



## MEMORANDUM

**Date:** 1/17/2019  
**To:** Planning Commission  
**From:** Kaitie Meador, Senior Planner  
**Re:** 445 Oak Court – Determination of Substantial Conformance

For all applications that involve the construction or alteration of structures (e.g., Architectural Control and Use Permit), a standard condition of approval is applied requiring the subsequent development to be in substantial conformance with the approved plans. In the following case, staff believes that a project's proposed changes are in substantial conformance with its original approval, although the modifications warrant notification of the Planning Commission. As is described in more detail later, any Planning Commissioner may request that the item be added to the agenda of the next Planning Commission meeting for further discussion.

### **Background**

On January 9, 2017, the Planning Commission reviewed a Use Permit application at 445 Oak Court for a new two-story residence including a basement, detached garage, and secondary dwelling unit on a substandard lot with regard to lot width located in the R-1-U (Single-Family Urban Residential) zoning district. The Planning Commission indicated general support for the proposal, but continued the Use Permit application with direction to modify the plans to reduce the building height, consider different screening trees, screen the second story balcony, and reconsider the amount of paving. The Planning Commission staff report and meeting minutes are available through the links provided below.

### **Staff report**

<https://www.menlopark.org/DocumentCenter/View/12638>

### **Minutes**

[https://www.menlopark.org/AgendaCenter/ViewFile/Minutes/\\_01092017-2857](https://www.menlopark.org/AgendaCenter/ViewFile/Minutes/_01092017-2857)

On May 22, 2017, the Planning Commission reviewed a revised proposal for the subject property and conditionally approved the project with a requirement to reduce the building height an additional one foot, six inches (six inches from the first floor height and one foot from the second floor height). The Planning Commission staff report and meeting minutes are available through the links provided below.

### **Staff report**

<https://www.menlopark.org/DocumentCenter/View/14493>

### **Minutes**

[https://www.menlopark.org/AgendaCenter/ViewFile/Minutes/\\_05222017-2927](https://www.menlopark.org/AgendaCenter/ViewFile/Minutes/_05222017-2927)

On June 2, 2017 the Planning Commission's approval was appealed to the City Council and on July 18, 2017 the City Council reviewed the Use Permit application. The City Council voted to uphold the appeal in part and uphold the Planning

Commission's Use Permit approval, with an additional condition requiring a third party arborist, hired by the applicant, to periodically inspect and provide reports to the City Arborist to ensure that tree protection measures are followed throughout the project. The City Council staff report and meeting minutes are available through the links provided below.

**Staff report**

<https://www.menlopark.org/DocumentCenter/View/15042>

**Minutes**

[https://www.menlopark.org/AgendaCenter/ViewFile/Minutes/\\_07182017-2947](https://www.menlopark.org/AgendaCenter/ViewFile/Minutes/_07182017-2947)

Following the City Council's approval, a building permit was issued on July 23, 2018 and construction of the project is currently in progress.

**Proposed Revisions**

The applicant is requesting to modify the approved elevations by adding two new skylights on the roof and two new second story windows on the right-side elevation. The project description letter indicates that the skylight and window changes are being requested to provide more natural light on the second floor. The two windows on the right elevation would be casement clad wood windows with true divided lites in a bronze color that would match the materials and design of the approved windows. The applicant has submitted a project description letter and revised plans, included as Attachments A and B, respectively.

Staff believes that privacy impacts from the addition of these windows would be minimized by the window sill heights of four feet, ten inches and larger setback along the right side. The applicant also reviewed the two proposed second story windows with the right-side neighbor and provided the City with a letter of support from this neighbor (Attachment C).

**Staff Review**

Staff has determined that the changes to the project plans are in substantial conformance with the approved use permit approval based on the following:

- The proposed skylights and windows would have minimal privacy impacts. The sill heights for the two proposed second story windows would be four feet, ten inches in height.
- The proposed windows would have the same pattern and color as the approved windows and would be compatible with the approved architectural style.
- There is no increase in floor area proposed, and the modifications would not result in increased intensity or change of use of the building.
- The revised project would continue to meet all development regulations in the zoning district with respect to setbacks, height, daylight plane, floor area limit, and building coverage.

### **Planning Commission Review**

If any member of the Commission would like to discuss the changes to the plans described above at the January 28, 2019 Planning Commission meeting, please notify staff no later than **5:00 p.m.** on **Tuesday, January 22, 2019**. If staff does not receive a request from a Planning Commissioner, there will be no further review, and the City will proceed with processing the described modifications as part of the building permit application. If any member of the Commission makes such a request, the item would be placed on the January 28, 2019 agenda as a regular business item to give the full Commission the opportunity to determine whether or not the correction meets the intent of the original approval. No additional materials beyond what is contained in this memorandum would be prepared for the agenda item.

If you have questions about the project or process, please contact Kaitie Meador at [kmmeador@menlopark.org](mailto:kmmeador@menlopark.org).

### **Attachments**

- A. Project Description Letter
- B. Approved and Revised Plans
- C. Correspondence