



MENLO PARK PLANNING COMMISSION MINUTES

Regular Meeting

February 9, 2004

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, Halleck (Chair), Pagee (Vice-chair), Sinnott, Soffer present

INTRODUCTION OF STAFF – Murphy, Smith, Thompson

A. PUBLIC COMMENTS

There were none.

B. CONSENT

1. **Review of State Department of Alcoholic Beverage Control (ABC) Applications** for Person-to-Person Transfer of Ownership for Alcoholic Beverage Licenses for Baba Koichi of Koma Sushi located at 211 El Camino Real.

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

Make a determination, as per Section 23800(e) of the State Business and Professions Code, pertaining to the granting of an application for a transfer of an Alcoholic Beverage Control license by Koichi Baba, 211 El Camino Real, that no evidence has been presented that suggests that there are problems associated with alcohol consumption or sales at or in the general vicinity of the businesses, and that the granting of the applications is appropriate.

Motion carried 7-0.

C. PUBLIC HEARING

1. **Use Permit/John and Cathy Garagozzo/201 Pope Street**: Request for a use permit to demolish an existing single-story residence and construct a new two-story residence and detached single-story garage on a property that is substandard in regard to lot width.

This item was continued to a future meeting at the request of the applicant.

2. **Use Permit and Variance/Steve Borlick/117 Pope Street:** Request for a use permit to convert an existing detached garage into a secondary dwelling unit, and a variance to allow the secondary dwelling unit to encroach two feet into the five-foot required left side yard setback.

Staff Comment: Planner Smith said that the applicant was proposing to convert an existing detached structure at the rear of the property into a secondary dwelling unit, which proposal required approval of a use permit to allow for a detached secondary dwelling unit. He said that in addition the existing detached structure had a left side setback of three feet where a minimum of five feet was required for a detached secondary dwelling unit. He noted that the proposal also required approval of a variance to allow the secondary dwelling unit to encroach two feet into the required five-foot left side setback.

Questions of Staff: Commissioner Sinnott said that there had been CC&R's imposed the first time the project had come before the Commission. She asked if they were binding, noting that they stated that the garage should stay as a garage. Planner Smith said that as a condition of approval those restrictions would need to be revised.

Commissioner Pagee asked if there had been any resolution of the property line dispute further up the street. Planner Smith indicated there had not been. Commissioner Pagee noted that matter might create cascading property lines on Pope Street. She said if this property only had a left side setback of three feet, those other property lines might be moving as much as two to three feet.

Chair Halleck said it was his understanding that the Commission was considering this proposal separately from those properties. Commissioner Pagee said that if the property lines on this property were to change because of a lot line survey being done on the other properties, the garage could end up on someone else's property and under the Uniform Building Code, the windows would not be allowed on the proposed secondary dwelling unit.

Planner Murphy said that staff reviewed the application with the City Attorney because of the pending use permit at 201 Pope Street. He said that the City Attorney viewed this application differently in regard to some of the uncertainties that were in place for 201 Pope Street in that there was an existing building and no known property line dispute between this property and neighboring properties. He said that the City could not delay this applicant because of the other matter, which may or may not resolve, on a property located five properties away from the subject property. He added that if the Planning Commission approved the use permit and variance and subsequently there was new information or a resultant change because of the other matter, then the applicant might need to deal with that change at whatever stage of the process the project was. He said if clarity on the property line dispute further down the street occurred before the building permit was issued for this property that the applicant might need to make some type of corrective action.

In response to a question from Commissioner Fergusson regarding the property adjacent to the subject property at 945 Woodland Avenue, Planner Smith said that the property was unusual in its configuration and that the long side of the property was the front and the property line shared with 117 Pope Street was the rear of the property. He said that if the lot were redeveloped, the rear setback would be 20 feet. Commissioner Fergusson asked if the lot at 945 Woodland Avenue was large enough to be subdivided. Planner Smith said that there did not appear to be

sufficient lot area and the dimensions of a lot to be subdivided needed to meet the minimum requirements for width and depth, which would probably not be a possibility for that lot.

