



MENLO PARK PLANNING COMMISSION MINUTES

**Regular Meeting
December 1, 2003
7:00 p.m.
City Council Chambers
801 Laurel Street, Menlo Park, CA 94025**

CALL TO ORDER – 7:00 p.m.

ROLL CALL – Bims, Fergusson, Fry (Chair), Halleck (Vice-chair) (Arrived at 7:05), Pagee, and Sinnott present; Soffer absent

INTRODUCTION OF STAFF – O'Connell, Murphy, Smith, Thompson

A. PUBLIC COMMENTS

There were none.

B. CONSENT

There were no consent agenda items.

C. PUBLIC HEARING

1. **Use Permit/Dean Sivara/945 Arbor Road:** Request for a use permit for an addition to a detached accessory structure that is legal but non-conforming in regard to setbacks.

Staff Comment: Planner Thompson said that the applicant was requesting approval of a use permit to construct an addition and remodel to an existing non-conforming accessory structure. She noted that the structure was non-conforming in regard to setbacks of two-foot-seven-inches from the right and rear property lines where three feet was required. She said that the addition would not increase the non-conformity of the structure. She indicated that she had spoken with the neighbor to the rear of the subject property, who stated that he had no objections to the proposal.

Questions of Staff: Chair Fry said that the structure was proposed for use as a home office. She noted that it had a full bathroom with a sink, shower, and toilet as well as a closet. She said that although technically it was not called a secondary dwelling unit, she thought it might be helpful to compare the structure and its proximity to neighbors with the rules for secondary dwelling units that were now in place. Planner Thompson said that if the structure were a detached secondary dwelling unit then the required setbacks would be comparable to the 10-foot setbacks required for the main residence, and the rear setback would need to be 10-feet. She said that if the structure were a secondary dwelling unit, the applicant might request a variance to encroach into the setback, but that was limited to a 50-percent encroachment into

the required setback. She said that this structure could not be used as a secondary dwelling unit because of that limitation.

Chair Fry said that a challenge was to keep the accessory structure far enough away from the main residence to meet the minimum of 10-feet required. She asked Planner Thompson to discuss the basis of the requirement. Planner Thompson said the 10-foot requirement was to provide access around and to the main residence. In response to a question from Chair Fry, Planner Murphy said that the reason for the 10-foot separation was not noted in the ordinance and to know the reasoning behind it would require researching what was discussed when the ordinance was adopted originally. He said that the concern for accessibility for emergency services around a building was satisfied with the 10-feet around the building, which provided adequate access to go between the two buildings. He said that the minimum building code separation for construction on a comparable residential parcel could be a minimum separation of six-feet.

Commissioner Bims said that if a car were parked in the uncovered parking space at the subject property, it appeared that the car would block the 10-foot separation for any emergency services personnel trying to get access. Planner Murphy said that a car parked in that space would minimize the potential for access, but there was no prohibition of the uncovered parking space in that location. He noted that sometimes there were contradictions with ordinances.

Commissioner Pagee asked whether a full bathroom would be allowed if the accessory structure were a pool house. Planner Thompson said that an accessory structure was allowed to have a full bathroom. She said that if the structure had both cooking and eating facilities then it would be considered a secondary dwelling unit.

Public Comment: Ms. Lisa Sivara, the applicant's wife, introduced herself, and offered to answer any questions the Commission might have about the proposal. Chair Fry asked if the applicant would be willing to move the office space forward toward the main residence to give more separation in the rear setback. She said that although it was not now proposed as a secondary dwelling unit, it might become a secondary dwelling unit in the future. Ms. Sivara said that she was not able to answer that question from a technical point of view. Chair Fry asked Ms. Sivara if she would be comfortable with such a change from a functional point of view. Ms. Sivara said that change would probably work functionally.

Commissioner Fergusson asked about the use of the proposed accessory structure. Ms. Sivara said that it would be office space for her husband. She noted that he currently worked two to three days from home, but their living space in the main residence was too small.

Commissioner Pagee noted that the accessory structure was an existing structure and that it might be too difficult for the applicants to change the location of it and stay within their project budget.

Mr. Bill Imick, Menlo Park, said that he was the neighbor to the rear of the subject property. He said that there were birch trees which he understood would not be removed and that there would not be cooking facilities in the structure. He said that his property would be most impacted by the visual aspect of the proposal, but he thought the applicant was making good use of the space and the addition would only be a five-foot extension from the existing garage. He said based on the plans and the trees being kept that he had no objection to the proposal.

