



MENLO PARK PLANNING COMMISSION MINUTES

**Regular Meeting
November 3, 2003
7:00 p.m.**

**City Council Chambers
801 Laurel Street, Menlo Park, CA 94025**

CALL TO ORDER – 7:03 p.m.

ROLL CALL – Bims (arrived at 7:07), Fergusson, Halleck (Vice-chair), Pagee, Sinnott, Soffer present; Fry (Chair) absent

INTRODUCTION OF STAFF – Murphy, Smith, Thompson

A. PUBLIC COMMENTS

There were none.

B. CONSENT

There were no consent items to be considered.

C. PUBLIC HEARING

- 1. Use Permit/Shandy and Paul Dunn/1990 Oakdell Drive:** Request for a use permit to maintain hedges and plant new hedges with heights of up to nine feet in the required front setback where a maximum of four feet is otherwise required and in the required 35-foot sight visibility triangle where a maximum height of three feet is required, to construct a masonry wall and several fences that exceed the height limits within the front setback and in the 35-foot sight visibility triangle, and to construct fences of eight feet in height along the side property line and nine feet in height along the rear property line where the maximum allowed height is seven feet.

Staff Comment: Planner Smith said that the subject property was located at the corner of Oakdell Drive and Santa Cruz Avenue. He said that the Santa Cruz Avenue frontage was considered the front of the property for zoning purposes. He noted that fences and hedges existed along both street frontages of the property, as well as on the interior sides of the property. He said that the applicants were requesting several use permit approvals to maintain portions of existing nine-foot-tall hedges located within the 35-foot triangular area at the corner of the property, as well as within the 20-foot front setback; to plant a new six-foot, six-inch-tall hedge on the Oakdell Drive side of the property that would also exceed the three-foot height limit within the 35-foot corner triangular area, noting that portions of these hedges were also located in the City's right-of-way on both Santa Cruz Avenue and Oakdell Drive; and for new walls and fences on the property that would exceed the height limits established in the Zoning Ordinance. He said that this item was continued from the October 13, 2003 Planning Commission meeting because of an error made in the notification process. He said that one

public comment period was conducted then, but that it would be appropriate to conduct public comment again.

Public Comment: Mr. Paul Dunn and Mrs. Shandy Dunn introduced themselves as the applicants and property owners. Mr. Dunn said that there were some questions posed previously by Commissioner Fergusson regarding the public right-of-way. Mr. Dunn said that their request was for a six-foot fence and not a six-foot, six-inch fence along the Oakdell Avenue side. He said that this proposed six-foot fence would not be at that height for the entire length of the Oakdell Avenue side of the property.

Commissioner Fergusson asked if the fence along Santa Cruz Avenue would remain on the property line. Mr. Dunn said that they were not sure that their plans showed the actual surveyed boundary between the City's right-of-way and their property line. He said that they would erect the new fence on their property line. Commissioner Fergusson said that the Commission had recently done a series of fence and hedge reviews; she said that with those reviews and this particular project, she was concerned that the City was allowing hedges in the City's right-of-way. She said that her suggestion had been that the property owners move the fence back a foot or two so that the hedge would be on the property and not in the City's right-of-way.

Mr. Dunn said that their primary concern was an existing nine-foot fence on the Santa Cruz Avenue side. Mrs. Dunn said that there were no bushes and only trees on the Santa Cruz Avenue side. She said that if they were to replace the fence the trees would remain. Mr. Dunn said that there was a sidewalk, and then some distance back was the trees and then the fence. Vice Chair Halleck said that Commissioner Fergusson's intent was that the applicants have awareness that if there were plantings in the City's right-of-way that at some point those plantings might need to be removed. Commissioner Fergusson said that the City's liability was also increased by allowing high hedges in the City's right-of-way.

Planner Smith confirmed that Commissioner Fergusson was referring to the pine trees along Santa Cruz Avenue. Commissioner Fergusson said that the trees were within the 35-foot sight safety triangle. She said that the City was protected if there was an accident at that corner and this use permit review had required the applicants to keep the bushes trimmed to three-feet. She said that by allowing hedges much higher in the City's right-of-way than allowed by statute would open up the question of liability for the City. Planner Murphy asked Commissioner Fergusson to clarify whether she was referring to the hedges or the trees. He said that trees were trimmed up, not down, and if the City deemed those trees were a hazard, the City could trim those trees at any time. Vice Chair Halleck said that the City realized the responsibility and assumed the necessary risk with any vegetation in the public right-of-way. In response to a question from Commissioner Fergusson, Planner Murphy said similarly when hedges were in the City's right-of-way that the City might at any time trim that vegetation if it came to the City's attention that the vegetation was presenting a hazard. He said that part of the recommendation for the proposal was the requirement for the applicant to keep vegetation at certain heights. He said that if the applicant did not follow through on that requirement, the City would be able to take action.

Commissioner Fergusson asked what height the hedges would be allowed in the public right-of-way, outside the sight safety triangle, for the subject property on the Santa Cruz Avenue side. Planner Smith said that on the Santa Cruz Avenue side that there were no hedges outside of the safety sight triangle in the City's right-of-way. He said that there was a pine tree. He said that there was a hedge behind the existing fence and proposed fence that was on the

applicants' property and that was approximately nine-feet tall. Commissioner Pagee said that it was important to maintain the line of sight as drawn on the plans and that the existing trees within the line of sight in the triangle should be kept trimmed. She said she was supportive of the proposal as long as the applicants were committed to keeping the trees trimmed. She said that the drawing of the concrete fence in that area indicated that it was between three-foot, four inches and three-foot, eleven inches. She asked if the applicants were willing to keep that concrete was at three-feet since it was within the safety sight triangle. Mr. Dunn said that their concern was that they had learned that a car driving down Santa Cruz Avenue had ended up in their yard. He said that he and his wife have three young children so their question was whether a three-foot concrete wall would prevent a car from going into their yard. Commissioner Pagee confirmed that the concrete fence would not be more than four-feet in height.

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

Motion carried 6-0 with Chair Fry not in attendance.

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

1. Make a finding that the project is categorically exempt under Class 3 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 existing and new hedges, taller wooden fences, and new masonry wall 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 use, and will not be injurious or 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. The hedge shall be maintained in accordance with the plans and specifications prepared by the applicant, consisting of three plan sheets dated received October 2, 2003, and approved by the Planning Commission on November 3, 2003, except as modified by the conditions contained herein.
 - b. The hedge shall be maintained in accordance with the sight safety triangle established by the Transportation Division, which has dimensions of approximately 12 feet along the face of curb on the Oakdell Drive frontage of the property, 121 feet along the face of curb on the Santa Cruz Avenue frontage of the property, and a hypotenuse running diagonally to connect the first two lines. All hedges within this sight safety triangle shall be trimmed to a height of no more than three feet within 30 days of the Planning Commission approval of this item, and shall be maintained at this height in perpetuity.
 - c. The City reserves the right to remove the vegetation within the City's right-of-way at any time. It is the property owner's responsibility to trim and maintain the hedges located within the City's right-of-way.

- d. Within 30 days of the Planning Commission approval of this use permit, the applicant shall submit a complete application for any encroachment permits necessary for any new hedges located within the City's right-of-way. The encroachment permit application shall be reviewed by the Engineering Division.
- e. Within 30 days of the Planning Commission approval of this use permit, the applicant shall trim the oleander located at the corner of Oakdell Drive and Santa Cruz Avenue so that the vegetation curves at the corner as opposed to creating a square corner.
- f. Prior to construction of any wooden fences exceeding seven feet in height or any masonry walls, the applicants shall apply for and obtain any necessary building permits.
- g. The height of the new eight-foot-tall fence along the Santa Cruz Avenue property line shall be measured from the height of the adjacent sidewalk.

Motion carried 6-0 with Chair Fry not in attendance.

- 2. Variance/Ram and Kristin Duriseti/354 McKendry Place:** Request for a variance to allow for a six foot left side setback where a minimum setback of 12 feet is required in association with a single-story addition to an existing single-family residence in the R-1-U zoning district.

Commissioner Pagee recused herself as she owned property within 500-feet of the subject property.

Staff Comment: Planner Thompson said that the applicants were proposing an addition to an existing, single-story, single-family residence in the R-1-U zoning district and were requesting a variance to allow a six-foot encroachment into the required 12-foot side setback. She said that since the staff report went to print that a letter was received from an anonymous neighbor on McKendry Drive, who stated concerns with safety, aesthetic and trees. She said that staff also received correspondence from Dan and Melody Pagee, property owners on McKendry Drive that expressed support for approval of the variance. She said that letter recommended the planting of a hedge along the side of the addition parallel to McKendry Drive to mitigate visual impacts.

Questions of Staff: Vice Chair Halleck asked if the recommendation for the hedge was in staff's recommendation. Planner Thompson indicated that it was not.

Public Comment: Ms. Kristin Duriseti, applicant, said that she and her husband were requesting a variance to encroach into the side setback. She noted regarding the issue of safety that was raised that she and her children commuted by bicycle often as the family has only one car. She said that their home was on a cul-de-sac and that it was more dangerous to travel around the opposite corner. She said that there was 12 feet plus five feet for the sidewalk to be able to look around the corner. She said that aesthetics was a consideration of theirs as well. She said that they had previously done a remodel and had received a great response to it. She said that they were very respectful of the scale and aesthetics of the neighborhood. She said regarding

trees that they were planning a pier foundation to mitigate any danger to the health of the trees, noting that there were a number of heritage trees all over their property.

Ms. Duriseti said that twelve of the fifteen houses within the sight line of their house had responded positively and supported the proposed project. She said that two of the homes were rental properties, and while they had contacted the property owners there had not been a response. She said that they spoke to the tenants of those properties and they were supportive of their project. She said that that they had not been able to speak with only one of the fifteen property owners. She said that in addition to those fifteen houses, they have neighborhood support for the project.. She said that the letter just received by the Commission was the first negative response that they had heard. She said that they were willing to plant a hedge, but that they thought the hedge might be more of a safety issue than the addition to the house.

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

Motion carried 5-0, with Commissioner Pagee recused and Chair Fry not in attendance.

