



# City of Palo Alto

## City Council Staff Report

(ID # 7572)

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**Report Type: Consent Calendar**

**Meeting Date: 2/6/2017**

**Summary Title: 203 Forest Avenue: Appeal of Director's Decision**

**Title: 203 Forest Avenue [14PLN-00472]: Appeal of the Planning and Community Environment Director's Denial of an Architectural Review Application for a 4,996 Square Foot Residential Addition Above an Existing 4,626 Square Foot Commercial Building. Environmental Assessment: Not a Project. Pursuant to Section 15270, CEQA Does not Apply to Disapproved Projects. Zoning District: Downtown Commercial (CD-C (GF)(P)) District**

**From: City Manager**

**Lead Department: Planning and Community Environment**

### **Recommendation**

Staff recommends the City Council uphold the Director's denial of an Architectural Review application, thereby denying the appeal based on associated findings.

### **Executive Summary**

The Director denied a proposal to construct a 4,996 square foot (sf) residential addition to an existing office building at 203 Forest Avenue. The applicant proposed to maintain the existing one and a half story building and office use, and construct one new residential unit on the third and fourth floor above the ground floor office use. The applicant intended to subdivide the commercial and residential uses by creating two condominium units.

Typically, development under 5,000 sf is reviewed at the staff level. However, the Zoning Ordinance allows for the Director of Planning and Community Environment to elevate such projects to the Architectural Review Board (ARB) when the project will significantly alter the character or appearance of a building or site. The ARB forwards a recommendation to the Director.

The ARB reviewed the project on May 21, 2015, September 1, 2016, and November 17, 2016. Following ARB review, and pursuant to ARB recommendation, the Director denied the proposed

project in December 2016. The applicant has appealed this decision to the City Council. The appellant's reason for the appeal is provided in Attachment C and summarized below with staff's responses.

The City Council may accept this report and adopt the staff recommendation on Consent, thereby denying the appeal and accepting the Director's decision based on the information contained herein. Alternatively, if three or more City Councilmembers request, the matter may be pulled from the Consent calendar and scheduled for a future noticed public hearing (approximately 6-8 weeks from this Council date).

Included with this report are all relevant records, including the Director's determination letter (Attachment B) and excerpts of the transcripts of the ARB meetings on May 21, 2015, on September 1, 2016, and November 17, 2016. (Attachment G provides links to each ARB staff report, including minutes and videos, and including records from the May 28, 2015 Historic Resources Board review.)

## **Background**

The proposed project is a 4,996 sf single family addition to an existing office building in downtown Palo Alto. Typically, additions of less than 5,000 sf are reviewed by City staff for conformance with the Context-Based Design Criteria (PAMC 18.18.110), Architectural Review Findings (PAMC 18.76.020(d)), and are processed at staff level in accordance with the Architectural Review Process (PAMC 18.76.020 (b)). However, PAMC Section 18.76.020(b)(2)(I) allows for the Director of Planning and Community Environment to elevate such projects the Architectural Review Board (ARB) when the project will significantly alter the character or appearance of a building or site. The ARB (PAMC 18.76.020(b)(2)(c)) then makes a recommendation for ultimate decision by the Director of Planning and Community Environment. The Director's decision can be appealed to the City Council.

The ARB recommended denial to the Director on November 17, 2016. This recommendation followed three hearings before the ARB on May 21, 2015, September 1, 2016, and November 17, 2016. The Director issued the determination letter on December 14, 2016. The Palo Alto Municipal Code provides 14 days to file an appeal, and a timely appeal was filed by the project applicant. A discussion of the ARB proceedings is provided below.

### **ARB Review and Recommendation**

The ARB reviewed the project plans and received oral testimony from the applicant at public hearings on May 21, 2015 and on September 1, 2016. The City's Historic Resource Board also reviewed the project at the May 28, 2015 hearing. Both ARB meetings were used to provide feedback on the design of the project. Staff reports and minutes from these meetings are linked in Attachment G.

The ARB discussed the aesthetic quality of the project, proposed floor plans and massing, access to and from the site and overall purpose of the design. Overall, the Board noted that they could not support the project for two reasons: it does not comply with the City's zoning ordinance, and the Architectural Review Findings cannot be made.

With regard to the zoning ordinance, the ARB identified the following provisions of the Downtown Commercial Community Zoning District with Ground Floor and Pedestrian Combining overlays (CD-C(GF)(P):

- Setbacks: Development standards in the zoning district do not include required setbacks from property lines and maximum site coverage, with the exception of a 10 foot rear setback for the residential portion of the building. Balconies/open space are allowed to extend up to 6 feet into this 10 foot setback. The proposed residential unit is set back 10 foot 6 inches from the rear property line. The open terrace/balcony of the residential component on the third floor would extend to the rear property line, with a four foot wide landscaped buffer. However, this landscape buffer is inconsistent with the Zoning Code as proposed. The buffer is a paved surface with landscape planters, which constitutes a continuous balcony and terrace area up to the property line.
- Parking: The Zoning Code (Section 18.54.020(b)(2) requires that residential uses provide parking in a garage that has an interior dimension of 10-feet in width. The proposed tandem parking stall is nine-feet-six-inches (9'-6") wide that would require approval of a variance.

Further, Board could not make the Architectural Review Findings in the affirmative for the project. Specifically, the Board found that the project was incompatible with the surrounding environment (Finding #2); and that the massing was larger than it needed to be (Finding #5). The Board also found that the project did not promote a pedestrian friendly or safe design (Finding #10), that the design was not appropriate for the function of the project (Finding #3), and that the design was not sustainable (Finding #15). The Board and staff extended an opportunity to the applicant to revise the plans, but the applicant expressed his desire to maintain the proposed design. The Board requested that the project return with a recommendation for denial; the denial recommendation was made on November 17, 2016. The Director denied the project on December 14, 2016. The Director's letter (Attachment B) outlines the grounds for denial, which are based on the recommendation of the ARB.

## **Project Description**

The applicant proposes to maintain the existing building and office use, and construct one new residential unit. The proposed residential gross floor area would be 4,996 sf, which includes an open residential floor plan on the fourth floor, three bedrooms on the third floor, a study area

on the second floor, and the private stair and elevator access to each area. The applicant intends to subdivide the commercial and residential uses by creating two condominium units.

The proposed alterations include two new, enclosed parking spaces on the ground level for the new residential unit. These two spaces would be provided in a new tandem garage added to the east side of the building using an existing curb cut and driveway access from Forest Avenue. The existing, one covered parking space for commercial use will remain at the main building entrance with access from the existing driveway. This parking space would be designed to comply with required accessibility standards. The curb cut that currently provides vehicle access onto Emerson Street will be closed and access to the building at that location would be restricted for pedestrian use only.

The two existing pedestrian entrances to the commercial space will be maintained. A new stairway is proposed for the residential unit; it will be located between the existing commercial entrances adjacent to Forest Avenue. A new elevator access for the residential tenant will have direct access from Forest Avenue. The proposed building has undergone a redesign since last year, and now consists of a predominately glass window building with a concrete block wall screen at the corner of Forest Avenue and Emerson Street. A board formed concrete tower encloses the three story elevator at the rear portion of the building along Forest Avenue, and a two story garage comprised of translucent glass door and an anodized aluminum canopy are located at the rear of the property.

The following discretionary applications are being requested:

- Architectural Review – Major (AR): The process for evaluating this type of application is set forth in PAMC 18.77.070. AR applications are reviewed by the ARB and recommendations are forwarded to the Planning & Community Development Director for action within five business days of the Board’s recommendation. Action by the Director is appealable to the City Council if filed within 14 days of the decision. AR projects are evaluated against specific findings. All findings must be made in the affirmative to approve the project. Failure to make any one finding requires project redesign or denial. The findings relative to the Director’s denial are explained in Attachment B.<sup>1</sup>

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<sup>1</sup> On December 12, 2016, the City Council adopted Ordinance 5403 which consolidated Architectural Review findings in the Code. These changes were intended to streamline the findings via non-substantive changes. The ordinance did not become effective until January 12, 2017, after the project at 203 Forest had been denied, and thus the new findings are not in use here. If the City Council accepts the appeal, removes the item from consent, and asks staff to notice a public hearing in the future, staff will prepare an analysis using the new findings included in Ordinance 5403.

## **Discussion**

A summary of key appeal statements is provided below, followed by information about the issues raised in the appeal and initial staff comments. If the appeal is pulled from the consent calendar, Council would need to schedule this item for a noticed public hearing, at which time the Council would conduct a “de novo” hearing, which means it may consider any of the issues raised by appellants or any other issue related to architectural review.

### **Appeal Comment 1:**

The appellant states the following: The project successfully promotes harmonious development in the City in that it maintains a scale and character consistent with surrounding uses. The building creates a block-completing structure that mirrors the height and scale of buildings both across the street (northwest corner of Emerson Street and Forest Avenue) and at the other end of the block (northwest and northeast corners of Emerson Street and Hamilton Avenue).

### ***Staff Response:***

The proposed project is subject to the City’s Architectural Review Findings. One such finding requires projects to promote harmonious transitions in scale and character. As noted in Attachment B, the ARB and Director determined the project does not promote a harmonious transition in scale and character. While buildings to the southwest and northeast of the site contain structures that are five and three stories tall, respectively, buildings to the east, northwest, and south are single story. The building located tangential to the site along Forest Avenue is the same height as the existing structure. Therefore, placing a four story building immediately adjacent to a single story building constitutes an abrupt change in the scale and character of the street block. Further, the project contains areas inside the structure that are inaccessible. These inaccessible areas unnecessarily increase the volume, mass, and height of the building, exacerbating the incompatibilities with the height and character of the adjacent structure. Therefore, staff concluded, the project does not promote a harmonious transition in scale and character from buildings along the Emerson Street streetscape.

