, said she was currently operating a dance studio at 1923 Menalto Avenue and wanted to move the studio to 1919 Menalto Avenue for the increased space it would provide. She said she had been in business at

the other address for two years and that the relocation would not add to traffic. She said her staff, parents and students were aware of the parking situation and were mindful and thoughtful of the neighboring businesses. She said many families carpool, students ride bikes or the bus.

Ms. Rebecca Bloom, Willows neighborhood, said her daughter has been dancing with Ms. Ybarra's studio for seven years. She said this was just the type of business Menlo Park should be growing, and it was wonderful to have this business in the Willows. She said the business center was a community building center and noted she patronized all of the other businesses there.

Chair Ferrick called Ms. Kathleen Daley, but she was not present. Chair Ferrick noted she was the owner of Café Zoe which was located in the same business center. She said the speaker card indicated that Ms. Daley supported the project.

Mr. Patrick Farris, property owner, said many of the neighbors were happy to see "Captivating Dance" stay in the area. He said the new building would provide the students more room to dance. He said the studio and dancers have received many awards. He said classes start about 3:15 p.m. during the school year and that did not cause traffic or parking issues for the other vendors. He said there were 15 minutes between classes. He said this business was a great community building venture and neighbors supported the move.

Ms. Kathleen Daley, Café Zoe, said the dance studio brought business into the business center, and they were very supportive of the studio's relocation.

Chair Ferrick closed the public hearing.

Commission Comment: Chair Ferrick said this was an easy request to support. Commissioner Onken said this was an existing use and business, and perfectly acceptable. He moved to approve. Chair Ferrick seconded the motion.

Commission Action: M/S Onken/Ferrick to approve the item as recommended in the staff report.

1. Make a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current 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 HVB Architecture, consisting of two plan sheets, dated received April 16, 2013, and approved by the Planning Commission on May 6, 2013, 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 of 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.
4. Approve the use permit subject to the following **project-specific** conditions:
 - a. All tenants are responsible for daily pick up of trash and refuse in the immediate vicinity of the subject property, including the portion of the alley directly behind the property.
 - b. The dance studio shall have classes separated by a minimum interval of 15 minutes in order to allow departing patrons to free up car and bicycle parking spaces for arriving patrons.

Motion carried 5-0 with Commissioner Strehl recused and Commissioner Eiref absent.

D3. Use Permit/Poised Inc./805 El Camino Real: Request for a use permit to allow a private recreational use, including individual and small group instruction in pilates and healthy lifestyle consulting, in an existing commercial building in the SP-ECR/D (El Camino Real/Downtown Specific Plan) zoning district.

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

Questions of Staff: Commissioner Kadvany asked whether appointments needed to be staggered for this business or if there were parking concerns. Planner Lin said the business model was based on appointments and there was no walk-in business, which allowed the business owner to control the number of people at the site at any given time.

Public Comment: Ms. Yvonne Talley, co-owner of Poised Inc., introduced co-owner Jill Plant, and noted there were a number of supporters in the audience. She said their services are by appointment only and that they pride themselves on not having a lot of people in the studio at the same time. She said on December 23, 2012, they were flooded out by a flash flood in Menlo Park and their 13-year dream business just floated away. She said there was two foot of water in the studio, and lost everything except for their large equipment. She said they found a new location and were open for business in five days. She said she and Ms. Plant have been members of the community for 20 years; they provide a beautiful environment for their clients, teach healthy lifestyle, and give back to the community as well. She asked the Commission to grant their request.

Mr. Peter Reichert said he was the attorney for Poised, Inc. He said he had lost sleep since December 23, worried that the business could find a new home. He said in addition to finding a new location, they had to negotiate the termination of the existing lease as they lost significant tenant improvements that were not covered. He said they have found a new location and requested the Commission's support of their request.

Ms. Lisa Hendrickson, Menlo Park, said Poised, Inc. was the type of business to support and keep in Menlo Park. She said not only was it a great business but also a great community of friends. She said parking was an issue but she liked to ride her bike and she can do that to the new location during daylight savings time.

Mr. Tyler Glenn said he was a 30 year Menlo Park resident and a 10-year member of Poised, Inc. He said the business was a good neighbor. He urged the Commission to approve the request.

Ms. Kim Harris said she was speaking on behalf of the other trainers at Poised, Inc., where she has worked for over 10 years. She said she lives in Palo Alto but tends to shop and have lunch with her clients in Menlo Park. She said her clients from Palo Alto and Portola Valley enjoy coming to Menlo Park. She said the business would be an asset at the desired location.

Mr. Joe Welch said he and his wife are physicians, and reside in Atherton. He said they have six children who have attended Menlo Park schools. He said Poised, Inc. would be a real asset to Menlo Park, and that it was very professional.

Ms. Kim Guthrie said she was one of the speakers representing the clients at Poised. She said Poised was a wonderful woman-owned and operated business. She said she has been a client for over a decade. She said Poised was already a thriving Menlo Park business so she hoped they could do whatever was needed to keep them in Menlo Park.

Mr. Richard Melnikoff said his wife was a client of Poised. He said Menlo Park was touted as a premiere town but parts of it did not look very premiere at the moment,

noting decrepit movie theaters. He said he was an advocate for anyone who wanted to invest in their town, and bring in more business activity.

Chair Ferrick closed the public hearing.

Commission Comment: Commission Onken said he fully supported the request. Commissioner Riggs said he agreed and moved to approve as recommended in the staff report. Commissioner Strehl seconded the motion. Commissioner Kadvany said the project was tight on parking and noted that there would be development in that area in the near future.

Commission Action: M/S Riggs/Strehl to approve the item as recommended in the staff report.

