



Council Chamber
Few Memorial Hall of Records
Monterey, California

Minutes Planning Commission

Regular Meeting
March 14, 2006

Afternoon Session
4:00 p.m. – 6:00 p.m.

Planning Commission

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

CALL TO ORDER

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

ROLL CALL

Commissioners Present: Bryant, Garden, Ruhnke, Stocker, Widmar

Commissioners Absent: Davis, McCrone

Staff Present: Community Development Director Bill Wojtkowski, Senior Planner Rick Marvin, Senior Associate Planner Todd Bennett, Recording Secretary Terry Lebda

Mr. Marvin introduced newly hired Technical Office Assistant Maria Buell who will be assisting Senior Planner Kim Cole and the Historic Preservation Commission.

APPROVAL OF MINUTES

February 28, 2006

ACTION: Approved as submitted. 4- 0- 1 (Abstain-Widmar)- 2 (Absent-Davis, McCrone).

MOTION:

On a motion by Commissioner Garden, seconded by Commissioner Ruhnke, the minutes of February 28, 2006 were approved as submitted. The motion passed by the following vote:

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

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: Community Development Director, City Hall, Monterey CA 93940. The appropriate staff person will contact the sender concerning the details.

None.

REVIEW OF AFTERNOON AGENDA AND CONSENT ITEMS

REVIEW OF AGENDA AND CONSENT ITEMS are to review those items recommended for approval on consent, or recommended to be continued, tabled or withdrawn, etc.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.

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.

1. **602 Terry Street; Variance 06-045; Applicant Gunter Bierwolf; Owner Matthew and Carla Rosal Binder; R-1-5 Zoning District; Exempt from CEQA Requirements.**

Variance request for 11-foot rear yard setback (17-foot is the required setback) for a one-story addition. The addition will replace a sunroom structure that is currently located in the setback.

ACTION: Denied Variance with no findings to support the variance request. 5-0-2 (Absent-Davis, McCrone).

Staff Presentation/Commissioners Questions:

Todd Bennett presented the staff report and answered Commissioners' questions.

Applicant:

Matthew Binder said that there is a distinction between this application and the previous requests in 2002. He said they are not turning over this house for quick profit and they have already made numerous improvements to the interior and exterior of which they have received compliments by passers by. He described the project and said that the current room has flimsy construction that has safety hazards. He said that the purchase and refinance appraisal indicates this 200 square feet is part of the overall square footage of the house; consequently, property taxes are tied into that size of the house. He added that the property appraised in 2004 included this square footage and it was approved with the Building Permit in 1985 indicating that it is a permanent part of the house. He said that they will take steps to reduce any impact that may impose other neighbors by way of fewer windows and more vegetation. Carla Rosal said that since they were going to replace the structure and they needed a variance, they decided that they might as well enclose the area with a structure that might be longer lasting. Mr. Binder said that they are aware that other rear setback variance requests have been granted.

He said that they refute claims from letters opposed to the project. He said that individuals' failed to mention reasons for their objections, noted non-related events, there was a desire for no higher roofline, yet it is a flat roof, and that the Building Permit does not mention that it is temporary. He said the current structure is installed on a concrete foundation that was poured to accommodate this type of structure and he described the electrical outlets and how they were originally versus currently. He said that the Garretts purchased their home after 1965 and they were fully aware of the rear features of the home including the sunroom. He said that the detriment to sunlight is that of their large, beautiful oak trees that extend above their roofline. He answered Commissioner Ruhnke's question saying that he heard the suggestion to build the addition in the front of the house, but that there is not much of a back yard and they designed the front yard to be their son's play yard. Ms. Rosal said that they are not just adding to the house, but adding that which is already there.

Public Comments:

Gunter Bierwolf, General Contractor, said that the variance already exists. He said that the family has little kitchen space and the sunroom is an ideal location for the kitchen. He said that they are raising the roof to tie in with the existing roof and design of home and that one cannot see into the neighbor's yard. In answer to

Commissioner Ruhnke's question, he said that they will put the new tankless water heater in the garage if requested.

Gordon Garrett said that he and Cathy Garrett contributed a lengthy letter and came to answer questions. He said that they are not trying to prevent the neighbors from improving their property, but that they don't understand why they have to violate their rear yard setback in order to do that. He said that they have an ample front yard and side yard. He said that in their neighborhood, this house presents a totally different picture from any other in the neighborhood and it does not fit in very well. He suggested that if they put the addition in the front and design it like the rest of the neighborhood, they will do everyone a big favor. Regarding wiring in the sunroom, he said that he saw the lighting installed and it was not part of the structure.