Commissioner Fergusson asked Mr. Imick to identify the location of the birch trees. He indicated on the site map where there were three or four birch trees.

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

Motion carried 6-0 with Commissioner Soffer not in attendance.

Commission Comment: Commissioner Sinnott said that she would move to approve as recommended by staff as the applicant was not aggravating the existing non-conformity, the birch trees would remain, and the neighbor most likely to be impacted was supportive of the project. Commissioner Pagee said that she would second the motion with an amendment that the applicant take precautions to protect the birch trees during digging and there would be no cooking or eating facilities allowed. Commissioner Sinnott, the maker of the motion, accepted Commissioner Pagee's amendment.

Commissioner Fergusson said that she would like protective fencing placed around the trees during construction as they were located only five-feet from the foundation. Planner Murphy said that the trees were not heritage trees and did not fall under the protection of the heritage trees ordinance, but that the Commission could request a condition for protection of the trees. Commissioner Sinnott confirmed with the applicant that the condition for the protection of the trees during construction was acceptable.

Chair Fry said that she had some reservations about the proposal as the accessory structure use could potentially change to a secondary dwelling use at a future time, but the location of the bathroom and the closet to the rear of the structure provided a buffer between living activities in that structure and the neighbor's residence. She indicated because of that she would support the proposal.

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

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 Tom Harvey, Architect, consisting of two plan sheets dated September 22, 2003, and approved by the Planning Commission on December 1, 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) Construction materials shall not be stored under the two heritage maple trees located within the City right of way.
- f) Prior to building permit issuance, the applicant shall submit a tree protection plan for the birch trees in the rear yard of the subject property for review and approval by the Building Division.
- g) No cooking facilities shall be installed within the accessory structure.

Motion carried 6-0 with Commissioner Soffer not in attendance.

2. Conditional Development Permit Revision and Architectural Control/Vika

Wills/310 Market Place: Request for a Conditional Development Permit Revision to allow for a church and private school use, and architectural control approval to allow for the demolition of a single-story building with three residential units and the construction of a new two-story building that would accommodate three residential units and a church/private school use.

Staff Comment: Planner Smith reported that the applicant proposes to demolish an existing single-story, three-unit building on the subject property, which is zoned R-3-X, and construct a new two-story building containing three residential units and a church with related classroom facilities. He noted that the proposal requires approval of a Conditional Development Permit (CDP) revision and the proposed building requires architectural control approval. He further noted that the revision to the CDP would require City Council approval and the Planning Commission would act as the recommending body on both the CDP revision and the architectural control requests.

Questions of Staff: In response to a question from Chair Fry, Planner Smith said that Building Code would require that the deck have a non-skid surface, railings and drainage. In response to a question from Commissioner Pagee, Planner Smith said that on-street parking was not counted toward parking spaces on properties. He said however that there are two other uses in the immediate vicinity that would share on-street parking with the subject project; one being the Boys and Girls Club, which has an on-site parking lot and is ringed with on-street parking, and the Market Place Park that has no on-site parking and is served by on-street parking only. In response to a question from Chair Fry, Planner Smith indicated that the property is zoned R-3 which is residential use and the proposal is for three residential units. He said that any proposal

in the future to convert the church and related classroom facilities to any other use would require application for a use permit.

Public Comment: Mr. William Bruner, applicant and architect for the owner of the subject property, said that they were proposing to demolish the existing building so that they could build a church with related classroom facilities on the first floor to accommodate Ms. Wills' growing congregation and three apartments on the second floor.

Commissioner Fergusson asked why the applicant was not planning to build to the maximum Floor Area Ratio (FAR). Mr. Bruner said that they needed to get as much parking and landscaping as possible on the site. Commissioner Fergusson asked about the use of the deck. Mr. Bruner said that the deck was an amenity for the residents on the second floor and could be used as a patio area. Commissioner Fergusson asked Mr. Bruner to speak to the window treatment. Mr. Bruner said that he thought the windows needed enhancement and would discuss with the owner using windows that were more architecturally interesting. Commissioner Fergusson suggested that on the elevation facing the Boys and Girls Clubs another window might be added in the area of the kitchen\dining room as shown on the floor plan on A-5. Mr. Bruner said that he thought that might help balance the composition and that perhaps the garage lights could be divided. He indicated that they would also need to provide a landscaping plan.