Commission Comment: Commissioner Fergusson asked staff to review the requirements for setbacks on a corner lot. Planner Thompson said that the exterior side or corner side setback was 12 feet and the side setback was on McKendry Drive. She said that the front setback was 20 feet and was on McKendry Place. She noted that the encroachment proposed would be six feet into the required 12-foot setback. Commissioner Fergusson noted the rather odd configuration of the lot and asked if there was anything with that configuration that limited or penalized the applicants in terms of setback. Planner Thompson said that the applicants had received a variance for the front setback because of the shape of the lot.

Commissioner Sinnott confirmed with staff that the applicants had previously been granted a variance for a remodel. Planner Thompson said that remodel was in 1998. Commissioner Fergusson noted that the front of the lot was "wave-shaped" and at the corner there was a much larger setback than in the court and asked what was the distance from the property line to the front of the house. Planner Murphy estimated that the left corner of the house viewed from McKendry Place, based on the 20-foot setback, was about 22 to 24 feet from the property line.

Commissioner Soffer asked whether other properties on the cul-de-sac had been granted variances. Planner Murphy said that he believed that one was granted for the property located at 350 McKendry Place and one for the property adjacent to 350 McKendry Place. He said that the property two properties removed from 350 McKendry Place went through a use permit process, but did not receive a variance. Commissioner Soffer asked staff the criteria for granting variances. Planner Murphy said that variances require a hardship based on the physical constraints of a lot. He said that variances were reviewed case by case, one at a time. He said the variance findings were listed under 2.a in the staff report. He said that the first finding considered the physical constraints of the lot; the second finding was regarding the enjoyment of substantial property rights; the third finding was regarding the impact of a variance on surrounding properties; and the fourth finding was regarding the fact that the property owner would not be receiving a special privilege.

Commissioner Sinnott said that she was concerned with setting a precedent for corner lots as the subject property was not much different from other small lots situated on corners. She asked if there was a precedent already for granting a variance for corner setbacks. Planner Murphy said that any previous variance granted did not set a precedent for future variances; he

said that variances were considered on a case-by-case review. He said that variances granted for corner lots included 204 Princeton Avenue, which had four variances but none of which as he recalled were for the 12-foot side setback. He said that 1003 Greenwood Drive, a corner lot, received a variance for encroachment into the daylight plane on a corner lot.

Commissioner Sinnott said that she viewed the property and thought that the addition would have an impact on the look of that corner. She said that the applicants could add to the other side of the house or they could add a second story. She said that the lot was not greatly different from other corner lots. She said that the encroachment was large and she would have a hard time supporting the request.

Commissioner Soffer said that the lot was not that unusual in its configuration. He said that he did not think the project met the findings of 2.d. Vice Chair Halleck said that the side setback was more of the constraint to the property than the front setback. He said that the applicants could add a second story, but he thought the look of the neighborhood was better met by staff's recommendation.

Commissioner Fergusson asked if the applicants had considered the rear of the property for an addition. Ms. Duriseti said that at the rear there was the issue of the garage and having access to it. Commissioner Fergusson said that there seemed to be six feet from the back of the house to the driveway. Ms. Duriseti said that it was about four and a half feet. She said that the other locations would not help the situation of a very small room. She said that they felt a second story would be out of proportion to the size of the lot. She noted the intrusiveness of second story residences in that neighborhood.

Commissioner Fergusson said that the variance was for the side of the house but at the rear of the side setback. She said that she believed the sight lines would be maintained down McKendry Drive when exiting the cul-de-sac and turning right. She said that the trade-off for the neighborhood was a modest quaint home for which the variance provided for the owner to extend the life of that home. She said that she would support the request.

Commissioner Bims said that he was going back and forth on the issue. He said property owners had an alternative to build a second story without a variance request, but he thought that a two-story structure would be more intrusive to the neighborhood than what was triggering the variance. He said that while he supported maintenance of setbacks for ingress and egress in this case he did not see any impact posed for any emergency services. He noted also the strong neighborhood support for the proposal.

Commissioner Soffer said that currently the master bedroom had no walls or windows on McKendry Drive, but with the addition there would be two windows and a wall facing McKendry Drive. He said that he would expect in the future there would be a request to build a fence to provide privacy for those windows and asked what type of fence might be requested. Vice Chair Halleck said that the Commission had approved fences and hedges in side setbacks on Laurel Avenue and he said that a fence request would be supportable if it did not impact the neighborhood or change the face of the street. He said that he did not see that being a problem in the neighborhood of the subject property. He said that he did not prefer to see fences such as those on Laurel Street, but he thought the encroachment was a better alternative than a second floor.

Commissioner Sinnott said that she expected that a second story would be added eventually and asked what contingency there was so that the second story would not protrude into the setback. She confirmed with staff that were a second story to be added that the second floor would not be allowed to encroach into the side setback or it would require another variance. She said that there should be a deed restriction regarding the addition of a second floor. She said that most of the two-story homes in that neighborhood were well done and she said that in the future should there be an application for a second story addition to the subject property she wanted to have assurance that the second floor side setback came in.

Commissioner Fergusson asked about the regulations for fences on corner lots. Planner Thompson said that the fence along McKendry Drive could be seven feet in height except within the sight triangle. Commissioner Fergusson said that if the applicant was allowed to encroach into the side setback rather than the alternative of building a second story that a deed restriction to limit the home to one story was a reasonable condition.

Planner Thompson said that condition "g" added the requirement for a deed restriction to be recorded in reference to an addition to the right side and the intention was to restrict a second story as well. Commissioner Fergusson asked how the condition would be worded. Planner Murphy said that in the second line of condition "g" that the phrase "second-story or" be inserted between "addition" and "to the right side." Planner Murphy said that the deed restriction would not remove the variance for future additions but would require Planning Commission review for future additions and would have the same notification process as for a use permit.

Commission Action: M/S Fergusson/Bims to approve as recommended in the staff report with the following change.

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 16.82.340 of the Zoning Ordinance pertaining to the granting of variances:
 - a. The configuration of the parcel and the location of the existing residence on the subject property create a constraint to building an addition on this property without the approval of the requested variance.
 - b. The proposed variance is necessary for the preservation and enjoyment of substantial property rights possessed by other conforming property in the same vicinity, and the variances would not constitute a special privilege of the recipient not enjoyed by neighbors.
 - c. Except for the requested variances, the addition will conform to all other requirements of the Zoning Ordinance. Granting of the variance will not be materially detrimental to the public health, safety, or welfare, and will not impair an adequate supply of light and air to adjacent property since the addition would remain one story in height.
 - d. The conditions upon which the requested variances are based would not be applicable, generally, to other property within the same zoning classification since the variances are based on characteristics unique to this property.

3. Approve the variances subject to the following conditions:
- a. Development of the project shall be substantially in conformance with the plans prepared by Ram and Kristin Duristeti, consisting of five plan sheets dated received by Planning on September 9, 2003 and approved by the Planning Commission on November 3, 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. 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.
 - e. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance. Prior to building permit issuance, the applicant shall implement the tree protection plan and recommendations in the Arborist Report for all applicable heritage trees for review and approval by the Building Division.
 - f. Prior to building permit issuance, the applicant shall revise the project plans to comply with the recommendations in the arborist report prepared by Henry Ardalan, including using a pier and grade beam foundation for the addition where located in the root zone.
 - g. Prior to final building inspection, the applicant shall record a deed restriction with the San Mateo County Recorder's Office stating that an addition of a second story or to the right side of the residence shall be reviewed and approved by the Planning Commission in accordance with the procedures and requirements for a use permit in Chapter 16.82 of the Zoning Ordinance.

Motion carried 3-1-1, with Commissioner Sinnott dissenting, Commissioner Soffer abstaining, Commissioner Pagee recused, and Chair Fry not in attendance.

- 3. Use Permit/ James Crist/ 785 Cotton Avenue:** Request for a use permit to demolish an existing single-story residence and construct a new two-story residence on a lot that is substandard in regard to lot width.

Staff Comment: Planner Thompson said that the applicant was proposing to demolish an existing single-story, single-family residence and an accessory structure and construct a new two-story single-family residence. She said that the subject lot was substandard in regard to lot width, with a lot width of 70 feet where a minimum of 80 feet is required. She said that new development on a substandard lot required use permit approval by the Planning Commission. She said that the FAL in the staff report did not include the garage and the garage would be 439 square feet which made the total FAL 3,692 square feet, which was still below the FAL requirement. She said that the building coverage was 2, 310 square feet which was 22 percent lot coverage.

Public Comment: Mr. Steve Simpson, the architect for the project, said that in the design they tried to put the second floor mass as close to the center of the property and as narrow as they could to mitigate the mass and scale of the proposed residence. He said that although the roof was pitched more than others in the neighborhood, the narrowness of the house did not make the roof very tall. He said that also in a few places they lowered the plate line to help the height as well. He said that their intention was to bury the second story in the roof as much as possible so that there would not be a lot of visible second story wall. He said that during the process they received concerns from a couple of neighbors about privacy. He said that the owners of 765 Cotton Street requested that a window on the second floor which would face the neighbors' property be removed. He said that they removed that window and added two smaller windows, one each at the front and rear, both of which were pretty well hidden in the roof nest. He said that the neighbor to the rear at 780 Hobart Street had some privacy concerns as well. He said that they discussed landscaping and screening and he believed that the property owner was amenable to what they discussed. He said that they told the neighbor that they would plant whatever the neighbor wanted, but at this time the neighbor had not had the time to review the proposed landscaping plan. Mr. Simpson said that neighbor was relieved that the cottage in the back would be removed. He said that the house has a basement. He said that they tried to keep the light wells within the setbacks and enclose them within courtyards in the building envelope. He said that the material palette was fairly earth-toned and the roof would be cedar shingles, and there would be a deep taupe body color with dark brown trim.

Commissioner Fergusson, noting the right side elevation and that there was no correspondence from neighbors at 801 Cotton Street, asked if the applicants had contacted those neighbors. Mr. Simpson said that they had reviewed the plans with that neighbor, who did not have any issues with the proposal. Commissioner Fergusson said that all of the windows were on the right side elevation. Mr. Simpson said regarding the windows on the second floor on that side that one was located in a stairwell and was quite high and situated such that persons within the house could not look out of it. He said that the other windows were smaller ones in the bathroom. He said that the window all the way to the right hand side was set back considerably about 25-feet from the side property line.