The Architectural Review Board made similar comments during their review in May 2015. Staff sought Board input regarding building massing and transitions. The Board raised concerns regarding the site context and massing of the building. The resubmitted project in June of 2016 did not reduce the mass of the structure and its scale and character did not change to promote a harmonious development pattern.

### **Appeal Comment 2:**

The appellant states the following: The project is compatible to the greatest extent possible with the immediate environment of the site. The ARB Findings for Denial states: “Buildings surrounding the site consists of more contemporary designs with solid concrete walls and intricate detailing.” It would be difficult for anyone with experience in observing and identifying

architectural styles arrive as this conclusion. The existing building is identified as “mid-century” in style. The adjoining building to the east (along Forest Avenue) is also a mid-century structure, with the same concrete block structure as the proposed Project, and the same repeating window patterns as the project (in fact the width of the proposed window design is based on the width of the windows in the adjoining building). That building was built contemporaneously with ours (the applicant’s). Characterizing this neighbor as “more contemporary” is just an outright misstatement of fact. The adjoining building on the Emerson Street (east) façade, according to its owner, is considerably older than our (the applicant’s) building, although it was modified in the late 1980s with applied moldings and cannot not now be described as belonging to any particular architectural style. As such, it is not possible, nor desirable, to attempt to emulate this architecture.

***Staff Response:***

This is an understandable comment since the building to the east of the project along Forest Avenue represents a mid-century design, comprised of a glass and concrete block structure. However, Finding #5 requires that project design promote a harmonious transition in scale. The project proposes a four story building. The site located immediately tangential to the project along Forest Avenue contains a two story building. Similarly, the site immediately adjacent to the project along Emerson Street contains a building that is the same height as the existing structure at 203 Forest. The project would place a third story immediately adjacent to this structure. Therefore, the project does not employ transitions in scale.

However, this particular building employs solid concrete block walls and a rhythm of concrete blocks and glass. The proposed project differs from this structure. The project employs an open mesh style of concrete blocks which contrasts the solid concrete blocks. The project actually alters the compatible design of the existing building, which is composed of the same concrete blocks as the neighboring building along Forest Avenue. Further, the first two floors are comprised of mesh concrete blocks followed by glass with a concrete portico and elevator tower. Solid glass walls comprise the façade of the third and fourth floors. This style does not emulate the alternating rhythm of materials found on the building located to the east along Forest Avenue. Therefore, while the building may exhibit a similar architectural theme from a time period, its style is a deviation from the adjacent structure on Forest Avenue.

The architecture of the building is incompatible with other structures surrounding the site. The building located tangential to the site along Emerson Street employs concrete walls with a pattern of subdued vertical columns framing windows and a doorway. The building to the north of this is comprised of stone, framed windows, and ivy covered walls. Buildings along the south and east sides of Forest Avenue and southwest of the project site employ a mixture of solid concrete and stucco walls with a pattern of glass windows and cantilevered metal window shades with sloping and peaked roof lines. The proposed features and design constitutes a deviation from these buildings because it employs concrete mesh blocks and solid glass walls

with rectilinear rooflines. These features are incompatible with the materials, architectural details, and detailing of the adjacent buildings.

Appeal Comments 3 and 4:

The appellant states the following:

- 3) The proposed project received significant input from several City Departments, including direct input from the Chief Transportation Official and his Staff. They concluded that the proposed parking plan for the project, given the City's desire to close off the existing Emerson Street driveway (thereby increasing on-street parking), was both workable and recommended. This negates any inconsistency listed in the ARB Findings for Denial related to traffic and parking. Additionally, the ARB itself professed its approval of the parking design in 2015.
- 4) The items raised in the ARB Findings for Denial relating to design, environment, circulation, traffic, and landscaping, are inconsistent with input received from City and Department Staff on these matters and are in direct conflict with written findings and Department Staff recommendations on these same matters as they pertained to prior (2015) project design, at which time Department Staff found the very same designs to be consistent and worthy of approval.

***Staff Response:***

Staff believes the administrative record reflects a clear history of concern expressed to the applicant regarding the proposed parking plan, curb cuts, architectural design, and a variety of other concerns. The administrative record does not contain evidence of an approved parking plan. Staff noted in comments to the applicant on December 23, 2014, that the "at-grade parking facility serving the commercial space does not have sufficient distance from the street so that vehicle (sic) need to back out into or over the street or sidewalk (PAMC 18.54.010(a)(5))." The correct Code Section is 18.54.020(a)(5). Moreover, staff met with the property owner on various occasions to discuss specific areas of concerns previously expressed by staff and board members. In the final analysis, reviewing the formal application, the ARB unanimously recommended project denial; the director concurred. Attached to this report are minutes from the ARB meetings as well as comment letters transmitted to the applicant (Attachments E and F, respectively).

Appeal Comment 5:

The appellant states: Staff has been unable or unwilling to provide specific comments on the proposed building designs in a timely fashion and has generally provided no comments whatsoever. The project has been classified at different times as both Major and Minor, notwithstanding that it should be only a Minor Review. The ARB review process is arbitrary and uncertain in the best of circumstances, and the appellant believes that they received a review that was inconsistent with the stated goals and purposes of the Board. In effect, the appellant

has not received the review to which they are legally entitled, both by the Department and from the Architectural Review Board.

***Staff Response:***

A Minor review is conducted by staff; a Major review requires ARB review. The municipal code includes a list of projects that are eligible for Minor review. However, the code also stipulates that the Director may determine that a qualifying Minor project may be considered a Major project if it will significantly alter the character or appearance of a building or site. This was the case for the subject application. While initially filed as a Minor application, it became evident after reviewing the plans, that ARB review was desirable. This was communicated to the applicant.

The appellant makes other comments asserting that the architectural review process is arbitrary, uncertain, and inconsistent. To the contrary, the process for reviewing architectural review applications is clearly addressed in the municipal code. The review of such projects is subject to specific findings. Staff recognizes, however, that it can be challenging designing an appropriately scaled building when the surrounding context is not consistent with the project objectives. It is further worth noting that most projects get reviewed and recommended for approval from the ARB. However, in instances when the applicant fails to address significant and repeated design concerns, or requests a project denial from the ARB as opposed to working through the issues with the board, one should expect that application to be denied. Such action is not denying the applicant their legally entitled review as stated by the appellant. Rather, the applicant had several opportunities to address the concerns and instead opted out of the process, declining to even show at the last hearing.

**Environmental Review**

The subject project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. Specifically, the proposal is not a project pursuant to Section CEQA 15270, which states CEQA does not apply to projects which a public agency rejects or disapproves. Should the Council choose to remove the project from consent and continue the hearing to a later date, an updated environmental analysis will be provided.

**Attachments:**

**Attachment A: Location map (PDF)**

**Attachment B: Director's Denial Letter (PDF)**

**Attachment C: Applicant's Appeal Request (PDF)**

**Attachment D: Comprehensive Plan Analysis (DOCX)**

**Attachment E: Project Review Letter from December 23, 2014 (PDF)**

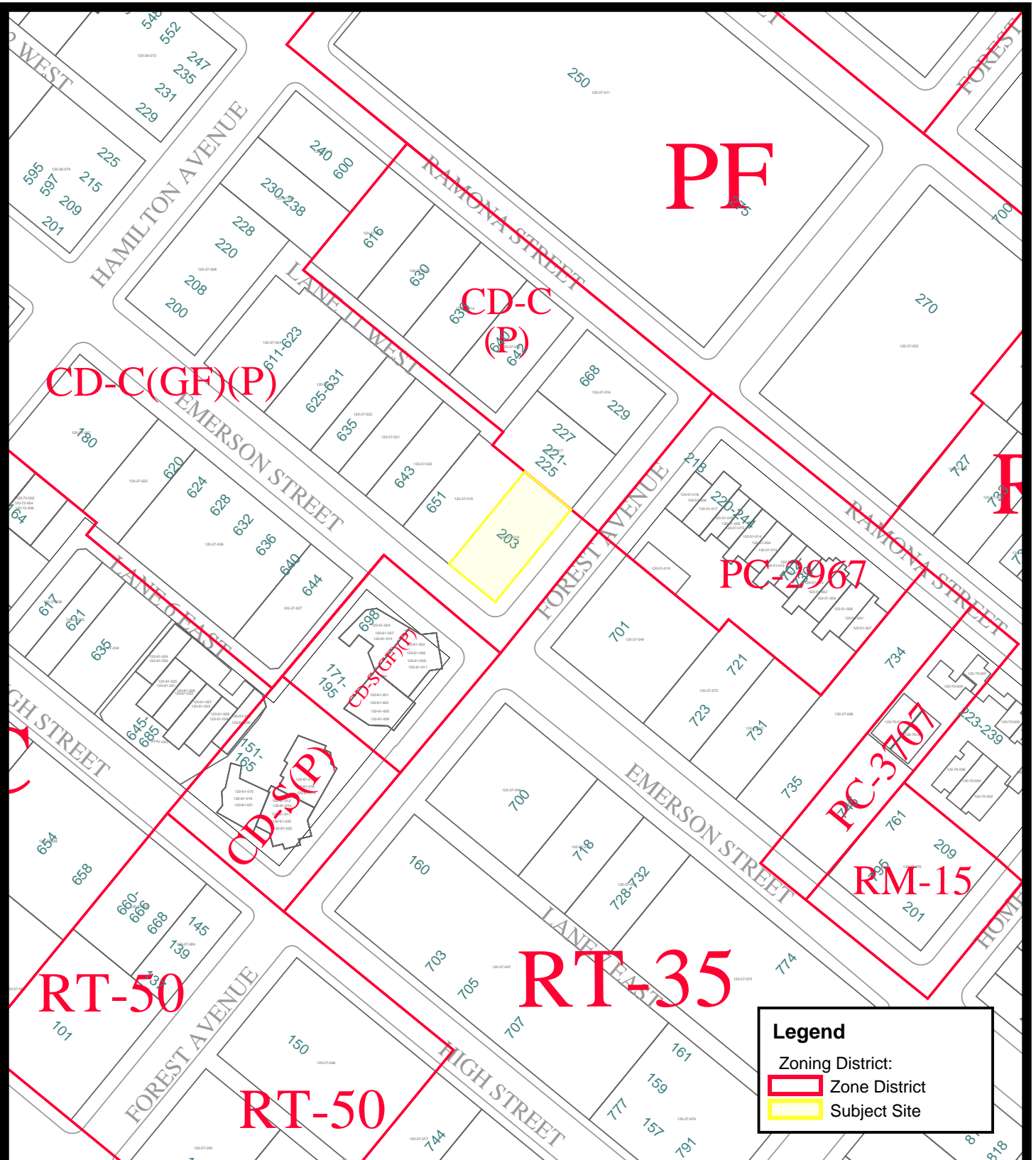
**Attachment F: Project Correspondence (PDF)**