Chair Fry asked Mr. Bruner to speak to the landscaping plan and noted that currently there was an RV parked and some sheds on the property. Mr. Bruner said that an opening to the south would be closed and some planting would occur there. He said that the area where the RV is currently parked would become the area of the new driveway and they would want to plant at least three feet of landscaping where the cars enter the property. He said that there is an existing fence that may need to be replaced. Chair Fry suggested that there might be landscaping on the north side that would provide screening for the neighboring property on Market Place. Mr. Bruner indicated assent and also noted that the location of the wall on the existing building would be moved to the south bringing it 18 feet from the fence, a greater distance than currently exists. Chair Fry asked about the fence in front; Mr. Bruner indicated that it would stay. Chair Fry asked about lighting in the parking lot. Mr. Bruner said that there was a need for lighting and that they would want the lighting adequate for safety but low enough that it would not impact the neighboring properties. Chair Fry asked about signage for the church. Mr. Bruner said that they would put small signs on the building facing the Boys and Girls Club and at the end of the driveway regarding the church. Chair Fry asked whether the street would be used for the staging of construction equipment and storage of materials. Mr. Bruner said that the staging of the construction equipment and storage of materials would occur on-site.

Commissioner Bims asked about the adequacy of the parking. Mr. Bruner said that many of the churchgoers are local and it was expected that they would walk to the church. He indicated that the eight parking spaces on-site with the use of perhaps seven on-street parking spaces would be sufficient for the congregation, which numbers about 40 persons. He indicated that five persons per vehicle would equate to eight cars; he also noted that the instructional classes during the week would be held during the early evening hours and parking for those classes would probably not conflict with on-street parking for users of Market Place Park.

Commissioner Sinnott said that Mr. Bruner had indicated he would look into upgrading the window treatment and noted that the window treatment in the 1997 design he had done was

more interesting. Mr. Bruner said that he was not thinking of doing moldings with the proposed design, but would look at improving the window treatment.

Chair Fry said that the permit speaks to the hours of the church and whether those hours would provide the flexibility the church might need for special events. Mr. Bruner asked what would be the flexibility for a special event. Chair Fry said that the CDP imposes a condition that religious instruction shall occur on the site on Tuesday through Saturday evenings from 5:00 p.m. to 7:30 p.m. and the church shall operate on Sundays from 11:00 a.m. to 1:00 p.m. She asked staff to address special events. Planner Smith responded that the CDP does impose a condition requiring strict adherence to the hours mentioned by Chair Fry. He said that permits may be obtained for special events. He noted that in reality most special events occur without permit, which puts the event at risk if there are any complaints. He said that there were two ways to go; the church might hold special events without a permit and run the risk of having the event shut down or the Planning Commission might craft a condition that would allow for a certain number of special events over the year. Chair Fry suggested to Mr. Bruner that as the Commission would be making recommendations to the Council that Ms. Wills and he consider what special events the church might want to hold. Mr. Bruner responded that special religious days such as Christmas and Easter came to mind. He thanked Chair Fry for bringing that to their attention and said they would look at that need more closely.

Commissioner Fergusson said that on the north side of the second floor elevation there appeared to be an opportunity for a second additional window. She asked Mr. Bruner if he would be amenable to the Commission recommending to the Council the addition of a window on both the north and south sides of the second floor elevation. Mr. Bruner indicated assent with that recommendation and noted that a second window would make the design more symmetrical.

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

Motion carried unanimously, 6-0, with Commissioner Soffer not in attendance.

Commission Comment: Commissioner Sinnott said that she approved of the design, but would like to see more symmetry with the second floor windows, as noted by Commissioner Fergusson, as well as more architecturally interesting window treatment. Commissioner Pagee said that she agreed with the architectural changes mentioned that seem to enhance the view from the surrounding neighborhood. She expressed concern about noise that might be generated and suggested that it would be a good idea to set a limit on the number of additional activities, thus giving the applicant some flexibility for special events. She said that it was important to keep in mind the needs of the neighborhood and suggested that the Planning Commission's recommendation make reference to time limits for special events. Commissioner Fergusson recommended that the windows be upgraded above the bare minimum without negatively impacting the project budget. She said that there should be a recommendation for a lighting plan as noted by Chair Fry. She also recommended that the fence on the right property line be replaced in keeping with the nicely designed building. Commissioner Halleck said that he agreed with the recommendations made and noted that Chair Fry had also mentioned landscaping. He said that he favored a plan that provided screening for the adjacent properties. He also agreed that the applicant should look at the need for special events and might develop a list of anticipated events. He recommended that some cap be placed on the number of events allowed. Chair Fry said that she agreed with the recommendations and added that the landscaping plan for screening should also take into account daylight access for the adjacent

properties. She said that the recommendations would include some consideration of special events and that the special events be limited somehow to provide for the neighborhood's need for quiet. Commissioner Bims said that he agreed with the recommendations made.