Commissioner Fry asked about the City's current rules for secondary dwelling units that were detached and at the rear of a property. Planner Smith said that for detached secondary dwelling units in the rear of a property, the required setbacks for the unit would be the same for the front and sides as the primary residence. He said that in this instance the front setback would be 20-feet and five-feet for both side setbacks with a 10-foot rear setback. He noted that the height limit was 14-feet to the peak of the roof. Commissioner Fry said that this property might be designated in the flood zone and asked if the measurement of height was from the adjusted grade or existing grade. Planner Smith said that the height would be measured from the natural grade. He said that he had received a flood elevation certificate earlier that day that indicated that the rear two-thirds of the property were outside the flood zone. Commissioner Fry asked whether the variance would still apply if there was a later rebuilding of the proposed secondary dwelling unit. Planner Smith said that if the secondary dwelling unit was demolished for redevelopment, the variance would become null.

Commissioner Pagee asked what width was required in alleys for access of fire trucks. Planner Smith said that he did not think the Fire District had width requirements for alleys that were pre-existing. He said that for a panhandle lot, on which there were one or two units in the rear, the Fire District required a 20-foot easement and if there were three or four units at the rear of the panhandle, a 24-foot easement was required. He said that most of the existing alleys in Menlo Park were 15-feet wide. He said that although the Fire District would prefer 20-feet of width that was not possible in an alleyway. Commissioner Pagee asked if the Fire District had reviewed the proposal. Planner Smith said that they had not reviewed it at this time. Commissioner Pagee asked whether fire sprinklers had been required or what the required maximum distance to a fire hydrant was if a fire truck could not fit down the alley. Planner Murphy said that the Fire District did not normally review this type of application. He said that if staff had been asked the question earlier, it could have been posed to the Fire District. Commissioner Pagee asked whether the proposal would go to the Fire District for review if the Commission approved it. Planner Murphy said that normally the Fire District did not review applications for single-family residences and he did not know if the Fire District would review it. He said that the Commission might require the Fire District to review the application but would need to be careful what requirements were imposed on a secondary dwelling unit. Commissioner Pagee asked if there were any other permitted detached secondary dwelling units on the alley. Planner Smith said that this was the first application for a detached secondary dwelling unit to come to the City as until recently the City had not allowed detached secondary dwelling units. He said that there were only a few detached secondary dwelling units in the City and those had been built before incorporation of them into the City.

Commissioner Soffer asked if the lot could be subdivided. Planner Smith said that it could not be subdivided because of its dimensions. He said that also the regulations pertaining to secondary dwelling units prohibited a subdivision of two lots with the secondary dwelling unit as a residence on one of the two lots. Commissioner Soffer said that buildings on the adjacent lot seemed close to this proposed building and asked if there were any limits on the proximity of buildings. Planner Murphy said that depended when the structures were built. He said that if the accessory building had been built today there would have been a separation requirement from main buildings on adjacent lots of 10 feet. He said that otherwise there are Building Code

requirements for separation between structures and that the existing accessory structures on the property were regulated by the Building Code and not by the Zoning Ordinance.

Commissioner Fergusson asked whether the property could be redeveloped at some point so that both structures were demolished and one single family residence built, noting the City's policy to not reduce the number of dwelling units in the City. Planner Smith said that a future property owner could do so and that there was a new court case that superceded the City's General Plan requirement to maintain the same number of dwelling units.

Public Comment: The applicant architect for the project, Mr. Steve Borlick of Los Altos, said that the Commission had raised interesting questions. He said that the intention was to convert an existing garage into a living unit that would be legal under a conditional use permit with the exception that it was built at a three-foot setback. He said that there was no intention to subdivide the property later. He said regarding access for the Fire District that there was one lot across the alley from the subject property, which was only accessed from the alley. He said that most of the properties along the street were accessible from both the street and the alley. He said that the subject property was one of the larger lots on the street and they thought the property would support two living units well. He said that the lot's square footage was more than double the minimum.

Commissioner Fergusson said that there appeared to be one carport space for the secondary dwelling unit and asked where a second car would park. Mr. Borlick said that there was a paved area in front of the proposed rear unit where a second car might be parked. He said that there was also room outside the carport as well.

Commissioner Bims asked about page A0.4 of the plans, which had a vertical line between shed "E" and the existing garage and asked what the vertical line indicated. Mr. Borlick said that it represented a small existing fence and indicated that the fence would remain.