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 The Hagman Group, consisting of one plan sheet, dated received April 24, 2013, and approved by the Planning Commission on May 6, 2013, 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, Recology, 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.

Motion carried 6-0 with Commissioner Eiref absent.

D4. Use Permit and Architectural Control/Sagar Patel (Red Cottage Inn)/1704 El Camino Real: Request for approval of a use permit and architectural control for

additions and exterior modifications to an existing hotel in the C-4-ECR (General Commercial, Applicable to El Camino Real) zoning district. The proposal would include additions to the front, side, and rear, changes to exterior materials, reconfiguration of the parking lot, and revised landscaping features including new lighting. The parking lot changes would include bringing a number of spaces into compliance with current dimension requirements, which would result in a reduction from 26 spaces to 25 spaces, to be considered through a use permit parking reduction request.

Staff Comment: Planner Rogers said a letter of support had been received since the publication of the staff report from Ms. Fran Dehn, Menlo Park Chamber of Commerce.

Questions of Staff: Commissioner Kadvany said there was a comment that the setbacks would not meet those under the Specific Plan. Planner Rogers said the C-4 Zoning District that was previously the zoning district for El Camino Real did not have any setback requirements, so every project was case by case. He said one of the goals of the Specific Plan was to be prescriptive about the types of building forms the City wanted to see. He said one of the objectives that emerged from that planning process was the context of protecting certain areas more than other areas. He said in contrast was the downtown area where there was a traditional building form of zero setbacks but other areas were adjacent to residential and it seemed reasonable to have different standards for those areas. He said however this project was developed under the prior C-4 standards and should have those standards continue to apply. Commissioner Kadvany asked where the setback difference was. Planner Rogers said the right side setback under the Specific Plan would be 10-feet and this project would move the sauna and spa to five feet. He said on the left rear corner the setback of 20 feet under the Specific Plan would not be met. He said this was consistent however with the previous zoning, and would be low one-story additions.

Public Comment: Mr. Sagar Patel, co-owner of Red Cottage Inn, said his family has owned the motel for over 20 years, and with the improved economy they were able to get financing to make property improvements to make it ADA compliant, compete with the new hotels coming into the market in Menlo Park and Palo Alto, and provide better security. He said they were making some rooms larger for ADA accessibility. He said the fencing was in response to incidences of homeless individuals entering the motel site looking for a place to sleep. He said the fence would keep the room area separate requiring a room key to access the back of the motel. He said they hoped to compete with some of the better hotels coming into the market by adding the sauna and hot tub and improving the lobby.

Chair Ferrick closed the public hearing.

Commission Comment: Commissioner Bressler moved to approve as recommended in the staff report. Commissioner Riggs said he was pleased to see a very nice and compatible remodel for the property, and seconded the motion. He said he had no

problems with the setbacks as this historically had zero lot lines and the additions were low one-story buildings. Commissioner Strehl noted she had visited the site and thought the project would be an improvement for the property and neighborhood.

Commission Action: M/S Bressler/Riggs to approve the item as recommended in the staff report.

1. Make a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current 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. 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.
4. Approve the use permit and architectural control requests subject to the following **standard** conditions of approval:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Ana Williamson Architect, dated received April 16, 2013, consisting of 33 plan sheets and approved by the Planning Commission on May 6, 2013, except as modified by the conditions contained herein, subject to review and approval of the Planning Division.
 - b. The applicant shall comply with all West Bay 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 of the Planning, Engineering and Building Divisions. Landscaping shall properly screen all utility equipment that is installed outside of a building and that cannot be placed underground. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
- e. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance.

Motion carried 6-0 with Commissioner Eiref absent.

D5. Right-of-Way Abandonment/Hubly-Nichols and Comer/Portion of Louise

Street: Consideration of an abandonment of a portion of Louise Street, required by law to notify property owners and to determine whether the proposed abandonment is consistent with the City's General Plan.

Staff Comment: Planner Rogers noted for the record that there were a number of items of correspondence sent directly to the Commission's email list. He said he included Commissioner Strehl as her email information had not yet been updated on the website. He said there were no additions or corrections to the staff report. He said also in attendance was the City's Assistant Public Works Director, Mr. Ruben Nino. He said the Commission's role was to focus on the determination of whether the abandonment of the right-of-way would be consistent with the General Plan or not. He said there were a number of emails that were dealing with the policy issues which were subject to City Council review if the Planning Commission moved this item forward to the Council.

Public Comment: Chair Ferrick introduced the applicants: Edward and Janet Comer, 1017 Louise Street, and Michael Hubly and Marta Nichols, 1024 Louise Street.

Mr. Michael Hubly, co-applicant, said they and other neighbors have found this right-of-way to be a defined and valuable part of the neighborhood for over 70 years. He said they see abandonment as the answer for this property, and best reflected the historical creation, intent and use of this property. He said last year Planning staff advised him and his wife and their adjacent neighbors that they were uniquely entitled to request the abandonment of this land and encouraged them to make the application. He said California Civil Code Section 831 states that an owner of land bounded by a road or street is presumed to own to the center line of the right-of-way in front of the parcel unless the subdivision documents specifically and unambiguously provide otherwise.

He said this applied even when the parcel or plat map indicates the parcel's property line ends at the right-of-way. He said this meant that the owners of 1017 and 1024 Louise Street own the fee simple of the land, and were requesting the City to abandon the right-of-way. He said Ms. Louise Datera would address the question of whether the abandonment was consistent with the City's General Plan.