Commission Action: M/S Sinnott/Halleck to recommend to the City Council approval as stated below (items 1 through 5) of a Conditional Development Permit (CDP) Revision and architectural control with modified and additional conditions for the revised CDP, noted after items 1 through 5 below.

1. Make a finding that the project is categorically exempt under Class 1 of the current State CEQA Guidelines.
2. Make the following findings, as per Section 16.68.020 of the Zoning Ordinance, regarding architectural control approval:
 - a) The general appearance of the proposed addition is in keeping with the character of the neighborhood.
 - b) The development will not be detrimental to the harmonious and orderly growth of the City.
 - c) The development will not impair the desirability of investment or occupation in the neighborhood.
 - d) The development provides adequate parking as required in all applicable City ordinances and has made adequate provisions for access to such parking.
3. Make findings, as per Sections 16.82.030 and 16.82.090 of the Zoning Ordinance pertaining to the granting of use permits and conditional development permits, that the proposed project 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 project, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
4. Approve the Conditional Development Permit revision for the addition of a church and classroom use to the three-unit residential development located at 310 Market Place, subject to the conditions in the revised Conditional Development Permit (Attachment C [of the staff report]).
5. Approve the architectural control subject to the conditions contained in the revised Conditional Development Permit.

In reference to the revised Conditional Development Permit (as noted in item 4. above), the Planning Commission recommends:

Modify condition M to read: Prior to issuance of building permits, a detailed landscape and irrigation plan shall be submitted and approved by the Planning Division. The landscape plan shall provide screening for the adjacent neighbors to the north and west without blocking neighbor access to sunlight, and 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.

Modify condition N to read: Prior to issuance of building permits, the applicant shall submit a plan showing site lighting and a photometric study for review and approval by the Planning Division. The on-site lighting shall not create offensive glare and light on adjoining properties.

Modify condition P to read: The hours of religious instruction on the site shall be limited to Tuesday through Saturday evenings from 5:00 p.m. to 7:30 p.m. and the hours of church services shall be limited to Sundays from 11:00 a.m. to 1:00 p.m. In addition, the church may hold special events up to eight times a year that are outside these hours of operation. These special events shall not begin before 8:00 a.m., and shall end by 10:00 p.m., inclusive of set-up and clean-up.

Add condition R: Prior to building permit issuance, the applicant shall submit revised plans showing an additional window on the second floor on both the south and north building elevations. These revised plans shall be submitted for the review and approval of Planning Division staff.

Add condition S: Prior to building permit issuance, the applicant shall submit revised plans showing improved window treatments to provide greater architectural interest to the building. These revised plans and manufacturer's specifications shall be submitted for the review and approval of Planning Division staff.

Add condition T: Prior to building permit issuance, the applicant shall submit revised plans showing perimeter fencing for the site. These plans shall include a new fence to replace the existing fence on the right side property line. These revised plans shall be submitted for the review and approval of Planning Division staff.

Motion carried unanimously, 6-0, with Commissioner Soffer not in attendance.

3. **Use Permit/Jing Quan/20 Kelly Court:** Request for a use permit to construct a mezzanine of approximately 1,384 square feet and modify the mix of office, assembly and warehouse uses on the existing first floor of a nonconforming building in which the value of the new work exceeds 25 percent of the assessed valuation of the structure and a use permit for the storage and use of hazardous materials on the property.

Staff Comment: Planner Thompson said that the applicant was proposing to remodel the interior of the existing non-conforming building to accommodate C.S. Bio Company, a biotechnology company. She noted that the previous tenant in the space had been an industrial use. She said that research and development was a permitted use in the M-2 zoning district, but structural alterations that change a use on a site in the M-2 zoning district required use permit approval. She said that the applicant was also requesting approval of a use permit for alterations beyond 25 percent of the assessed value of the existing non-conforming structure. She said that the applicant was requesting approval for a use permit to allow the use and storage of hazardous materials within the building.