Commissioner Fry asked where guests visiting the residents of the secondary dwelling unit would park. Mr. Borlick said that the area between the fence and the building was paved which would remain. He said that two cars could park there now.

Commissioner Fry asked about construction staging and traffic flow during construction so as not to interfere with safety access to the alleyway. Mr. Borlick said that they had submitted a construction staging plan at one point. He said they were proposing that all construction deliveries would come to the rear. He said that because the building was existing, the project would not be a major construction project. He said that the largest delivery would probably be the kitchen cabinets. He said that they had proposed a 15-minute time limit on any deliveries that might require blocking the alley. Commissioner Fry asked where the constructions workers would park. Mr. Borlick said that they would need to park on the site or the street.

Commissioner Fry asked if the work would include gutting the inside and leaving the walls. Mr. Borlick said that the walls, roof and concrete slab would be intact, but they would bring in a kitchen and partitions to create a living area and a sleeping room. He noted that there would be finishing such as laying carpet and flooring. He said that there would be sliding glass doors and windows added. Commissioner Fry said that if fire access became an issue, what concerns would he have regarding conditions that the Fire District might impose. Mr. Borlick said that if the Fire District required a turnaround driveway that would not be possible so his concern would be any condition that was impossible to fulfill. Commissioner Fry asked about a sprinkler

system. Mr. Borlick said if that was required, it could probably be installed with reasonable effort.

Commissioner Bims asked whether the secondary dwelling unit would be for rental or use by family members. Mr. Borlick said that the property owners were planning to remodel the existing residence and use the secondary dwelling unit until the other residence was completed. He said that they wanted to keep the use of the secondary dwelling flexible as a rental unit, au pair lodging or guest house.

Commissioner Pagee asked whether they had considered parking within the property with access from Pope Street. Mr. Borlick said that they had looked at that idea but it involved a much longer walk and would create a privacy overlap. He said that the alley was much more convenient.

Ms. Kathleen Harry, Menlo Park, said that she had concerns about the project. She said that she and her husband, now deceased, had appeared before the Planning Commission on several occasions because of traffic issues in the alleyway relating to their home. She said that her property was impacted by any increased traffic in the alley. She said that an application made by the previous owner of the subject property had been for a second garage to work on cars, which was the gentleman's hobby. She said that the previous owner had assured them at that time that their concerns were unfounded and there would be no increase in traffic or noise. She noted that there was a condition placed on the previous owner's permit that limited the use to a garage. She said that they also appeared before the Planning Commission when the property owners of 120 Laurel Avenue had wanted to add an addition and remodel the entire residence. She said that their concerns were with traffic, noise and the proposed construction of a parking pad at the rear of the property with access from the alley for parking. She said that there had not been any noise from construction traffic and that ultimately the parking pad had either not been installed or was not used. She said that the Planning Commission had told the property owners to pave behind the fence to the edge of the alley and to contribute to the repair of the entrance of the alley, which was never done. She said that the house at 913 Woodland Avenue had been sold several years prior. She said that when the house was sold and became a rental property, one of the tenants opened up the fence and began using the alley for access and parking, which blocked fire access. She said that the amount of traffic going by her home had doubled.

Ms. Harry said that her home was built in 1955 by her father and until recently there had only been one rental unit past the house. She said that her home fronts the alley and only has access through the alley. She said that the front end of the house was very close to the alley and the closest room to the alley was her bedroom. She said that she was very impacted by noise and dust from cars traveling past the house. She said that the alley was not wide enough for two cars to pass. She said that the alley was and remains the sole access for the garages at 110 Pope Street and 114 Laurel Avenue and a rental unit at 121 Pope Street. She said that since the City would not pave the alley her father had done so up to the front of her house. Ms. Harry said that she was opposed to the project because of concerns about traffic, noise, dust and cars parking in the alleyway blocking access for emergency vehicles. She said that she was concerned with the deterioration of the pavement and people walking through puddles, mud and potholes. She said that she was concerned with security. She said now the new secondary dwelling unit regulations were in effect that the building of secondary dwelling units along Pope Street would create a huge impact on security. She said that she had much more to

say and she would e-mail her comments to the Planning Commission to have her comments and concerns on records.