Cathy Garrett said that the level of the floor will be raised and the roof will then be raised from what the patio structure is now, therefore, it is false to say it won't be higher. She said that 25 feet of the Binder's house is already within 5 feet of their property line and the rest of the house should not be built there creating a solid wall. She said there is no reason why they can't build in front of their house since they are back further than any other house on the street.

Robert Wemheuer, New Monterey Neighborhood Association, said that they agree with City staff for denial of the variance with all three findings of denial as addressed in staff report. He said that the variance request is inconsistent with the New Monterey Area Plan and the decision is consistent with Zoning regulations and City Ordinances. He said that the Planning Commission and City Council previously denied this request and that nothing has changed regarding the variance request.

Joann Kelly said that she supports the New Monterey Neighborhood Association and noted that Sharon Dwight submitted letter in opposition. She said that there is no guarantee that compliance will happen because it has not happened with the previous variance granted.

Chair Bryant acknowledged that the Planning Commissioners received Sharon Dwight's letter. Mr. Marvin clarified that the previous consideration for planting in the right of way was not a condition of a Variance, but that it is a requirement on an encroachment permit and that Public Works is working with the owner to remove the landscaping and the condition will be satisfied.

Ron Howard said that the Binders have done a lot of improvements to their yard and the appearance of their residence. He said that they are not adding on and that it is only logical that an owner would want to improve their existing residence, especially where a room already exists.

Carrie Pierce said that she is in support of this project and it is a habitable room. She said she can understand the neighbors not wanting to look at a big wall, but that they have been looking at it for years and they are adding landscaping to cover it. She said that the front yard, with native plants, is the most beautiful part of their home and they want a more energy efficient room to replace an old structure.

Mr. Garrett said that the trade name of porta patty is a patio enclosure designed for only part time use. However, he said, the way it is used now is occupied all the time and that was not what was originally allowed there.

Commissioner Comments:

Mr. Marvin answered Commissioner Garden's questions saying that staff did not find the 1964 conditions for the variance and that the square footage is included in the Floor Area Ratio. He said that the Building Division approved this structure, but a determination was made in 2002 that it was approved as one type of structure and to be replaced with another structure was intensification. He said that staff is being consistent with the 2002 determination, that it is an approved auxiliary structure, that the square footage counts as Floor Area Ratio, and is not exempt in the Zoning Ordinance.

In answer to Commissioner Widmar's question as to how many short lots are in the New Monterey area, Mr. Bennett said that staff has not done a survey to determine what that number might be.

Commissioner Garden moved to deny the Variance with staff findings. He said that there is ample room to make improvements and to increase the area of the house within the setbacks.

Commissioner Ruhnke seconded the motion. He said that there needs to be a hardship relating to the physical characteristics of the land and not related to the existing structure. He said there might be consideration if they were deprived a development opportunity due to a landmark tree or rock outcropping or topography, but that was not justified in this situation. He said there are other areas on this property that can be developed such as the front yard option. He said there are no findings and that this request came before the Planning Commission a few years ago with the same type of results.

MOTION:

On a motion by Commissioner Garden, seconded by Commissioner Ruhnke, it was moved to deny the Variance with no findings to support the variance request. The motion passed by the following vote:

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

2. 342 Kolb Avenue; Use Permit 05-523; Applicant Steve Christianson for NSA Wireless; Owner Lori Austin for Pacific Gas & Electric; C-2 Zoning District; Exempt from CEQA Requirements.

Use Permit request for approval of a personal communications facility. The facility will be located at the northeast corner of Casanova Avenue and No. Fremont Street and it includes installation of a 65-foot tall monopole structure that is designed to appear as a pine tree, six pole mounted panel antennas and ground mounted support equipment. The support equipment will be located within a fenced enclosure.

ACTION: Approved Use Permit as submitted. 3-2 (Noes-Ruhnke, Garden) –2 (Absent-Davis, McCrone).

Staff Presentation/Commissioners Questions:

Rick Marvin presented the staff report and answered Commissioners' questions.