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

Motion carried 6-0, with Chair Fry not in attendance.

Commission Comment: Commissioner Sinnott said that she would move to approve as recommended in the staff report and that she was pleased to see that there was a lot of communication with the neighbors before it came to the Commission for review. Commissioner Fergusson said that she would second the motion.

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

1. Make a finding that the project is categorically exempt under Class 3 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 use 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 use, and will not be injurious or 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 prepared by SDG Architects, consisting of nine plan sheets dated September 2, 2003, and approved by the Planning Commission on October 27, 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. Prior to building permit issuance, the applicants 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.
 - e. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance. Prior to building permit issuance, the applicant implement the tree protection plan as identified in the Arborist Report for review and approval by the Building Division.

Motion carried 6-0, with Chair Fry not in attendance.

4. **Conditional Development Permit Revision and Architectural Control Revision/Vika Wills/310 Market Place:** Request for a conditional development permit revision and architectural control revision for a second floor addition to an existing multi-family structure to accommodate a new private school use.

This item was continued to the meeting of December 1, 2003 prior to the meeting.

5. **Use Permit and Architectural Control/RHL Design Group, Inc./500 Willow Road:** Request for a use permit and architectural control to demolish structures associated with an existing gas station and carwash facility and construct new structures associated with a gas station and a 1,355 square-foot convenience store.

Staff Comment: Planner Smith said that the applicant was proposing to redevelop the existing Willow Road Gas service station located at 500 Willow Road. He said that the proposal would include the demolition of the existing structures on the site, including the underground storage tanks, canopy, pump islands, and vacant hand carwash facility, the reconstruction of the canopy and pump islands, and the addition of an approximately 1,337-square-foot convenience store. He said that the applicant was proposing to have the pump islands operate 24-hours a day, but the convenience store would operate from 5:00 a.m. to 11:00 p.m. and would not sell alcohol of any type. He said that the proposal required Planning Commission review and approval of a use permit and architectural control. He said that today 13 letters of support for the application were received similar to the 67 letters of support received as noted in the staff report. He said that there was one letter of opposition received today from Virginia Proctor, a property owner across the street from the proposal site. He said that Ms. Proctor's concerns with the project was that it would expand the commercialization of property that she believed was substantially in a residential area; the project would lower property values; and that there would be traffic impacts from delivery trucks and the noise from vendors delivering products to the convenience store. He noted that a materials board had been circulated to the Commission.

Questions of Staff: Commissioner Fergusson asked staff to clarify the new property line as mentioned in the staff report. Planner Smith said that the property line as shown on the plans was basically the edge of sidewalk, which was about four feet forward of where the property line should be. He said that using the landscape island between the sidewalk and canopy as the reference point that the rear of the curb of the landscaping island would be the front property line. He said that the canopy would extend over the property line and would need to be pulled back, which was one of the conditions of approval. Commissioner Fergusson said that the monument sign they reviewed at a study session and as shown in a photograph appeared to be within the property but was actually within a public utilities easement. Commissioner Fergusson asked why staff was not recommending an encroachment, but rather recommending that the monument sign would need to be taller and thinner. Planner Smith said that staff had spoken with the Engineering Division staff. He said that the Engineering Division was not willing to approve an encroachment permit for a structure built in the public utilities easement. He said that the Engineering Division was willing to allow the canopy as an overhang with the understanding that if the City or public utilities that use that easement had to access that easement at any point of time and that required the demolition or removal of that portion of the canopy, the demolition or removal would be done at the property owner's expense. Commissioner Fergusson said that she thought it was a benefit to have a pedestrian scale sign and it would be better aesthetically for the neighborhood; she questioned Engineering's requirement to have the sign moved back and made taller. She said that there were many encroachment permits given for public utility easements and wondered why that was not

acceptable in this situation. Planner Smith said that it was Planning staff and not Engineering staff that suggested making the monument sign vertical. He said that was in response to the Engineering Division's refusal to grant an encroachment permit for the structure. He said that the Engineering Division has granted encroachment permits and does regularly for such things as driveway aprons and curb cuts and have allowed for hedges as well. He said that what they traditionally do not allow were types of permanent structures like fences, walls, and in this instance, a monument sign.

Commissioner Fergusson asked what the current routine was for garbage pickup by City staff at Willow Oaks Park. Planner Murphy said that staff had met with City Community Development and Engineering Division staff about the proposal but had not thought to ask that specific question. He said that they did talk about the need for additional trash receptacles on the property which was supported.

Commissioner Soffer asked whether staff had required the Noise Impact and Traffic Studies that were included in the packet and if they had been involved in the process. Planner Smith said that the studies were not required by staff. He said that the applicant after the March study session and having heard concerns about noise volunteered to have a Noise Study performed. He said that similarly prior to the March study session in discussions with staff, staff suggested the idea of doing a Traffic Study and the applicant had that performed as well.

Public Comment: Mr. Ronald Mallia, property owner, said that he bought the subject property in 2001. He said that at that time the service station was in bankruptcy. He said that he had the property cleaned up immediately, some landscaping installed, and the building painted and he lowered the gas prices. He said that the gas volume went from 90,000 gallons to over 250,000 gallons a month. He said that because he operated as an independent contractor he could negotiate gas prices with the top gas suppliers and pass those savings on to the community of Menlo Park. He said that his gas station affects every gas station and every person who buys gas in Menlo Park. He said that the other 11 gas stations in Menlo Park have to keep their prices lower to compete with him. He said that it was important to keep the gas station in Menlo Park as it was only one of two independent stations. He said that without the lower gas prices he provided and with which the other stations competed that people would go outside of Menlo Park for their gas purchases.

Mr. Mallia said that the service station was over 40 years old and the fuel system was aging and deteriorating. He said that state environmental legislation required that he upgrade the fuel facility before the end of this year. He said that it would cost about one million dollars to replace the fuel system. He said that since he did not have the financial backing of a major oil company he would have to seek financing. He said that he had analyzed the business carefully and determined that the business would no longer be economically viable. He said that he looked at what the other gas stations in Menlo Park were providing and that they offer more than gasoline. He said they provide car repair shops, mechanical carwashes or convenience stores, or a combination of all of those. He said that after careful consideration he believed that a convenience store would be the best choice to add. He said that a car repair facility would be too dirty and too loud and it would be an eyesore. He said that a mechanical carwash would be too loud and would not meet the financial needs of the project. He said that a convenience store would meet the financial needs of the project and would add greater convenience.

Mr. Mallia said that he and his wife had taken their children many times over the past year to the park across from the service station. He said that there were many activities at the park,

including soccer, baseball, basketball, football, and a playground. He said that the park users would benefit from a convenience store. He noted that there were no restrooms in the park. He said that his convenience store would provide much needed, well-maintained restrooms for the people using the park.

Mr. Mallia said that the Planning Commission had held a study session on the project in March. He said that some of the neighbors had voiced concerns. He said that he had taken a proactive response to those concerns and he had made substantial changes to the plans to accommodate those concerns. He said that the first concern was that the convenience store would increase traffic. He said that he had an independent engineer conduct a traffic study report and that report concluded that traffic would actually be reduced by as much as thirty percent was compared to the traffic related to the hand carwash that was previously located on the site. He said that the second concern was about congestion on the lot from use of the convenience store. He said that the major reason there was now congestion on the lot was because of the antiquated fuel dispensing system, which was designed in 1962. He said that this pumping system did not fulfill the needs of today's gas market. He said that its design and location on the lot allowed for only six vehicles to be pumping gas at one time. He said that patrons had to wait in line to pay for the gas which sometimes took 10 to 15 minutes. He said that his proposal called for state of the art fuel dispensers. He said that it would pump all four grades of gas including diesel on one side of the pump and that the customer would be able to pay at the pump. He said that 12 cars could be accommodated with the new design. He said that he was adding another feature so that the pumps took debit and credit cards and cash. He said that the third concern was that there would be loitering because of the convenience store. He said that from the beginning he had said that there would be no sale of alcohol of any kind. He said that the reasons he would not sell alcohol was because of the element that might attract and the potential for crime. He said that alcohol greatly contributed to loitering. He said that he believed that pay phones contributed to loitering as well so there would be no pay phones on the lot. He said that before loitering could even get a start, he had advised his managers and employees that if they saw anyone walking around or standing or sitting in a car without a purpose to ask those individuals to leave. He said that the fourth concern was with noise from the convenience store. He said that he had a Noise Impact Study done and it concluded that the majority of the noise from the lot was not from the lot itself but from the high volume of traffic on Willow Road. He noted that the noise of vacuums and high water pressure hose from the previous hand carwash all day long were greater than noise that would be associated with a convenience store. He said that there was another concern about cars pulling up to the gas islands and cranking up the radios. He said that he had been there two years and had never heard a complaint about noise. He said however that he had posted signs at the gas islands asking patrons to turn down their radios while at the station. He said that if the patron did not turn down the radio that he had asked his manager and employees to politely ask the patron to turn down the radio and if the patron would not, then they would refuse that patron service.

Mr. Mallia said that there was concern about lighting from a 24-hour operation. He said that the gas station had been a 24-hour operation for 44 of the 49 years it had been in operation. He said that in 1997, the previous owner had decreased hours of operation. He said that recently he reverted back to the 24-hours of operation and had not received one complaint from either the police or the neighbors. He said that he had a photometric study performed on the current antiquated lighting and that it did not pose a significant issue with the neighboring properties for glare. He said that he would replace the lighting with state of the art lighting, Scottsdale Flat Lenses, which was specifically designed to prevent glare and other issues regarding lighting.

Mr. Mallia questioned how improving a deteriorating gas station that was environmentally suspect would reduce property values. He said that he had brought a professional appraiser to address that issue. He noted that the design was specifically made for 500 Willow Road to be complementary and to blend with the existing styles in the area. He added that the business would bring in \$7 million taxable dollars annually, which would benefit Menlo Park.