Questions of Staff: Commissioner Fergusson asked if the primary structural changes were related to the construction of a mezzanine. Planner Thompson said that there were also

changes proposed to the existing floor plan, which was now an open space and would be converted to lab and assembly areas. Commissioner Fergusson asked whether that type of partitioning would be structural. Planner Murphy said that the main part of the trigger for the portion of the use permit that was necessary for structural alterations in M-2 was the mezzanine. He said he did not think that the structural walls were being changed, but that could be confirmed with the applicant.

Public Comment: Mr. John Page, E.A. Davidovits & Co. Inc., introduced Michael Ma the architect. He said that the question was whether there would be structural changes to the interior. He said that the structure was four concrete walls with five poles down the center. He said that none of those structures would be altered, but that three windows would be added to the exterior of the structure.

Commissioner Pagee said for access to parking in the back that it was recommended to require the applicant to obtain an easement to use the adjacent property. She asked if it was possible to modify the existing property and allow access without using the adjacent neighbor's property. Mr. Ma said that this was an existing condition and they had tried to modify the condition by redesigning the driveway, but there was not enough room between the building and property line.

Chair Fry asked about the existing parking behind the building, which seemed to be in the Hetch-Hetchy right-of-way. Mr. Ma said that previously there was some parking in the Hetch-Hetchy right-of-way, but the new owner of the new use, based on the number of employees, would not need as much parking and that area behind the building would not be used for parking at this time.

Chair Fry asked if the applicant would use the rolling doors in the back of the building for shipping and receiving. Mr. Ma said that the rolling doors would be occasionally used. Chair Fry asked about the procedure for receiving hazardous materials. Mr. Ma suggested that the owner could better answer that question.

Commissioner Fergusson asked for a description of the proposed changes to the front of the building. Mr. Ma said that they were proposing to remove a masonry screen on both sides of the front door as that conflicted with ADA access. He said that there would be three new windows in the middle and two side panels.

Mr. Dario Slavazza said that he was co-owner of C.S. Bio Company. He said that their business had been located in San Carlos for 10 years and they needed a larger building. He said that the company made small automated synthesizers and peptides that were sold to biotechnology companies. He said that they would upgrade this building and make it very nice. He referred to Chair Fry's question about hazardous materials and waste. He said that typically waste was delivered a truck and was contained in boxes, bottles and sometimes barrels. He said that those would be off-loaded and taken through the rollup doors into a large warehouse area from where it would then be carted to the storage area.

Commissioner Fergusson asked Mr. Slavazza why he wanted to move the business to Menlo Park. Mr. Slavazza said that it had been the building that made the move to Menlo Park desirable. He said that they had looked for a new building for some time and found large buildings that were available, but which were too large for their purposes. He said that the building at 20 Kelly Court was exactly what they needed now, but it also offered room for

expansion. Commissioner Fergusson asked if the business generated sales tax. Mr. Slavazza indicated that the other owner was better able to answer that question. In response to a question from Commissioner Fergusson, Mr. Slavazza said that they had purchased the building. He said the front of building would be painted and there would be landscaping to beautify the site.

Commissioner Fergusson noted a high school in the area and asked about the safe handling of hazardous materials and the risk. Mr. Slavazza said that there was not a large scale of chemicals used and nothing was considered extremely toxic. He said that they use very small amounts of the chemicals used and the building was self-contained. He said that what comes into the site went out in a drum. He said that they had been working with the County's Environmental Health Division for the past 10 years and had had no problems. He said that they have EPA waste identification number. He noted that they have also worked with South County Fire for 10 years and never had a problem. He noted that they would be working with Menlo Park Fire District at this location. Commissioner Pagee asked if vents, exhausts or scrubbers were required. Mr. Slavazza said that scrubbers were not a requirement; he said that they have venting hood areas in the labs which vented through the roof.

Mr. Heng Wei Chang, co-owner of the business, said that the businesses sales were more than \$3 million presently. He said that they believed they would grow their business at the new site. Chair Fry asked if the sales were handled from the business site. Mr. Chang said that was correct. Commissioner Fergusson asked if all of the sales were sales taxable. Mr. Chang said that if they shipped out of state, those sales were not taxable, but within the area, they charge applicable sales tax.

Commissioner Action: M/S Fry/Sinnott to close the public hearing.

Motion carried 6-0 with Commissioner Soffer not in attendance.