Applicant:

Steve Christianson, NSA Wireless, thanked staff and the Architectural Review Committee for working with them. Regarding the concern about ambient noise, he said that the street traffic makes more noise than any equipment. He said that they are not in opposition to putting in an enclosure that is same as the adjacent building, whichever way the Commission wishes. He answered Commissioners' questions describing the design of the antenna tower that looks like a tree. He said he did not know the range of coverage and that they are negotiating with Fort Ord. He said that they need this height of a tower in order to hand off to two adjacent sites.

Public Comments:

None.

Commissioner Comments:

In answer to Commissioner Garden's question, Mr. Marvin said that the Cell Tower Subcommittee has not made progress due to work priorities.

Commissioner Stocker moved to approve the Use Permit with materials selected by the Architectural Review Committee.

Commissioner Widmar seconded the motion.

Commissioner Ruhnke said that he will vote against the project because he has yet to find a tower that looks like a tree. He said that this location is right at the intersection and it is obviously a fake plastic tree. He said that the location is fine, but that it should simply be a cell tower.

Commissioner Garden said that the City needs to plan for erecting cellular poles and that we are no further ahead than we were years ago. He said that this will look like a fake tree on a busy intersection. He recalled that carriers have said that they can co-locate and they can decide ahead of time where they could be located and who can lease to cell phone operators. He said that flagpoles with little flags do not work either.

Chair Bryant said that if it looks like a tree then it may block some of the substation, but that it is a well-traveled entrance to the City. She said she will vote to approve it, but that she wants to be sure that it does look like a tree and that there are no antennas peaking out.

MOTION:

On a motion by Commissioner Stocker, seconded by Commissioner Widmar, it was moved to approve the Use Permit as submitted. The motion passed by the following vote:

AYES:	3	COMMISSIONERS:	Bryant, Stocker, Widmar
NOES:	2	COMMISSIONERS:	Garden, Ruhnke
ABSENT:	2	COMMISSIONERS:	Davis, McCrone

3. 638 Wave Street; Use Permit 05-245; Applicant-Lucio Maldonado; Owner-Peter Mungridis, Inc.; C-2 Zoning District; Exempt from CEQA Requirements.

Request for approval of a Use Permit to allow Live Entertainment within an existing restaurant (Jose's Mexican Bar & Grill).

ACTION: On consent, approved Live Entertainment Use Permit as submitted and conditioned. 5-0-2 (Absent-Davis, McCrone).

MOTION:

On a motion by Commissioner Garden, seconded by Commissioner Stocker, on consent, it was moved to approve the Live Entertainment Use Permit as submitted and conditioned. The motion passed by the following vote:

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

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).

4. Response to Commissioners' Comments at February 28, 2006 meeting.

ACTION: Report received.

New Comments:

- Regarding the February 28 Planning Commission Retreat, Commissioners Ruhnke and Garden said that they would like to have a retreat with the City Council to exchange ideas as discussed at that meeting. Mr. Wojtkowski said that he will follow up with the City Manager regarding this request.

DIRECTOR'S REPORT

The Community Development Director's report supplies information on activities or announcements. He may also ask for clarification or direction regarding scheduling of Commission meetings and study sessions.

5. Director's Report

ACTION: Report received.

- Mr. Wojtkowski reviewed the Director's Report. He answered Commissioners' questions regarding the Monterey County General Plans. He said that the City will review the County General Plans and what impacts it may have on the City of Monterey. He said the City reviews the drafts and both will come before the Planning Commission for recommendation.
- In answer to Commissioner Garden's question as to why the Cannery Row Hotel project is not progressing, Mr. Wojtkowski said that the lending company is making sure that all permits are secured before funding this project and it is now just a matter of time. He said that the City is meeting with the construction contractor every two weeks in preparation of the construction, but that the developer is still working on gaining permits from the Monterey Bay Sanctuary and Army Corp of Engineers for the small amount of work that is needed in the water.
- Mr. Wojtkowski reported that the City has received two prestigious Historic awards and grants.
- Commissioners Bryant and Garden will be attending the Planning Institute on March 22-24.
- Commissioner Ruhnke said that while he was in Spokane, Washington, he learned and found interesting that their Zoning Ordinance established a parking maximum and a parking minimum for development. Mr. Wojtkowski said that it may be tied into their transit system.

ADJOURNMENT

There being no further business, the meeting adjourned at 5:20 P.M.

APPROVED:

ATTEST:

Toynette Bryant, Chair

Bill Wojtkowski, Secretary

Respectfully Submitted, Terry Lebda
Recording Secretary
Planning Commission