CITY OF PALO ALTO
Memorandum

October 16, 2008

TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER DEPARTMENT: PLANNING AND COMMUNITY ENVIRONMENT

DATE: OCTOBER 20, 2008 CMR: 421:08

SUBJECT: Approval Of Record Of Land Use Action Upholding Appeal Of Director’s Approval Of A Major Architectural Review Application For A Four Story Commercial Mixed Use Retail/Office Building, Including Design Enhancement Exceptions To Exceed The Maximum Height And Floor Area, And A Variance Application For An Encroachment Into The Bryant Street Special Setback, Thereby Denying The Project, At 278 University Avenue.

RECOMMENDATION
Staff recommends that the City Council approve the Record of Land Use action upholding the appeal of the Director’s decision, and thereby denying the project.

DISCUSSION
On September 15, 2008, the City Council voted 9-0 to uphold the appeal of the Director’s approval and deny the project. The primary basis for the denial was that the fourth floor of the building exceeded the 50-foot height limit, and the Design Enhancement Exception for height was denied. The five additional feet above the 50 foot height limit for the entire fourth floor was found to be excessive and was not considered to be a minor design element. It was also found to be out of scale with the heights of other buildings in the vicinity.

Attached is the Draft Record of Land Use Action with the findings for denial.

CURTIS WILLIAMS
Interim Director of Planning and Community Environment

JAMES KEENE
City Manager

Attachment A: Draft Record of Land Use Action
ATTACHMENT A
Action NO. 2008-10
RECORD OF THE COUNCIL OF THE CITY OF PALO ALTO LAND USE ACTION
FOR 278 University Avenue: Architectural REVIEW APPLICATION
[FILE NO.08PLN-00082]
(KEN HAYES, APPLICANT)

On September 15, 2008, the City Council upheld the appeal and denied the Architectural Review Board application for a new four-story commercial mixed-use retail/office building including a design enhancement exception to exceed the maximum allowable height in the CD-C (GF)(P) zone district, making the following findings, determination and declarations:

SECTION 1. Background. The City Council of the City of Palo Alto ("City Council") finds, determines, and declares as follows:

A. On March 19, 2008, Ken Hayes, on behalf of Roxy Rapp, applied for an Architectural Review Board application for construction of a new four story commercial mixed use retail/office building including design enhancement exceptions to exceed the maximum height and to exclude basement floor area from floor area calculations, and a variance application for an encroachment into the Bryant Street special setback ("The Project").

B. Following staff review, the Architectural Review Board (ARB) reviewed the project on June 5, 2008 and recommended approval.

C. The Director of Planning and community Environment approved the project on June 12, 2008.

D. The application was appealed by Palo Alto resident Lynn Chiapella on June 30, 2008.

E. The Planning and Transportation Commission recommended approval of the Variance on July 30, 2008.

F. The City Council conducted a public hearing on September 15, 2008, and upheld the appeal and denied the project.

SECTION 2.

ARCHITECTURAL REVIEW APPROVAL DENIED.
Architectural Review Approval is denied by the City Council under Palo Alto Municipal Code Section 18.77.070 for application 08PLN-00082. In particular, the Council finds that the proposed height is not consistent with Section 18.77.050(d):

(1)The design is consistent and compatible with applicable elements of the Comprehensive Plan; and
(2) The design is compatible with the immediate environment of the site.

The height in excess of 50 feet is not consistent with Comprehensive Plan policies to limit height to 50 feet except in limited circumstances, and is higher than almost all structures in the immediate environment of the site.

SECTION 3. DESIGN ENHANCEMENT EXCEPTION FINDINGS

The requested Design Enhancement Exception (DEE) for height in excess of 50 feet is not consistent with the following findings as stated in PAMC 18.76.050 (c). Section 18.76.050 provides for Design Enhancement Exceptions (DEE) to permit minor exceptions to site development regulations.

Exception #1: A five foot encroachment into the 50 foot height limit for a total height of 55 feet.

1. There are exceptional or extraordinary circumstances or conditions applicable to the property or site improvements involved that do not apply generally to property in the same zone district, in that:

The subject property is a narrow corner lot that is only 60 feet wide. However, the narrowness of the site still allows for a 50-foot height and similar floor area by reducing ceiling heights.

2. The granting of the Exception will enhance the appearance of the site or structure, or improve the neighborhood character of the project and preserve an existing or proposed architectural style in a manner which would not otherwise be accomplished through strict application of the minimum requirements of Title 18 and the standards for review set forth in this Chapter, in that:

While the City is committed to promoting a vital pedestrian environment to encourage retail uses in the downtown, the additional height requested to have taller floor to floor height is excessive. The five additional feet above the 50 foot height limit for the entire fourth floor is not considered a minor design element that enhances the architectural appearance of the building. A Design Enhancement Exception would typically be limited to individual elements rather than an entire floor level.

3. The Exception is related to a site improvement that will not be detrimental or injurious to property or improvement in the site vicinity, and will not be detrimental to the public health, safety, general welfare or convenience, in that:
The exception would allow too much of the building to exceed the height limit and still be considered minor. The exception would have resulted in a building that was too tall and out of scale with the others in the vicinity, and established precedent for other structures to do the same.

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST: Denied:

City Clerk Director of Planning and Community Environment

APPROVED AS TO FORM:

Senior Deputy City Attorney

PLANS AND DRAWINGS REFERENCED:

1. Development Plans prepared by Ken Hayes, of the Hayes Group, consisting of 18 pages, received May 29, 2008.