Commission Comment: Chair Fry asked why the changes to the front of the building had not required architectural control. Planner Murphy said that staff had made a judgment call on this proposal as it was for relatively minor changes to an industrial building. He said that if the Commission wanted to require architectural control, the applicant would have to return to the Commission with an application for architectural control and pay the applicable fees. He said that staff would not normally make a judgment call on buildings downtown regarding architectural control, but with an industrial building that was being reviewed by the Planning Commission for a use permit, staff decided not to force the applicant into the architectural control.

Commissioner Pagee said that she would move as recommended by staff and did not see any need for additional conditions. Commissioner Bims seconded the motion.

Commissioner Fergusson said that the City would benefit from this project because of the change in ownership and upgrading of the property which would increase its assessed value as well as potential sales tax revenue from a growing biotechnological company.

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

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

2. Make a finding, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of a use permit, that the proposed use will be compatible with the surrounding land uses and will not be detrimental to the health, safety, morals, comfort and general welfare of the persons working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the use permit subject to the following conditions:
 - a) Development of the project shall be substantially in conformance with the plans prepared by E.A. Davidovits & Co., Inc., consisting of six plan sheets dated October 29, 2003 and approved by the Planning Commission on December 1, 2003, except as modified by the conditions contained herein.
 - b) Prior to building permit issuance, the applicant shall comply with all sanitary district, Menlo Park Fire Protection District, and utility companies regulations that are directly applicable to the project.
 - c) Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
 - 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) 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.
 - f) Prior to building permit issuance, the applicant shall submit details regarding the proposed trash enclosure for review and approval by the Planning and Engineering Divisions.
 - g) Prior to building permit issuance, the property owner shall establish an easement for access across the property at 10 Kelly Court for review of the Planning Division.
 - h) Prior to building permit issuance, the applicant shall submit a landscape and irrigation plan for review and approval by the Planning Division. The landscape plan shall indicate the type, size, and location of proposed plantings.

- i) Prior to building permit issuance, the applicant shall submit a tree protection plan for the pine tree located near the front property line for review and approval by the Building Division.
- j) Prior to installation of any new signage, the applicant shall submit a sign application for the review and approval of the Planning Division.
- k) If there is a substantial change in the quantity of chemicals or hazardous materials, or a change in the use and/or storage of the hazardous materials after this use permit is granted, the applicant shall apply for a revision to the use permit.
- l) Any citation or notification of violation by the Menlo Park Fire Protection District, San Mateo County Environmental Health Department, West Bay Sanitary District, Menlo Park Building Division or other agency having responsibility to assure public health and safety for the use of hazardous materials will be grounds for considering revocation of the use permit.
- m) In the event that the use is discontinued for 90 consecutive days, the use permit will automatically expire.
- n) Prior to occupancy, the facility shall comply with the following conditions required by the Menlo Park Fire Protection District:
 - Quantities of flammable liquids that are dispensed from containers that are greater than 30 gallons shall be required to be used within a room designed for that purpose.
 - The building will be required to post NFPA 704 Diamonds in locations visible from the street to firefighters.
- o) Prior to occupancy, the facility shall submit plans for review and require facility inspection by West Bay Sanitary District.

Motion carried 6-0 with Commissioner Soffer not in attendance.

4. Use Permit/Larry Tyson/3757 Haven Avenue: Request for a use permit to allow for the outside storage of vehicles in association with a self-storage business.

Staff Comment: Planner Smith said that the subject property was located at 3757 Haven Avenue in the M-2 zoning district. He said that the site was currently developed with a self-storage facility. He said the applicant was proposing to allow for the outside storage of vehicles on the site and that the outside storage of materials, equipment or vehicles was considered a conditional use within the M-2 zoning district and required Commission approval of a use permit. He said in clarification of the property line issue as discussed on page two of the staff report that staff had prepared a plan showing the shared property line with the neighboring kennel. He said that the plan showed how the property line bisected 14 of the proposed storage spaces on the northeast corner of the lot.

Questions of Staff: Chair Fry said that this application was brought to the Commission because of a complaint received, and asked Planner Smith to describe the nature of the complaint. Planner Smith said that he had inquired as to the source of the complaint and was unable to discover who the complainant was or the issue. He said that he spoke to one of the property owners who owned the property adjacent to the 14 parking spaces in the northeast corner of the lot, which was currently being used for the storage of vehicles. He said the person indicated that he was not the person who had complained.