**Attachment G: Public Hearing Chronology (DOCX)**



**Attachment H: Project Plans from September 2016 ARB Hearing - SEE COMMENTS  
(DOCX)**





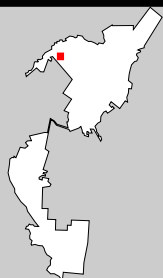
**Legend**

Zoning District:

- Zone District
- Subject Site



The City of  
Palo Alto



## 203 Forest Avenue Project Location Map

This map is a product of the  
City of Palo Alto GIS







CITY OF  
**PALO  
ALTO**

**PLANNING & COMMUNITY ENVIRONMENT**

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December 14, 2016

203 Forest LLC  
David Kleiman  
222 6th Avenue  
Suite 101  
San Mateo, CA 94401

**REVISED – Subject: 203 Forest Avenue [14PLN-00472] Major Architectural Review**

On November 17, 2016 the Architectural Review Board recommended denial of the application referenced above and, as described further below, the Director of Planning and Community Environment (Director) denied the project. The denial will become effective 14 days from the postmark date of this letter, unless an appeal is filed in accordance with Title 18 of the Palo Alto Municipal Code.

**PROJECT:**

The applicant proposes to maintain the existing building and office use, and construct one new residential unit over the top of this existing structure. This type of construction creates several voids at the second floor, including a vaulted garage space, all of which increases the mass of the proposed building. The proposed residential gross floor area is 4,996 sf, which includes a residential penthouse on the fourth floor, three bedrooms on the third floor, a study area on the second floor, and private stair and elevator access from the ground floor. The applicant intends to subdivide the commercial and residential uses by creating two condominium units – one for the residential space and the second for the commercial space.

The proposed alterations include two new, enclosed parking spaces at the ground level for the new residential unit. These two spaces would be provided in a new tandem garage added to the east side of the building using an existing curb cut and driveway access from Forest Avenue. The existing, covered parking space for commercial use will remain at the main building entrance with access from the existing driveway. This parking space would be designed to comply with required accessibility standards.

The curb cut that currently provides vehicle access onto Emerson Street will be closed and access to the building at that location would be restricted for pedestrian use only. The two existing pedestrian entrances to the commercial space will be maintained. A new stairway is proposed for the residential unit; it will be located between the existing commercial entrances adjacent to Forest Avenue. A new elevator access for the residential tenant will have direct access from Forest Avenue.

The proposed landscaping would include the retention of one existing street tree, a holly oak on Forest Avenue. The declining cork oak tree on Emerson Street would be removed based on the City Arborist's recommendation. Two new 24" box trees are proposed on Forest Avenue and Emerson Street respectively.



The denial was based on the findings attached.

Unless an appeal is filed, this project denial shall be effective 14 days from the postmark date of this letter.

Should you have any questions regarding this action, please do not hesitate to contact the project planner, Adam Petersen, at [apetersen@m-group.us](mailto:apetersen@m-group.us).

Sincerely,

A handwritten signature in black ink, appearing to read "Jodie Gerhardt".

Jodie Gerhardt, AICP  
Manager of Current Planning

**Attachments:**

ARB Findings

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## ARB FINDINGS FOR DENIAL

203 Forest Avenue

14PLN-00472

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The design and architecture of the proposed improvements does not comply with the Findings for Architectural Review as required in Chapter 18.76 of the PAMC.

### **Comprehensive Plan and Purpose of ARB:**

Finding #1: The design is consistent and compatible with applicable elements of the Palo Alto Comprehensive Plan.

Finding #16: The design is consistent and compatible with the purpose of architectural review, which is to:

- Promote orderly and harmonious development in the city;
- Enhance the desirability of residence or investment in the city;
- Encourage the attainment of the most desirable use of land and improvements;
- Enhance the desirability of living conditions upon the immediate site or in adjacent areas; and
- Promote visual environments which are of high aesthetic quality and variety and which, at the same time, are considerate of each other.

*The project is **inconsistent** with Findings #1 and #16 because:*

The proposed project does not promote harmonious development in the city in that it does not maintain the scale and character of the land uses in this area of the City. The project introduces a four story building adjacent to single- and two-story buildings that are immediately northwest of the site. The project does not provide a gradual transition in scale from the commercial buildings to the northwest to the proposed residential use. Further, the fourth story addition exacerbates the proportions of the project relative to other buildings in the area and creates an incompatible sense of scale due to the lack of gradual transitions. Accordingly, the project is inconsistent with Policy L-5 and does not fulfill Goal L-1 of the Palo Alto Comprehensive Plan. The project is not compatible with the character of the surrounding neighborhood nor does it establish an inviting pedestrian-scale or an inviting street corner and pedestrian character.

The project proposes a 1950's architectural design with mesh brick façade and a modern designed building on the third and fourth floors with glass windows. Surrounding buildings consists of stucco and concrete with intricate details sculpted into the buildings' design. The proposed mesh brick façade on the first two floors and modern third and fourth floor contrast these styles and is incompatible with the character of the surrounding neighborhood.

The proposed pedestrian areas are located tangential to a vehicle parking space and the trash enclosure. The position of these pedestrian areas creates incompatible uses and does not

reinforce a pedestrian character. Further, the proposed seating area does not promote an enhanced corner plaza or pedestrian friendly area because it is not directly accessible from the street.

The project is inconsistent with Goal L-6 and its supporting policies in that the site planning for the project is not compatible with surrounding development and public spaces as vehicles must back out over the curb and into the street to exit the site. This design compromises safety and compatibility with the surrounding development and public spaces. The project proposes a blank solid wall at street level along Forest Street, which does not relate to a human scale and mass. Therefore the project is inconsistent with the Goal and Policies in the Comprehensive Plan requiring well-designed buildings that create coherent development patterns in the City.

The project improves amenities such as seating, bicycle parking, street trees, and outdoor furniture. However, it does not encourage a pedestrian friendly design because it locates pedestrian areas adjacent to incompatible uses and proposes two vehicle access points over the sidewalks of a small site. This design reduces the feeling of pedestrian safety. Therefore, the project is inconsistent with Policy T-22 and T-23, and it does not fulfill Goal T-3.

The project is incompatible with the surrounding development, and appears to conflict with several Comprehensive Plan Goals and Policies as detailed in Attachment B.

#### **Compatibility and Character:**

Finding #2: The design is compatible with the immediate environment of the site.

Finding #4: This finding of compatibility with unified or historic character is not applicable to the project.

Finding #5: The design promotes harmonious transitions in scale and character in areas between different designated land uses.

Finding #6: The design is compatible with approved improvements both on and off the site.

*The project is **inconsistent** with Findings #2, #4, #5 and #6 because:*

The design of the project is incompatible with the immediate environment of the site in two ways. Buildings surrounding the site consist of more contemporary designs with solid concrete walls and intricate detailing. The project is a contrast from these designs because it is comprised of a mid-century design with concrete screen walls on the first two floors and a modern style building comprised of floor to ceiling glass windows on the third and fourth floors. Further, the Emerson Street façade design does not respond to the architectural context of the buildings along Emerson Street. Instead, the project introduces discordant elements such as its large white metal screen and ignores the height lines established by other buildings. This contrast in architectural designs makes the design of the project incompatible with the immediate environment of the site.



The building's scale and mass do not promote a harmonious transition along the Emerson Street block face. A two-story building is located to the northwest of the site and other one- to two-story buildings are located in the vicinity of the project. The proposed project consists of a four story building located adjacent to these structures. The project does not promote a harmonious transition in scale and character because there is not a gradual transition in the scale and mass from adjacent two story buildings to the third and fourth floor of the proposed project. Further, the project has an artificially high level of massing because the building contains enclosed areas that walled off from usable spaces. The project also locates massing of the third floor immediately adjacent to two story buildings instead of terracing the third floor. The result is an unnecessarily bulky building damaging to the architectural rhythms established by the other commercial buildings along the block face. Therefore, the building does not provide a harmonious transition in scale and character from adjacent buildings.

The design of the project is inconsistent with off-site improvements. Development in the area facilitates vehicles traveling forward to enter and exit a site. The proposed design is incompatible with these improvements because egress from the site is achieved from vehicles reversing over the sidewalk and into the public right of way. This design is not pedestrian friendly because vehicles must reverse across the sidewalk at two access points on a small parcel.

Therefore, the project is inconsistent Findings 2, 4, 5 and 6.

#### **Functionality and Open Space:**

Finding #3: The design is appropriate to the function of the project.

