



## **MENLO PARK PLANNING COMMISSION MINUTES**

**Regular Meeting**

**August 4, 2003**

**7:00 p.m.**

**City Council Chambers**

**801 Laurel Street, Menlo Park, CA 94025**

**CALL TO ORDER** – 7:00 p.m.

**ROLL CALL** – Bims, Fergusson, Fry (Chair), Pagee, Sinnott, Soffer present; Halleck (Vice-chair) absent.

**INTRODUCTION OF STAFF** – Cramer, Heineck, Murphy, O'Connell

### **A. PUBLIC COMMENTS**

There were none.

### **B. CONSENT**

There were no consent items.

### **C. PUBLIC HEARING**

- 1. Use Permit Revision/Anatole Zelkin/1925 Menalto Avenue:** Request for a use permit revision for a retail party and crafts store to occupy a tenant space on a property that is nonconforming in regard to parking.

Commissioner Fergusson and Planner Murphy recused themselves because of a conflict of interest as both individuals own property within 500 feet of the subject property.

Staff Comment: Planner Cramer reported that the applicant's proposal was to occupy an existing tenant space at 1925 Menalto Avenue with a party supply store. She said that the existing multi-tenant building is substandard with regard to parking, having no on-site parking where a minimum of 27 spaces is required. She said that a retail store is a permitted use in the C-2 Neighborhood Shopping District. She noted that any use occupying a structure that is legal, but nonconforming with regards to the parking requirements for the property is subject to use permit approval. Planner Cramer added that on March 17, 2003, the Planning Commission reviewed a request for a blanket use permit by the property owner, Mr. Zelkin, for the tenant spaces in his building located at 1923-1929 Menalto Avenue. She said that the Commission denied the request by a vote of 6-0 with Commissioner Fergusson recused. She said that the denial was based on issues regarding the condition of the building and property. She said that due to the denial of the blanket use permit, the tenants of the building, including the owners of the party supply business, need to either apply for a use permit or vacate the building. Planner Cramer said that since then the property owner has made improvements to the building.

Planner Cramer highlighted relevant parking issues. She said that all of the parking for the building was offsite and was street parking, which parking also services the other commercial businesses in the area. She said that the rear lot was not suitable for parking. Planner Cramer said that staff was suggesting condition "e" that would require the property owner to participate in any future agreements among the commercial business owners to upgrade and maintain the alley, sidewalks and parking along Menalto Avenue. Planner Cramer said that staff recommends approval of the use permit because of the improvements made to the property and the good faith efforts of the property owner to improve the building. She said that since the preparation of the staff report, one letter was received from Ms. Kelly Fergusson, which was distributed to the Commissioners.

Questions of Staff: Commissioner Bims asked if all businesses were required to have signage. Director Heineck said that there were no ordinances or regulations requiring a business to have a sign, but that the Commission might want to discuss that as part of the approval of the use permit.

Public Comment: Mr. Anatole Zelkin, the property owner, said that the P&P Party's and Crafts tenants have occupied the space in his building since the first of January. He noted that the business owners of the party supply store are a hardworking family. He asked that the Commission approve the use permit.

Mr. Patrick Farris, Menlo Park, the property owner of a neighboring building, complimented Mr. Zelkin on the hard work that he has done on his building. He noted however that he objected to the idea that the property owners would be given the alley to maintain. He said that the City should take care of the alley.

Commission Action: M/S Soffer/Fry to close the public hearing.

Motion carried, 5-0, with Commissioner Fergusson recused.

Commission Comment: Chair Fry asked staff to address the issue of alleys. Director Heineck said that it remains unclear who owns many of the alleys in the Willows area, including this one. She said that at one point in the past these alleys were offered for dedication to City, but the dedication was not accepted. She said that it would take substantial time and staff resources to determine ownership. She noted that the City does not maintain any of these alleys. She said that the Commission has previously reviewed development applications that were located near, and enjoyed some benefit, from an alley. She said in those instances those persons receiving benefit from the alley had been required to enter into a maintenance agreement for the upgrade and maintenance of the alley.

Chair Fry commented that a letter received by the Commission had expressed concern that the wording of condition "e" was somewhat unclear and that certain improvements to alleys might be construed as public improvements, such as drainage, concrete gutters, asphalt, and maintenance in the public right-of-way. She asked if such improvements were intended to be included. Director Heineck said that the wording of condition "e" was meant to be somewhat flexible for this project site as some of the parking was located on land that was owned both privately and publicly by the City. She said that the expectation was at a future point in time an understanding would be reached as to the appropriate delegation of maintenance and upkeep of alleys. She said that the City Attorney had developed the wording in conjunction with staff.

Commissioner Pagee noted that there had been issues raised about safety with this and other alleys because of the use of alleys by non-residents. She said that some of the problems caused by these individuals included littering, loitering and public urination. She asked how those issues were addressed. Director Heineck said that these were matters for code enforcement and/or the police. In response to Commissioner Pagee, Director Heineck said that she was not aware of any Homeowners' Association in this area.

Commission Action: M/S Soffer/Fry to reopen the public hearing.

Motion carried, 5-0, with Commissioner Fergusson recused.

Mr. E. Gary Smith, Menlo Park, a neighboring business owner, said that he was supportive of his neighbors in their application for a use permit. He said that the business owners of the subject application have proven to be exemplary neighbors, and he thought that the tenants provide a complementary service for the area. He noted that there might still be issues regarding parking and the rear lot in the future. However, he fully supported approval of the use permit.

Commissioner Soffer asked Mr. Smith to comment on signage for businesses. Mr. Smith said that it is generally accepted that signage is important as a way to communicate to the public what services a business provides.

Ms. Ana Peralta, the owner of P&P Party's & Crafts, said that the reason there was no sign for her business yet was because she wanted to receive the use permit approval before she applied for a sign permit.

Commission Action: M/S Soffer/Sinnott to close the public hearing.

Motion carried, 5-0, with Commissioner Fergusson recused.

Commission Comment: Commissioner Sinnott moved to approve as stated in the staff report. She said that the store owner had addressed the question of signage. Commissioner Soffer seconded the motion and noted that the signage was important as well as getting the signage grammatically correct.

Commission Action: M/S Sinnott/Soffer to approve as recommended in the staff report.

1. Make a finding that the project is categorically exempt under Class 1 of the current State CEQA Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed uses will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed uses, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.

3. Approve the use permit revision for the tenant space located at 1925 Menalto Avenue, subject to the following conditions:
  - a. Development of the project shall be substantially in conformance with the plans prepared by Anatole Zelkin, dated received by the Planning Division on May 21, 2003, consisting of three plan sheets and approved by the Planning Commission on August 4, 2003 except as modified by the conditions contained herein.
  - b. The applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
  - c. The applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
  - d. All new signage is subject to review and approval by the Planning Division staff.
  - e. Within 90 days of the approval of the use permit, the property owner shall provide the Planning Division with a deed restriction providing that the owner will cooperate with the adjacent properties in the future to upgrade and maintain the undedicated alley that abuts the rear of the commercial properties that front on Menalto Avenue and to upgrade and maintain the street frontage and parking areas along the Menalto frontage, at such time as some or all of the commercial property owners proceed with such upgrade project(s). Said restriction shall provide that the owner will share in the cost of any such work pro-rata on the basis of the street frontage and/or alley frontage for the frontages of the properties being upgraded. Said restriction shall run with the land and shall be binding on future owners of the property.