Commissioner Fry asked staff if there were minimum distances for secondary dwelling units from other properties or dwelling units. Planner Smith said that the minimum distance for any accessory structure from a dwelling unit would be 10 feet. He said that there were no required distances for secondary dwelling units other than five-foot setbacks on either side and a 10-foot rear setback.

Ms. Harry indicated that her neighbor Mr. Ryoji Namoto, Menlo Park, had not been able to attend and had asked her to read his comments. In Mr. Namoto's comments, he said that he had lived at 114 Laurel Avenue for the last 40 years. He said that it was a wonderful neighborhood; however, over the last 10 to 15 years, there had been a gradual increase in the pollution levels, including noise pollution and the safety of children at play. He said that if the traffic continued to increase on the alley it would be detrimental to the health, safety, comfort and general welfare of the persons residing in the neighborhood. He said that over the last 10 years he had experienced the following issues. Regarding safety, he said that children tend to come into his driveway making for dangerous driving conditions. Regarding noise pollution, he said that neighbors play loud music continuing until midnight for which he had had to call the police on several occasions. Regarding increasing traffic in the alley, he said that caused increased pollution and loss of privacy and safety issues. He said that the owners of 110 Laurel Avenue constructed a fence that went to the sidewalk pavement, which made a sharp corner blocking his view as he drives toward Laurel Avenue. He said that it was a poor choice when traffic safety was a concern. He said that before approval of the use permit for an additional residence with access to the alley, he asked the Commission to consider the environmental impacts the neighborhood would face in the near future. He said that if in the future, ten or more property owners decided to build secondary dwelling units along the alley there would be a tremendous impact.

Commissioner Fergusson asked staff about the regulation regarding the visibility triangle for corner lots and asked if that would apply at the location of Mr. Namoto's property at 114 Laurel Avenue if the alley were not considered a public right-of-way. Planner Smith said that there were two issues. He said that the alley was not a public street and the regulations for fences and corners applied to public streets. He said that also the property in question was not the subject property so there was no mechanism under the application before the Commission to force that property owner to reduce the fence height.

Commissioner Pagee said that the alleys were not owned by anyone and asked when the City stopped maintaining the alleys. Planner Murphy said that he was not aware that the City had ever maintained the alleys. He said that there was a standing offer to dedicate the alley from the original subdivision owner that was never accepted by the County of San Mateo. He said that when the area was annexed into the City in the 1950's, that offer was not accepted by the City. He said that the City had certain rights and obligations to guarantee that the offer could be accepted if the City chose to do that. He said that until such time as the City accepted the dedication or vacated or abandoned the alley, the area was somewhat of a no-man's land. Commissioner Pagee asked if the City provided policing for the alley, noting problems in the alley along Menalto Avenue. Planner Murphy asked what the concerns were for this project. Commissioner Pagee said increased traffic and safety and opening up of the alley for public use. Planner Murphy said that there was some confusion about the use of alleys among

property owners and the public. He said that if there were certain things that Commissioner Pagee did not think were being policed elsewhere, staff would try to clarify those. He said in terms of this application that the alley might be considered as an access way to a panhandle lot. He said that he did not think anyone could get to a speed in the alley that would exceed the speed limit. He asked what issue most concerned Commissioner Pagee. Commissioner Pagee said that there would be a problem for the access of emergency vehicles, noting conditions that required paving of the alley and fire sprinklers because fire trucks were not physically able to reach for a secondary dwelling unit that was constructed on Elm Street. She said that the fire hydrants were a great distance from this area and she had seen a couple of cars parked in the alley when she walked the alley. She said that issues with alleys kept arising in applications considered by the Planning Commission. She said that one of the speakers had noted the granting of a use permit for a neighboring property with the condition that the applicant pave the portion of the alley and that was not done. She said that she would like to have a rule to follow for these applications.

Commissioner Bims asked about easements in the alleyway. Planner Smith said that generally there were utilities easements and it was assumed that there were some in the alley.

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

Motion carried 7-0.

Commission Comment: Commissioner Fry asked if there had been anything in the CC&R's regarding maintenance of the alley. Planner Smith said that the garage and carport project previously approved at the property did not have a condition to improve the alley.