Finding #7: The planning and siting of the building on the site creates an internal sense of order and provides a desirable environment for occupants, visitors and the general community.

Finding #8: The amount and arrangement of open space are appropriate to the design and the function of the structures.

*The project is **inconsistent** with Findings #3, #7, and #8 because:*

The design of the project is inappropriate for the function of the project. The floor to ceiling windows for the residential use diminishes the privacy for residential tenants and guests. Installing window coverings would dramatically alter the appearance of the building, and the project has not proposed a solution for addressing privacy without altering the external appearance of the building. The project proposes to retain the existing office building and use the second floor as storage and mezzanine space. However, this area has a ceiling height of less than eight-feet which makes the area unusable, reduces the functionality of the project and adds unnecessary and excess bulk.

The building creates an undesirable environment for occupants, visitors, and the general community. The low ceiling heights for the second floor office creates an unusable space for the office tenants. The large glass windows on the third and fourth floors result in poor privacy

for residents and guests. The project does not contain a viable entrance for visitors. The stair case along Forest Avenue, which is proposed to access the residential unit, does not contain a door at the ground level. Further, the proposed elevator access along Forest Avenue is not functional for residences or guests because occupants and guests would face a blank wall before entering an elevator. Therefore, the project's design is not functional and poses safe egress concerns.

The arrangement of the corner courtyard open space area is not appropriate for the design and function of the project. The courtyard combines parking, trash storage, pedestrian areas, and seating into one space. This design combines incompatible uses which decreases the functionality of the project. Therefore, the project is inconsistent with Findings #3, #7, and #8.

#### **Circulation and Traffic:**

Finding #9: Sufficient ancillary functions are provided to support the main functions of the project and the same are compatible with the project's design concept.

Finding #10: Access to the property and circulation thereon are safe and convenient for pedestrians, cyclists and vehicles.

*The project is **inconsistent** with Findings #9 and #10 because:*

The project does not contain sufficient ancillary functions to support the main functions. Access to the property and circulation thereon are is inconvenient and unsafe for pedestrian and for cyclists because vehicles exiting the site must reverse over the sidewalk and in to the street. Further, the proposed tandem parking for the residential unit is too narrow to function properly and does not comply with the Palo Alto Municipal Code Section 18.54.020(b)(2). The garage is too narrow to permit opening both passenger and driver doors on a typical vehicle and there will be insufficient space for the weekly removal of trash and recycling. Therefore the project is inconsistent with the Circulation and Traffic findings.

#### **Landscaping and Plant Materials:**

Finding #11: Natural features are appropriately preserved and integrated with the project.

Finding #12: The materials, textures and colors and details of construction and plant material are an appropriate expression to the design and function and compatible with the adjacent and neighboring structures, landscape elements and functions.

Finding #13: The landscape design concept for the site, as shown by the relationship of plant masses, open space, scale, plant forms and foliage textures and colors create a desirable and functional environment on the site and the landscape concept depicts an appropriate unit with the various buildings on the site.

Finding #14: Plant material is suitable and adaptable to the site, capable of being properly maintained on the site, and is of a variety that would tend to be drought-resistant and to reduce consumption of water in its installation and maintenance.

*The project is **inconsistent** with Findings #11- #14 because:*

The project will plant two new street trees, one each along Emerson Street and Forest Avenue, and proposes linear planters along the rear deck.

The building materials, textures and colors are not complimentary to the environmental setting. The surrounding buildings employ brick and intricate concrete facades, and some use shingle style roofs. The proposed project uses concrete, steel and glass. These materials contrast the surrounding developments. Therefore, the project is inconsistent with the landscaping Architectural Review Findings.

**Sustainability:**

Finding #15: The design is energy efficient and incorporates renewable energy design elements including, but not limited to:

- Careful building orientation to optimize daylight to interiors
- High performance, low-emissivity glazing
- Cool roof and roof insulation beyond Code minimum
- Solar ready roof
- Use of energy efficient LED lighting
- Low-flow plumbing and shower fixtures.
- Below grade parking to allow for increased landscape and stormwater treatment areas

*The project is **inconsistent** with Finding #15 because:*

The project is not optimized for heat gain, shading, and natural ventilation, nor is it designed to maximize stormwater management onsite. Further, the use of unshaded glass walls throughout the residential unit is not sustainable design because of the demands for cooling during warm weather.

In accordance with the City's Green Building Regulations, the building will satisfy the requirements for CALGreen Mandatory + Tier 2.



**CITY OF PALO ALTO**  
Office of the City Clerk  
**APPEAL FROM THE DECISION OF DIRECTOR OF PLANNING  
AND COMMUNITY ENVIRONMENT\***

For appeals of final decisions on Architectural Review Board and Home Improvement Exception applications (rendered after public hearing), this appeal form shall be completed and submitted by appellant within fourteen days from date of the Director's decision. Appeals of final decisions on Individual Review applications (rendered after public hearing) must be submitted within ten days of the Director's decision. Complete form, the current fee and a letter stating reasons for the appeal shall be submitted to front desk staff of the Planning Division, 5<sup>th</sup> floor, City Hall, 250 Hamilton Avenue, *except* for 980 Fridays when City Hall is closed, when these items shall be submitted to Planning staff at the Development Center, 265 Hamilton Avenue (glass storefront across from City Hall on the corner of Bryant and Hamilton).

\* Director of Planning includes his designees, which are Planning Managers or the Chief Planning Official

Appeal Application No. \_\_\_\_\_ Receipt No. \_\_\_\_\_  
Name of Appellant 203 FOREST AVENUE LLC Phone (650) 727-3177  
Address 222 6TH AVENUE, SUITE 101 SAN MATEO, CA 94401  
Street City ZIP

**LOCATION OF PROPERTY SUBJECT TO APPEAL:**

Street Address 203 FOREST AVENUE, PALO ALTO, CA 94301

Name of Property Owner (if other than appellant) \_\_\_\_\_

Property Owner's Address 222 6TH AVENUE, SUITE 101 SAN MATEO, CA 94401  
Street City ZIP

The decision of the Director of Planning and Community Environment dated DECEMBER 14, 2016

whereby the application 14-PLN-00472 by 203 FOREST AVENUE LLC  
(file number) (original project applicant)

was DENIED, is hereby appealed for the reasons stated in the attached letter (in duplicate)  
(approved/denied)

Date: 12/15/2016 Signature of Appellant BY: 203 FOREST AVENUE LLC  
MANAGER

**PLANNING COMMISSION RECOMMENDATION TO THE CITY COUNCIL (TO BE FILLED OUT BY STAFF):**

Date \_\_\_\_\_ Approved \_\_\_\_\_ Denied \_\_\_\_\_

Remarks and/or Conditions:

**CITY COUNCIL DECISION (TO BE FILLED OUT BY STAFF):**

Date \_\_\_\_\_ Approved \_\_\_\_\_ Denied \_\_\_\_\_

Remarks and/or Conditions:

**SUBMITTAL REQUIREMENTS SATISFIED:**

1. Letter stating reasons for appeal \_\_\_\_\_ Received by: \_\_\_\_\_
2. Fee (currently \$406.00) \_\_\_\_\_ Received by: \_\_\_\_\_

64:11 WA 5-NAL 71  
CITY CLERK'S OFFICE  
CITY OF PALO ALTO, CA



# 203 FOREST AVENUE LLC

222 6TH AVENUE SUITE 101

SAN MATEO, CA 94401

(650) 727-3177

December 15, 2016

Ms. Hillary Gitelman, Director  
Ms. Jodie Gerhardt, Mgr. Current Planning  
City of Palo Alto  
Dept. of Planning & Community Environment  
250 Hamilton Ave. 5th Floor  
Palo Alto, CA 94301 VIA CERTIFIED MAIL

Re: 203 Forest Avenue, Palo Alto, CA ("Project")  
City of Palo Alto Project: 14PLN-00472

Dear Ms. Gitelman and Ms. Gerhardt:

By letter dated December 14, 2016 (received by the undersigned on December 19, 2016), the City of Palo Alto Department of Planning & Community Environment (the "Department"), by its Manager of Current Planning on behalf of the Director of the Department, denied an application by the undersigned for Architectural Review of a proposed addition to the above-referenced Project. This letter, fee payment and documents enclosed herewith are in support of a formal appeal of that denial.

## History of the Project

### HISTORIC REVIEW

On November 12, 2010, the applicant contacted Mr. Dennis Backlund, then the Historic Preservation Planner for the City of Palo Alto, inquiring as to whether historic review of the property would be required. Based on this request, Mr. Backlund examined City of Palo Alto records, stating on November 15, 2010 that *"the City is not required by local or State law to regulate the building historically."* and concluding *"So you can proceed with the project that you have in mind. Remodeling or expanding the exterior or constructing a new building would be subject to design review by the Architectural Review Board"*.

Notwithstanding Mr. Backlund's findings, in May, 2015, a Department Planner tasked with historic review, Mr. Matthew Weintraub (now the Historic Resources Planner) asked for the review of the Project by the Historic Resources Board ("HRB"), which review occurred on May 28, 2015. In connection with this review and the request of the Historic Planner, the Application supplied an Historic Resource Evaluation ("HRE") by an experienced consultant. This HRE review concluded that the property is *"not historically significant under National Register, California Register or City of Palo Alto's Historic Inventory"*. The HRB at its May 28, 2015 provided its commentary on the design of the project at that time, but made no historic findings and did not require future HRB review. As stated in the Department Staff Report for the ARB meeting to which this Appeal pertains, the HRB at its May 2015 historic review of the Project concluded: *"The Board determined that the building and site is not a historic structure, is not eligible for listing in the federal or State register, and is not considered for designation in the City's Historic Inventory."*

### ARCHITECTURAL REVIEW

The initial submission for architectural review of this project was made over two years ago, on November 25, 2014. The Department received the application and confirmed it as a "Minor

Project - Requiring Architectural Review" by its Receipt Number 299217. After this submission, we worked with Department staff, and made numerous modifications to the project plans, completing a re-submittal on March, 12, 2015. This re-submittal resulted in a formal ARB hearing on May 21, 2015. At that time, Department staff recommended that the ARB review the Project, provide feedback and continue the Project to a date certain. The ARB elected to continue the project to a date uncertain, concluding (from the official minutes): *"The design of the building was good; however it was not compatible with existing buildings along the street. Closing the portico detracted from the building. Utilizing materials from other buildings could be beneficial. The corners should be pushed back at the upper level and the balcony relocated. **The proposed parking arrangement was acceptable.**"* (emphasis added).