Motion carried 5-0, with Commissioner Fergusson recused.

- 2. Use Permit Extension/Don Fox/1320A Willow Road:** Request for an extension to the existing use permit to allow for the retail sale and on-site consumption of wine in association with the operation of a wine storage and production facility.

Staff Comment: Planner Cramer reported that the tenant space at 1320 A Willow Road is currently occupied by the Wine Bank, a temperature-controlled wine storage, retail sales, and tasting facility. She said that the Planning Commission at its March 5, 2001 meeting had approved a use permit for the retail sale and on-site consumption of wine in association with the operation of a wine storage facility.

Planner Cramer reported that subsequently Council Member Borak filed an appeal of the Planning Commission decision on behalf of the Belle Haven Neighborhood Association. Planner Cramer noted that the appeal was reviewed by the City Council on April 24, 2001 and the Council voted unanimously to approve the use permit. She said that based on the conditions established by the Council in their approval, the use permit for retail sale and on-site consumption was approved for a two-year period.

Planner Cramer said that the owner/operator of the Wine Bank, Dr. Don Fox, filed an application to request an extension of the use permit prior to the expiration of the permit. Dr. Fox made a request that the use permit permanently allow for the retail sale and on-site consumption of wine in association with the operation of a wine storage facility. She said that he also requested changes to the conditions of approval to reconcile differences between the approved conditions and the requirements of the Department of Alcoholic Beverages Control (ABC). She said that the applicant also proposes to use a portion of the wine storage facility as an onsite wine production facility. Planner Cramer noted that the staff report provided detailed information on each of the uses in the building. She said that since the staff report had been prepared, the applicant had requested one additional change. Dr. Fox asked that the hours of operation on Saturday be extended from an end time of 5:00 p.m. to 7:00 p.m. to allow for additional time for a wine tasting, which typically would begin later in the day, and ample time for cleaning.

Planner Cramer said as part of the preparation for the review of the proposed use permit extension, staff contacted several individuals and groups in the Belle Haven neighborhood to discuss the project. The list of contacts included the Belle Haven Neighborhood Homeowners Association, members of the Las Pulgas Committee, Dr. Hattie Bostic of the Mt. Olive AOH Church of God, administrative staff at the Mid-Peninsula School, and members of the Abundant Life Christian Fellowship. She said that the Belle Haven Neighborhood Homeowners Association was unable to meet with staff prior to tonight's meeting. She said that all of the other groups or individuals contacted by staff had indicated that they did not have concerns with the proposed use permit and had noted that the Wine Bank had been a good neighbor. She said based on the lack of neighborhood concerns and complaints regarding the previous use permit conditions, staff recommended approval of the use permit with the conditions as described in the staff report and to grant an extension of the hours on Saturday to 7:00 p.m.

Questions of Staff: Chair Fry asked if condition "j" was the condition wherein the changes regarding the hours of operation would be modified. Planner Cramer said that it was condition "j." She noted that the condition indicated already that the hours for Saturday would be 11:00 a.m. to 7:00 p.m. She said that perhaps the request by the applicant for extended hours was misunderstood and the applicant would be able to clarify. Commissioner Bims asked about condition "h" and the specification of a range of selling price of \$30 to \$40. He asked if that range was to provide the Commission latitude. Planner Cramer said that was to provide for inflation should the minimum cost of what was deemed a fine wine increase and allowed the owner to make an adjustment without a need to come back for Commission approval. Commissioner Bims asked for further clarification. Director Heineck said that this was a condition applied by the Council and the intent had been to reinforce the sale of fine wine. Chair Fry said that there had been concern expressed by the neighborhood about inexpensive wines being readily available for purchase and consumption as the ABC licensing required the sale of liquor even though that was not the property owner's purpose for the facility. Commissioner Bims asked staff whether the neighbors had feedback about the type 42 license. Planner Cramer said that the neighbors had no issues with the wine tasting events. Commissioner Bims asked if the type 42 license allowed the general public to taste the wines. Planner Cramer said that was so, but that Dr. Fox has indicated that he proposed to hold wine tasting events by invitation and for a select group, such as for those individuals who belong to the Wine Bank.

Public Comment: Dr. Don Fox, the applicant, said that his business plan had not really changed that much from the original application for a use permit. He said the additions were a wine storage area and warehouse. He said that the ABC does not have a license that specifically addresses this and that to store wine, the facility needed to make wine. He clarified that it was

on Sunday that he had requested that the hours of operation be extended to 7:00 p.m. He addressed the range of minimum cost for a fine wine. He said that \$30 was a low point in cost and that the cost was adjusted to the cost of living. He said that has been about \$1.00 per year and now the minimum cost of a fine wine is \$35.00. Regarding Commissioner Bims' question as to whether the wine tastings were open to the public, he said that technically they were but events were noticed privately and there are no signs on the facility announcing wine tasting events. He said that in the two years of operation that had only been three people who had come in from the street, and those people had heard about the event from an acquaintance.

Chair Fry asked if the neighboring church would have problems with extended hours on Sunday and if that would interfere with the church's services and parking needs. Dr. Fox said that he has not contacted the church specifically about that change; he noted that the church's functions are usually over by 6:00 or 7:00 p.m. He said that also the church has benefited from the parking for the Wine Bank. He noted also that the church would be moving out of the area in the near future.

Commissioner Soffer named a wine tasting site in Palo Alto and asked if the Wine Bank operated similarly. Dr. Fox said the Palo Alto site was not a good comparison as they have wine tastings all day and was more of a bar environment. He said that a better comparison would be to Beltramo's. Commissioner Soffer asked about the proposed wine making and whether there would be tours. Dr. Fox said that there would not be and that the wine making was to meet the requirement of the ABC that only facilities that make wine could be used to store large containers of wine. He said that making wine would not be a major part of the business. Commissioner Fergusson asked how sales tax was applied in their operations. Dr. Fox said that that sales tax was only charged on wines sold to states that have sales tax. He said that 90% of the business income was from the storage of wines. Commissioner Fergusson asked what the annual state sales tax was for the business. Dr. Fox said that it was \$5,000. Chair Fry asked about their internet sales and state sales tax. Dr. Fox said that 70% of their internet sales generated sales tax. Chair Fry said that the staff report indicated the business had been fully prescribed and asked if they were increasing space. Dr. Fox explained that the site was a very large warehouse and there is 3,000 square feet of space remaining. He said that the existing shelves for the storage of wine have been rented. He said that they are however permitted to go up to a second story, which they will do. Chair Fry asked if the minimum cost of a fine wine for \$30 at 2001 prices was reasonable. Dr. Fox said that was fine.