Mr. David Crouch, representing the property owner, said that there were 11 gas stations, two of which were independents, in Menlo Park. He said that 10 of the 11 gas stations have another source of income besides gas. He said that eight out of the 11 gas stations have two other sources of income besides gas. He said that the 500 Willow Road gas station was the only gas station that did not have another source of income besides gas. He said that Mr. Mallia claimed that he sold the cheapest gas in Menlo Park, but Mr. Crouch did a little study to see for himself if that was true. He said that for regular unleaded gas the two independent stations offered the lowest prices. He said that the cheapest price excluding 500 Willow Road was \$1.84 a gallon. He said that the price at Willow Road was 17 cents cheaper. He said that would save a driver about \$150 a year. He said that only the two independent dealers sold diesel fuel. He noted that all of the gas stations were located on main roads. He said that some of the letters said the area on Willow Road was a growing residential area. He said that unfortunately Willow Road was a main artery going in and out of Menlo Park and that there were many businesses along it. Mr. Crouch showed a slide that mapped out convenience stores near 500 Willow Road. He said that there was a snack shop at the Chevron station that was 0.8 miles away and Mi Rancho, a grocery store, was 0.4 miles away. He did not think either was a convenience store.

Mr. Crouch restated that the business would provide restroom facilities for park patrons, convenience foods and products for nearby residents, the most inexpensive gas in town, and tax contribution to the City. He said that the objection was not about the gas station, but for the convenience store. He said that the economics required that both were needed for Mr. Mallia to have a successful business after the upgrades. He said that in addition to the 67 letters of support received by staff today, there had been 644 other letters of support received previously as well as a petition of support with 1,243 names.

Commissioner Bims asked how the numbers for the estimated revenues with the convenience store which indicated \$7 million dollars revenue annually was calculated. He said that he could not see from the breakdown how that was possible. Mr. Mallia said that they currently pump 250,000 to 260,000 gallons of gas per month which would be about \$500,000 in gross revenue sales multiplied by 12 months which was \$6,000,000 plus the added revenue from the proposed convenience store.

Ms. Emanuela Vincignerra, Menlo Park, said that she lived directly opposite of the proposed project. She said that she had lived there since 1988 and loved the neighborhood. She said that the building of an upscale gas station would impact the neighborhood greatly with traffic and noise. She said she was concerned with traffic also because of the children who walk to the park. She said that she opposed the project.

Mr. Andrew Miner, Menlo Park, said that he had submitted a letter as well as another letter with a stack of petitions that were collected in March. He said that he was opposed to the project, because he was against intensifying the use of an already congested use. He said that people travel from all over to buy gas at this station because of the prices. He said that the residents in the area were impacted as it was dangerous even to walk by the business because of the traffic congestion. He said that the plans to widen Willow Road had been abandoned and it was kept

as a single lane road and there was more residential development. He said that there was a nearby high school in its second or third year and the owner had provided a walk through this property to that location. He said that the students would use the convenience store often. He said that his concern was with the number of cars that enter into the business and the presence of children there. He said he was concerned that there would be an increase in litter because of the convenience store. He said that many of the supporting signatures were from people outside the area. He said that people in the area do not need a convenience store. He said that the owners had commented that if they were not allowed the convenience store that the business would close. He said that was a business, not a planning, decision and should not be at the expense of the residents. Mr. Miner said that he had questions about the ordinance which said that businesses located within a certain number of feet of a residential area could not operate 24-hours a day but the business could operate 24-hours if no one complained. He asked how the design was improving the circulation. He said that the traffic report compared this use to the gas station/carwash use, but the carwash use was not there any longer. He asked if there would be a reduction in traffic going from an existing use to that use with a convenience store.

Mr. Eric Johnson, Menlo Park, said that initially he had been skeptical with the proposed project moving forward based on misinformation he had heard regarding the 24-hours operation and the sale of alcohol. He said that a group of residents in the Willows met with Mr. Mallia. He said that afterwards he felt that he could support the proposal in that the convenience store would not operate 24-hours and that replacement of the underground facilities was beneficial environmentally. He said that he had one personal concern regarding the cut through traffic surrounding the proposed project. He said that the convenience store would be open until 11:00 p.m., which was generally two hours later than other businesses along Willow Road. He said that might increase traffic through the Willows for people who wanted to get to that convenience store. He said that he definitely supported the proposal, but he asked that the Planning Commission work with the Engineering Division on establishing a baseline on cut through traffic. He said that Mr. Mallia had indicated that if there was an increase in cut through traffic during the two-hour window he would be flexible to adjust his hours of operation accordingly to reduce that impact.

Mr. David Speer, Menlo Park, said that as a businessman he wished there were more business people like Mr. Mallia in Menlo Park. Mr. Speer said that Mr. Mallia cared enough to meet with people to talk about issues and he listened. Mr. Speer said that Mr. Mallia was also open to compromise and proactive. He noted that Mr. Mallia had done a traffic study and noise impact study without being required to. He said that Mr. Mallia wanted to do the right thing environmentally and was replacing the pumping system even though it was not required. Mr. Speer said that the congestion at the station was from residents wanting to buy gas there and there only being one cashier. He said that the new design would alleviate that congestion. He said that removing the payphones was good. Mr. Speer said that Mr. Mallia was concerned with the lighting. He said that he supported Mr. Mallia's project and would like Mr. Mallia to get more involved with Menlo Park's business community.

Mr. Omar Kinaan, Menlo Park, said that the proposed project was beneficial to Menlo Park and surrounding neighborhood and community. He said that the project would replace old steel pumps and tanks which would hopefully safeguard the groundwater. He said that his property was within the O'Connor Water District that has at least two wells about a half-mile from this gas station. He said that the new pumps and payment equipment and the convenience store would help the City with sales tax revenue. He said that the proposed design would improve

aesthetics where the City was targeting improving aesthetics. He said that if the project moved forward that he hoped other business owners in the area would be motivated to improve the aesthetics of their properties. He said that he thought the new gas pumps would potentially improve the flow on Willow Road. He said that the business encouraged traffic on the arterial roads rather than on the neighborhood streets. He said that in addition to the tangible benefits of the project that there were intangible benefits as well. He said that he and a group of neighbors had met with Mr. Mallia and that he believed that Mr. Mallia met with other neighbors and some of the business owners in that area as well. Mr. Kinaan said that Mr. Mallia was open to meeting with them, listening to them, and willing to compromise on issues such as no sale of alcohol and limiting the convenience store hours from 5:00 a.m. to 11:00 p.m. as well as in the future to limit the hours to 9:00 p.m. if its operations caused traffic problems after 9:00 p.m. in the Willows area.

Mr. Steve Taffee, Menlo Park, said that he was opposed to the convenience store part of the project. He said that as a walker, the area was already congested and that the addition of the convenience store would increase the congestion. He said that traffic on Willow Road gets backed up as cars tried to navigate to get into the gas station which left cars stuck in the intersection when the traffic light changed. He said that the improvements would bring more cars in to buy gas. He said that he was also concerned about children's safety as the business was near a park and a school. He said that children were not as aware of traffic as adults. He said that Mr. Miner had covered his other concerns.

Commissioner Soffer asked if modifying the hours of the convenience store would ameliorate the problems. Mr. Taffe said that modifying the hours was not the problem. He said that the convenience store would be an attractive nuisance and unless the children in the area were supervised that he would be concerned with their safety.

Commissioner Soffer said that across the street from this site there was Willow Road Café and a small office building that had been empty for 20 years. He asked if staff had received any proposals for that site. Mr. Murphy said that the café and the empty office building were all one property and that it was zoned R-3 so both buildings were non-conforming. He said that the café could continue to operate but the vacant building could not be used unless there were re-zoning.

Mr. Chris Hummel, Menlo Park, said that he agreed with most of the comments made by those opposing the project. He said that it was not a matter of all of the positives that Mr. Mallia was trying to implement but that it was the matter of increasing traffic both pedestrian and vehicular. He said that anything that added to the volume of the business such as the convenience store would only add to the traffic. He said that the payphones would be removed but restrooms would be added. He said that although the new pumps would allow for more efficient circulation, the added volume of more customers for gas and the convenience store would create circulation problems. He said that he worked from home and that he knew that there was a considerable number of large vehicles that bought gas at that station and the question was how to control the number of vehicles going into the business.

Mr. Steve Jaquess, Menlo Park, said that he opposed the proposal. He agreed with Mr. Mallia that the tanks needed to be replaced but beyond that felt that the convenience store would be more of an inconvenience for the neighborhood, homeowners, residents and for everyone who traveled through that area and intersection. He said that Willow Road was a main thoroughfare for people coming from Hwy. 101 to El Camino Real or Middlefield Road. He asked the

Commission to deny the proposal as it did not add value to the community. He said that the community did not need any more convenience stores as there was a grocery store, deli, cafes, and a breakfast facility in the area. He said that the convenience store would be just yards away from a hospital. He said that there were two nursery schools within 200 to 300 feet of the business, one elementary school nearby and another up the street on Coleman Avenue. He requested that the neighborhood be preserved. He said that any tax benefit to the City would be outweighed by the negative aspects of the traffic, potential liability and the noise. He said that the sign to turn down the radio while pumping gas was not effective. He said that already there was not enough parking at the project site. He said that he seen 10 cars pumping at one time, not six cars as was mentioned. He said that he had serious issues with Exhibit D, page 9, that indicated the station had reverted to 24-hour service. He said that as far as he could tell the business closed at 10 p.m. He said that he used to wash his car at the hand carwash until it was closed. He said that when he asked what was happening with the carwash, he was given a map to another gas station with a carwash on Marsh Road. He said that he was never surveyed when he used the hand carwash. He said that it was noted that the convenience store would attract local residents while the prior carwash attracted people from a distance. He questioned how that was determined. He said regarding Mr. Mallia's income argument that he needed the convenience store to survive that Mr. Mallia bought the property when it was in bankruptcy and that business had doubled. He said that the property had a second source of income with the carwash and Mr. Mallia removed it because he wanted to.

Ms. Kelly Martin, Menlo Park, said that she owned a property adjacent the Willow Oaks Park. She said that while Mr. Mallia was flexible and accommodating, she was conflicted because of the need for gas and concerns with traffic and children in nearby schools. She asked how to balance the business needs of the owner with the business needs of the neighborhood with also the special site being near a park. She said that there might not be loitering at the convenience store, but there might be loitering at the park because of the convenience store. She said that litter was also a concern. She asked that there be mitigation.