Ms. Louise Datera said she and her husband have lived at 1023 Louise Street for over 40 years, and she was present on behalf of Lynn Comer, the co-applicant, who because of health reasons could not attend this evening. She said that Planner Rogers had indicated reasons in the staff report that abandonment was consistent with the General Plan. She quoted from the 1994 General Plan: "Maintain and enhance the residential quality of life in this City by emphasizing allotment that has a human scale and was pedestrian friendly, protect the City's open space, the natural resources and minimize the exposure of people and property to health and safety hazards." She said abandoning the land at the end of Louise Street would achieve all three objectives. She said abandonment assures the preservation and stability of the character of their Belle Acres neighborhood. She said it was pedestrian friendly. She said the Comers and the Hublys were providing for pedestrian easements to assure safe access to Louise Street for families who live at 1824 or 1823 Santa Cruz Avenue. She said the path was primarily for children going to school, and referenced Oak Knoll School, or children who wanted to play on Louise Street. She said it also protected the open space as the terms of abandonment preserved the small open space at the end of their street, and the natural resources, which here were trees and shrubs. She said deed restrictions were written to keep the improved area in landscape. She said keeping the current traffic levels minimized the exposure of people and property to health and safety hazards. She said the area for abandonment promoted walking as a commuting alternative as people from the two Santa Cruz Avenue homes could use Louise Street to access Safeway and other buildings. She said their request for abandonment fit the philosophy of the General Plan like a glove. She said neighbors and 325 people who signed their online petition supported keeping this land in perpetuity for the use and benefit of the entire community noting many individuals use Louise Street to walk their dogs, ride their bikes, play with their children and enjoy the tall trees at the end of the street. She said this was the character of their neighborhood and the character they sought to preserve.

Mr. Hubly said Policy 1A.1 of the General Plan stated that new construction in residential neighborhoods shall be designed to emphasize the preservation and improvement of the stability and character of the neighborhood. He said the current owner of 1825 Santa Cruz Avenue wanted to build a driveway that would cross over a 50-foot green space and his (Hubly's) driveway before reaching Louise Street. He said that would not emphasize the preservation and improvement of the stability and character of the neighborhood, and would not be consistent with the General Plan. He said the property owner of 1825 Santa Cruz Avenue first contacted them in February of 2012 by letter, the subject line of which was "New Access to Louise Street." He said since then the property owner, Mr. Sinnott, now indicated that he did not want to do anything new but wanted to return the property access to Louise Street. He said they

have researched the historical use of this property with over 60 people having knowledge of this property and had information spanning 50 years. He said none of these people ever saw a driveway or vehicular access from Louise Street to 1825 Santa Cruz Avenue. He said Mr. Tate, who sold the property to the Sinnott Family Trust, wrote the letter found in the staff report stating that no one had ever built a driveway. He said they have sought compromise and referred to the March 5 City Council meeting, when the Resolution of Intent to Abandon was approved. He said by providing pedestrian easements to both 1825 and 1833 Santa Cruz Avenue, they were preserving and formalizing the historical access those properties have had. He said the value of a cul de sac was being able to walk onto and bike onto a street that had less traffic, and that was why people wanted to buy homes on cul de sacs. He said both the family at 1833 Santa Cruz Avenue now, and the prior family that resided there, indicated that having pedestrian access to Louise Street had great value for them. He said the language of the abandonment precluded any future development of this land and prevented it from being used by either his property or the property at 1017 as part of the buildable area for those parcels. He said Mr. Sinnott was a very capable architect and developer and he supported his right to build on his property without an access to Louise Street. He said the abandonment would resolve these issues and allow everyone to move on.

Chair Ferrick said the first card was for Bill Garrett, and that a number of people had donated time to him including Thor Atlow, Nataya Burns, and James Sagoral.

Mr. Bill Garrett said this involved a property right as he had described in his letters to each of the Commissioners. He said it involved abutters' rights and in California, abutters' rights guarantee that an abutter to a street such as Louise Street have important property rights, including the right of ingress and egress, vehicular and pedestrian to the abutting street. He said it made no difference if they also have the right to access to Santa Cruz Avenue. He said the first photo showed the gates of 1825 Santa Cruz Avenue from its rear yard. He said those gates open up to an area of the Louise Street right-of-way. He said from this view before getting to Louise Street proper there was a gravel parking area. He said that was no longer there as the owners of 1024 Louise Street removed it after the March 5, 2013 City Council meeting. He said the next slide was the subdivision map for Belle Acres recorded in 1936. He said Louise Street was dedicated for public use and accepted by the County and dead-ended at the Lands of Macy Ziegler, which lands were later subdivided into 1825 Santa Cruz Avenue, owned by the Sinnott Family Trust, and 1833 Santa Cruz Avenue. He said Mr. Hubly explained there was a presumption that the owners of abutting properties, when subdivisions like this are created, own to the center of the street. He said he provided the Commissioners with information and documents that this was not true. He noted the exhibits which were the deeds by which the abutting neighbors acquired their properties which have metes and bounds legal descriptions. He said if this was a description to the edge of a public right-of-way the presumption described by the applicant did not exist. He said in this instance the City owned a fee interest in Louise Street. He said that was important as under the vacation law of the state, a