Commission Action: M/S Fry/Pagee to close the public hearing.

Motion carried, 6-0.

Commissioner Pagee moved to approve as stated in the staff report and to change condition "h" to show \$30 at 2001 prices, rather than a range. Chair Fry asked Commission Pagee if she would accept having the Sunday hours of operation extend to 7:00 p.m. Commissioner Pagee said she had some hesitation but would support the request.

Commission Action: M/S Pagee/Soffer to approve as recommended in the staff report with the following modified conditions.

1. Make a finding that the project is categorically exempt under Class 1 of the current State CEQA Guidelines.

2. Make a finding, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will be compatible with the surrounding land uses and will not be detrimental to the health, safety, morals, comfort, and general welfare of the persons working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the use permit extension request subject to the following conditions
  - a. Development of the project shall be substantially in conformance with the plans prepared by the applicant, consisting of two plan sheets dated received, April 29, 2003, and approved by the Planning Commission on August 4, 2003, except as modified by the conditions contained herein.
  - b. The applicant shall comply with all sanitary district, Menlo Park Fire Protection District, and utility companies regulations that are directly applicable to the project.
  - c. The applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
  - d. The applicant shall comply with all regulations and guidelines set forth by the ABC for the sale, on-site consumption, storage and production of alcoholic beverages.
  - e. The applicant shall not post any signage or advertising inside or outside of the facility except in private security areas of the facility not visible from the public areas inside or outside the facility that indicates the retail sale of alcoholic beverages on the site. All retail wine sales advertising and solicitation shall be made via mail or the Internet. In addition, the applicant shall not post any advertising on the site relating to wine tasting events on site except in private security areas of the facility not visible from the public areas inside or outside the facility.
  - f. All exterior signage for the site shall, in conjunction with the name of the business, denote that the facility is for "Fine Wine Storage". The applicant shall obtain the necessary sign permits prior to installation of any exterior signage.
  - g. The applicant shall supply a list of the wines being offered on the site only at the request of a customer, and shall otherwise keep the list out of sight in the public areas of the facility. The applicant shall also answer any questions about the wine being offered at the request of a customer. Any wines for sale may be displayed in the private security areas of the facility as long as the wines are not visible from any public areas inside or outside the facility.
  - h. In order to discourage any potential customers who are not fine wine collectors, the applicant shall only sell "high end" wines with a minimum selling price of \$30-\$40 per bottle, in 2001 dollars (i.e., the minimum price shall be increased annually by the CPI for all urban consumers for the San Francisco/Oakland Metropolitan area.)
  - i. The maximum number of wine tasting events shall not exceed 52 per year.

- j. Wine tasting and wine tasting events may only be conducted on Saturday from 11 a.m. to 6 p.m. and on Sunday from 1 p.m. to 7 p.m.
- k. The applicant shall maintain the premises in good condition, free of littering, debris, and graffiti, and shall keep the premises well lit during the hours that it is open to the public.
- l. The hours of operation for the on-site sale and consumption of wine shall be restricted to the regulations contained in Chapter 8.12 Business Operations after Midnight, of the City of Menlo Park Municipal Code. Specifically, this section of the Municipal Code restricts business operations between the hours of 12:00 AM and 6:00 AM.

Motion carried, 6-0.

- 3. Use Permit/Sakuma Corporation/325 Sharon Park Drive:** Request for a blanket use permit to allow permitted uses in the C-2 zoning district to operate on the property that is nonconforming in regard to parking or in the alternative to allow a restaurant to operate in a specific tenant space and a use permit to allow for the sale of alcoholic beverages in association with the restaurant.

Staff Comment: Planner O'Connell said that the Sharon Heights Shopping Center at 325 Sharon Park Drive was substandard with regard to parking. He said that for that reason use permit approval by the Planning Commission was required for a change of use that was similar or more restrictive than the previous use. He noted that the application was, in part, a request for a blanket use permit to allow C-2 zoning district permitted uses as defined in the Zoning Ordinance to locate at the shopping center without individual use permit approval by the Planning Commission for each change in tenants.

Planner O'Connell said that if the Commission decided against the approval of the blanket use permit, the application alternatively would be for a use permit to allow Toshi's Sushiya Japanese Restaurant to locate in the tenant lease space formerly occupied by the Washington Mutual Bank. He noted that the applicant was also requesting approval of a use permit to allow alcohol sales in conjunction with the new restaurant. He said that there had been no correspondence received on the proposed request.

Questions of Staff: Chair Fry confirmed with staff that condition 3.b would only apply to this shopping center and not to other C-2 zoning districts. She asked if uses that would increase parking requirements above existing requirements would be reviewed. Planner Murphy said that the requirements for parking would not change since they are based on zoning rather than specific uses. Commissioner Soffer said that in previous discussions about ABC liquor licenses he understood that there might be limits on the number of licenses to which a community was entitled, and he recalled hearing that the City was close to those limits. Planner O'Connell said that was true for the downtown area, but not for the Sharon Parks Shopping Center. Chair Fry asked if the shopping center was under single-ownership. Planner O'Connell confirmed that was true.

Public Comment: Mr. Thomas Scott, the property manager representing the property owner, said that the property has been under common ownership since its development 30 years ago. He said that previously there had been a large restaurant and a couple of smaller restaurants.



He said that although technically they were substandard in regard to parking that there had never been a problem with parking. He said that the busiest time for parking was Saturday morning, most of which parking was not for restaurant use. He said that the larger restaurant had moved out of a 10,600 square foot space and that they had made arrangements for the Long's drug store to move into that space. He said that they were requesting the blanket use permit so that interested tenants might be able to move in without the delay of coming back to the Planning Commission for approval. He said that the shopping center was underserved with restaurant uses and could use a few more.

Commissioner Soffer agreed said that the shopping center needs more restaurants. He asked Mr. Scott when the tenant came to him about a space. Mr. Scott indicated in January or February and the use permit application was made in May. Commissioner Soffer asked what was the process or the delay. Mr. Scott said that there were lease negotiations and construction estimates that needed to be obtained. He thanked the City staff for getting the use permit approval to the Commission as quickly as it did. Commissioner Soffer asked Mr. Scott how much time was spent with the Planning Commission part of the process. Mr. Scott indicated that was about a three to four month process. Chair Fry noted that many restaurants would want to have a liquor license, which would need to come before the Planning Commission. Mr. Scott said that some restaurants might want to open without a license and then apply or some might not want to serve alcohol. Commissioner Fergusson asked whether there were vacancies. Mr. Scott said that Long's Drug Store was proposing to move into the 10,600 square foot site, which had been a restaurant previously. He said that it was hoped that the Safeway, which was an older store, would expand into the space left vacant by Long's and upgrade their store. The only vacancy remaining would be the previous space for the Washington Mutual Bank and the hope was that Toshi's Sushiya Japanese Restaurant would locate at that site.