Chair Halleck recessed the meeting for a short break at 9:10 p.m.; the meeting resumed at 9:15 p.m.

Ms. Toni Stein, Menlo Park, said that she supported the project. She noted that she was an environmental engineer and there were serious environmental issues with the existing gas station that presented threats to the community and all of Menlo Park and needed to be addressed by the replacement of the tanks and piping. She said that other speakers brought up good points, but some points were missing. She said that one point was that there were gas stations in Menlo Park at one time that were no longer there. She said those gas stations were not there because they had been converted into condominiums and housing, the occupants of which have brought more traffic to Willow Road and to Menlo Park in general. She said that gas stations did not make more traffic; gas stations served the traffic that exists. She said that her home was too far from this gas station for her to use so she used the other independent gas station. She said that the environmental concerns with this gas station were related to groundwater and wells, and not just to the aqueducts, and should be addressed right away. She said that if the project were approved, she requested that the Commission would consider a condition that the soil condition be analyzed for hazardous waster during excavation, as Mr. Mallia had indicated there had been diesel leaks at some time in the past. She said regarding the children using the park that once the system was replaced there would be a phenomenal improvement to the air quality. She said regarding the circulation issue that the Commission might consider making one side of the driveway as an inlet and the other as an outlet to create a

flow that would work. She said that other speakers talked about pedestrians coming on the site to use the convenience store or restroom facilities. She suggested that there be striping so that there were sidewalks on the perimeter and clearly demarcated lines indicating where people were supposed to walk. She said that those lines should be demarcated brightly enough so that people driving would see that they were not to park in that area or at the least to drive very carefully crossing those areas.

Ms. Joanne Hightower, Menlo Park, said that she had used the Willow Road gas station for two years as it was very conveniently located for her. She said regarding the convenience store that often when she uses a gas station she has needed a beverage or snack, or to use a restroom. She said this convenience would be beneficial for many people. She supported the project.

Ms. Brenda Salgado, Menlo Park, said that it would be very beneficial to have the gas station improved as she had two very young children and she would be able to pay at the pump with cash without worrying about her children. She said that it would be very convenient to have a convenience store there as well.

Ms. Nicole Hildebrandt, Menlo Park, said that currently she was a student at Stanford and had lived in Menlo Park most of her life. She said that she supported the convenience store and while she understood people's opposition to the project, she did not think what people were presenting was objectively considered. She said that she understood that people would not want increased traffic where they live. She said that she did not know how much a convenience store would change the traffic especially on a street that was one of the large freeway exits into Menlo Park. She said that she thought a convenience store was beneficial to the community, noting that her family used to go the 7-11 in Menlo Park at least once a week for milk. She said that she did not think people would drive out of their way just to go to a convenience store. She said that she went to the high school that probably was the one referred to that people said littered now and that students using the proposed convenience store would litter in the park. She said that most of those students went to closer stores and gas stations on El Camino Real rather than on Willow Road. She said that she thought it was important that it was an independent gas station and she was surprised that people were opposed to something that would make the gas station viable.

Mr. Glenn Griffith, Menlo Park, said that he was the owner of the café at 555 Willow Road and lived on O'Connor Avenue. He said that he was in favor of the project because he used the well water in the neighborhood which upgrading the tanks would protect. He said that upgrading the gas station might enable him to upgrade his café more to make it aesthetically more pleasing and perhaps even the vacant building next to him might be occupied through a rezoning of the property. He said that the traffic was much better than five years ago and that it would be a benefit for the gas station to be upgraded. He said that he would like the whole area to be improved.

Mr. Gil Uribe, San Francisco, said that he was a neighbor of Mr. Mallia's gas station in San Francisco. He said that he had lived there four years and Mr. Mallia had made great improvements to that gas station. He said that the pumps and building had been old and were upgraded. He said that he used to wait fifteen minutes to pump gas but the new system allowed people to get in and out quickly. He said regarding traffic that people would see the improvement to it from a new pump system. He said that Mr. Mallia was a concerned business owner who listened to the neighbors. He said that he supported the project.

Mr. Alex Rodriguez said that he was Mr. Mallia's gas station manager. He said that he had been in the gas business for 23 years. He said that he would be in charge of making sure that the things Mr. Mallia had mentioned would get done. He said that he would spend time at the station to make sure that there were no problems. He said that he hoped the project worked for everyone.

Commissioner Fergusson said that Willow Oaks Park had a history of intravenous drug use. She noted that the project would add restrooms. She asked how Mr. Rodriguez would handle it if a drug user came in to use the restroom for that purpose. Mr. Rodriguez said that he did not think that would happen as the restrooms would be inside the facility and there would either be keys or a button under the counter area to control who went into the restroom. He said that it was up to the discretion of the cashier who would be trained to screen restroom users. Commissioner Fergusson asked if there was security backup for persons loitering on the site. Mr. Rodriguez said that if the person refused to leave peaceably when asked, then the police would be called.

Commissioner Bims asked Mr. Rodriguez from his experience at working at the gas station what percentage of people coming to the gas station would come because of the convenience of the location of the station versus those who would come for lower prices. Mr. Rodriguez said that he thought the users came equally because of the convenience of the location and the price of gas.

Mr. Van Parish, Menlo Park, said that he lived in the area. He said that he had been in the bus business for 27 years and he used Mr. Mallia's gas station because he saved money on the diesel fuel. He said that he filled his buses early in the morning and late at night. He said that he supported the project.

Mr. Steve Sabayi, Redwood City, said that he worked for a company called Self-Serve Petroleum, which operated about 15 gas stations in the Bay area. He said that they also sold wholesale gasoline and Mr. Mallia was one of their customers. He said that he supported the project as proposed with the convenience store. He said that the average car fueled within three to four minutes at an updated station. He said that a customer could enter a convenience store to pay for their gas and fuel their car and be done in three to five minutes. He said that when people go into a store they either do impulse buying or buy something they need like a bottle of water or something to eat. He said that customers tended to be in and out of a convenience store within one to two minutes. He said that customers using the convenience store that were not buying gas in his experience was about less than five percent of the total amount of customers. He said that a convenience store was a great convenience for the customers and community and would not add to the congestion of the station.

Ms. Susan Bergesen, Palo Alto, said that she had worked with Mr. Mallia for the past two weeks. She said that they had walked around the neighborhood talking with residents about their thoughts on the proposal to remodel the gas station. She said that she was a social worker by training. She said that four main things emerged from those conversations. She said that when she was met at the door and explained why she was there, the residents tended to express their desire that the gas station should stay as it was convenient and the prices were low. She said that people said that it would be great if the gas station were remodeled as it was old and outdated and they wanted a nice facility with good landscaping to upgrade that corner. She said regarding the convenience store that most of the people she talked to, many of whom were parents, said that they had no problem with the convenience store proposal as there would

not be alcohol sold and the hours of operation would be limited. She said that one resident on Pope Street who described herself as a neighborhood activist said that originally she had been opposed to the project, but because of the changes made by the owner she would support the project and would sign a letter of support to forward to the Commission. Ms. Bergesen said that people were appreciative that their input was sought. She said that she received one negative comment out of numerous conversations.

Commissioner Soffer asked under what auspices she was working. Ms. Bergesen said that she worked for Bay Area Automotive as a person who helped to survey the neighbors and that she was employed to do that. Commissioner Fergusson asked how many people Ms. Bergesen had spoken with. Ms. Bergesen said that she knocked on about 300 doors and talked to 100 some people on Pope Street, Central Street, O'Connor Street, Beacon Street, and Laurel Street.

Commissioner Bims asked how sensitive people were to the price of gas at the station and whether they would drive further for cheaper gas. Ms. Bergesen said that she did not know if they would drive further but that they were very sensitive to the prices of gas at the station and that was generally the first concern that they expressed in speaking with her. Commissioner Soffer asked if she used the same list of questions for all the residents she surveyed. She indicated that she did and although she did not have the list with her, she would forward a copy to the Commission or she could write them down at this time. Commissioner Soffer asked her to review the questions she asked. Ms. Bergesen said that she would introduce herself and indicate she was doing work for the Willow Road gas station. She said that she would remind the people where the gas station was located. She said that many people said immediately that they bought their gas there and asked what was happening with it. Ms. Bergesen said that she would say there was a remodel being proposed and she and others were talking to people in the neighborhood to find out how they felt about the station being remodeled and the addition of a convenience store. She said that usually the persons being surveyed would ask what the issue was. Ms. Bergesen said that there were issues that had been raised about the convenience store regarding the hours, sale of alcohol and loitering. She said that people would ask how the owner was dealing with those issues, and she would relate what had been done. Ms. Bergesen said that people would ask questions about what the store would sell. She said that she would then ask if they would support the remodel. She said that it was very informal. Commissioner Soffer asked Ms. Bergesen whether she had informed the people she surveyed of tonight's Planning Commission meeting. Ms. Bergesen said that she would tell the people that the owner would be meeting with the Planning Commission. She said that about half of the people would ask her when the public hearing would be held, and she would tell them.

Mr. Tim Hartman, San Mateo, said that worked for Mr. Mallia at the gas station collecting signatures for the petition and to get feedback. He said that of the 1,253 of the signatures of support, 500 were from Menlo Park residents. He said that he noticed while he was there that there were some verbal altercations among patrons because of the congestion and that the new improved pumps were needed. He said that he had witnessed the result of aging equipment when a patron was returning a hose to the pump and it sprayed gasoline on him. He said that for safety reasons the equipment needed to be replaced.