public entity that owned a fee has to dispose of the property in one of two ways: to either sell or exchange the property. He said the City could put whatever conditions or deed restrictions it wanted in place but in this case there was no recognition of his client or the property owner of 1833 Santa Cruz Avenue, as an abutting property owner, and there was no recognition of the historical right of vehicular access by the City or the neighbors. He said the next slide showed the location of the green space, which was an unfair characterization, as the next slide would show that the gravel parking area and part of Mr. Hubly's driveway, his planter and mailbox were within the right-of-way of Louise Street. He said there was no encroachment permit allowing that. He said also ivy had been planted in the area which was another encroachment violation and additional plantings of it, removal of the gravel parking area and wood berms occurred after the March 5, 2013 Council meeting. He said two of the reasons the proposed abandonment was not consistent with the General Plan had to do with removing the safest vehicular access onto Louise Street from 1825 Santa Cruz Avenue. He said this was existing access. He said contrary to Mr. Hubly's comment, Mr. Tate's letter, part of the record for the March 5, 2013 City Council meeting, said there was an established dirt driveway. He said at least a couple of the neighbors indicated in their interviews that there was gardening activity there and access for those purposes. Ms. Schaefer, the prior owner before Mr. Tate, said there was tree trimming access at the rear. He said this access was eventually blocked, on two occasions, and the Tates objected to it at the time, as it was blocked by a storage unit placed in front of the gates and a gravel parking area that was created by the Hubly's for their purposes without an encroachment permit. He said the City with the proposed plan of abandonment was divesting Mr. and Mrs. Sinnott, the Sinnott Family trustees, of valuable property rights, as abutters. He said the law was very clear in this area. He said also if this land was abandoned it had to be sold or exchanged. He said the last thing the Sinnotts wanted was to get embroiled in legal actions. He said Mr. Sinnott had viable alternative actions and would present those and arguments as to why the abandonment was not consistent with the General Plan. He urged the Commission to find that the abandonment was not consistent with the General Plan.

Chair Ferrick said the next speaker was Sam Sinnott with time donated by Lori Sinnott and Marsia Vohlksaresian.

Mr. Sinnott said he was one of the co-owners of 1825 Santa Cruz Avenue, the neighbor most negatively affected by the proposed abandonment. He said he has been an architect in Menlo Park for 29 years and lived most of his life here. He said he opposed the proposed abandonment as it did not conform to the General Plan, and it was not necessary to minimize his driveway's future negative impacts on the neighbors. He said as stated by Mr. Garrett that this abandonment would bring the City into an expensive legal battle as its purpose was to eliminate his old driveway. He said this driveway was the safest vehicular access to the property for the family that would live there and gave a good opportunity to build a secondary dwelling unit on the property, both of which were goals of the General Plan. He showed the slide of the existing driveway gates and where the neighbor's private parking area was in the area described by them as green

space, noting the old driveway extended but had been blocked off. He said at 16,200 square feet, 1825 Santa Cruz Avenue was a relatively large parcel for west Menlo Park, and would have a fairly large family home on it. He said the abandonment would unnecessarily force this family's cars onto the busiest and narrowest length of Santa Cruz Avenue, which was an arterial street in the City with a traffic problem. He said the intersection at Orange and Santa Cruz Avenues was recently recognized as an intersection with heavy traffic, and was located just half a block from 1825 Santa Cruz Avenue. He said Santa Cruz Avenue was not intolerably dangerous and was adequate for the people who lived on it but at peak traffic hours (showed slide of traffic at 5 p.m.) thousands of vehicles pass in a day on it. He asked why a family with school carpools or elderly relatives should have to fight such traffic when there was a reasonable option to come and go on Louise Street. He showed a slide viewed from their existing driveway gates of Louise Street at 5 p.m. He said Transportation staff recommended that all traffic from the new home go down Louise Street. He said Louise Street was almost the same paved width as Santa Cruz Avenue in front of his property, and could easily handle the insignificant traffic of a single-family residence. He said the General Plan was full of references to avoid safety hazards. He said the family that will move into the new home would be tremendously grateful for allowing them to come and go with their cars onto Louise Street. He said the property has two good ways to supply a secondary dwelling unit if the driveway on Louise Street remained. He said although they had been leaning toward putting the unit on the Santa Cruz Avenue side, the permit applications were on hold and they had not decided which was best. He said if the driveway on Louise Street remained, he could guarantee them that there would be a secondary dwelling unit on the property. He said without that driveway it was much more difficult to build a detached, secondary dwelling unit at the rear of the property. He said a long strip used by vehicles would have to run the length of the yard to the unit in the back. He said most families did not want to sacrifice yard for a driveway. He said a clear goal of the Land Use and New Housing Element was to promote the creation of housing, and secondary dwelling units were an important part of the General Plan. He quoted "Development of secondary dwelling units on existing developed residential lots shall be encouraged consistent with adopted City standards." He said all of that applied to his project. He said removing the Louise Street driveway actually discouraged the development of a secondary dwelling unit. He said the primary reason for the proposed abandonment started when neighbors believed the earlier driveway had too much of an impact on the greenery at the end of their street. He said in the March 13, 2013 Almanac, page 5, quote: "The neighbors told The Almanac that they were taking steps to insure that the abandonment would be done in a way that insures the green space would remain protected." He said they circulated a petition referencing "dense foliage screen" and "a wooded buffer zone," and suggested that this was being removed by his proposed driveway and that saving it was the most important consideration. He said over 300 signatures were gathered on the premise of saving the green space. He said the petition was supported with a PowerPoint presentation indicating that their most significant objection to his driveway was the loss of an oleander. He said it was true the earlier driveway configuration had the oleander removed but there were many options to relocate and replace their driveway. He said he had listened for a year to the neighbors'

concerns and had another better alternative. He said the alternative design gave back more green space than the parking that until the prior month had blocked their driveway for years. He said the neighborhood was perfectly happy with this parking because the rest of the landscape remained. He said this parking area was only recently removed after the City Council hearing in March as it had been installed without the necessary encroachment permit. He showed a slide of an alternative driveway design that would keep the oleander and had 83 square feet more of planting than it had when there was a parking area. He said Turfstone filled with grass would make the paths for vehicle tires. He said planting would run down the center and be maintained by the new family. He said he had listened to neighbors and did not want them to be negatively impacted. He said saving the oleander addressed their primary concern about the green space. He said the proposed green driveway was invisible from down the street and reinforcing the neighbors' desire to "preserve the seclusion and the unique character of Louise Street" as stated in the petition. He said the construction traffic for the project would be to and from Santa Cruz Avenue. He said the only imaginable negative impact on Louise Street would be the new family coming and going from their home. He said there were no negative impacts that could justify the drastic and unprecedented abandonment. He asked the Commission to vote against the abandonment which for many reasons ran counter to the intent of the General Plan and its goal of improving the City responsibly.