Based on feedback from the May, 2015 meeting, and numerous meetings with Department Staff (including an onsite meeting with Planner Weintraub and Chief Planning Official Amy French, we determined that a re-design of the Project was in order—one that would respect the mid-century design of the existing structure. This re-design, we were assured, would be much more likely to receive the support of Department Staff. On June 10, 2016, we re-submitted for ARB review, based on a sympathetic mid-century addition to the existing structure. Notwithstanding Department Staff's many 2015 verbal comments, no formal comments were provided by Staff on the June, 2016 re-submission, and when this review was heard by the ARB on September 1, 2016, staff merely recommended that the Board review the project and continue it to a date uncertain, or alternatively that the ARB could deny the Project. Staff did provide limited comments on the re-design, but only in the Staff Report for the September 1, 2016 meeting which we did not receive until the meeting itself. It is our reading from both these comments, and from "off the record" conversations with Staff that although some Staff members were in favor of recommending approval of the re-design, more senior Department Staff had been cautioned by some City Council members to limit the approval of new projects in the downtown area, and this general caution had led to a recommendation to let the ARB decide whether or not to approve the Project without providing the Board with a formal Staff recommendation.

At the September 1, 2016 ARB meeting, the bulk of ARB Member discussion points related not to the Project's design, but rather to ancillary matters which in no way relate to the ARB's stated goals and purposes. Questions of the Applicant at the meeting included such wide ranging topics as the authorship of the Project drawings (Baltay), how one might ascend a clearly marked staircase from grade into the residential unit (Furth), accessibility of areas shown on the plans as "Inaccessible" (Furth and Gooyer), building height (Gooyer), and the difficulty of completing the contemplated addition to the existing structure without affecting the current building tenant (Baltay). Only Board Members Kim and Lew seemed to have actually reviewed the plans in detail, and these Board Members provided helpful comments that related to the ARB's actual mandate. It was clear that some members of the Board, especially Mr. Gooyer and Ms. Furth, did not have a fundamental understanding of how the building functioned and how the addition related to the existing structure. It was the conclusion of the Architectural Review Board that the Project be continued to the October 6, 2016 meeting, at which time it would be formally denied.

#### Reasons for Appeal

1. Compliance with Findings for Architectural Review as required by PAMC Chapter 18.76.

The Project, as designed and presented to the ARB on September 1, 2016, fully meets the requirements of PAMC Chapter 18.76. With respect to the ARB Findings for Denial, the conclusions made are incorrect, specifically as noted below:

- a. The proposed Project is successful in promoting harmonious development in the City, in that it maintains a scale and character that is consistent with uses surrounding it. More specifically, like the buildings on the other three corners of its block, it is slightly taller, creating a block-completing structure that mirrors the height and scale of buildings both across the street (on the Northwest corner of Emerson and Forest) and at the other end of the block (Northwest and Northeast corners of Emerson and Hamilton).



b. The proposed Project is compatible to the greatest extent possible with the immediate environment of the site. The ARB Findings for Denial states: *"Buildings surrounding the site consist of more contemporary designs with solid concrete walls and intricate detailing."* It would be difficult for anyone with experience in observing and identifying architectural styles to arrive at this conclusion. The existing building is correctly identified as "mid-century" in style. The adjoining building to the East (along Forest) is also a mid-century structure, with the same concrete block structure as the proposed Project, and the same repeating window patterns as we are proposing (in fact the width of our window design is based on the width of the windows in the adjoining building). That building was built contemporaneously with ours. Characterizing this neighbor as "more contemporary" is just an outright misstatement of fact. The adjoining building on the Emerson façade, according to its owner, is considerably older than our building, although it was modified in the late 1980's with applied moldings and cannot now be described as belonging to any particular architectural style. As such it is not possible, nor desirable, to attempt to emulate this architecture.

c. The proposed Project received significant input from several City Departments, including direct input from the Chief Transportation Official and his Staff. They concluded that the proposed parking plan for the project, given the City's desire to close off the existing Emerson driveway (thereby increasing on-street parking), was both workable and recommended. This negates any inconsistency raised in the ARB Findings for Denial related to traffic and parking. Additionally, the ARB itself professed its approval of the parking design in 2015 (see above).

d. The items raised in the ARB Findings for Denial relating to design, environment, circulation, traffic, and landscaping, are inconsistent with input received from City and Department Staff on these matters, and are in direct conflict with written findings and Department Staff recommendations on these same matters as they pertained to the prior (2015) Project design, at which time Department Staff found the very same designs to be consistent and worthy of approval.

## 2. General Fairness and Legality of the Project Review Process.

We have designed and requested review of no fewer than two projects on the same property over the last two (plus) years. During this period, it has been difficult, and at times impossible, to receive any meaningful feedback from Department Staff that would allow us to complete a design that could be approved by the ARB. Staff has been unable, or unwilling to provide specific comments on proposed building designs in a timely fashion, and has generally provided no comments whatsoever. Our project has been classified at different times as both Major and Minor, notwithstanding that it should in fact be only a Minor Review. The ARB review process is arbitrary and uncertain in the best of circumstances, and we believe that in our case, we received a review that was inconsistent with the stated goals and purposes of this Board. In effect we have not received the review to which we are legally entitled, both by the Department and from the Architectural Review Board.

It should not be this difficult to add a residential unit to the incredibly limited supply of housing in this community.

For these and other reasons, we hereby appeal the decision to deny the application of the undersigned for Architectural Review of our proposed project at 203 Forest Avenue.

Sincerely,

203 Forest Avenue LLC,  
a Nevada limited liability company

By: David Kleiman  
David Kleiman, Manager

City of Palo Alto  
City of Palo Alto  
Revenue Collection

Reference Number: 2017005003-15  
Date/Time: 01/05/2017 11:40:09 AM

Miscellaneous  
2017005003-15-1  
Reference: 203 Forest Ave LLC ARB appeal  
Allocation 30 1@ \$406.00  
GL #: 60020402..13290...

Total: \$406.00

1 ITEM TOTAL: \$406.00

TOTAL: \$406.00

Check \$406.00

Check Nbr:

Total Received: \$406.00



CE2017005003-15

Customer Copy

[View all 10,753,767 Perpetua Collections](#)

Date: 11/5/17

By: R. C. S.

) Other ..... 6002043

865

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**ATTACHMENT D**  
**COMPREHENSIVE PLAN ANALYSIS**  
203 Forest Avenue / File No. 14PLN-00472

<b><i>Comp Plan Goals and Policies</i></b>	<b><i>How project adheres or does not adhere to Comp Plan</i></b>
The Comprehensive Plan land use designation for the site is Regional/Community Commercial.	The project continues the Regional Commercial land use.
<b><i>Land Use and Community Design Element</i></b>	
<p><b>Goal L-1:</b> A well-designed, compact city, providing residents and visitors with attractive neighborhoods, work places, shopping district, public facilities and open spaces.</p> <p><b>POLICY L-5:</b> Maintain the scale and character of the City. Avoid land uses that are overwhelming and unacceptable due their size and scale.</p> <p><b>POLICY L-6:</b> Where possible, avoid abrupt changes in scale and density between residential and non-residential areas and between residential areas of different densities. To promote compatibility and gradual transitions between land uses, place zoning district boundaries at mid-block locations rather than along streets wherever possible.</p>	<p>The project does not maintain the scale and character of the land uses in this area of the City. The project introduces a four story building adjacent to single- and two-story buildings that are immediately northwest of the site. The project does not provide a gradual transition in scale from the commercial buildings to the northwest to the proposed residential use. The project places a residential use on the third and fourth stories immediately adjacent to single-story non-residential uses. The fourth story penthouse exacerbates the proportions of the project relative to other buildings in the area and creates an incompatible sense of scale due to the lack of gradual transitions. Therefore, the project is inconsistent with Policy L-5 and Policy L-6 and does not fulfill Goal L-1 of the Palo Alto Comprehensive Plan.</p>
<p><b>Goal L-4:</b> Inviting, pedestrian-scale centers that offer a variety of retail and commercial services and provide focal points and community gathering places for the City's residential neighborhoods and Employment Districts.</p>	
<p><b>POLICY L-18:</b> Encourage the upgrading and revitalization of selected Centers in a manner that is compatible with the character of the surrounding neighborhoods.</p> <p><b>POLICY L-20:</b> Encourage street frontages that contribute to retail vitality in all Centers. Reinforce street corners with buildings that come up to the sidewalk or that form corner plazas.</p>	
	<p>The project is not compatible with the character of the surrounding neighborhood nor does it establish an inviting pedestrian-scale or an inviting street corner and pedestrian character.</p> <p>The project proposes a 1950's architectural design with mesh brick façade and a modern designed building on the third and fourth floors with glass windows. Surrounding buildings consists of stucco and concrete with intricate details sculpted into the buildings' design. The proposed mesh brick façade on the first two floors and modern third and fourth floor contrast these styles and is</p>