Commissioner Fergusson asked Mr. Hartman to describe the methodology he had used to collect signatures and any problems he had with the methodology and how he resolved those. Mr. Hartman said that he had an out of town letter that was similar to a petition that had a short paragraph statement describing the project and then a name and address section for a multitude of signatures. He said that he used another letter that addressed Menlo Park

residents that was similar. He said before he asked people for their signatures that he introduced himself, explained the project and would ask if the person were regular users, and whether they were local or out of town residents. He said that he would tally the numbers at the end of the day. He said that if the person was opposed to the project he would ask why, but he would not push the matter. He said that some people might be hesitant to sign and he would not push. Mr. Mallia said that when they were first collecting signatures and had 10 letters from customers, he had one customer who said that he did not mind signing, but indicated his time was valuable and asked if there were some way to be compensated. Mr. Mallia said that he had his employee on October 23 approach people to see if they were supportive of the project or not and if they were, they were given a \$5.00 rebate on their gas purchase. He said that he planned to do give a rebate for two days, but on the second day he discontinued it as he realized that it could lead to a misunderstanding. He had Planner Smith pull out all of the letters from the 23rd and Mr. Mallia did not submit any of the letters from the 24th. Commissioner Fergusson thanked Mr. Mallia for the clarification. Commissioner Soffer asked whether the number of people who were against the project was tabulated. Mr. Hartman said that number was not tabulated. Mr. Mallia asked Mr. Hartman whether people who would not listen were against the project or just did not have time to listen to him. Mr. Hartman said that many of the customers did not have time to sign the petition; others said that they were just not in favor of signing any kind of petition.

Mr. Patrick O'Malley, Detailed Analysis, Inc. of Foster City, said that he was a commercial real estate appraiser. He said that he was asked by Mr. Mallia to address the evaluation issues surrounding the gas station. He said that service stations provided a vital service to a community and that Americans generally preferred convenience and speed as opposed to congestion and delays. He said that he had appraised the station five years ago for the prior owner. He said that the station needed to have been renovated many years ago. He said that the visual appeal of the proposed project would be far superior to what it was now and that would enhance the value of the surrounding properties as the appeal of the neighborhood would be upgraded. He said that everyone benefited in his opinion from an evaluation point of view. He said traffic had been noted as an issue. He said that the traffic on Willow Road was largely a function of the density of the surrounding development. He said that when the gas station was renovated it would attract more customers, but that there would not be increased traffic on Willow Road as that was largely a function of the surrounding development. He said that his opinion was that the benefits of the project far outweighed any detrimental aspects and he urged approval.

Mr. Bruce Shapiro, Menlo Park, said that he was licensed by the state for real estate sales. He said that he did not buy most of his gas at the Willow Road gas station. He said that Mr. Mallia operated a clean and pleasant business and offered gas at a good price. He said that he was the regional coordinator for AYSO soccer and that their teams used the field at Willow Oaks Park. He said that there was a bathroom at one time at that park, but no longer. He said that he could have 60 soccer players and their parents at the field and there were no restrooms. He said that Mr. Mallia had been kind enough to offer his facilities. He said that he was as concerned as anyone about IV drug users and problems at the park. He said however that those problems were not Mr. Mallia's, but the City's and law enforcement. He said that he would be more concerned about business owners who did not try to improve their businesses. He said that he used the park and he would use the convenience store for the incidental candy bar and soda. He said that traffic was not being increased and that Mr. Mallia was improving his property and making it environmentally safe. He urged support of the project.

Commissioner Fergusson said that there was a litter problem with the park. She asked if Mr. Shapiro had any ideas about how that problem might be resolved. Mr. Shapiro said the park was shared with a high school. He said that the AYSO teams use the field on Saturday and the trash receptacles are full and that it was a budget problem with the City. He said that more containers would help and more frequent garbage pick up. Commissioner Soffer asked about the sculpture in the park. Mr. Shapiro said that he was not impressed with it at first but that it had grown on him. He said that it was a rite of passage for children to climb it and sit with their friends and look out on Willow Road to contemplate the universe.

Mr. David Crouch, Menlo Park, said that he was speaking as a resident of Menlo Park. He said that he had heard there was a big concern with the safety of school children. He said that Mr. Mallia proposed to put in access from the rear of his property to the school and to and from the park. He said that it was not unique that a school would be situated near a business on a busy road and mentioned Middle Road, El Camino Real and the Safeway. He said that there was a concern about litter; previously the Commission had considered the sale of liquor at another site and the concern was crime. He said that it seemed as though Mr. Mallia was being held responsible for the irresponsibility of other people. He said that there was a comment about preserving the face of the neighborhood. He said that Mr. Mallia's design and some of the materials in the architecture matched the building next door. He said that regarding noise, noting that even though a sign was posted to turn down radios that while he agreed with another speaker that people might not act accordingly, he said that to date no one had actually ever made a complaint about noise since Mr. Mallia had owned the property. He said that a concern was expressed that Ms. Bergesen did not visit Coleman Avenue when doing the survey. He said that Mr. Mallia had visited Coleman Avenue over the weekend to talk with those neighbors. He said that someone mentioned that this proposal was a business decision. He said that it absolutely was a business decision. He said that unfortunately the decision tonight would have ramifications for the community as a whole. He said that someone had indicated that the gas station was not 24-hours at this time; Mr. Crouch said that it definitely was 24-hours or at the least, Mr. Mallia paid wages for someone to be there 24-hours a day. He said that someone said that the pump stations could serve 10 cars not the six cars indicated by Mr. Mallia. Mr. Crouch said that there were 10 car bays, but only six cars could use a pump at any one time. He said that Ms. Stein had made a good point about what would be there if the gas station were not. He said that it might be condominiums, another gas station, or another business – that was unknown. He said that the concern was not about the convenience store but about traffic and the congestion of the gas station. He said that people would probably not buy gas there if they could not get into the station. He said that if they did get into the station, gas purchases with the new equipment would be much faster, which would help the congestion. He said that the proposal would not make the site any more congested as it was already congested. He said however that there was a problem with traffic, but that traffic was not the fault of Mr. Mallia. He urged approval of the project as proposed.

Mr. Michael Markovich, Daly City, said that he was the secretary of Mr. Mallia's corporation. He said that he lived and worked in a redeveloped area of Daly City. He said that Willow Road was a redevelopment area and Mr. Mallia's project was a good one. He said that he knew Mr. Mallia very well and Mr. Mallia was someone that anyone could talk to and he would listen. He said that hopefully after the project was approved and built, Mr. Mallia would still be there. He said that some of the concerns regarding traffic and congestion could have been resolved earlier if someone had talked to Mr. Mallia sooner. He said that Mr. Mallia had made many changes to his plan in response to neighborhood concerns such as limiting the hours of the convenience store and providing an access area for students to go to the school and park. He said that

people should continue to bring their concerns to Mr. Mallia and he would continue to address those concerns after the proposal was built. He said that someone had mentioned loitering; he noted that loitering was not a problem at Mr. Mallia's San Francisco gas station as he did not allow people to hang around the station as it caused congestion and slowed business. Mr. Markovich said that someone had mentioned how great it had been to have the hand carwash business at the site and he wondered if anyone recalled the congestion that business had caused. He said that gas delivery trucks had to wait for users of the carwash to leave as the tanks were blocked by cars using the carwash. He said that people had noted that with the new gas pumps that more gas would be pumped, but the important thing was that people would not have to wait to get to the pumps. He said that gas stations needed another source of income to keep the price of gas down. He urged support of the project.

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

Chair Halleck noted that he had indicated to Mr. Miner that if Mr. Miner's three questions had not been answered and there was an opportunity, those questions would be addressed.

Motion carried 6-0, with Chair Fry not in attendance.

Commission Comments: Commissioner Fergusson, through the Chair, asked the applicant about the reference in the letters sent to residents by Mr. Mallia to an upscale boutique style convenience store. She asked Mr. Mallia to explain what that meant. Mr. Mallia said that many gas stations were similar, steel-looking structures with corporate identification by their colors and logos. He said that he asked his architects to look at the beautiful area where his gas station was located and to design a beautiful facility that would fit into that specific site. He said that for the architectural design, the canopy would blend into the building. He said that for the convenience store he instructed the architects to use light-colored tile identical to the building next door. He said that the concept of the convenience store being a boutique style was that it would not be a typical 7-11 type store with bright lights and big posters. He said that the products would be unique items and high-volume type items.

Commissioner Fergusson said that at the study session that there had been a request to lower the parapet and to change the roof shape so that there would not be vertical walls. She said that the parapet came down in the new design but the basic roof shape appeared not to have been changed. Mr. Chris Guterres, the architect, said that they had added metal trellises to soften the straight vertical wall in the area of the parapet. Commissioner Fergusson asked if there was roof tile that flipped up from the trellis. Mr. Guterres directed Commissioner Fergusson to sheet D.21 for the building elevation. He said that the trellis was metal and would be brown in color.

Commissioner Fergusson asked Mr. Mallia about the delivery schedule for gasoline trucks. Mr. Mallia said that it was hard to gauge when gas was needed until about 24-hours previous, but that the tanks would be extra large which would give the flexibility to get the gas load when the roads were less congested, such as in the evening.

Commissioner Fergusson said that for other businesses that the Planning Commission reviewed some of the conditions of the use permit included a limit on the hours of delivery to minimize noise and congestion. She asked if a similar condition would be a hardship for Mr. Mallia. Mr. Mallia said that he had never received complaints on the site about noise and the truck itself was not noisy. He said that there was no noise from dispensing the gas. He said

that it would be a substantial hardship because of the difficulty of gauging when gas was needed, the 24-hour notice needed for the delivery and the four-hour window the gas delivery trucks also required. Mr. Mallia said that he preferred night delivery as otherwise the lot was congested and thought that police and fire would prefer that the truck not deliver during the congested times of the day.

Commissioner Fergusson asked if there was something that could be done to improve the safety of turning left out of the gas station. Mr. Mark Spencer, a principal with DKS Associates in San Jose, said that his firm had prepared the traffic analysis for the project. He said that now drivers had to wait for the traffic light to get a gap in traffic to turn out of the station. He said that the problem was that drivers did not want to use the left turning lane and wanted to turn and go through the intersection. He said that there was a short weaving situation to go through the intersection. He said that situation has been that way for years and had been looked at before, and there was no simple situation.