Ms. Keiko Sakuma, Belmont, said that she was with the Sakuma Corporation. In response to a question from Chair Fry, Ms. Sakuma said that the intent was to move Toshi's from its current site in Menlo Park to the Sharon Heights Shopping Center site. She said that although the space there was somewhat smaller there would be able to better utilize the space. Commissioner Fergusson asked if there were parking problems with Toshi's current site. Ms. Sakuma said that on busy Saturday nights some of their spaces are used by patrons of other businesses. Ms. Sakuma said that she has visited the shopping center frequently and has never seen a parking problem or full occupation of the parking lot. She said that she thinks the site was more ideal for Toshi's because of the parking and the location.

Commission Action: M/S Soffer/Sinnott to close the public hearing.

Motion carried, 6-0.

Commission Comment: Commissioner Sinnott said that she was ready to move approval. She noted that there were no problems with the neighbors and plenty of parking, which she indicated made a perfect application of the blanket use permit. In response to Chair Fry, Commissioner Sinnott confirmed that her motion was for the approval of Option 1 of the staff report. Commissioner Page seconded the motion, noting that her support was based on there being no neighborhood issues and all of the parking was for commercial use.

Commissioner Fergusson said that there were about 10 parking spots that were really unusable behind the proposed site of the Long's Drug Store. She said that she thought the Long's would

be tremendously successful and was concerned that Long's success coupled with the expansion of the Safeway might overburden the available parking. She said that she could not support the blanket use permit for that reason.

Commissioner Bims said that since there was not neighborhood opposition, the blanket use permit would give the applicant some flexibility in filling future vacancies. He said that he supported the motion.

Chair Fry said that she was very supportive of the restaurant moving to this site and approving the alcohol beverage permit. She said however that she was concerned with growth and an increase in future parking demand. She said that an increased parking demand would be managed as long as there was a single continued ownership and management of the property. She said that the owner/property manager would have an incentive to keep uses compatible with one another so as not to cause discord among the tenants. She asked to amend the motion to include a condition that the blanket use permit would remain in effect as long as the property was under one owner/property manager. Commissioner Bims said that the applicant had indicated to the Commission that it would be highly unlikely that the parcel would ever be subdivided. Commissioner Bims said that he did not think the condition was necessary. Commissioner Sinnott asked the applicant if he was comfortable with the condition that the blanket use permit would remain in effect as long as the property was under one management. Mr. Scott said that was fine. In response to staff's request for clarification, Chair Fry indicated that the blanket use permit would remain in effect as long as the parcel was under a single management entity. Commissioners Sinnott and Pagee accepted the amendment to the motion. Commissioner Fergusson said that she thought the amendment made the proposal better; however, she was concerned that increased success of the shopping center might mean overflow parking in the neighborhood and that she would prefer to keep individual use permit review.

COMMISSION ACTION: M/S Sinnott/Pagee to approve Option 1 as recommended in the staff report with the following modified condition.

1. Make a finding that the project is categorically exempt under Class 1 of the current State CEQA Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed uses will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed uses, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the blanket use permit for the Sharon Heights Shopping Center located at 325 Sharon Park Drive and the use permit for the sale of alcoholic beverages at the tenant lease space to be occupied by Toshi's Sushiya Restaurant, subject to the following conditions:
  - a. Development of the project shall be substantially in conformance with the plans prepared by NII Architects, dated April 29, 2003 consisting of three plan sheets and approved by the Planning Commission on August 4, 2003, except as modified by the conditions contained herein.

- b. The blanket use permit allows for all permitted uses in the C-2 zoning district to locate in the tenant spaces without obtaining individual use permits for locating on a property that is legal, but nonconforming with regards to parking provided that the shopping center remains under the control of a single management entity.
- c. All new uses that locate on the property are subject to all other applicable requirements of the Menlo Park Fire Protection District, sanitary district, utility companies, Building Division, Transportation Division, and Engineering Division.
- d. All new signage is subject to review and approval by the Planning Division staff.

Motion carried, 5-1, with Commissioner Fergusson opposed.

**4. Use Permit and Architectural Control Revision/George Ramstad for Longs Drugs/325 Sharon Park Drive:** Request for a use permit to allow for a pharmacy drive-through window and for a revision to an architectural control approval for exterior modifications to the building and site.

Staff Comment: Planner O'Connell reported that at the meeting of November 4, 2002, the Planning Commission approved requests by the applicant for an architectural control revision for exterior renovations to a tenant lease space at the Sharon Heights Shopping Center and a use permit for the outdoor sales of plants and related gardening materials. He said that in the interim, Long's Drugs has decided not to operate the garden center and was requesting use permit revision approval to allow for a pharmacy drive-through window on the north side of the existing building. He said that the proposal includes a request for a revision to the architectural control approval. He said that the architect had exhibits to show the Commission and there had been not any correspondence regarding the proposal.

Questions of Staff: Commissioner Fergusson asked what other reasons there would be for use permit review now that the shopping center had a blanket use permit. Planner O'Connell said that the previous use permit had been for outdoor garden sales and the drive-up window feature was not a permitted use in a C-2 zoning district.

Public Comment: Mr. Galen Grant, Craig and Grant Architects, said that there were conditions recommended in the staff report that they would like to address with the Commission. He noted in particular condition "i" to require that revised plans be submitted to eliminate the shopping cart corral and pedestrian walkway. He said that they did not agree with that elimination due to the layout of the parking lot and the need to maintain that access way through the parking lot for the convenience of the customers. He distributed a handout that addressed several of the issues, including the cart corral, the entryway and hardscape. He said that they had removed a couple of parking spaces and retained landscaping islands to make the main entry more people friendly. Commissioner Sinnott asked what the difference was between what he was proposing and what staff recommended. He said that in addressing staff's concerns about creating a friendlier and environmentally appealing entryway, they lost three parking spaces, which were replaced with spaces between the two buildings in a breezeway area. Commissioner Fergusson said that in the back where there were currently parking spaces, it appeared there were 12 or 15 spaces being relocated. Mr. Grant said that they lost a couple of spaces in the back, but picked them up elsewhere. Commissioner Fergusson noted that that area was not used very much for parking anyway.

Commissioner Soffer asked where stock was stored, or if it was immediately put on the shelves. Mr. George Ramstad, a Long's Drug store employee, said that the store would have a warehouse and the merchandise would generally be received on pallets. Commissioner Soffer asked about the hours of operation for the drive-up window. Mr. Ramstad indicated that he did not know specifically the hours of the particular store site, but that generally the drive-up window opened an hour after the pharmacy opened and closed one hour before the pharmacy closed.

Mr. Grant said that they thought that condition "k" requiring a photometric study was unnecessary. He said that all of their lights are directed downwards, the lights in the parking lot were as existing, and the remainder of lights would be for pedestrian use. He said that they did not think there would be any offsite effect from any of the lighting. Commissioner Fergusson asked where the lights would be. Mr. Grant said that originally the lights were part of the proposed garden center; he said that now they did not expect to use any lights there. Commissioner Fergusson said that the back area was very dark and she would like to see lighting there. Mr. Ramstad asked if a certain level of lighting might be established rather than require a photometric study. Commissioner Soffer said that the photometric study was to ensure there was enough light for the center's use without negatively affecting neighbors. He suggested that staff might want to explain why the photometric study was included.