<p>POLICY L-23: Maintain and enhance the University Avenue/Downtown area as the central business district of the City, with a mix of commercial, civic, cultural, recreational and residential uses. Promote quality design that recognizes the regional and historical importance of the area and reinforces its pedestrian character.</p>	<p>incompatible with the character of the surrounding neighborhood.</p>
<p>POLICY L-24: Ensure that University Avenue/Downtown is pedestrian-friendly and supports bicycle use. Use public art and other amenities to create an environment that is inviting to pedestrians.</p>	<p>The proposed pedestrian areas are located tangential to a vehicle parking space and the trash enclosure. The position of these pedestrian areas creates incompatible uses and does not reinforce a pedestrian character. Further, the proposed seating area does not promote an enhanced corner plaza or pedestrian friendly area because it is not directly accessible from the street. The project proposes to retain the office space which is inconsistent with Policy L-23 because it does not incorporate commercial uses.</p> <p>The project does not incorporate public art as well. Therefore, the project is inconsistent with the respective policies and Goal L-4 of the Palo Alto Comprehensive Plan.</p>
<p><b>Goal L-6:</b> Well-designed buildings that create coherent development patterns and enhance city streets and public spaces.</p>	<p>The project is inconsistent with Goal L-6 and its supporting policies. The site planning for the project is not compatible with surrounding development and public spaces because vehicles must back out over the curb and into the street to exit the site in two locations. This design compromises safety and compatibility with the surrounding development and public spaces. The project proposes a 1950’s architectural design on the first two floors comprised of a mesh brick façade and a modern style building comprised of glass windows on the third and fourth floor. The project is flanked by intricate stucco and concrete designed buildings and more traditionally designed stucco buildings. These buildings employ arched and setback entries that relate to a human-scale, and have sloped and peaked rooflines. The project proposes a blank solid wall at street level along Forest Street. Further, the four story building does not relate to a human scale and mass. Therefore the project is inconsistent with the Goal and Policies in the Comprehensive Plan requiring well-designed buildings that create coherent development patterns in the City.</p>
<p>POLICY L-48: Promote high quality, creative design and site planning that is compatible with surrounding development and public spaces.</p>	
<p>POLICY L-49: Design buildings to revitalize streets and public spaces and to enhance a sense of community and personal safety. Provide an ordered variety of entries, porches, windows, bays and balconies along public ways where it is consistent with neighborhood character; avoid blank or solid walls at street level; and include human-scale details and massing.</p>	
<p><b>Transportation Element</b></p>	
<p><b>Goal T-3:</b> Facilities, services and programs that encourage and promote walking and bicycling.</p>	<p>The project improves amenities such as seating, bicycle parking, street trees, and outdoor</p>

<p>POLICY T-22: Improve amenities such as seating, lighting, bicycle parking, street trees, and interpretive stations along bicycle and pedestrian paths and in City parks to encourage walking and cycling and enhance the feeling of safety.</p>	<p>furniture. However, it does not encourage a pedestrian friendly design because it locates pedestrian areas adjacent to incompatible parking uses and proposes vehicle access over the sidewalks in two locations. This design reduces the feeling of pedestrian safety. Further, the project detracts from a pedestrian friendly environment by not providing defined entrances for the office use and residential uses. This is embodied in the project’s positioning of a staircase landing adjacent to the office entrance, and an elevator entrance that is not identified for residential uses. Therefore, the project is inconsistent with Policy T-22 and T-23, and it does not fulfill Goal T-3.</p>
<p>POLICY T-23: Encourage pedestrian-friendly design features such as sidewalks, street trees, on-site parking, public spaces, gardens, outdoor furniture, art, and interesting architectural details.</p>	
<p><b><i>Housing Element</i></b></p>	
<p><b>Goal H-2:</b> Support the construction of housing near schools, transit, parks, shopping, employment, and cultural institutions.</p>	<p>The project includes one housing unit, which would create a mixed-use development on the site. This proposal is consistent with Policy H2.2.</p>
<p>POLICY H2.2: Continue to support the redevelopment of suitable lands for mixed uses containing housing to encourage compact, infill development, optimize the use of existing urban services and support transit use.</p>	







CITY OF  
**PALO  
ALTO**

**PLANNING & COMMUNITY ENVIRONMENT**

250 Hamilton Avenue, 5th Floor  
Palo Alto, CA 94301  
650.329.2441

December 23, 2014

Ken Group Architects  
2657 Spring Street  
Redwood City, CA 94302  
Attn: Ken Hayes

**Subject: 203 Forest Avenue, Application #14PLN-00472, Minor Architectural Board Review, Notice of Incomplete**

Dear Mr. Hayes:

Your application, referenced above, has undergone review for completeness and consistency with City of Palo Alto policies and regulations and cannot be deemed complete at this time.

We have evaluated your project based on the plans and information currently on file. Additional comments may be made at a later time when we receive revised plans and additional information.

**Corrections/changes/items needed to complete the application:**

Subdivision

1. Declare the intent of ownership (i.e. one owner; subdivision or condominium) in the project description letter.

Development Review

2. Provide the building plans and certified measurements from John Northway as referenced in your application.
3. Provide evidence to show that the office space is a lawfully existing use, such as a Use and Occupancy Permit.
4. Specify proposed site coverage in the site information table on sheet A0.1.
5. Show floor area breakdown of existing office use.
6. Differentiate areas for landscape open space coverage and usable open spaces. These are two separate requirements.

7. Highlight proposed landscape open space and usable open space on plan and summarize area calculation in the site information table on Sheet A1.1.
8. Proposed planters shall not count toward usable open space as it does not meet the minimum size requirements.
9. Proposed atrium is considered as covered and enclosed space when skylight is in closed position. If an area is covered and enclosed, it shall not count as open space and would count toward gross floor area.
10. Proposed residential attic space is deemed to be usable as it has permanent access and not located on the roof of a building. This area shall count toward gross floor area.
11. Permanently covered and enclosed area devoted to storage or similar use, including all waste disposal and storage facility, irrespective of the waste source or distribution, shall count toward gross floor area.
12. Show details on trash enclosure that may be visible from public right of way.
13. Highlight proposed pedestrian overlay space in area diagrams on Sheet A1.1 and include square footage in the summary table.
14. Two long term and one short term bike parking are required for this proposal.
15. Provide existing building elevations to show the proposed changes and parts to be remained.
16. Existing elevation photographs shall be in larger format to improve readability for design analysis.
17. Show identification signage for ADA parking on site plan.

#### Design

18. Provide justification and rationale on how the project would meet the Context-Based Design Criteria under PAMC 18.18.110.

#### Urban Forestry

19. Two publicly owned specimen oak trees are to be retained and provided with enhanced root growing conditions from their current restricted state. The cork oak is a viable and unique and sizable specimen recognized by the City of Palo Alto, Canopy, and is the subject of local tree walks due to its unique cork bark characteristics and character. The

holly oak is a healthy tree contributing to the urban canopy. Both specimen oaks are important to the Goals, Policies & Programs of the Comprehensive Plan, Urban Forest Master Plan, Downtown Improvement Plan and Zoning Ordinance.

20. Show both frontages, Emerson and Forest, with extended tree well openings, optimally as a narrow parkway strip to include one new medium size tree (Ginkgo b. 'Autumn Gold', Maidenhair Tree) on each frontage at least 10' from any curb cut or utility. Low growing ground cover with low water irrigation may be added, utilizing large flat step stones for lateral pedestrian crossing.
21. Urban Forestry requests and commits to any design meetings with applicant and City engineering regarding the welfare of the specimen oaks during design review or building permit level revisions.
22. The sidewalk base shall utilize Engineered Soil Mix, 24"-36" depth from the curb to building face or property line for the length of the parkway strip. Plans shall note that: "At time of sidewalk demolition, the project site arborist shall instruct where existing roots diminish to allow depth of a new trench base for the enhanced tree root area. The new sidewalk may be re-poured on top for normal pedestrian passage over the root area.
23. For building permit issuance, the Tree Preservation Report shall be updated to reflect the above and specific oversight of the above and details using the latest plan sets. It shall detail any custom pruning needed for oak clearance from new building construction.
24. Attached are Engineered Soil Mix specs and Handout for dissemination. Please forward also to the civil engineer the pollutant removal document for water quality credit if it is able to be recognized for the project.

#### Historic Review

25. The project includes alteration to an existing structure that is more than 50 years old. To determine whether this is a historical resource under California Environmental Quality Act and to assess impacts on a historical resource, a Historical Resource Evaluation Report is required. The scope of work for the Evaluation is attached.

#### PWD Recycling

26. Trash area for commercial and residential uses shall be separated. Residential refuse carts is recommended to be stored in proximity with residential use (i.e. garage or under residential stair).

## Transportation

27. Proposed residential parking does not meet the minimum stall width requirement of 9 foot.
28. At-grade parking facility serving commercial space does not have sufficient distance from the street so that vehicle need to back out into or over a public street or sidewalk (PAMC 18.54.010(a)(5)). It is recommended to maintain the curb facing Emerson Street to ensure safe access in and out this proposed ADA parking space.
29. Provide justification on how proposed building design would provide sufficient sight distance and relief traffic hazards at the (residential) garage exit.

