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Planning Commission Draft Minutes

Regular Meeting October 27, 2009

**Afternoon Session Only
 4:00 p.m. – 6:30 p.m.**

DRAFT 11/06/2009 10:54 AM

Commissioners

David Stocker, Chair
 Ralph Widmar, Vice-Chair
 Toynette Bryant
 Paul W. Davis
 Leon Garden
 Willard McCrone
 Luis Osorio

CALL TO ORDER

Chair Stocker called the meeting to order at 4:00 P.M.

ROLL CALL

Commissioners Present: Bryant, Davis, Garden, McCrone (Arrived 4:05 p.m.), Osorio, Stocker

Commissioners Absent: Widmar

Staff Present: Chief of Planning, Engineering, and Environmental Compliance Chip Rerig, Principal Planner Kimberly Cole, Principal Planner Elizabeth Caraker, Senior Planner Forrest Ebbs, Intern Lacey Raak, City Traffic Engineer Rich Deal, City Engineer Tom Reeves, Building Official John Kuehl, Recording Secretary Terry Lebda

PUBLIC COMMENTS

PUBLIC COMMENTS allows the public to speak for a maximum of three minutes on any subject, which is not on the agenda. Any person or group desiring to bring an item to the attention of the Planning Commission may do so by addressing the Commission during Public Comments or by addressing a letter of explanation to: Planning, Engineering, and Environmental Compliance Division (PEEC), City Hall, Monterey, CA 93940. The appropriate staff person will contact the sender concerning the details. Note: Public Comments are taken during the afternoon session and continued at the evening session. Individuals may choose to speak once for up to three minutes at either session, but not both.

Bob Oliver said that he would like it stated in the minutes that there has been a matter before the City Council regarding Stacey Louise Andrews who was assaulted by a police officer in 2002 and there has been a cover up in this regard.

APPROVAL OF MINUTES

October 13, 2009

ACTION: Approved as submitted. 3-0-2 (Abstained-Davis, Osorio) -2 (Absent-McCrone, Widmar).

MOTION:

On a motion by Commissioner Bryant, seconded by Commissioner Garden, the Minutes of October 13, 2009 were approved as submitted. The motion passed by the following vote:

AYES:	3	COMMISSIONERS:	Bryant, Garden, Stocker
NOES:	0	COMMISSIONERS:	None
ABSTAIN:	2	COMMISSIONERS:	Davis, Osorio
ABSENT:	2	COMMISSIONERS:	McCrone, Widmar

REVIEW OF CONSENT ITEMS

REVIEW OF CONSENT ITEMS allows for a review of those items recommended for approval on consent or recommended to be continued, tabled or withdrawn, etc. CONSENT ITEMS consists of those items which are routine and for which a staff recommendation has been prepared. A member of the public or a Commissioner may request that an item recommended for approval on consent be heard on the regular agenda for further discussion.

C1. 300 Glenwood Circle; Application 09-143 to Re-open Master Use Permit 05-072; Applicant Sheryl Machado; Owner Monterey Kimberly Place, LLC, LP; R-3-15 Zoning District; Negative Declaration Previously Filed and Certified. (Continued from October 13, 2009.)

Recommendation to the City Council Considering a Release of Deed Restriction on Three (3) Inclusionary studio units in the Footprints on the Bay Condominium Conversion project. Release of the Deed Restriction requires amending Master Use Permit Condition of Approval No. 9 and the Affordable Housing Agreement.

ACTION: On consent, 300 Glenwood Circle, Application 09-143 to Re-open Master Use Permit 05-072, continued to November 10, 2009 as recommended by staff. 5-0-2 (Absent- McCrone, Widmar)

MOTION:

On a motion by Commissioner Garden, seconded by Commissioner Osorio, on consent, 300 Glenwood Circle, Application 09-143 to Re-open Master Use Permit 05-072, continued to November 10, 2009 as recommended by staff. The motion passed by the following vote:

AYES:	5	COMMISSIONERS:	Bryant, Davis, Garden, Osorio, Stocker
NOES:	0	COMMISSIONERS:	None
ABSENT:	2	COMMISSIONERS:	McCrone, Widmar

C2. Recommendation to the City Council to Adopt Ordinance Amending City Code. (Continued from October 13, 2009.)

- **Section 38-15** to eliminate adult massage and add massage establishments and escort services to the definition of personal services.
- **Section 38.33.I** to eliminate references to adult massage businesses.
- **Section 38-31** to add personal services to list of allowed uses in the Office and Professional Zoning Designation.