Mr. Bradley Taylor said he has lived at Louise Street for 19 years and one of the attractions of the street was the greenery at the end of the street. He said it was a great neighborhood and they wanted to keep it that way. He said he wanted the area left as it was and did not support any plan that would change that. He said he never saw any vehicular access from or to 1825 Santa Cruz Avenue onto Louise Street. He said there might have been gardening with the gardener parking the vehicle at the end of Louise Street and using pedestrian access to tend to the yard at 1825 Santa Cruz Avenue. He said the plan would turn the frontages of that property to Louise Street and would change the entire nature of the neighborhood, and would set a bad precedent as the other house on Santa Cruz Avenue might want to do the same thing.

Mr. John Brock said he and his wife have resided on Louise Street for 39 years. He said the question was whether the abandonment proposal was consistent with the General Plan and noted the amount of time spent discussing other things this evening. He said the neighbors have rebutted the statements made by Mr. Sinnott, and he hoped the Commission would carefully read that information. He said it was always Mr. Sinnott's intention when he purchased this property a year ago to build a spec house that would front Louise Street. He said Mr. Sinnott's motivation was to cash in on the higher real estate value of a quiet address on a cul de sac. He said all of the neighbors since the project had been proposed have been implacably opposed to a new driveway breaching the 50 to 60 foot green space that for 70 years has made their neighborhood the wooded and secluded one it is. He said the petition of over 325 signatures were those interested in preserving the unique character of their Menlo Park neighborhood. He said the issue was extensively debated in Council in March, and the Council found in the neighbors' favor. He said they voted 4-0 to abandon the unpaved terminus of

Louise Street so it could be protected forever as a green barrier. He said they firmly believed that the abandonment was the only way to protect this cul de sac from encroachments by Mr. Sinnott or any future developers, specifically the threat of two new driveways from 1833 and 1825 Santa Cruz Avenue. He said they urged the Commission to preserve the green space in perpetuity with not only its present vegetation but hoped to plant future heritage trees in the area that had been used as a parking lot. He asked the Commission to support the abandonment.

Chair Ferrick noted that Mr. Michael Schwartz had speaking time donated by Ms. Suzanne Taylor.

Mr. Michael Schwartz said he and his wife have lived on Louise Street since 1994. He said the Louise Street neighbors agreed with staff's conclusion that the abandonment proposal was consistent with the General Plan. He said abandonment would maintain the residential quality of life, protected open space and natural resources, minimized exposure to health and safety hazards, and preserved the stability and character of the neighborhood. He said abandonment was supported by all of the Louise Street property owners and 100s of their neighbors. He said that was documented in an online petition. He said although the Hublys and Comers were the formal applicants for abandonment many of the property owners on Louise Street contributed to defraying the cost of the application as it benefited the entire neighborhood. He said abandonment was definitely in the public interest and the Council had the right to act in the public interest. He said it was a way to preserve the green space that has existed at the end of Louise Street for 77 years. He said the staff report indicated that abandonment would not change the designation of Louise Street as a local street; it would not affect easements, utilities and pedestrian access to adjacent parcels on Santa Cruz Avenue, and would not financially benefit either the Hublys or the Comers. He said it was noted that neighbors have maintained the area and the City has no use for the property other than to maintain a small stormwater pump for which the abandonment provides an easement access. He said the documents sent by the Sinnotts and their attorney the past Friday at 4:50 p.m. was an attempt to distract the Commission from the question of whether the proposed abandonment was consistent with the General Plan, and noted that the Council had denied Mr. Sinnott's application for a driveway to Louise Street. He said there was no evidence of prior vehicular access from Louise Street to 1825 Santa Cruz Avenue.

Chair Ferrick noted Mr. Schwartz was over his speaking time. (Someone from the audience offered their time.)

Mr. Schwartz said they were asking the Commission to protect the Louise Street neighbors from further bullying, threats and intimidation by abandoning the right-of-way to the neighbors who have vowed to protect the area as green space in perpetuity, which was entirely consistent with the General Plan. He said in one of the letters submitted Friday afternoon, the Sinnotts complained that the Council hearing was an orchestrated production by activist NIMBY neighbors. He said that they were neighbors

who did not choose this fight and wanted nothing more than to return to their day jobs and families. He said the only reason they were here tonight and had spent the whole weekend replying to these lawyers' letters was that the Sinnotts were refusing to accept the Council's decision. He said the Commission in recommending adoption of the resolution for abandonment would put an end to this.