Commissioner Fry said that if the Commission did not approve the variance, she did not know whether the Commission had the power by State law to not approve the conversion of the garage to a secondary dwelling unit. Planner Murphy said that the use permit for a secondary dwelling unit was not ministerial and there was discretion through the use permit process. He said that the Commission would need to make specific findings for denial. He said that the State made changes to secondary dwelling unit law, which effectively forced the City to change its requirements. He said that the new regulations made it unnecessary for a use permit for secondary dwelling units that were attached to a main structure, but the City was able to maintain use permit discretion for detached secondary dwelling units. He said regarding the variance question, if the Planning Commission did not approve the variance request, the applicant could consider modifications to the existing structure to avoid the need for a variance, but would still need approval of the use permit.

Commissioner Fry said that she was concerned about fire safety for the project. She said that if there was approval, she would like a condition for Fire District review and conditions that they might impose. She said that the property was a great distance from Pope Street and difficult to access through Laurel Avenue. She said that she was also concerned with traffic, parking and maintenance of the alleyway and the noise factor for the resident who lived immediately across the alleyway.

Commissioner Soffer said that he thought the project was well thought out and would fit the neighborhood. He said the project would have had clear sailing if it was not located on an

alleyway. He said that he sympathized with residents along the alleyway in that there might be additional similar projects that would create a thoroughfare through the alley.

Commissioner Fergusson asked whether condition "i" regarding a maintenance agreement meant the property owner had to contact other property owners to enter into a maintenance agreement or if the property owner could take on all of the responsibility. Planner Smith said that it was the property owner's responsibility to upgrade the alley and maintain it. He said that it was up to the property owner whether she would want to get the neighbors' involvement. Commissioner Fergusson asked what the standards were for paving and width that the property owner would need to meet. Planner Smith said that it would have to comply with the standards of the City's Engineering Division, which precluded the use of gravel. He said that it would have to be an all-weather paved surface. Regarding the width, Planner Smith said that he would assume it would be the entire width of the alley, but he would have to defer to the Engineering Division. Commissioner Fergusson said that her concern was that the alley should have a pleasing appearance and suggested planting strips on either side that residents could maintain. She said that she would like a condition for the appearance of the alley with staff review and approval.

Planner Murphy noted that for future projects or other sites on the alley that required alley access in the future, the subject property owner would be able to require recovery of funds from the other property owners for the maintenance of the alley. He said that regarding the appearance of the alley that should be a separate condition requiring the preparation of a plan for staff review and approval of the Planning and Engineering Divisions and the Fire District.

Commissioner Fergusson said that she thought secondary dwelling units were appropriate on such large lots and the proposal was within the square footage limits. She said that she was in favor of the project but was open to any suggestions by other Commissioners to mitigate potential impacts.

Chair Halleck said that he agreed as the project was appropriate for a large lot. He said that the conversion would not increase the structure on the outside of the existing footprint. He said that he was looking for ways to mitigate traffic and the minor increase of use. He said that it was unknown how many parcels along Pope Street would do similar projects in the future. He said that condition "i" was helpful. He said that parking had been addressed and paving would reduce dust and would improve access for emergency access. He said regarding safety issues such as theft and crime that the residents should contact the police department so that there would be a record for future project reviews. He said that he was in favor of the project with Fire District review.

Commissioner Pagee said that she was in favor of secondary dwelling units, but was angry that the City had not dealt with the problems associated with alleyways. She said that if the alley was not necessary for the ingress and egress for certain property owners now she would recommend that the alley be abandoned and closed off and the property reverted to the properties along it. She said that the alley was currently not maintained. She said that she was concerned with an increase from three trips down the alley to up to 14 trips per day of residents' vehicles. She said that the people most impacted seemed to be those that had lived there the longest, which was very unfair. She said that the safety issues were significant, noting that homes without access and close to streets had burned down in the City. She said that she

could not approve a variance because of the life safety issues and would prefer some other solution to parking to mitigate impact as the parking would set a precedent for other lots.