Planner O'Connell said that the study would provide assurance that the lights of the new development would not be more intense than other lights in the area. Mr. Grant asked what the standard was for them to meet. Planner O'Connell indicated that there should be a uniform light level as much as possible and no glare. Mr. Grant said that they were fine with doing the photometric study.

Commissioner Sinnott asked what the applicant was being asked to do with the shopping cart corral in the parking lot. Mr. Grant said that they were not amenable to eliminating the cart corral in the parking lot. He said that the parking at this center is universal and works for most stores but does not allow for drive aisles to the Long's store. He said that people would have to walk through rows of cars to get to the store and also to return their carts. Mr. Ramstad noted that what was being described as a cart storage area was actually a collection site in the parking lot from which Long's employees would corral carts and return them to a storage area close to the store.

Commissioner Bims asked why Long's decided to switch from outdoor garden sales to a drive-up pharmacy window. Mr. Ramstad said that there had been a major management change at Long's out of which had come a decision to change the use of the current site. In response to a question about signage for the drive-up window, Mr. Ramstad indicated that had not been fully addressed. Mr. Grant said that the signage was typically not significant; it was small letters and would be posted near the window and say pickup window. He said that there would not be significant lettering or illumination. Chair Fry asked how many cars might be queued at the drive-up lane. Mr. Grant indicated about three cars. Chair Fry said that her concern was that there seemed to be a number of turns to navigate to get to the drive-up window and that the car lane for that seemed narrow. Mr. Grant said that the drive-up lanes are typically narrow and about eight feet; he said this lane would be 12-feet. Commissioner Fergusson said that with the blanket use permit and placing the onus on the property owner for the parking, she would sacrifice a few parking spaces for more functionality in the area of this drive lane and for pedestrian walkways through the car aisles. She said that she preferred to see cart areas in the parking lot as it was more convenient for instance for mothers with small children. Commissioner Fergusson asked for a review of the rear elevation and what would be changed.

Mr. Grant said that the existing screen wall would be removed and the rear would be a clean concept of roof, columns and back wall. He said that the porte cochere would be removed and the roof element extended over the drive-up lane. He said that the extension of roof would be in the same hip design using the same materials. Commissioner Fergusson asked if the existing rollup door would be used for deliveries. Mr. Grant said that there were two doors that would be used for deliveries. Commissioner Fergusson asked if there would be an objection to a condition requiring lighting in that area. He said that there was an overhang of four feet that has soffit lighting and that there was almost continuous illumination as each bay has lighting. Commissioner Fergusson said that she was pleased to hear that the area would be better lit. Commissioner Bims asked if service vehicles entered from Sharon Drive to the back of the building and leave continuing through the rear behind Safeway to exit on Sharon Drive. Mr. Grant confirmed that.

Commission Action: M/S Fry/Pagee to close the public hearing.

Motion carried, 6-0.

Commission Comment: Commissioner Pagee said that she would move to approve as the staff recommendation and to further clarify that the lighting study would be to show that there is uniform lighting, that it would not exceed the intensity of the rest of the lighting in the shopping center and that it includes the lighting at the rear of the building. Commissioner Sinnott said that she would second and asked if Commissioner Pagee would accept an amendment to the motion to include a cart storage area in the lot as shown on the drawing. Chair Fry asked if condition "i" would be removed or modified. Planner Murphy said that the condition would remain but the wording would be changed regarding the cart storage area; however, staff would want to keep review and approval of the three parking spaces. Commissioner Fergusson said that she would like to make a friendly amendment to the motion to allow for a second pedestrian walkway in the second aisle back possibly with cart storage and to allow staff and the applicant some flexibility to eliminate two or three more parking spaces for more functionality. Commissioner Pagee asked if her intent was to reduce the parking lot by two spaces in a lot that was substandard regarding parking. Planner Murphy said that the Commission could not eliminate two parking spaces unless those spaces were replaced or the application would need to come back for a variance or some landscaped areas might be used as parking reserve. Commissioner Soffer said that he would not like to see a reduction in landscaping. Chair Fry said that it would not actually reduce landscaping. Mr. Ramstad said that they had studied this option and they did not think their customers would be parking that far away from the store. Commissioner Fergusson rescinded her suggestion of a friendly amendment and noted that she liked this design much better than what the Commission approved previously.

Commission Action: M/S Pagee/Sinnott to approve as recommended in the staff report with modification to conditions "i" and "k" as shown.

1. Make a finding that the project is categorically exempt under Class 1 of the current State CEQA Guidelines.
2. Make the following findings, as per Section 16.68.020 of the Zoning Ordinance, regarding architectural control approval:
  - a. The general appearance of the structure and the addition is in keeping with the character of the neighborhood.

- b. The development will not be detrimental to the harmonious and orderly growth of the City.
  - c. The development will not impair the desirability of investment or occupation in the neighborhood.
  - d. The development provides adequate parking as required in all applicable City ordinances and has made adequate provisions for access to such parking.
3. Make a finding, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of a use permit for a pharmacy drive-through window, that the proposed use will be compatible with the surrounding land uses and will not be detrimental to the health, safety, morals, comfort, and general welfare of the persons working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
4. Approve the architectural control and use permit revision for a pharmacy drive-through window subject to the following conditions:
- a. Development of the project shall be substantially in conformance with the plans prepared by Craig & Grant Architects, received by the Planning Division on May 29, 2003, consisting of four plan sheets and approved by the Planning Commission on August 4, 2003, except as modified by the conditions contained herein.
  - b. Prior to building permit issuance, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
  - c. Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Transportation Division, and Engineering Division that are directly applicable to the new construction.
  - d. Prior to issuance of a demolition permit or building permit, the applicant shall submit a plan for construction safety fences around the periphery of the construction area for review and approval of the Building Division. The Building Official may waive this requirement on a case-by-case basis. The fences shall be installed according to the plan prior to commencing construction.
  - e. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. All utilities shall be placed underground. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
  - f. Prior to building permit issuance, the applicant shall submit details of the trash enclosure for review and approval of the Engineering Division and Planning Division. Trash enclosures and dumpster areas must be covered and protected from roof and surface drainage.

- g. Prior to demolition permit issuance, the applicant shall comply with the requirements of Chapter 12.48 (Salvaging and Recycling of Construction and Demolition Debris) of the City of Menlo Park Municipal Code.
- h. Prior to building permit issuance, the applicant shall submit plans for on-site recycling and garbage facilities for review and approval by the City Environmental Program Coordinator.
- i. Prior to building permit issuance, the applicant shall incorporate the following changes to the project plans as shown on the drawings distributed at the Planning Commission meeting: revised pedestrian entrance area adjacent to the front doors, relocated pathway and cart storage, and relocated parking spaces. The changes shall be subject to Planning staff review of the proposed relocated parking spaces.
- j. Prior to building permit issuance, the applicant shall submit revised plans to include entry door and windows configuration substantially the same as shown contained in the approved plans from the meeting of November 4, 2002. The revised plans shall be subject to Planning Staff review and approval.
- k. Prior to building permit issuance, the applicant shall submit a lighting plan, including a photometric study and light fixture specifications for review and approval by the Planning Division. New lighting shall project downward and shall be designed to minimize the potential for glare. The lighting shall be uniformly distributed and consistent with the rest of the shopping center. The lighting plan shall include lights at the rear of the store.
- l. Prior to building permit issuance, the applicant shall submit an arborist report that evaluates the health of any heritage trees with 30 feet of the porte-cochere and makes recommendations to protect the health of the trees that could be impacted by the demolition of the porte-cochere. The report shall be subject to Planning staff review and approval.