Commissioner Pagee asked how the convenience store would be closed down at 11 p.m. Mr. Mallia said that there would be a closed sign on the door and certain lights would be darkened to signify that the store was closed, but the pumps would still be open. She confirmed that closure of the store would eliminate restroom use as well. Commissioner Pagee said it did not appear that it was safe for pedestrian traffic to get on and off the site and it seemed that the convenience store was for vehicular traffic. Mr. Guterres said that someone had suggested striping for accessibility from the street to the convenience store. Commissioner Pagee said that did not appear feasible and some parking would need to be eliminated for that access to be provided. Mr. Guterres said that on the other side of the site near the air and water units was an area where pedestrian access could be provided. Commissioner Pagee said that she was concerned with the safety of people parking on the sides, exiting their cars and walking to the convenience store. She said that she assumed a gasoline truck would be able to drive around the circle without having to back into the station to fill the tanks. Mr. Guterres said that there was a template of a tanker coming from the south end of the driveway, circling to the tanks, and exiting by the other end of the driveway. Commissioner Pagee said when tanks were being filled by trucks while customers were filling their car tanks that sediment would rise to the top of the fuel. She said it would be better if the gas delivery was made in the off hours. She asked if the fuel delivery was made in the daytime whether there would be room for a car to exit past a tanker. Mr. Guterres said that the car would probably have to wait. She asked how long a wait it would be. Mr. Mallia said that with new tanks there would not be any sediment at the bottom and he had the tanks cleaned every year so that would be minimal issue. He said that if there was any sediment, each dispenser had a filter that would catch any sediment down to 10 microns. He said that he would have a double filled drop and that all the gas could be dropped in all the tanks at once.

Vice Chair Halleck said that the Commission needed to decide whether to meet past 11:30 p.m. It was the Board's consensus that they would not continue past 11:30 p.m.

Mr. Mallia said that the gas drop off time was reduced from 30 minutes to 15 to 20 minutes.

Commissioner Fergusson said that she would move to approve as recommended by staff with a number of additional conditions to address the concerns expressed by the public. She said that those conditions would be: 1. To keep the existing noise signage to keep radios turned down, or equivalent. 2. The grounds are to be kept free of litter. 3. Regarding pedestrian access to the park from the project site, that a gate should be installed there that was locked at sundown

when the park closed. 4. A guarantee of diesel being supplied over a number of years. 5. For the applicant to pay for a baseline study of cut through traffic between 9:00 p.m. and 11:00 p.m. before the project began. 6. For the applicant to be required to provide a litter awareness program at the high school, to be worked out with staff and the administration of the school. 7. Striping for pedestrian access. 8. If congestion were to become much worse because of increased patronage whether the owner could be required to increase his gas prices for a time.

Vice Chair Halleck said that there were some conditions that seemed to be inappropriate. Commissioner Sinnott said she would support keeping the noise signage, keeping the grounds free of litter, a locked gate at sunset, and pedestrian striping. She said that she would not support the guarantee of diesel supply, the litter awareness program, or gas price guidelines. She asked if the applicant was willing to provide the traffic study for the cut through traffic between the hours of 9:00 p.m. to 11:00 p.m. Mr. Mallia said that he had met with the Willow Housing Association and had told them that he could get a baseline study done and if the store hours from 9:00 p.m. to 11 p.m. were causing excessive cut through traffic that he would consider limiting the hours of operation. He said that part of being a convenience store was the expanded hours. Mr. Mallia said that he would keep a supply of diesel as long as it was available and would have six as opposed to three current nozzles dedicated to diesel.

Commissioner Fergusson's motion died for a lack of a second.

Commissioner Soffer said that he did not understand the need for a locked gate to the park as there were other entrances on the other side of the park. Vice Chair Halleck said that it would prevent access at night for people who bought something at the convenience store and went to the park after dark to hang out. Commissioner Fergusson said that her proposal was that at the south end corner of the site there would be pedestrian-only access to the park. She said that it would be a measure to discourage loitering. Commissioner Soffer said that was alright, but he did not think it would solve problems with the park. He said that sometimes when there were identified issues that there had been an annual review required of the operations. Vice Chair Halleck asked staff if there could be an annual review of the operating parameters. Planner Murphy said that was a possibility but it should be clarified with the applicant as to what the parameters would be and whether that would protect the investment. Commissioner Soffer said that the convenience store be allowed to operate from 5:30 a.m. to 11:00 p.m. now but to review the hours of operation in a year. Planner Murphy said that would be easier if it was just a question of the hours of operation rather than an open-ended review. Chair Halleck said that rather than the traffic study that there would be a review of the hours of operation in a year.

Mr. Miner asked that the Commission either make a condition that there would not be 24-hours of operation for the convenience store or the gas pumps which he said would be more in keeping with the neighborhood, or if the hours came back for review that it not be expanded as it was hard for property owners to come back to protest that.

Mr. Mallia said that the gas sales had to be 24-hours as his competitors were all 24-hours. He said that after he made such a huge investment he would need to stay open for 24-hours. He said that he had gained 10 percent of his gas sold by being open 24 hours. He said that there would be someone on site 24-hours a day for security. Mr. Mallia said his traffic engineer had some information regarding hours of operation and a baseline study that might help the Commission with its decision.

Mr. Spencer said that experience with before and after traffic studies and how it was being debated was very open-ended and it would not lead to recourse to make changes later on. He suggested adding language to do a baseline study to be defined through parameters set by the Transportation Division so that it was clear for the applicant and City's sake what was being studied – what hours, what streets and what exactly would be determined. He said that then there would be a follow up study at a six months or one-year interval following operation of the site and similar parameters would be studied at that time. He said the question was what would happen with that information; he said that what constituted an impact would need to be determined. He said that if the study showed that more people were using side streets to get to the convenience store was the traffic an impact if the people wanted to use the convenience store because it was there and provided a service to the community. He said the question was whether there would be an intensification of use. He said that the traffic engineering report provided to the Commission indicated that there likely would be a static level of traffic or maybe a drop due to the convenience store because of the way the operation changes as the fuel pumps would be more efficient which should improved the traffic flow and people who go to the convenience store might park at the pumps or on the side.

Vice Chair Halleck said that there would need to be a discussion to work with the Transportation Division to get verbiage or sense of direction on a baseline traffic study and whether it would be six months or at one year. He said that also there would need to be help defining impact. Planner Murphy said that the City had adopted traffic impact analysis guidelines which the City Council was about to revisit. He suggested making the condition according to the current TIA guidelines.

Commissioner Sinnott said that the traffic study was less important to her and she wanted the project to move forward. She asked if there would be support for her motion if she removed the traffic study. Commissioner Soffer asked if there would be an annual review. Commissioner Sinnott said that the annual review would be for the hours to see if there were problems with noise, litter, loitering and crime. Commissioner Soffer said that it would be good to get police reports for a year. Commissioner Sinnott agreed with that.

Vice Chair Halleck said that the remaining conditions were noise signage regarding radios, grounds free of litter, a pedestrian access gate, pedestrian striping, and an annual review of crime statistics for the use. Commissioner Sinnott said that was her motion. Commissioner Bims seconded the motion. Commissioner Fergusson offered a friendly amendment that there would be enforcement of the noise signage by management. Commissioners Sinnott and Bims, the maker and second of the motion agreed. Commissioner Fergusson gave another friendly amendment regarding the monitoring of soil during excavation. Vice Chair Halleck said that was commented on before and his understanding that the project would have to conform to the state and local regulatory agencies in terms of excavation and clearing of the site. Planner Smith said that the removal of an underground storage tank had requirements for soils analysis. Mr. Mallia said that there would be much soil sampling during the process. He said that first a sample would be taken from under each end of the tank 12-inches below the grade of the bottom of the tank as well as underneath every dispenser all of which was performed by San Mateo County Public Health. Commissioner Fergusson retracted her second friendly amendment as that would be taken care of through regulatory oversight.

Commissioner Fergusson asked if there was an annual review and to clarify of what. Vice Chair Halleck said that the annual review was for crime and that would be related to the hours of the operation of both the gas station and convenience store. Commissioner Sinnott confirmed that

this would not be a use permit review but would look at any crime statistics related to hours of operation of the convenience store only.

Planner Murphy said that the pedestrian striping for access might eliminate one of the parking spaces on the left hand side where the air and water units would be. Vice Chair Halleck said that he understood that pedestrian striping was to be along the aprons and sidewalks to keep pedestrians safe. Planner Murphy said that it was not a City standard to include a differentiation of color on the sidewalk but that he could pursue that and asked what color. Vice Chair Halleck said that to use Caltrans colors or to have staff and the applicant decide on a color or different materials that might match the buildings. Planner Murphy asked if that would be the entire sidewalk in front of the site or at just the aprons. Vice Chair Halleck said that where the aprons go across. Vice Chair Halleck, based on a comment from Ms. Stein, said that the colors would be left to staff's discretion.

Commissioner Fergusson said that the property owner had struck a deal with residents regarding the hours of operation and there were a number of people who voiced their support with the understanding that a traffic study could be used as a trigger to examine the hours. She said that the use permit set expectations about how a business owner operated a business and that if the business owner was in violation of those it was much better enforcement to have those conditions in the use permit rather than to rely on code enforcement or some other vague City policies that required a lot of effort on the part of residents to enforce. She said that she was mostly in favor of the motion but there was an opportunity here to provide a benefit to a neighborhood that would potentially see an increase in traffic. She said that with the conditions included that they were addressing noise, litter, loitering, but were not addressing the traffic impact.

Vice Chair Halleck asked Mr. Mallia if they had discussed the traffic study with the Willows residents. Mr. Mallia said that they had and if the operations between 9:00 p.m. and 11:00 p.m. would create an excessive amount of traffic that he would work with the neighborhood and would reduce the hours by a maximum of two hours. He said that initially he might drop the hours by a half hour or one hour based on what the study bore out. Vice Chair Halleck said that there appeared there had been a promise to the neighborhood regarding a traffic study and that it would reduce staff time to have a clarification of a trigger, and staff could work out with the applicant as to whether to have a six month or one year review. Commissioner Sinnott said that she would agree if the condition was focused, the applicants were okay with it, and it had been promised to the neighborhood that it could be done. Vice Chair Halleck said that staff could work with Transportation Division to look at cut through traffic. Commissioner Fergusson said that the Willows Housing Association had done a cut through traffic study on May 7, 2003 and agreed with the DKS engineer that there had to be agreed upon parameters. Planner Murphy said the challenge would be that there might be an increase on the side streets but attributing it directly to this site. Mr. Spence said that a box would be drawn around the neighborhood for which there was concern. He said that the survey of the car licenses would start at the border and then licenses would be surveyed at the destination site.