Commissioner Bims said that as a secondary dwelling unit structure, the proposed design was nice and blended with the neighborhood. He said however that there would be the appearance of a subdivided lot even if the lot legally could not be subdivided as the secondary dwelling unit was a great distance from the primary unit and there was a fence between the two structures. He said because the alley was not wide enough for two-way traffic, the increased use of the alley and parking in the alley became an issue. He said that the arguments in favor of the variance were not strong enough and when the Planning Commission had approved the garage previously they had wanted the structure only to be used in that way and not as a living structure. He said that he would deny the variance, but would consider the conditional use permit request.

Commissioner Sinnott said that she had visited the site and understood the concerns of the 112 and 114 Laurel Avenue property owners. She said that the site was perhaps the only site in Menlo Park that fit the regulations for detached secondary dwelling units. She said regarding fire and safety that if the alley were not there the lot would be the same as any other lot. She said that fire hoses needed to reach residences at the end of other long lots. She said that the variance was justified as it was a hardship because of the lot line, which went from three to six feet and been pre-existing. She said that her home was in the area of Menlo Park Presbyterian Church and Sacred Heart School Menlo School traffic and she could not imagine that two more cars going down this alleyway was such an impact as to deny a property owner the right to use their property. She said that condition "i" regarding maintenance of the alley was important.

Commissioner Fry said that there was an alley and a home across the alley that did not have a standard setback. She said that concerned her and there was a precedent issue as mentioned. She asked what if there was a requirement for parking from Pope Street rather than the alleyway. She said that if the Commission were to approve anything it was crucial to have the Fire District's review because of the distance the dwelling unit would be from the primary street. She suggested limiting the parking in the alley for the rear unit to one car.

Chair Halleck asked the applicant whether limiting the parking to one car in the alley would be acceptable. Ms. Susan Skaer, the property owner, said that there was plenty of parking in the rear behind the fence so that cars would not actually be parking in the alleyway. She said that currently the structure was a garage and she could travel up and down the alley to the garage in a car freely. She said that if the application was approved it would improve the alley and paving would cut down on the dust. She said that she preferred being able to park two cars in the rear because the resident could have a guest park there. She said that would probably reduce noise as people walking in the alley tended to talk and make noise. She said that if approval was contingent upon there only being one parking space she would accept it even though there was plenty of room inside the fence to park.

Commissioner Sinnott moved to approve the project as recommended by staff. In response to Chair Halleck, Commissioner Sinnott said that she would not require Fire District review regarding fire hydrant distance. The motion died for lack of a second.

Commissioner Fergusson moved to approve as recommended by staff with additional conditions for Fire District review with respect to the distance from fire hydrants and possible fire

sprinklers for the structure and a plan for alley improvements to be reviewed and approved by staff with the intention of improving the appearance of the alleyway. Chair Halleck asked if that gave staff enough direction. Planner Murphy said that it was sufficient. Commissioner Fergusson said that also the condition would support planting strips along the sides of the alleyway. Commissioner Sinnott seconded the motion.

Commissioner Bims asked whether the Fire District review regarding fire hydrant distance was different than what was required under 4.b regarding review of the Fire District. Chair Halleck confirmed with staff that the language under 4.b would be removed and a separate condition written regarding Fire District review. Commissioner Fry asked if there was a willingness to limit the number of cars that could be parked in the rear as the volume of traffic concerned her and to require a lighting plan because of the immediate proximity of the house across the alley.

Commissioner Fergusson said that she would accept the condition for a lighting plan, but the applicant had made a point in that she could currently park two cars in the rear already. Commissioner Fergusson asked whether there was a way to restrict parking to one car in the rear. Planner Murphy said that the Commission could request a landscaping and parking plan with the intention of physical barriers to prevent parking but that unless there were physical barriers, the parking would pretty much be unenforceable. Commissioner Sinnott said that she would not like parking blocked. Chair Halleck said that he was not inclined to restrict parking.

Commissioner Fergusson said that Commissioner Pagee's comment about the City not taking responsibility for the alleys resonated with her.

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

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. Make the following findings as per Section 16.82.340 of the Zoning Ordinance pertaining to the granting of variances:
 - a. The location of the existing detached structure creates a constraint to converting the structure to a detached secondary dwelling unit 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 variance would not constitute a special privilege of the recipient not enjoyed by neighbors.