Motion carried, 6-0.

The Commission took a five minute recess.

- 5. Use Permit and Architectural Control/Eddy Shen of LRS Associates/718 Willow Road:** Request for a use permit and architectural control review to construct an approximately 517-square-foot addition to an existing commercial building in the C-4 General Commercial District.

This item had been continued to the meeting of August 18, 2003 prior to this meeting.

- 6. Use Permit/Red Ink/1275 El Camino Real:** Request for a use permit to allow an artist studio to occupy on a temporary basis a building that is nonconforming with regard to parking.

Commissioner Sinnott recused herself due to a conflict of interest as her husband had done some design work on the theatre and office space that had previously come before the

Commission. She said that they were no longer working on the project, but that she would prefer to recuse herself.

Staff Comment: Planner Cramer said that the property was developed with a movie theater, known as the Park Theater, which has been vacant since June 2002. She said that over the last two years, the property owner has considered various redevelopment proposals and had presented proposals at two Planning Commission study meetings. She said that the property owner has not yet submitted additional information or a development proposal for the site. She said that the current proposal was to occupy the building temporarily with a gallery and eight artist studios for one year. She said that the use of the theatre would be the lobby, the front of the stage, the area on the stage, and the projector room for the artist studios. The remainder of space would be used for the gallery. She noted that the applicant had indicated that there would be no changes to the spaces in the theater. She said to protect the theater internal space, staff was recommending conditions requiring the applicant to do a photographic record of the theater's walls, floor and ceiling and that staff review the specific uses of the space through the submittal of schematic floor plans for each artist studio and the temporary installation of displays, prior to occupancy. She said that staff recommended approval with the conditions as described.

Public Comment: Mr. Todd Diamond, applicant, said that he and his partner own an advertising agency in Palo Alto. He said that with the economic downturn, they had to shrink their operation. He said that they decided to convert the space into artist studios. He said that the conversion to artist space in Palo Alto has galvanized the community, members of which have expressed their appreciation in various ways for supporting the presence of art in the community. He said that they would like to duplicate that model at the Park Theater.

Commissioner Fergusson asked if there would be any effort to provide the space for local Menlo Park artists. Ms. Linda Hughes, the curator for Red Ink Studios, said that was the intent at each space they have developed. She said that they have also received calls from the community to host drawing classes. She said that they want to give back to the community.

Commissioner Soffer asked if they had been given a minimum lease. Ms. Hughes said that they had not and it was not necessarily wanted as they were willing to work with the property owner. Mr. Diamond said that they were requesting a one-year use permit. Commissioner Soffer suggested that they might consult with the Allied Arts group regarding other potential spaces. Commissioner Fergusson suggested that the applicant contact members of the Arts Commission as to what artists might need space.

Commissioner Bims asked what coverings would be used to protect the floors and walls. Ms. Hughes said that the Park Theater was a very delicate structure and that they planned to build mobile platforms to make the floor level to go over the seats so that the seats would not be marred. She said that they would use muslin and vinyl tarps and would protect the carpet so there would be no stains or damage. Chair Fry said that most theaters are dark and artists need light and asked how the light would be provided. Ms. Hughes said that they have painters and photographers in mind and would not allow what she called the "dirty" artists to occupy the space. She said that lighting would be clamp and tripod lights. Commissioner Soffer asked if the movie screen was still there and what they would do with that. Mr. Diamond said that the screen was there and would remain. Commissioner Pagee said that the theatre itself was the largest part of the building and if they would use it to show art films. Ms. Hughes said that Red Ink studios desired that aspect, but there were large concerns about insurance and liability.



Commissioner Pagee asked what plan they have for accidental fire protection. Ms. Hughes said that at the Park Theater lights would be turned off and unplugged when not being used and that they would have fire extinguishers supplied. Commissioner Pagee asked about the artists' supplies noting that some of these were highly flammable and what the Fire Department might require through their review. She said that perhaps particular materials might need to be stored in some specific way to minimize hazard.

Ms. Patience Young, Palo Alto, said that she felt strongly about both the need for artist space and the preservation of the Park Theater. She said that her concerns were with lighting and ventilation and did not see how the space might be utilized efficiently for artist studios. She said that her main concern with the building is that it has already suffered damage. She was afraid that a different use might erase the future use of the site as a theater.

Ms. Elizabeth Lasensky, Menlo Park, said that she agreed with the previous speaker. She said that she also was an artist and had concerns that artists would be able to maintain the integrity of the interior of this space what with the use of lighting and materials that create fumes. She said that the theater had brought business to the community. She requested that they get back onto track as to what the future would be for the theater.

Ms. Lee Duboc, City Council member, said that she was speaking as an individual. She said that she received an e-mail regarding the proposed temporary use. She said that she thought it was a serendipitous confluence and would bring vitality to the site and that until the economy improved, the future of the theater was pending. She said that this use would bring business and art to the community. She urged approval.

Mr. Gerald Brett, Palo Alto, and owner of a business in Menlo Park, said that he was Vice Chair of the Palo Alto Public Arts Commission. He said that Palo Alto had this valuable cultural resource and lost it. He said that Menlo Park was faced with a substantial fiscal deficit and that meant limited funds for the arts aspect. He said that this project represented a significant gain to get cutting edge artists to create art for the Menlo Park community. He urged the Commission to support the proposal.

Ms. Winter Dellenbach, Palo Alto, said that she was part of the group present who has worked to restore and preserve the Park Theater and return it to use. She said that she was conflicted having an arts background as to what was best. She said that she had to come down on the side of the building and the art deco movie theatre. She said that the City has demanded that either the owner replace or replicate the sign upon the building's return as a movie theater. She said that at any discretionary review of a use of the site, the sign would need to be replaced. She said that the building would be found to have historic significance. She did not know if the artist studios were an appropriate use of the site and was concerned with impacts on the interior features of the building. She said that she did not know how the preservation would be ensured. She suggested that the "desist and cease" order against the property owner might be strengthened to protect the integrity of the building.

Commission Action: M/S Fry/Soffer to close the public hearing.

Motion carried, 5-0, with Commissioner Sinnott recused.

Commission Comment: Chair Fry said that her understanding was that the Planning Commission only had purview over the request for the temporary use permit and not other

issues related to the site. She asked if this request triggered actions related to the sign. Planner Cramer said that the City Attorney had reviewed the proposal and that the scope of use was temporary in nature and that when the property owner returned with a permanent proposal for the building that would be the appropriate time for the Planning Commission to review the signage.