ACTION: Removed from consent and placed at the end of the agenda. Due to time constraints, the Planning Commission meeting was adjourned prior to hearing this item; therefore, it is continued to the November 10, 2009 Planning Commission Meeting. 5-0-2 (Absent- McCrone, Widmar)

MOTION:

On a motion by Commissioner Osorio, seconded by Commissioner Bryant, due to time constraints, the Planning Commission meeting was adjourned prior to hearing this item; therefore, it is continued to the November 10, 2009 Planning Commission Meeting. The motion passed by the following vote:

AYES:	5	COMMISSIONERS:	Bryant, Davis, Garden, Osorio, Stocker
NOES:	0	COMMISSIONERS:	None
ABSENT:	2	COMMISSIONERS:	McCrone, Widmar

C3. Recommendation to City Council to Adopt Resolution Adopting a Negative Declaration and Resolution Adopting the City of Monterey 2009 Bicycle Transportation Plan.

ACTION: Removed from consent and placed after Item 5 of the agenda for discussion. Recommended to City Council adoption of the Negative Declaration and the 2009 Bicycle Transportation Plan as submitted by staff. 6-0-1 (Absent-Widmar).

Staff Presentation/Commissioners Questions:

Lacey Raak presented the staff report. She and Mr. Deal answered Commissioners' questions.

Public Comments:

None.

Commissioner Comments:

Commissioner Garden moved to recommend to City Council adoption of the Negative Declaration and the 2009 Bicycle Transportation Plan as submitted by staff. Commissioner Osorio seconded the motion.

MOTION:

On a motion by Commissioner Garden, seconded by Commissioner Osorio, it was moved to recommend to City Council adoption of the Negative Declaration and the 2009 Bicycle Transportation Plan as submitted by staff. The motion passed by the following vote:

AYES:	6	COMMISSIONERS:	Bryant, Davis, Garden, McCrone, Osorio, Stocker
NOES:	0	COMMISSIONERS:	None
ABSENT:	1	COMMISSIONERS:	Widmar

PUBLIC HEARINGS

PUBLIC HEARINGS are held to receive public comment on certain items pending Planning Commission action. You are welcome to offer your comments after being recognized by the Chair. The Chair may limit the time allocated to each speaker. Project representation is required.

- 4. **414 Larkin Street; Appeal 09-153 of ARC Application 08-296; Appellant Guiseppe Managuerra; Owner Nelson Vega; R-3-6 Zoning District; Exempt from CEQA Requirements. (Continued from October 13, 2009.)**

Appeal of the Architectural Review Committee approval of Preliminary Design Review for exterior modifications to the existing multi-family residential building.

ACTION: Denied the appeal and upheld the Architectural Review Committee approval. 4-0-2 (Abstained-Davis, Osorio) -1 (Absent-Widmar).

Staff Presentation/Commissioners Questions:

Commissioners Davis and Osorio recused themselves from the meeting due to conflict of interest.

Commissioner McCrone arrived at 4:05 p.m.—at the beginning of the staff presentation.

Forrest Ebbs presented the staff report and answered Commissioners' questions.

Appellant

Molly Erickson, representing Appellant Guiseppe Managuerra, referenced handouts submitted to the Planning Commission saying that the appeal is based on noise, light, and privacy impacts, that Old Town Area Plan policies were not taken into consideration, and that public and neighborhood associations oppose the application. She said that their neighbor, Ms. Chen, supports Mr. Managuerra's appeal, but that she was not able to attend this evening's meeting. Ms. Erickson said that they are opposed to the sliding doors over windows because they create greater privacy impacts such as more light and noise pollution from the larger

surface of the sliding doors that look over the Managuerra's property. She said that this design goes against the Old Town Area Plan which was adopted to preserve the old town character and structures; and, if approved sets a precedent. In answer to Commissioner Garden's question regarding the Old Town Area Plan, she said that no specific location in the Plan addresses the issues, but several policies address the intent such as in Sections 1.1.12 e.-f.—that new development and remodels of structures in Old Town shall be consistent with old town character.

Applicant

Charlie Hornisher; Project Manager with The Paul Davis Partnership, referenced handouts submitted to the Planning Commission from light and noise engineers saying that there was no err by the ARC who approved the design of the solid screen in front of the sliding glass doors because the screen mitigates the light and sound impacts as well as adds needed articulation to the three-story façade. He said that the ARC is well versed on the Old Town Plan and it is consistent with Sections 1.1.1.f and i., that screens are to provide more privacy and separation from adjoining neighbors. He said if the sliding doors were changed to windows, they would add more light and sound pollution than currently designed. In answer to Commissioner Garden's question, it is hard to patch the areas if they were to convert back to a window design and that the screen has been found to be a better solution.

Public Comments

Mary Ann Finocchi, speaking on behalf of Architect and Larkin Street resident Josephine Ortega, referenced a petition that she is submitting signed by 76 neighbors who are opposed to the project and concerned with ARC's action. She said they are objecting due to general land use principles, the location on the property, light impacts to adjacent owners, sliding doors were never permitted and not removed, design is not consistent with the architectural styles in the Old Town neighborhood, and modifications do not meet Sections 1.1.12 f. and i.