Public Hearing: Mr. Larry Tyson, applicant, said that he thought he could address the source of the complaint against his business. He said the neighbor at the end of his property mixes fertilizer and other substances that produce dust, which the wind carries directly into his property and their building. He said that he had complained to Code Enforcement. He said that when the neighbor talked to the enforcement officer that they in turn complained about the storage of vehicle on his site. He said that the enforcement officer indicated to him that he did not have a permit to store vehicles. Mr. Tyson said that he thought the use was permitted. In response to a question from Commissioner Fergusson, Mr. Tyson said that between the two properties there was a chain link fence with slats. Chair Fry noted that vehicles were parked in that area so there was no opportunity to provide a buffer to prevent the dust entering further into Mr. Tyson's parcel. Mr. Tyson said that the neighbors needed to water down the dust as part of the use permit approved by the Planning Commission, but did not.

Commissioner Fergusson asked whether Mr. Tyson would agree to a condition regarding the property line for the use permit to be contingent upon his continued ownership of both properties. Mr. Tyson said that would be difficult as the right-of-ways should be valid for anyone new buying the property. Planner Murphy said that the applicant and property owner had indicated that right-of-ways had been granted. He said that there could be a condition of approval that the applicant submits the documentation for the granting of the right-of-ways that demonstrated reciprocal access and parking agreements between the two properties so if those agreements were broken in the future that would violate the conditions of the use permit. Mr. Tyson said those agreements had been presented to the Planning Commission 17 years prior.

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

Motion carried 6-0 with Commissioner Soffer not in attendance.

Commission Comment: Commissioner Fergusson said that the application was a great use of the site and if the right-of-way issue was reconciled, she was fully supportive. Planner Murphy said that Planner Smith had examined the file for the original 1985 application and there was no evidence that the right-of-way documentation had been required for approval. He suggested that the Commission might tie the approval not to the ownership but to the relationship between the properties based on recorded agreements.

Commissioner Fergusson moved to approve per the staff recommendation with a condition that the documentation proving the reciprocal right-of-way access be provided to the City. Commissioner Bims seconded the motion. Commissioner Sinnott asked whether there would be follow up on the code enforcement issue with the adjacent property and the loose fertilizer dust. Planner Smith said that Mr. Tyson believed there was a condition of approval for the neighboring site that required watering of the site. He said that the first task would be to determine if that was the case. He said if that were not the case there still might be municipal

codes that were being violated. Chair Fry said that there might be air quality issues that were beyond municipal code and encouraged that other authorities for air quality be contacted.

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

1. Make a finding that the project is categorically exempt under Class 1 of the current State CEQA Guidelines.
2. Make 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 for the outside storage of vehicles subject to the following conditions:
 - a) Development of the project shall be substantially in conformance with the plan prepared by the applicant, consisting of one plan sheet dated received September 10, 2003, and approved by the Planning Commission on December 1, 2003, except as modified by the conditions contained herein.
 - b) Prior to building permit issuance, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
 - c) Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Transportation Division, and Engineering Division that are directly applicable to the new construction.
 - d) Within 60 days of the Planning Commission approval, the applicant shall submit documentation indicating reciprocal access and use easements among the following properties as referenced by the Assessor's Parcel Number (APN): 055-170-280, 055-170-290, and 055-170-300. Specifically, the agreement(s) shall indicate that the property referred to as APN 055-170-300 shall grants rights to the property referred to as APN 055-170-280 to allow the parking of 14 vehicles to straddle the property line between the two aforementioned properties.

Motion carried 6-0 with Commissioner Soffer not in attendance.

Mr. Tyson said that he had previously had to work with the Planning Division and had found the experience very difficult. He said that his experience this time had been so much better than his previous experiences. He noted that staff had sat down and talked with him and tried to help him, and were friendly and nice. He said that it had been entirely different from his past experiences and he thanked staff.

5. **Review of Use Permit/Beth Whiteley, Sunset Publishing/80 and 85 Willow Road:**
Review of the use permit granted by the Planning Commission in November 2002 to allow Sunset Magazine to hold an annual open house weekend event in May, 2003, as well as a second annual event some time in the spring of 2004.

Staff Comment: Planner Smith said that Sunset Publishing was returning to the Commission for a review of its past May celebration event as was required by part of its use permit approval. He said that the existing use permit was scheduled to expire after the spring 2004 event unless the applicant applied to extend the use permit.

Public Comment: Ms. Beth Whitely, Sunset Magazine, said that she had read the letter from Peter Deutsch regarding the event. She suggested that the traffic signs for road closure, which were installed two weeks prior to the event could be amended to say that the roads were open for pedestrian and bicycle traffic during the event. She said that she was completely agreeable to doing signs at both entrances and on the fence.