Commissioners Sinnott and Bims as the maker and the second to the motion were amenable to the inclusion of the traffic study as discussed. Vice Chair Halleck reviewed the motion; conditions included noise signage and enforcement; grounds free of litter; pedestrian gate locked when park closed; a one year review of the hours relating to crime; pedestrian striping; and direction of the traffic study. Commissioner Soffer said that the one-year review was for the impacts from the hours of operation regarding crime, noise, lights, and traffic and that there

should be an option to do the review in yet another year. Vice Chair Halleck said that he understood that there would be a one-year review of impacts on traffic and from crime because of the hours of operation. Commissioner Sinnott suggested that could be decided during the one-year review whether to have another review. Vice Chair Halleck said that if the results were unfavorable for the annual review then the matter would come to the Commission for a public hearing and notification would be made. Planner Murphy said that the condition would have to include a notice requirement. Vice Chair Halleck confirmed acceptance of inclusion of a notice requirement in the condition regarding the review in one year of crime.

Commission Action: M/S Sinnott/Bims to approve as recommended by staff with the following changes.

1. Make a finding that the project is categorically exempt under Class 3 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 proposal 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 findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposal 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 use, and will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the City.
4. Approve the use permit and architectural control subject to the following conditions:
 - a. Development of the project shall be substantially in conformance with the plan prepared by RHL Design Group, Inc., received by the Planning Division on August 26, 2003, consisting of nine plan sheets, and approved by the Planning Commission on November 3, 2003, except as modified by the conditions contained herein.
 - b. Prior to building permit issuance, the applicant shall comply with all County, State, and Federal regulations that are directly applicable to the project.
 - c. 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.

- d. 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.
- e. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a Grading and Drainage Plan for review and approval of the Engineering Division. The Grading and Drainage Plan shall be approved prior to issuance of a grading, demolition or building permit.
- f. 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 fences shall be installed according to the plan prior to commencing construction.
- g. The applicant shall comply with the Best Management Practices (BMP) requirements in order to ensure project compliance with the National Pollutant Discharge Elimination System (NPDES) permit.
- h. Prior to demolition permit issuance, the applicant shall submit a plan for the control of dust for the duration of the project. The plan shall list specific measures, including but not limited to routine watering of the site. The plan shall also specifically address how dust would be controlled during weekends and other off-work periods. Finally, the plan shall include a contact name and phone number to receive and address any complaints. This plan shall be submitted for the review and approval of the Planning and Engineering Divisions.
- i. 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.
- j. Prior to building permit issuance, the applicant shall record the abandonment of the plan line and a portion of the City's right-of-way with the County Recorder's Office.
- k. Prior to building permit issuance, the applicant shall submit revised plans correctly indicating the location of the front property line and the public utility easement.
- l. Prior to building permit issuance, the applicant shall obtain an encroachment permit from the City in order to locate the canopy partially within the public utility easement, and shall revise the project plans to show the entire pump island canopy within the subject property. These plans shall be submitted for the review and approval of the Planning and Engineering Divisions.

- m. Prior to issuance of a demolition permit, 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.
- n. Prior to issuance of a building permit, 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.
- o. Prior to building permit issuance, plans for on-site recycling and garbage facilities shall be submitted for review and approval by the City Environmental Program Coordinator.
- p. Prior to building permit issuance, the applicant shall revise the project plans to include additional trash receptacles at the entrance to the convenience store and at the junction of the pedestrian sidewalk at the rear of the property and the Willow Oaks Park sidewalk to the right of the property. These revised plans shall be submitted for the review and approval of Planning Division staff and the Environmental Program Coordinator.
- q. Prior to building permit issuance, the applicant shall submit a plan showing site improvement details, including but not limited to perimeter fencing and retaining walls, for review and approval by the Planning and Engineering Divisions.
- r. Prior to building permit issuance, the applicant shall submit a heritage tree removal permit request for the heritage American sweet gum tree and the diseased heritage Monterey pine tree on the site.
- s. Prior to building permit issuance, the applicant shall submit a revised arborist report for the review and approval of the Planning Division and the City Arborist. The revised arborist report shall describe the impacts of the project on the surrounding trees, and shall provide protection measures to maintain the health of these trees. The arborist report shall also include requirements to trim the non-heritage American sweet gum tree located at the front left corner of the property in order to provide a safe sight corridor for motorists exiting the subject property.
- t. Prior to building permit issuance, a detailed landscape and irrigation plan shall be submitted and approved by the Engineering and Planning Divisions, including landscaping in the public right-of-way and between the reconstructed retaining wall and asphalt pathway on the right side of the property. The landscape plan shall comply with the Water Efficient Landscaping Ordinance. All landscaping shall be in place prior to final inspection. Landscape controls shall be incorporated into the plans to ensure efficient irrigation, appropriate landscape design, and proper maintenance. The landscape plan shall include the planting of six trees, including two street trees. A minimum of two of the six new trees shall have a minimum size of 24-inch box, and the remaining four trees shall have a minimum size of 15 gallons.

- u. Prior to building permit issuance, the applicant shall revise the project plans to eliminate the jog in the sidewalk located approximately 20 feet east of the front left corner of the subject property. The new sidewalk in front of the subject property and for the first 20 feet beyond the property to the east shall be five feet wide, and the width of the landscape strip in front this section of sidewalk shall be expanded to 7.5 feet, measured to face of curb. These revised plans shall be submitted for the review and approval of Planning and Engineering Division staff.
- v. Prior to building permit issuance, the applicant shall submit a plan showing lighting details and specifications for the review and approval by the Planning and Engineering Divisions. These plans shall include photometric lighting plans of the existing and proposed outdoor lighting in order to indicate that the proposed on-site lighting does not create offensive glare and light.
- w. Prior to installation of any signage, the applicant shall submit plans of the signs for review and approval by the Planning Division. All signage must be located entirely within the subject property, and shall not extend into the City's right-of-way nor into any public utility easements. The applicant shall have the option to request a monument sign at the front right corner of the property at a height of up to 16 feet. Such a monument sign shall be subject to Planning Division staff review and approval.
- x. The applicant shall not be permitted to place any vending machines on the site outside of the convenience store facility.
- y. The applicant shall not sell any form of alcoholic beverages from the site.
- z. The hours of operation for the convenience store shall be limited to the hours between 5:00 AM and 11:00 PM seven days a week.
- aa. The project shall comply with the provisions of the Public Artwork Ordinance, Chapter 16.69 of the Zoning Ordinance, as applicable.
- bb. Prior to building permit issuance, the applicant shall submit a plan for signage on the site to discourage loud noise, such as from loud engines or car radios, and to inform customers of how such noise limits shall be enforced by management staff. This plan shall be submitted for the review and approval of Planning Division staff.
- cc. Prior to building permit issuance, the applicant shall submit a plan for how the site will be kept free of litter. This plan shall be submitted for the review and approval of Planning Division staff. The applicant shall be required to adhere to the approved litter plan.
- dd. Prior to building permit issuance, the applicant shall submit a revised plan showing a pedestrian gate at the end of the pedestrian sidewalk at the right rear corner of the property. This gate shall only remain open during the

operating hours of Willow Oaks Park. This revised plan shall be submitted for the review and approval of the Planning Division.

- ee. Prior to building permit issuance, the applicant shall submit revised plans to include some form of pedestrian striping in the sidewalk area along Willow Road in the location of the two driveways into the site. The intent of the pedestrian striping will be to make motorists aware of the pedestrian crossing at the entrance and exit to this site. The plan shall specify the color and texture of the proposed pedestrian striping. This revised plan shall be submitted for the review and approval of the Planning, Transportation, and Engineering Divisions.
- ff. The applicant shall work with City staff to perform a baseline traffic study of the existing use, as well as a subsequent traffic study once the new facility is operational. Both traffic studies shall analyze the amount of neighborhood cut-through traffic generated by the existing and proposed facilities. Prior to conducting the traffic studies, the applicant shall first submit a plan for how the two studies will be conducted for Transportation and Planning Division staff review and approval. The applicant shall be responsible for paying for the studies, including any associated staff time.
- gg. One year from the date of occupancy of the convenience store, the applicant shall return to the Planning Commission for a review of hours of operation of the convenience store based on crime statistics in the area and the results of the two traffic studies required in condition ff. Based on the results of this review, the Planning Commission may reduce the hours of operation of the convenience store if there is evidence that reducing the hours would improve either the crime or traffic situations. At the time of the one-year review, the Planning Commission may also opt to require the applicant to return in another year's time if the Commission feels that an additional review of the convenience store hours of operation is appropriate.

Motion carried 6-0, with Chair Fry not in attendance.

- 6. Use Permit/Bill Bocook/1600 El Camino Real:** Request for a use permit to allow outside storage and hazardous materials associated with an emergency generator.

This item was continued to the meeting of November 17, 2003 prior to the meeting.

- 7. Use Permit/Spencer Leslie/314 Constitution Drive:** Request for a use permit to allow for the outside storage of materials in two new covered structures.

This item was continued to the meeting of November 17, 2003 prior to the meeting.

D. REGULAR BUSINESS

There were no Regular Business items.

E. COMMISSION BUSINESS, REPORTS, AND ANNOUNCEMENTS

1. Review of the 2004 Planning Commission Meeting Calendar

Vice Chair Halleck asked if the calendar as presented was acceptable to the Commission. Commissioner Fergusson said that there was a study meeting on November 29, 2004, which would immediately follow the Thanksgiving holiday and suggested that meeting be struck. The Commission approved the calendar presented by staff with one modification.

Planner Murphy reported that the sign guidelines were a consent item on the City Council's agenda for November 4, 2003 as well as an item regarding a request by Council Member Kinney to consider an appeal for 1080 Lemon Street as a Council appeal for the fence and hedges. He said that if the Council agreed the fee would be waived, but that if it did not agree, Council Member Kinney would have two days to pay the fee to actually appeal the approval.

ADJOURNMENT

The meeting adjourned at 11:20 p.m.

Staff Liaison: Justin Murphy, Principal Planner

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission on May 17, 2004.