As Old Town Chairperson, Ms. Finocchi said that the sliding doors still impact the neighbors as addressed in the Michael Stamp letter. She said that insulation will not mitigate impacts to the neighbors and that faux balconies are not accepted in the Old Town goals. She said that residents will have the perception that Area Plan is not being followed in order to retain the old town character and that the appeal should be upheld, the sliding doors removed, and windows replaced.

Colleen Sullivan, Old Town resident and Board Member, said that at the July 15, 2009 ARC meeting Committee Member Jacobowski suggested a solution to modulate the long wall and meet Standard 1.1.12 i. He suggested that the sliding doors could be replaced with windows and scroll trim. She said that the ARC Chair and committee members discussed this option with Mr. Vega and Mr. Davis, but they did not hear the appellant's thoughts. She said that under Roberts Rules of Order, both sides should be able to comment on discussions. She said this blurs the transparency that the City is trying to achieve and she is hopeful that the ARC meetings will soon be televised to eliminate this problem.

Bob Grimes said that he previously served on the Old Town board, served on HPC, and as a witness and historian, and these issues were part of the discussions that all agreed on during the time when Bruce Kibby was working with the neighbors on the Old Town Plan. He said the observation here is that the injured party needs to be mitigated to his satisfaction.

Barbara Bass Evans, representing New Monterey Neighborhood Association, said that they are concerned that this would set a precedent for other neighborhoods. She said they recommend that the Planning Commission go back to the original intent of having the sliding doors removed and windows replaced because a sliding door is not a window and the proposed screens look temporary and in time could be removed. She said the City should recognize that neighborhood plans have merit and buildings should be red tagged as needed early on in the process.

Elisa Manuguerra, Giuseppe Manuguerra's daughter, said that she objects to the sliding door design and requests returning to windows. She said that the encroachment is on the only private area they have which is their 400 square foot back yard. She requested that this problem be abated correctly and to not allow a band aid solution. In answer to Commissioner McCrone's question regarding impacts based on the size of window openings compared to the sliding doors, she said that they want to retain as much privacy as possible and without a permanent stucco area they cannot control the impacts from apartment tenants.

Nelson Vega, building owner, said that engineers have reported that with sliding doors, there will be less light and sound impacts than from windows. He said the apartment rules and regulations do not allow tenants to smoke, noise levels are to be kept at a minimum, and he does not allow loitering; and, he said, there have been no police reports for noise. He said that most tenants are school teachers and persons from the DLI and all are month-to-month renters, so if there are problems then they are given a 30-day notice. He said that he pulled a permit for the project. He said he was going with an agreed upon Deed Restriction, but the family backed out. He said that this redesign meets the neighbor's objectives.

Molly Erickson said that they never offered a Deed Restriction; rather, Mr. Vega asked, but the Manuguerras disagreed. She said this is about old town character and significant privacy impacts. She said the screen is not a wall, it is not insulated, and the light can go down below. She said that the neighbors and neighborhood want windows, the ARC was not given adequate information, land use permits are permanent and can cause negative impacts; and, since balconies are used differently than windows, she requests that the Planning Commission prevent foreseeable impacts now.

Charlie Hornisher said the ARC took in mind the area plan and the neighbors' requests and determined that the impacts were reduced with the solid screens as they reduced the bedroom openings, increasing privacy. He answered Commissioner Bryant's question saying that yes, if someone fell against the screen it is strong enough to hold them.

Commissioner Comments:

Mr. Ebbs answered Commissioners' questions. Commissioner Bryant said that she has heard testimony from both sides of the issue and that she too has a three-story building behind her backyard. She said that the Planning Commission is charged with going with facts rather than emotion, she does not feel that the ARC erred, and moved to deny the appeal and uphold the ARC decision. Commissioner McCrone seconded the motion.

Commissioner Garden said that he understands that the ARC considered all that has been heard. He said if this were a new application, he feels that he would not approve the sliding doors over windows. He said he believes the screening that has been proposed is adequate to reduce privacy impacts to nothing greater than when this appeal started.

Commissioner Stocker said if the building had a radical remodel, then the Planning Commission would be able to address that project, but this was not the opportunity. He said they are only reviewing the window design and the sliding door design. Good points were brought up whether or not the sliding doors add more light or noise impacts; but, that he disagrees with the appeal and he does not believe ARC erred.

Commissioner McCrone said that the ARC considers area plans and the remodel is a better treatment than what was there before. He said that this apartment building is in that area of our city that is set aside as R-3 to provide affordable housing, it is in accordance with the Old Town Plan, and it is not the Planning Commissions' place to deal with emotions. He said the building now has better modulation than what was there before and is less of a privacy matter; therefore, he cannot find anything that would cause him to second guess the ARC decision.