Mr. Wallace Murfitt said his residence was about 600 feet from Louise Street at the dead end of Wood Lane, another cul de sac. He said he was speaking only as an advocate of private property rights, that he did not represent Mr. Sinnott and he had no economic interest in the project. He said as a citizen of Menlo Park he believed that the Council had made an egregious mistake when they denied Mr. Sinnott's application for a permit. He said it had been stated that Mr. Sinnott's property abutted Santa Cruz Avenue so access from Louise Street was not needed. He said even if the access was not needed, that did not give the City the right to deny access to Mr. Sinnott. He said they had seen the assessor's map and knew what subdivision law said, which was if a property abutted a street there was a right to use that street. He said City Council perverted the intent of the encroachment permit when they denied it. He referred the Commission to the copy of the permit he had distributed to them. He said encroachment permits centered on construction in the public right-of-way. He said nowhere in the code did it say an applicant needed to prove his right to use the street for access as it was assumed. He said Mr. Sinnott did not need a permit to get access from the street to his property, and the City should not take away Mr. Sinnott's right without fair compensation. He referred Commissioners to the last page of his handout. He said the staff had recommended to the City Council to deny the appeal and authorize the permit. He said staff did that because they know that Mr. Sinnott has the right of access to the street and that encroachment permits were routinely given to perform construction in the public right-of-way. He said the fact that the end of the street was never paved and the vegetation planted there did not change the fact that this was a public street. He said there were already 11 driveways on Louise Street and he did not think one more would increase the traffic measurably. He said related to consistency with the General Plan that if the existing cul de sac with 11 driveways satisfied the intent of the General Plan and the circulation then the same cul de sac with one more driveway would also satisfy the General Plan. He said the process proposed would remove Mr. Sinnott's private property rights and gave those to the neighbors. He said denying the encroachment permit was not fatal as Mr. Sinnott could reapply for that. He said if the City gave away the property right to the neighbors it would forever remove Mr. Sinnott's property right to use it. He urged the Commission to not support the abandonment of the street and return the issue to the City Council.

Ms. Louise Datterra said she had speaking time given by her husband. She said she wanted to allay concerns about abandonment that she had heard. She said Mr. Garrett indicated the City would have to sell or exchange the property. She said when she and her husband bought their house at 1003 Louise Street it had been a half-acre lot. She said the prior owners subdivided into two lots creating 1850 Stanford Avenue on the corner of Louise and Stanford. She said 1850 Stanford Avenue was able to take the

property owned by the City when the City abandoned a piece of land to those owners. She said abandonment was not uncommon.

Mr. Michael Yantos said he was a resident of Louise Street. He said an encroachment permit was for construction and not for planting bushes or ivy. He said there was never a driveway in the area being discussed; he said there was access but nothing was constructed. He said access and driveway were different things. He said if the Santa Cruz Avenue property was built so the façade faced Louise Street that would create a very different feel in the neighborhood, and the garage would result in the removal of several large trees. He said people were very concerned about aesthetics and the impact on the community.

Chair Ferrick closed the public hearing.

Commission Comment: Commissioner Kadvany asked about the fee simple argument and the necessity to either sell or exchange the property proposed for abandonment, and information about abutters' rights. He asked if that was discussed at the Council meeting. Planner Rogers said he was not at the City Council meeting. He said the original staff decision to grant the encroachment permit was definitely a legal action, and the property was considered to have the ability to apply for that encroachment permit and be granted it for access to Louise Street. He said the abandonment was also presented as a legal action that would meet certain requirements of the code. He said he was copied on correspondence between Commissioner Onken and the City Attorney that day that addressed very specifically the ownership and fee simple question. He said it was the City Attorney's direction that in this subdivision the property owners owned the right-of-way out to the midpoint so the abandonment was reverting that use to them. He said his understanding from being copied on the City Attorney emails was that this related to state subdivision laws. Responding to questions from Commissioner Kadvany as what would next happen, Planner Rogers said this was a multi-step process. He said the Council had adopted a resolution of intention to abandon that set the public hearing dates for the Planning Commission meeting tonight and the City Council's future meeting. He said the Council meeting would be where the action to either abandon or not would be considered. He said if the Commission were to find that the abandonment was not consistent with the General Plan, he was not entirely sure what that would mean for the City Council's consideration, and whether it would then be Council's consideration of whether it was consistent with the General Plan or if it restarted the process.

Commissioner Onken asked about the parcel map that was distributed and if it was correct, saying if it was that seemed to conflict with City Attorney McClure's assertion that the two neighbors on Louise Street owned the land to the middle of the right-of-way. Planner Rogers said the assessor's parcel map was accurate that 1825 Santa Cruz Avenue directly abutted the end of the Louise Street right-of-way. He said that was why staff's original decision to approve the request for an encroachment permit would have been a legal action. He said his understanding from the City Attorney was

that because the Louise Street right-of-way did not exist prior to the Belle Acres subdivision and because the 1024 and 1017 properties were part of that subdivision, but the 1825 Santa Cruz Avenue was not, that it was the 1017 and 1024 Louise Street properties that have the right to abandon the right-of-way.

Chair Ferrick said it was stated by Mr. Garrett that if property was abandoned it had to be sold or exchanged. Planner Rogers said he had not directly talked to the City Attorney about that. He said what been presented to him throughout this process was that because the street was not created until the subdivision that it did not have to be sold back but just reverted back. He said it was a valid question to ask at the Council meeting at which the City Attorney would be present.

Commissioner Bressler said he had recently proposed the City make some money by abandoning some parking spaces but that proposal met difficulties. He said he remembered an abandonment of some strips of land along Willow Road for the benefit of neighbors for which no fee or exchange was required. He said as a Commissioner, and he hoped it was in the General Plan, his position was that the property rights of the community should be respected. He said the individual who sold this land as far as he could tell did not have any expectations there was going to be a driveway there, and he said the people who lived in that neighborhood had a very clear expectation that things would stay the same. He said there were property rights there and for someone to come along and buy the land and expect that to change was not a reasonable expectation.

Commissioner Kadvany said that their task was to define compliance with General Plan. He said he did not see any contradiction of the General Plan by this proposal but he did not see that the Sinnotts' proposal did either. He said the General Plan could not address every possible development, property rights matter or small scale decision of the City. He said the General Plan did not render impossible any of the two alternatives and was not in place to make fine grained distinctions between whether you drive on Santa Cruz Avenue or what the noise level was because of the kind of building being constructed. He said confounding the policy decision of the Council with this finding of General Plan consistency was just a procedural step laid upon the Planning Commission. He said from the perspective of the General Plan either proposal could be found to be consistent.