Mr. Jack Morris, Menlo Park, said that he agreed with Mr. Deutsch that this event was an inappropriate use of a public street. He said however that Sunset Publishing had each year tried to better mitigate the inconvenience the event caused. He said that the signs posted last year were very helpful. He recommended that the City look at not blocking off the middle left turn road on Willow Road as it caused more traffic congestion than was necessary. He said that the street was closed the night before the event and was not usable, which was somewhat inconvenient. He said that overall the event was a beneficial trade-off for the City.

Ms. Whitely said she believed the police blocked that lane for the protection of pedestrians waiting to enter into the event. Commissioner Pagee suggested that the police might have a presence at the event during the busy times; she said that Mr. Morris' suggestion about the lane would enhance traffic flow.

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

Motion carried 6-0 with Commissioner Soffer not in attendance.

Commission Comment: Commissioner Halleck moved to approve as recommended by staff to include the recommendations regarding signage and working with the Police Department and Transportation Division on the best recommendation for the left turn noted on Willow Road. Commissioner Fergusson said that she would second with a clarification of staff regarding the traffic condition. She asked if the follow through on the traffic issue was the responsibility of the applicant or staff. Planner Smith said that it would be staff's responsibility with the Police Department, Transportation and Planning Divisions. He said that whatever the results of the work with the Police Department and Transportation Division, the Commission would be able to review that for the next request for the extension of the use permit for the special event.

Chair Fry said for the record that she did not think the City had the guidelines that Mr. Deutsch referred to in his letter and asked if that were the case. Planner Smith said that was correct. Chair Fry asked for confirmation that although the event did not produce revenue for the City, the City did not incur extra expenses because of it. Planner Smith said that the Police are compensated by Sunset Publishing for their services.

Commission Action: M/S Halleck/Fergusson to modify the condition recommended in the staff report and add another condition.

- Modify the seventh bullet under condition a. to read: The applicant shall ensure that the public shall have pedestrian and bicycle access through the closed portion of Willow Road during the open house weekend. The applicant shall provide clear signage both in advance of the event and during the event that notifies pedestrians and bicyclists that they can pass through the event to the other end of Willow Road without paying a fee for the event. This signage shall be added to the road closure signs erected prior to the event, and also to both Willow Road entrances of the event. The two entrances to the event include the east entrance located at the intersection of Willow Road and Middlefield Road, and the west entrance located near the intersections of Willow Road with both Willow Place and Waverley Street.
- Add an eleventh bullet under condition a: Planning and Transportation Division staff shall work with the Police Department to see if both left turn lanes on westbound Willow Road can remain open for vehicular traffic during the event.

Motion carried 6-0 with Commissioner Soffer not in attendance.

D. REGULAR BUSINESS

There were no regular business items.

E. STUDY ITEM

1. **Use Permit, Architectural Control and Variance/John Hansen/1421 & 1423 San Antonio Street**: Request for a use permit and architectural control to construct a new approximately 6,164-square-foot office building and one new residential unit and request for a variance to provide 36 parking spaces where 39 parking spaces are required.

Commission Discussion: Commissioners provided individual comments to the applicant on the proposed project. Comments covered the following topics: the appropriateness of medical use; the possibility of increasing the number of residential units, especially given the available Floor Area Ratio (FAR); alternatives to the proposed parking, including exploring the possibilities of providing underground parking, moving the driveway to one side of the building to eliminate the drive-through feature; and/or eliminating the parking in front of the building; the lack of a pedestrian scale of the building; the recognition that the applicant may need to propose the removal of additional heritage trees to address some of the other comments; and general support for the architectural style of the building.

F. COMMISSION BUSINESS, REPORTS, AND ANNOUNCEMENTS

- Staff reported on the distribution of the Council Report on the "Roadmap to a Successful Partnership between the City Council and Advisory Boards" and upcoming Council meetings Residential Review Ordinance.
- Commissioner Fergusson asked whether there were Council Actions comparable to Commission Actions that were distributed after a meeting. Staff was only aware of the Council minutes.

- Commissioner Fry asked when it was necessary for the Planning Commission to review Council-directed modifications to proposed ordinances. Staff indicated that the City Attorney made the decision on a case-by-case review of the proposed modifications
- **ADJOURNMENT**

The meeting adjourned at 10:07 p.m.

Staff Liaison: Justin Murphy, Principal Planner

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission on June 7, 2004.