MOTION:

On a motion by Commissioner Bryant, seconded by Commissioner McCrone, it was moved to deny the appeal and uphold the Architectural Review Committee approval. The motion passed by the following vote:

AYES:	4	COMMISSIONERS:	Bryant, Garden, McCrone, Stocker
NOES:	0	COMMISSIONERS:	None
ABSTAIN:	2	COMMISSIONERS:	Davis, Osorio
ABSENT:	1	COMMISSIONERS:	Widmar

5. 57 Soledad Drive; Master Use Permit and Tentative Map, and Variance 07-015; Applicant Wald, Ruhnke, & Dost Architects; Owner Pacific Vista Apartments; R-3 Zoning District; Exempt from CEQA Requirements.

Request to convert an existing 58-unit apartment complex to condominiums requiring approval of a Master Use Permit (Planned Unit Development) and Tentative Map and variance for storage facilities.

ACTION: Approved 57 Soledad Drive Master Use Permit and Tentative Map and Variance 07-015 with staff recommended Findings for Approval and Conditions of Approval. 5-1-(Noes-McCrone)-1 (Absent-Widmar).

Staff Presentation/Commissioners Questions:

Kim Cole presented and answered Commissioners' questions.

Applicant

Henry Ruhnke, Wald, Ruhnke, and Dost Architects, said they have worked closely with staff sorting out issues such as parking and storage, conditions of approval, technical language, maps and easements. He said the development has been maintained very well and it meets code issues such as have a sprinkler system.

John Bridges, representing the applicant, said that they are willing to accept and agree to the latest proposal including the storage facilities variance, easements in the center of the driveway with shared rights, with reduced density and number of apartments so there is no impact to the easement situation.

Public Comments

None.

Commissioner Comments:

Staff answered Commissioners' questions regarding the storage areas, appropriate notification to apartment tenants, and affordability for residents.

Commissioner Davis move to approve the project as submitted. Commissioner Bryant seconded the motion.

Commissioner McCrone said that he cannot support the motion because he cannot make findings to support a variance. He said that this application has been outstanding for longer time than normally warranted for a subdivision; and, he questioned the absence of interest by tenants.

Commissioner Stocker said that the intent of storage is being met. He said that tenants of the project are not at the hearing because this is not news as it has been going on for a long time and there have been other projects where residents have not shown up.

MOTION:

On a motion by Commissioner Davis, seconded by Commissioner Bryant, it was moved to approve 57 Soledad Drive Master Use Permit and Tentative Map and Variance 07-015 with staff recommended Findings for Approval and Conditions of Approval. The motion passed by the following vote:

AYES:	5	COMMISSIONERS:	Bryant, Davis, Garden, Osorio, Stocker
NOES:	1	COMMISSIONERS:	McCrone
ABSENT:	1	COMMISSIONERS:	Widmar

COMMISSION COMMENTS

Commissioners may ask a question for clarification, make a brief announcement or make a brief report on his or her activities. In addition, the Commission may provide a referral to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any City matter, or direct staff to place a request to agendaize a matter of business on a future agenda (G.C. 54954.2).

6. Response to Commissioners' Comments at October 13, 2009 meeting. Report received.

New Comments:

- Chair Stocker requested that PDF staff reports, of which are currently obtained from the web published Planning Commission Agenda, be available for review in color. Commissioner Garden said this was the second meeting without a hard copy agenda packet and that he is successful reading the electronic version. Commissioner McCrone said that he brought his laptop and was able to review online as well, but that he is not quite ready to give up his hard copy agenda packet. Commissioner Bryant said that she is learning how to review staff reports electronically. Chair Stocker and Commissioner Garden requested that they no longer receive a hard copy of their agenda packets. Chair Stocker advised that other Commissioners can step forward as they are ready to go electronic.

PLANNING, ENGINEERING, AND ENVIRONMENTAL COMPLIANCE DIVISION UPDATE

This report supplies information on activities or announcements and may request clarification or direction regarding scheduling of Commission meetings and study sessions.

7. Planning, Engineering, and Environmental Compliance Division Update.

- Ms. Cole reviewed the PEEC Update. She reminded the Commissioners that the November 10 PC Meeting, evening session, will be a joint meeting with the City Council.
- Regarding the November 24, 2009 PC Retreat, Commissioner Bryant said it is doubtful that she will make it to that meeting.
- Commissioner McCrone made mention that there were many City staff attending this PC afternoon session and suggested that it may be a more efficient use of staff time if there is some system implemented for staff to be on call if questions are asked and their attendance is requested at that time.

ADJOURNMENT

There being no further business, the meeting adjourned at 6:23 P.M.