Chair Ferrick said the sticking point with the General Plan was that the Santa Cruz Avenue property was in a different neighborhood and it could change the consistency of that street if frontage was flipped to the back. She said she agreed with the contention that one house at the end of the cul de sac would not ruin the neighborhood and would not even have to disrupt the existing green space. She said that the outcome for Santa Cruz Avenue was that it might disrupt the orderly development of that street.

Commissioner Riggs thanked the people who attended and spoke on the issue. He said it was a General Plan issue but obviously an emotional issue and speakers carefully laid out their statements. He said the green space in his view was equivalent

to a street parkway which was the section between a curb and sidewalk that was planted or a pocket park. He said it should be valued for its contribution to the neighborhood and its quality needed to be maintained as it was part of the public realm and served everyone who comes to Louise Street. He said they have a couple of fairly clear legal points made this evening. He said it was regrettable that the City Attorney was not present as this was a significant issue. He said the first point was the abutters' right. He said the right of access was to the street. He said it was also presented that it was owned by the City as fee interest. He said Commissioner Onken had pointed out that it was consistent with the Commission's actions to protect our communal property. He said he thought the City Attorney had spoken to one point and Mr. Garrett had spoken to another, which was this was no longer part of a subdivision nor was it any longer a subdivision dispute, or the abandonment of a subdivision, but that Louise Street was the public way. He said he saw no difference in access rights because if the address if the property abutted on the public way. He said there was a legal issue there and a General Plan conflict as protecting access to a public right-of-way was not an insignificant issue. He said he had a concern with abandonment of private property to the green space as this was not the appropriate vehicle to preserve a community asset. He said it was public property and the job of Public Works was to preserve that property, and the job of City Council was to set policy for that preservation should there be any change. He said a request was brought to the Council to have a 20-foot driveway through a public space that happened to be predominately green and they denied the request. He said he did not see a problem with this land remaining in the public realm nor did he see it as a reason for it to be released from the public realm. He said he did not see how the City of Menlo Park could take even 1,000 square feet and give it away as simple fiduciary responsibility. He said to address the emotional reasons for this process that they had seen a proposal that the driveway did not need to be 20-feet in width, did not need to mow down the oleander bush, and that the driveway could co-exist with the nature of that land except that the Council has decided there will not be a driveway. He said he could see the proposed abandonment as well intentioned but inappropriate and in two or three points in conflict with the General Plan.

Commissioner Onken said there were broader and well spoken points about community desire for the land. He said in terms of the General Plan it was a balancing act between what the neighbors perceive as Louise Street's quality and character and the encouragement of more housing. He said for the development of property access that was not shared was preferable to shared access to a busy street and was part of the definition of the City's Safe Routes to Schools. He said one car would not tip the balance for Santa Cruz Avenue but neither would another car on Louise Street create great traffic impact. He said on the parking and access points, the General Plan would indicate that separate access on to Louise Street would be appropriate. He said on this basis he would vote that it was not consistent with the General Plan.

Commissioner Bressler said he thought this was going to be a dispute for the City and he wanted to do his part to resolve it. He said that he did not think public space had to remain public and it would be maintained with this abandonment. He said the reason

he ran for City Council and he wanted to be on the Planning Commission was because he believed there was a community property right, and he was determined to protect that.

Responding to questions from Chair Ferrick, Assistant Deputy Director Nino said there was a small pump station and an electrical meter box and those would remain. He said the City would reserve a public utility easement to maintain the existing facilities. He said he did not know how much it cost the City to maintain the property as if they did anything there it was minimal. He said the pump station and meter box as he recalled were only on one half of the area to be abandoned.

Commissioner Strehl said that either proposal could be found to be consistent with the General Plan. She said she appreciated Commissioner Riggs' comments about the legal issues and she agreed it was unfortunate that they did not have some clarity from the City Attorney about abutters' rights and the fee simple and abandonment. She said she visited the street and met with some of the neighbors. She said she emphasized to them that this was about consistency with the General Plan and was not about what her personal feelings might be. She said she appreciated the perspectives of all of the people on Louise Street as well as the Sinnott family.

Commissioner Kadvany said if the land was abandoned and became shared between the two families whether the Sinnotts could request an easement from those families through there and build a driveway. Planner Rogers said a private party could ask another private party for an access agreement.

Responding to questions from Chair Ferrick, Planner Rogers said if the Commission did not make a finding that the abandonment was consistent with the General Plan that he did not know process-wise what would happen. He said the report and action might be forwarded to the Council and they might act or not act. He said another option was that the process would need to start again, and the Planning Commission would need to act affirmatively or the proposal stopped. He said if the City Council either through action or inaction did not approve the abandonment requests then the owner of 1825 Santa Cruz Avenue would be able to apply for an encroachment permit with different attributes. He said if staff approved that permit request, the neighbors could appeal the action and if staff denied the request, the Sinnotts could appeal the action.

Commissioner Riggs said the staff recommendation found no conflict with the General Plan. He said was this based on the City Attorney's position that the abandoned property should go to the adjacent neighbors and not to all of the neighbors. Planner Rogers said he thought the City Attorney and Public Works officials all agreed that there was no legal obstacle in proceeding with the abandonment. Commissioner Riggs asked if the City Attorney had the information from Mr. Garrett to consider. Planner Rogers said that he had received that information today and did not find anything in it to keep the Commission from taking action tonight.

Commissioner Bressler moved to make the recommendation to City Council to make a finding that the proposed abandonment is categorically exempt under Class 5 (Section 15305, "Minor Alterations in Land Use Limitations") of the current California Environmental Quality Act (CEQA) Guidelines and to adopt Resolution No. 2013-01 determining that abandoning a portion of the public-right of way along Louise Street is consistent with the General Plan (Attachment C). Commissioner Kadvany seconded the motion.