## Green Building

30. The project is a new R3 single-family dwelling and therefore shall comply with the following requirements for electric vehicle supply equipment (EVSE):
  - a. The property owner shall provide as minimum a panel capable to accommodate a dedicated branch circuit and service capacity to install at least a 208/240V, 50 amperes grounded AC outlet (Level 2 EVSE). The raceway shall terminate in close proximity to the proposed location of the charging system into a listed cabinet, box, enclosure, or receptacle. The raceway shall be installed so that minimal removal of materials is necessary to complete the final installation. The raceway shall have capacity to accommodate a 100-ampere circuit.
  - b. Design. The proposed location of a charging station may be internal or external to the dwelling, and shall be in close proximity to an on-site parking space. The proposed design must comply with all applicable design guidelines, setbacks and other code requirements. PAMC 5263 (Ord. 5228 § 2, 2014)

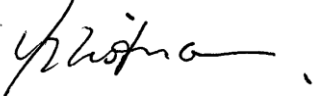
## **Items for consideration:**

1. Community outreach is recommended to address resident concerns prior to resubmittal.
2. Additional comments were provided by Building Inspection, Fire Department, PW Watershed Protection Group, Water, Gas & Wastewater Utilities, PW Electric Utilities, and Green Building Group that need to be addressed in the building permit process (see attachments).
3. Staff has concerns and questions on how the current design would meet the findings of the Context-Based Design Criteria set forth in PAMC 18.18.110. A meeting with staff is recommended prior to resubmittal.

Additional comments may be made by PWD Engineering in the nearest future.

Please contact me at 650-838-2996 or [christy.fong@cityofpaloalto.org](mailto:christy.fong@cityofpaloalto.org) if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Christy Fong", followed by a comma.

Christy Fong  
Planner

Attachments:

Urban Forestry - Engineered Soil Mix specs and Handout for dissemination  
Historic Review – Scope for Historic Resource Evaluation  
Comments from various departments



## Adam Petersen

---

**From:** David Kleiman <[dkleiman@d2realty.com](mailto:dkleiman@d2realty.com)>  
**Sent:** Wednesday, July 13, 2016 4:54 PM  
**To:** Gerhardt, Jodie  
**Cc:** Adam Petersen  
**Subject:** RE: ARB date for 203 Forest

Great. Can we consider that confirmed?

**From:** Gerhardt, Jodie [mailto:[Jodie.Gerhardt@CityofPaloAlto.org](mailto:Jodie.Gerhardt@CityofPaloAlto.org)]  
**Sent:** Wednesday, July 13, 2016 4:53 PM  
**To:** David Kleiman <[dkleiman@d2realty.com](mailto:dkleiman@d2realty.com)>  
**Cc:** Adam Petersen <[APetersen@m-group.us](mailto:APetersen@m-group.us)>  
**Subject:** Re: ARB date for 203 Forest

David,

Sept 1st would be the next available date.

Jodie

Sent from my iPhone

On Jul 13, 2016, at 4:49 PM, David Kleiman <[dkleiman@d2realty.com](mailto:dkleiman@d2realty.com)> wrote:

Adam

You may not have noticed that I mentioned in an earlier email that I am out of town on 8/18, so please push it to the following date.

Thanks,

David

**From:** Adam Petersen [mailto:[APetersen@m-group.us](mailto:APetersen@m-group.us)]  
**Sent:** Wednesday, July 13, 2016 4:33 PM  
**To:** David Kleiman <[dkleiman@d2realty.com](mailto:dkleiman@d2realty.com)>; Gerhardt, Jodie <[Jodie.Gerhardt@cityofpaloalto.org](mailto:Jodie.Gerhardt@cityofpaloalto.org)>  
**Subject:** Re: ARB date for 203 Forest

Good Afternoon David,  
I'd like to target the August 18, 2016 ARB date. I'll confer with Jodie, but that's the next available date.

Thanks,

**Adam Petersen** | *senior planner*



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**From:** David Kleiman <[dkleiman@d2realty.com](mailto:dkleiman@d2realty.com)>  
**Sent:** Wednesday, July 13, 2016 4:01:39 PM  
**To:** Gerhardt, Jodie  
**Cc:** Adam Petersen  
**Subject:** RE: ARB date for 203 Forest

Jodie

Were you able to finalize the date yesterday?

Thank you,

David

**From:** Gerhardt, Jodie [mailto:[Jodie.Gerhardt@CityofPaloAlto.org](mailto:Jodie.Gerhardt@CityofPaloAlto.org)]  
**Sent:** Friday, July 08, 2016 10:20 AM  
**To:** David Kleiman <[dkleiman@d2realty.com](mailto:dkleiman@d2realty.com)>  
**Cc:** Adam Peterson <[apetersen@m-group.us](mailto:apetersen@m-group.us)>  
**Subject:** RE: ARB date for 203 Forest

David,

I am just returning from vacation myself, so I will need to speak with Adam on Tuesday to better understand what has been turned in recently. If everything is ready to go then we could target the September 1st ARB hearing. Please keep in mind, the Code limits most projects to a maximum of three ARB hearings per application. Adam or I will get back to you with further details by Wednesday.

**Jodie Gerhardt, AICP**  
Manager of Current Planning  
City of Palo Alto  
Phone: 650-329-2575  
E-mail: [jodie.gerhardt@cityofpaloalto.org](mailto:jodie.gerhardt@cityofpaloalto.org)

---

**From:** David Kleiman [mailto:[dkleiman@d2realty.com](mailto:dkleiman@d2realty.com)]  
**Sent:** Friday, July 08, 2016 10:08 AM  
**To:** Gerhardt, Jodie  
**Cc:** Lait, Jonathan; Adam Peterson  
**Subject:** ARB date for 203 Forest

Jodie

I am hoping you can let me know the ARB date for my 203 Forest project.



I've been trying to reach Adam on this, but as he's likely swamped and is only part-time, he's been unable to confirm the date.

As you may recall, I've been working on this tiny one unit addition now for several years, so each additional day of delay is that much more aggravating.

Hope you can make this a great Friday by letting me know this information.

Regards,

David Kleiman, Manager  
203 Forest Avenue LLC

Mailing Address:  
222 6th Avenue  
Suite 101  
San Mateo, CA 94401  
(650) 327-2750

## Adam Petersen

---

**From:** Adam Petersen  
**Sent:** Friday, September 16, 2016 4:56 PM  
**To:** 'David Kleiman'  
**Cc:** 'Gerhardt, Jodie'  
**Subject:** RE: 203 Forest

Good Afternoon David,

This email is a follow up and confirms our conversation from earlier today.

The Planning and Community Environment Department took the 203 Forest Street project to the September 1, 2016 Architectural Review Board (ARB) hearing for their review, comment, and continuation to a date uncertain as noted in the staff report recommendation and email below. The ARB commented that the project was inconsistent with the Zoning Code, as discussed in the staff report, and Architectural Review Findings. The Board commented that they could not make the findings in support of the project as designed.

The Board provided the applicant an opportunity to revise the project and respond to Board comments. However, the project sponsor did not express a desire to make revisions, and subsequently the ARB recommended that the project return to the Board with a formal recommendation for denial.

This morning you and I discussed the City's architectural review process and staff expressed a desire to work together to respond to ARB comments. However, it was requested that the project continue with the ARB's formal recommendation for denial. Accordingly, the project will be scheduled for a formal ARB recommendation for denial at the November 3, 2016 hearing.

Please feel free to contact me with any questions.

Sincerely,

**ADAM PETERSEN | SENIOR PLANNER**

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**M-LAB:** *A THINK TANK FOR CITIES: [JOIN THE CONVERSATION!](#)*

**From:** David Kleiman [<mailto:dkleiman@d2realty.com>]

**Sent:** Tuesday, June 28, 2016 4:54 PM

**To:** Adam Petersen <[APetersen@m-group.us](mailto:APetersen@m-group.us)>

**Cc:** Gerhardt, Jodie <[Jodie.Gerhardt@cityofpaloalto.org](mailto:Jodie.Gerhardt@cityofpaloalto.org)>; Lait, Jonathan <[Jonathan.Lait@cityofpaloalto.org](mailto:Jonathan.Lait@cityofpaloalto.org)>

**Subject:** RE: 203 Forest

Adam

I've redesigned the building (which as reminder is only a single residence additional) based on my prior ARB meeting. How many ARB meetings can one project have before being sent to the City Council? Is there some intermediate step that's been added? I hope to go to ARB and with any luck have them approve the project at the meeting, or worst case approve it with conditions to be managed by staff, so I don't need to go back to the ARB. Although your involvement is new, this tiny little project has been slowly (if you can call the glacial pace it has enjoyed merely "slow") for more than two years. We first met

with Amy French in May of 2014. So I am hoping we can perhaps put this on a slightly faster track if that is humanly possible.

Please let me know if I am missing something process-wise.

Thanks you,

David

**From:** Adam Petersen [mailto:[APetersen@m-group.us](mailto:APetersen@m-group.us)]  
**Sent:** Tuesday, June 28, 2016 11:14 AM  
**To:** David Kleiman <[dkleiman@d2realty.com](mailto:dkleiman@d2realty.com)>  
**Cc:** Gerhardt, Jodie <[Jodie.Gerhardt@CityofPaloAlto.org](mailto:Jodie.Gerhardt@CityofPaloAlto.org)>  
**Subject:** Re: 203 Forest

Good Morning David,

Thank you for the email. As a quick FYI, I'm working for Palo Alto for half of Tuesday and all day Wednesday and Thursday. I'll do my best to respond on promptly, but it will most likely be on one of those days.

Jodie, Jonathan Lait and I discussed the strategy for moving forward with this project. The plan is to take the project to ARB for direction on the design because there have been significant changes to the skin of the building. This approach is beneficial for the project. It provides the ARB an opportunity to review and comment on the new skin without making a formal recommendation based on a design they have not previously evaluated. The ARB's feedback can then be incorporated into a design that the ARB desires.

I will work on providing you an ARB date shortly, and please feel free to contact me with any questions.