Commissioner Soffer asked about the status of having the sign repaired and replaced and litigation. Planner Cramer said that because there was no current application for a permanent development of the site that had been no enforcement regarding the sign. In response to a question by Commissioner Soffer, Planner Cramer said that the requirement for the photographic documentation would allow for a comparison between the current condition of the interior and the condition of it when Red Ink vacates. In response to Commissioner Soffer, Planner Cramer said that Red Ink would be accountable for any changes in the building. She said that Red Ink has proposed no modifications to the interior of the building.

Commissioner Bims said that the property owner, based on the public comments, was not observing the historical preservation of the site. He asked if Red Ink was responsible for the preservation of the interior and if the property owner was to come in and make changes how that would be handled. Planner Cramer said that the property owner would be liable for any changes he was to make and Red Ink would not assume the liability of the property owner's changes.

Commissioner Pagee said that penalization after the fact was less than satisfactory. She said that she did not see this use as a good fit as Red Ink could find a more suitable site. Commissioner Fergusson said that she was concerned with the potential fire hazard. She said that the opening of the theater for art displays was a wonderful public benefit. She said that she was willing to take the risk for a year, but that she would like a bond to ensure that the added planking, floor and wall coverings would be removed and the building restored to its moved-in condition. Commissioner Soffer said that what Red Ink was proposing was a good idea and that there was available space that would work. He said that his concern was that there was no one from the Arts Commission to express support and the property owner was also not present. He said that he feared that a temporary use might lead to a change in use. He said that he was conflicted as the problems were not the making of the applicant. He said that someone raised concerns about environmental impact from fumes and the quality of ventilation.

Commissioner Bims said that he had hoped the property owner would be there so that he could ask him questions. He said that the property owner's previous proposals indicated that he did not have an interest in preserving the theater. He said that he thought that Red Ink would take better care of the site than the property owner. He said regarding health and safety and the potential fire hazards of artist's materials, he would defer to the Fire Department's recommendations and requirements. He said that he was looking for a resolution to his inner conflict as the project was good and how to accomplish the two objectives of bring art to Menlo Park and resolve the issues with the property owner. Chair Fry asked why there could not be some bond on the property owner listed on this request to not make changes and preserve the facility as it is. Planner Murphy said that there currently was a "cease and desist" order against the property owner to not make any changes and that the concept of a bond had not arisen in staff's deliberations in preparing the staff report. He said that if the Commission felt strongly about that it could be considered but there would need to be review by the City Attorney. He said that if the bond were on the property owner that would be a burden which would effectively hurt the applicant.

Commissioner Soffer said that for previous proposals made by the property owner at Commission study sessions, there had been a recommendation that part of the proposal include a small theater. He said that they are hearing about preserving the theater and for some that was preserving the building and its features and for others that meant preserving the use. He said unfortunately neither of those attributes had been preserved for the community's use. He asked Red Ink who would pay for the utilities. Mr. Diamond said that Red Ink would assume all costs for utilities and insurance. He said a portion of the art sales would fund the rent and overhead. Commissioner Pagee asked if that included fire insurance and what would be the compensation. Mr. Diamond said that they had modeled the agreement on others they had done and that the owner's interests would be protected to the owner's specifications. Chair Fry said that it was unfortunate that the building and the use has been empty and that it was a treasure. She said that the future of the building and the theater was not before the Commission and they were limited to consideration of the request for a temporary use. She said that if she thought the denial of the proposal would facilitate the future of the theater that would be different. However, she thought that the proposal would make the site visible again and that the movement to preserve the building or use could work in parallel with this use. She said that she had concerns regarding safety and wanted an active review of a documented plan for the lighting, adequacy of ventilation and the disposal of materials by the Fire Department and any other appropriate agency. Commissioner Pagee said that another consideration was the type of artists and their media that would be in the building, noting the difference between ink and paper artists and welders as those materials might cause damages to the interior. Mr. Diamond said that it would not be an abridgement of their goal to limit the art media to paper. Chair Fry confirmed with the applicant that he was comfortable with a plan review of the fire safety. Commissioner Fergusson asked about a modest bond to ensure that if the building was vacated by Red Ink the City would have the money to remove the scaffolding and other modifications. Ms. Hughes said that when Red Ink leaves, they would remove such features as that was their responsibility.

Commissioner Pagee said that she would like to see the interested public groups be involved with the installations at the site. Ms. Dellenbach said that her group would be more than happy to assist. She said that her final concern was that there was not a security deposit and thought if something happened more than damage repair would be needed; restoration would be needed, which is costly. Chair Fry asked if Ms. Dellenbach if her group would want a pre-walk preview. She said that they would be amenable to that.

Commissioner Fergusson said regarding condition "d" that she would like people who are very familiar with the theater to be involved in the photographic documentation and of the free standing lighting. Commissioner Soffer said that he did not think the bond should be Red Ink's responsibility. He said that he has a series of photographs he had taken prior to the closing of the theatre if they were desired. He moved to approve per the staff's recommendation. Chair Fry said that she would second the motion but also wished to amend the motion to include that the applicant provide its plans for lighting, ventilation and waste management for the Fire Department and any other appropriate entity's review. Commissioner Pagee said that she would like to include a stipulation that the type of art displayed and the artists' media would not include oil-based paints and welding equipment. She requested that there be no modification to HVAC equipment regarding ventilation needs. The amendment was acceptable to both the makers of the motion and second. Commissioner Fergusson offered an amendment regarding equipment in condition "d" and to allow for a small group of interested individuals to participate in the installation preview. Planner Murphy said regarding the latter that should probably not be

a condition as that would raise a red flag for the property owner and should be some type of agreement with the applicant. Mr. Diamond said that they would like to see a diverse group involved and not any one particular interest group. He said that they were interested in a pre-installation review and post-installation review. Commissioner Fergusson said that she would like the photographic documentation to be complete and people experienced with the site would be valuable. She said that she wanted a diverse group and if that could be a condition. Planner Murphy said that if that was not amenable to the property owner, he might appeal the Commission's decision. Commissioner Fergusson asked for a formal commitment from Red Ink Studio to have a Planning Commission and Arts Commission representative and a public representative to be involved with the documentation effort. Mr. Diamond said that was acceptable with him.

Chair Fry asked staff to review the motion and amendments. Planner Murphy reviewed the verbal agreement with the applicant regarding the pre-installation photographic documentation and the involvement of a small diverse group in that documentation, the motion and amendments proposed. He questioned if a condition "h" would forbid specific media. After discussion, it was agreed that the plan review of materials by Fire Department would address those concerns and there would not be a separate condition "h."

Commission Action: M/S Soffer/Fry to approve as recommended in the staff report with the following modifications.