Chair Ferrick said she could make the finding the abandonment was consistent with the General Plan but was not comfortable abandoning public right of way to private ownership.

Commissioner Bressler said this was an issue of fairness. He said one person wanted to make money and could hire attorneys and take legal action but all the other neighbors just wanted things to stay the way they were and were forced to go out of their way to fight it.

Commission Action: M/S Bressler/Kadvany to recommend to the City Council:

1. Make a finding that the proposed abandonment is categorically exempt under Class 5 (Section 15305, "Minor Alterations in Land Use Limitations") of the current California Environmental Quality Act (CEQA) Guidelines.
2. Adopt Resolution No. 2013-01 determining that abandoning a portion of the public-right of way along Louise Street is consistent with the General Plan (Attachment C).

The motion carried 4-2 with Commissioners Onken and Riggs opposed and Commissioner Eiref absent.

Chair Ferrick commented that she found the petition to be distracting, that the information it conveyed was confusing, and that it seemed some signers did not understand what was being said. Commissioner Strehl said she agreed.

E. REGULAR BUSINESS

E1. 2013-14 Capital Improvement Program/General Plan Consistency:

Consideration of consistency of the 2013-2014 projects of the Five-Year Capital Improvement Plan with the General Plan.

Staff Comment: Engineering Services Manager Bravo said the purpose of the annual CIP was to help streamline the budget process and it acted as a planning tool for long term projects to provide infrastructure and public services to the community. He said it also provided for identifying funding sources for the projects and also provided adequate staff resources to focus on project delivery. He said the Commission was

being asked to make a finding on the consistency of the proposed 2013-2014 CIP projects with the General Plan. He said Attachment A generally addressed the goals and objectives of the General Plan and findings for consistency. He said it also provided for staff to consider projects' consistency with the City's master plans and the prioritizing of projects based upon funding availability and goals and objectives of the City Council in delivering services to the City. He provided the Commission with an overview of previous years' CIP budgets.

Questions of Staff: Chair Ferrick said with the new Housing Element that would be included in the General Plan that she had expressed concerns about infrastructure, traffic and circulation impacts from the addition of lot more development. She said she did not see anything listed that was inconsistent with the General Plan but there were items the Commission wanted to see get higher priority such as the pedestrian bike tunnel at Middle Avenue and feasibility studies and potential costs. She said the Commission had recommended higher priority for traffic and circulation items.

Engineering Services Manager Bravo said related to the tunnel and feasibility of connecting El Camino real and Burgess Park that there was an unfunded project in the CIP for that. He said if the Arrillaga project moved forward that would be evaluated as part of that and also the grade separation. He said they would pursue grant funding that could be used for planning those kinds of projects.

Planner Rogers said each year the City's commissions provide input on the next year's list of projects in November and December and that the Council then provided direction on the priorities and recommendations. He said the Council moved move two of the projects up: the El Camino Real northbound right turn at Ravenswood Avenue project and the El Camino Real lane configurations study that would look at what was possible for the length of El Camino Real. He said they made some statements that they were very clearly thinking about the infrastructure challenges the City might have from new development.

Commissioner Riggs asked if water service was part of the general fund. Engineering Services Manager Bravo said it was an enterprise fund and those funds could only be used for water service related infrastructure. Commissioner Riggs asked what the budget category chart would look like if the enterprise budget had not been included. Engineering Services Bravo said the water system was about 23% of the overall expenditure plan for the next fiscal year.

Commissioner Bressler said there had been concern about Library parking related to the new Gym project and asked if there was any information. Assistant Public Works Director Nino said there was a study being conducted but was not part of a project. Commissioner Bressler said they were told at the time of this project that it would easy to add another layer of parking next to the Library or adjacent to the Gym. Assistant Public Works Director Nino said they were evaluating the effects of parking in relationship to the new Gym and Recreation Center on the Library.

Commissioner Onken said in December he had expressed concern that the City needed to look at backflow prevention for all stormwater systems noting rising sea level. Engineering Services Manager Bravo said there were various projects occurring related to climate change including regional interest from FEMA to look at flood zone mapping. Commissioner Onken said he was concerned related to local storm drains. Engineering Services Manager Bravo said there was limited funding for storm drains.

Commissioner Onken moved to make the finding that the 2013-2014 projects of the Five-Year Capital Improvement Plan are consistent with the General Plan. Commissioner Kadvany said he would second the motion. He asked about the idea of instituting the Downtown Plan and extending sidewalks downtown and changing some of the parking. Planner Rogers said this was the Downtown Streetscape Improvement Project. He said that project was currently recommended in the FY 2014-2015 for commencement. He said when the El Camino Real projects were moved up some things had to be moved back. Commissioner Kadvany said it was not transparent how projects were prioritized and not ultimately defensible.

Commission Action: M/S Onken/Kadvany to approve the item as recommended in the staff report.

Motion carried 5-0 with Commissioners Eiref and Riggs absent.

E2. Selection of Planning Commission Chair and Vice Chair for May 2013 through April 2014

Commission Action: M/S Ferrick/Bressler to select Commissioner Kadvany as Chair.

Motion carried 5-0 with Commissioners Eiref and Riggs absent.

Commission Action: M/S Bressler/Kadvany to select Commissioner Eiref as Vice Chair.

Motion carried 5-0 with Commissioners Eiref and Riggs absent.

F. COMMISSION BUSINESS

There was none.

ADJOURNMENT

The meeting adjourned at 10:15 p.m.

Commission Liaison: Thomas Rogers, Senior Planner

Recording Secretary: Brenda Bennett

Approved by the Planning Commission on June 10, 2013.