Sincerely,

**Adam Petersen** | *senior planner*



---

**From:** David Kleiman <[dkleiman@d2realty.com](mailto:dkleiman@d2realty.com)>  
**Sent:** Friday, June 24, 2016 6:15:38 PM  
**To:** Adam Petersen  
**Subject:** Re: 203 Forest

Adam did Jodie give you any more certainty on our ARB timing?

Thanks  
David

On Jun 23, 2016, at 5:55 PM, Adam Petersen <[APetersen@m-group.us](mailto:APetersen@m-group.us)> wrote:

Thanks for the update David. I'll give you a call tomorrow.

**Adam Petersen** | *senior planner*



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**From:** David Kleiman <[dkleiman@d2realty.com](mailto:dkleiman@d2realty.com)>

**Sent:** Thursday, June 23, 2016 1:02:35 PM

**To:** Adam Petersen

**Subject:** 203 Forest

Adam good speaking with you this morning. I did want to mention to you that I will be out of town the third Thursday of August. So if the first Thursday is available, that would be great, otherwise the following meeting in September would work.

Regards

David



## Development Review - Department Comments

City Department: Transportation Division

Staff Contact: Jarrett Mullen, Associate Transportation Planner  
650 329 2218  
Jarrett.mullen@cityofpaloalto.org

Date: 6/29/2016

Project Address/File #: 203 Forest Avenue  
14PLN-00472

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A. The following comments are required to be addressed prior to Planning entitlement approval:

1. ON-SITE PARKING DESIGN:

- a. The proposed site plan shows a new accessible parking stall with access from the Forest Avenue frontage that would require drivers to back out over the public sidewalk. This configuration is not permitted for this use. Please revise to remove or relocate this parking stall to meet the standards listed in the Palo Alto Municipal Code Chapter 18.54. Any abandoned driveway curb cuts within the public right of way shall be removed and replaced with improvements per Public Works Engineering standards.
- b. The proposed tandem parking area must provide at least 10-ft by 20-ft clear of vertical obstructions for each required vehicle parking space. Please revise the tandem parking aisle to address this requirement and identify any existing wall-mounted obstructions proposed to remain which may constrain this width. According to the civil site plan, standpipes and electric meters may project into this area.

2. BIKE PARKING SUPPLY: Based on the floor area and uses proposed in this application, it appears a total of three long term bike parking spaces and one short term bike parking space shall be provided as part of the project. One of the long term spaces is dedicated for the use of the residential portion of the project. When resubmitting, please provide a bike parking supply compliance table showing parking required and parking proposed. On the site plan, show the location of the long and short term bike parking spaces which meet the design and performance standards in Palo Alto Municipal Code Chapter 18.54.060.

3. BIKE PARKING DESIGN: The latest submittal shows long-term bike parking beneath an ascending staircase, but it's unclear if proper horizontal and vertical clearances are provided which meet the city's design standards. Furthermore, the plan shows two racks, which is unnecessary to provide two bike parking spaces, and the horizontal clearances are too constrained to provide four spaces. Short term bike parking shall be provided on site.

B. The following comments are required to be addressed prior to any future related permit application such as a Building Permit, Excavation and Grading Permit, Certificate of Compliance, Street Work Permit, Encroachment Permit, etc. These comments are provided as a courtesy and are not required to be addressed prior to the Planning entitlement approval:

None at this time.

✉ Reply all | ▾



Delete



Junk | ▾



## RE: 203 Forest (14PLN-00472) - Cork Oak

DD

Dockter, Dave &lt;Dave.Dockter@CityofPaloAlto.org&gt;

Today, 10:23 AM

Adam Petersen; David L. Babby &lt;arborresources@comcast.net&gt; ▾



✉ Reply all | ▾

Inbox

Yes Adam.

Project Comments needing the following information.

1. The cork oak tree and stump shall be removed as part of the project requirements.
2. The applicant shall revise the RoW sidewalk section to maintain use of silva cell root planting base for the sidewalk—as prescribed earlier.
3. Applicant shall generate a new configuration of silva cells for the 48" box size replacement cork oak installation in collaboration with ArborResources (Babby), civil engineer for PWE review.
4. Maintain consistent tree well openings and appropriate irrigation delivery.



Dave Dockter

Urban Forestry Group, ASCA, ISA, APA

City of Palo Alto Public Works - Urban Forestry Section

Phone: 650.496-5953|

Email: [dave.dockter@cityofpaloalto.org](mailto:dave.dockter@cityofpaloalto.org)<http://www.cityofpaloalto.org/gov/depts/pwd/trees/default.asp>

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**From:** Adam Petersen [mailto:APetersen@m-group.us]**Sent:** Friday, September 16, 2016 11:39 AM**To:** Dockter, Dave**Subject:** 203 Forest (14PLN-00472) - Cork Oak

Good Morning Dave,

I recall from the DRC Meeting and the ARB meeting on 9/1/16 that you noted the cork oak street tree in front of the 203 Forest project (14PLN-00472) is not salvageable due to its health. Can you reply to this email and confirm that, please?

Thank you for your time and help.

Sincerely,

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## Adam Petersen

---

**From:** Dockter, Dave <Dave.Dockter@CityofPaloAlto.org>  
**Sent:** Tuesday, September 20, 2016 10:23 AM  
**To:** Adam Petersen  
**Cc:** David L. Babby  
**Subject:** RE: 203 Forest (14PLN-00472) - Cork Oak

Yes Adam.

Project Comments needing the following information.

1. The cork oak tree and stump shall be removed as part of the project requirements.
2. The applicant shall revise the RoW sidewalk section to maintain use of silva cell root planting base for the sidewalk—as prescribed earlier.
3. Applicant shall generate a new configuration of silva cells for the 48" box size replacement cork oak installation in collaboration with ArborResources (Babby), civil engineer for PWE review.
4. Maintain consistent tree well openings and appropriate irrigation delivery.



**Dave Dockter**

Urban Forestry Group, ASCA, ISA, APA  
City of Palo Alto Public Works - Urban Forestry Section  
Phone: 650.496-5953  
Email: [dave.dockter@cityofpaloalto.org](mailto:dave.dockter@cityofpaloalto.org)  
<http://www.cityofpaloalto.org/gov/depts/pwd/trees/default.asp>

---

**From:** Adam Petersen [mailto:APetersen@m-group.us]  
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**ADAM PETERSEN | SENIOR PLANNER**

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**ATTACHMENT G**  
**PUBLIC HEARING CHRONOLOGY**  
203 Forest Avenue / File No. 14PLN-00472

<b>Date and Hearing</b>	<b>Architectural Review Board (ARB) November 17, 2016</b>
Report Link	<a href="http://www.cityofpaloalto.org/civicax/filebank/documents/54709">http://www.cityofpaloalto.org/civicax/filebank/documents/54709</a>
Minute Link	<a href="http://www.cityofpaloalto.org/civicax/filebank/documents/55214">http://www.cityofpaloalto.org/civicax/filebank/documents/55214</a>
Video Link	<a href="http://midpenmedia.org/architectural-review-board-52/">http://midpenmedia.org/architectural-review-board-52/</a>
<b>Date and Hearing</b>	<b>ARB September 1, 2016</b>
Report Link	<a href="http://www.cityofpaloalto.org/civicax/filebank/documents/53660">http://www.cityofpaloalto.org/civicax/filebank/documents/53660</a>
Minute Link	<a href="http://www.cityofpaloalto.org/civicax/filebank/documents/54329">http://www.cityofpaloalto.org/civicax/filebank/documents/54329</a>
Video Link	<a href="http://midpenmedia.org/architectural-review-board-48/">http://midpenmedia.org/architectural-review-board-48/</a>
<b>Date and Hearing</b>	<b>ARB May 21, 2015</b>
Report Link	<a href="http://www.cityofpaloalto.org/civicax/filebank/documents/47434">http://www.cityofpaloalto.org/civicax/filebank/documents/47434</a>
Minute Link	<a href="http://www.cityofpaloalto.org/civicax/filebank/documents/53694">http://www.cityofpaloalto.org/civicax/filebank/documents/53694</a>
Video Link	<a href="https://www.youtube.com/watch?v=37IXeUXyrR4&amp;start=79&amp;width=420&amp;height=315">https://www.youtube.com/watch?v=37IXeUXyrR4&amp;start=79&amp;width=420&amp;height=315</a>
<b>Date and Hearing</b>	<b>Historic Resource Board May 28, 2015</b>
Report Link	<a href="https://www.cityofpaloalto.org/civicax/filebank/documents/47492">https://www.cityofpaloalto.org/civicax/filebank/documents/47492</a>
Minute Link	<a href="http://www.cityofpaloalto.org/civicax/filebank/documents/55647">http://www.cityofpaloalto.org/civicax/filebank/documents/55647</a>
Video Link	<a href="http://midpenmedia.org/historic-resources-board-12/">http://midpenmedia.org/historic-resources-board-12/</a>

## Attachment H

Hardcopies of project plans are provided to ~~ARB Members~~City Council. These plans are available to the public by visiting the Planning and Community Environmental Department on the 5<sup>th</sup> floor of City Hall at 250 Hamilton Avenue.

### **Project Plans**

These plans are available to the public by visiting the Planning and Community Environmental Department on the 5<sup>th</sup> floor of City Hall at 250 Hamilton Avenue.

#### **Directions to review Project plans online:**

1. Go to: <https://paloalto.buildingeye.com/planning>
2. Search for "203 Forest Avenue" and open the record by clicking on the Blue dot
3. Review the record details and open the "more details" option under the second heading for 203 Forest Avenue 14PLN-00472
4. Use the "Records Info" drop down menu and select "Attachments"
5. Open the attachment named "[203 Forest City Council ARB Appeal Submittal 2-6-2017](#)~~203 Forest ARB Resubmittal full-size 20160609 FINAL.pdf~~"

Field Code Changed