1. Make a finding that the project is categorically exempt under Class 1 of the current State CEQA Guidelines.
2. Make a finding, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will be compatible with the surrounding land uses and will not be detrimental to the health, safety, morals, comfort, and general welfare of the persons working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the temporary use permit request for one year subject to the following conditions:
  - a. Development of the project shall be substantially in conformance with the plans prepared by the applicant, consisting of one plan sheet dated received July 21, 2003 and approved by the Planning Commission on August 4, 2003, except as modified by the conditions contained herein.
  - b. The applicant shall comply with all West Bay Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
  - c. The applicant shall comply with all requirements of the Building Division, Transportation Division and Engineering Division that are directly applicable to the new construction.
  - d. Prior to occupancy, the applicant shall submit photographic documentation to the Planning Division for review and approval showing the existing conditions of all

interior wall, floor, ceiling surfaces, and equipment to ensure that the property is maintained and restored to the condition was upon occupancy, and to allow for a future historical assessment to be conducted without obstruction.

- e. Prior to the occupancy by artists and prior to the installation of display structures, the applicant shall submit floor plans of the individual artist studio areas and construction specifications, if needed, that illustrate the location of all temporary structures, furniture, and equipment for review and approval by the Planning and Building Divisions.
- f. Prior to the installation of any signs, the applicant shall apply for and obtain the appropriate sign permits from the Planning Division.
- g. Prior to occupancy, the applicant shall submit a plan to address material and equipment use, storage and disposal such as proposed artistic media, lighting, ventilation, and waste management. The plan shall be reviewed for health and safety concerns by the Fire District, Building Division and Planning Division.

Motion carried, 5-0, with Commissioner Sinnott recused.

Chair Fry asked whether the Commission wanted to extend the meeting past 11:30 p.m. and the Commissioners indicated that they did not want to extend the meeting past 11:30 p.m.

**7. Use Permit/Safe and Beautiful Trees and Landscape/119 Independence Drive:**

Request for a use permit to allow for the outside storage of vehicles and equipment in association with a professional tree care service.

Staff Comment: Planner Cramer said that the applicant, Safe and Beautiful Trees and Landscape, was requesting use permit approval for the outside storage of trucks, equipment and materials associated with the operation of a professional tree care service at 119 Independence Drive in the M-2 (General Industrial) zoning district. She said that the applicant had also written a letter about vehicle maintenance in response to staff's request for clarification of what services and the extent of services that they were proposing on-site. She said that there was letter from the applicant's Director of Plant Health Care confirming the Fire District's assistance and review of material storage on site. She said that the level of hazardous materials did not trigger review for a use permit.

Planner Cramer said that an adjacent neighbor to the rear of the project site had been present earlier in the meeting and had concerns with the location of the storage of pesticide, oil, and gas cans. She said that the neighbor, applicant and she had discussed those concerns and the applicant was willing to move that storage to mitigate the visual impact concerns of the neighbor. She said that a suitable location would be the open front of the open pole shed and that staff could work with the applicant and neighbor on resolving this. She said also that the neighbor suggested a landscaping screening, but the applicant said that the area was completely covered with asphalt. She said that the neighbor suggested that they create a landscaping plan together, which was amenable to the applicant.

Public Hearing: Mr. Pete Scifo, Vice President, Safe and Beautiful Trees and Landscape, said in response to a question from Commissioner Pagee that there were eye wash stations throughout the facility. Mr. Gerhard Rokecke, Safe and Beautiful Trees and Landscape, said

that the amount of pesticides stored was minimal and well secured. Commissioner Pagee asked about the response to accidental exposure to pesticides off-site. Mr. Brent Swan, Safe and Beautiful Trees and Landscape, said that they have eye wash stations on the site and on their trucks, and have full changing rooms on the site with showers and at work sites there was a supply of water for washing down.

Mr. Scifo said that their business in Mountain View has acquired many customers in the Menlo Park area and the location of this site fit their needs well. In response to a question from Commissioner Fergusson, Mr. Scifo gave a brief history of the business and its expansion and new amenities in plant care. He said that they now have 14 crews. Commissioner Soffer asked what the length of the lease was. Mr. Scifo said that the lease was five years with an option of a renewal for another five years.

Commissioner Bims asked if the gas containers stored onsite were double walled. Mr. Scifo said that the cans were double walled and were stored empty. He said that the cans are used on the trucks for chain saw fueling. He indicated that there would be no odor nuisance. Commissioner Fergusson said that the front of the building was run down. Mr. Swan said that they would be planting five trees and other landscaping to make it a park quality site. They would use organic programs to demonstrate how well those programs work.

Commission Action: M/S Soffer/Sinnott to close the public hearing.

The motion carried, 6-0.

Commissioner Pagee moved approval per the staff report and Commissioner Sinnott seconded. Chair Fry said that a request had been made for the applicant to have flexibility to move the storage area for the pesticides and other materials in consultation with the neighbor and suggested an amendment to the motion. The amendment was acceptable to the maker and seconder of the motion.

Commission Action: M/S Pagee/Sinnott to approve as recommended in the staff report with the following additional condition.

1. Make a finding that the project is categorically exempt under Class 1 of the current State CEQA Guidelines.
2. Make a finding, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permit, that the proposed use will be compatible with the surrounding land uses and will not be detrimental to the health, safety, morals, comfort and general welfare of the persons working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the use permit subject to the following conditions:
  - a. Development of the project shall be substantially in conformance with the plans dated received July 3, 2003, and approved by the Planning Commission on August 4, 2003, except as modified by the conditions contained herein.

- b. Prior to building permit issuance, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility company's regulations that are directly applicable to the project.
- c. Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the new construction.
- d. All new signage is subject to review and approval by the Planning Division prior to sign installation.
- e. The applicant shall have the flexibility to move the proposed location of the pesticide, oil, and gas cans from the left rear corner of the site to a less visible portion of the site in consultation with the property to the rear at 120 Constitution Drive.

Motion carried, 6-0.

- 8. Use Permit/S. Sebastian/1080 Lemon Street:** Request for a use permit to maintain hedges and construct a fence of six feet in height within the front setback of the property where the maximum allowed height is four feet and within the line-of-sight triangle at the corner of the property where the maximum allowed height is three feet.

This item was continued prior to this meeting to a future meeting.

- 9. Use Permit and Architectural Control Revisions/Aubrey Moore, Jr., Architect & Associates/15 El Camino Real:** Request for use permit and architectural control revisions to allow modifications to the exterior stairways and walkways of the existing motel.

This item was continued prior to this meeting to a future meeting.

## **D. REGULAR BUSINESS**

There were no Regular Business items.

## **E. COMMISSION BUSINESS**

Planner Murphy reported on the approval of the secondary dwelling unit ordinance and said that he would e-mail a description of the differences between what the Council adopted and what the Commission had reviewed.

Chair Fry noted that the fence appeal on Cambridge Avenue was denied by the Council and the Planning Commission's decision was upheld. Commissioner Soffer said that he was at the Council meeting and he was asked to address the Council.

The Commission and staff reviewed the status of projects and upcoming meeting schedules.

## **ADJOURNMENT**

The meeting adjourned at 11:15 p.m.

Staff Liaison: Justin Murphy, Principal Planner

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission on March 22, 2004.