- c. Except for the requested variance, the conversion of the garage to a secondary dwelling unit 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 structure would remain in the same location and would be largely unchanged from the exterior.
 - d. The conditions upon which the requested variance is based would not be applicable, generally, to other property within the same zoning classification since the variance is based on the location of an existing structure.
4. Approve the use permit and variance requests subject to the following conditions:
- a. Development of the project shall be substantially in conformance with the plans prepared by Young and Borlik Architects, consisting of six plan sheets dated September 19, 2003, and approved by the Planning Commission on February 9, 2004 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 shall submit documentation explaining how the heritage trees in the project vicinity shall be protected during project construction. Such protection shall include but not be limited to prohibiting the storage of construction materials and vehicles within the driplines of any heritage trees.
 - f. Prior to building permit issuance, the applicant shall submit a construction staging plan indicating that all access to the project area shall be through the alley to the rear of the property.
 - g. Prior to final building inspection, the applicant shall revise the covenants, conditions, and restrictions on the property to allow for the residential use of the existing detached accessory building.

- h. Prior to building permit issuance, the applicant shall submit a flood elevation certificate for the garage/carport at the rear of the property. This flood elevation certificate shall be submitted for the review and approval of the Building Division. The applicant shall comply with all requirements of FEMA, if necessary.
- i. Prior to building permit issuance, the applicant shall submit and record a maintenance agreement for the access alley with the San Mateo County Recorder's Office, signed by the owner(s) of the property(ies) to be responsible for maintenance of the alley. This maintenance agreement shall be for the improvement and maintenance of the alley from its entrance at Laurel Avenue to the north property line of 117 Pope Street. This maintenance agreement shall be subject to the review and approval of the City Attorney and the Engineering Division prior to recordation.
- j. Prior to building permit issuance, the applicant shall submit plans for the review and approval of the Menlo Park Fire Protection District. The applicant shall comply with all requirements of the Menlo Park Fire Protection District.
- k. Prior to building permit issuance, the applicant shall submit revised plans indicating the proposed alley improvements. These revised plans shall be submitted for the review and approval of the Planning Division, Engineering Division, and Menlo Park Fire Protection District with the goal of improving both the functionality and the appearance of the alley.
- l. Prior to building permit issuance, the applicant shall submit revised plans indicating any outdoor lighting for the new secondary dwelling unit. The revised plans shall indicate methods such as shielding to prevent light and glare from negatively affecting surrounding neighbors. These revised plans shall be submitted for the review and approval of the Planning and Building Divisions.

Motion carried 4-3 with Commissioners Fergusson, Halleck, Sinnott and Soffer casting the assent votes and Commissioners Bims, Fry and Pagee casting the dissent votes.

Commissioner Sinnott said that it might be useful for the City's code enforcement unit to review the fence mentioned by Mr. Namato for safety.

3. Use Permit Revision/The Phillips Brooks School/2245 Avy Avenue:

Reconsideration of request for a use permit revision to allow the Phillips Brooks School to maintain a student enrollment of 276 students instead of 228 students, to maintain 33 teachers instead of 22 teachers, to substitute the limitation on teachers for a limitation on employees with a maximum of 50 employees, and to maintain three portable buildings on the site for the remainder of the School's 19-year lease. (This item was previously considered at the Planning Commission meeting of December 15, 2003.)

Staff Comment: Planner Smith said that the Phillips Brooks School (School) was located at 2245 Avy Avenue on property owned by the Las Lomas School District. He said that the

applicant was requesting a use permit revision to allow the Phillips Brooks School to maintain a student enrollment of 276 students instead of 228 students, to maintain 33 teachers instead of 22 teachers, to substitute the limitation on teachers for a limitation on employees with a maximum of 50 employees, and to maintain three portable buildings on the site for the remainder of the School's 19-year lease, which expired on July 31, 2022 or when the School left the site, whichever came first. He noted that the Planning Commission first reviewed this use permit revision request at its December 15, 2003 meeting. He said that the Commission voted unanimously at its January 12, 2003 meeting at the request of Commissioner Fergusson to reconsider its December 15, 2003 decision regarding the school. He said that the request by Commissioner Fergusson for reconsideration was based on the wording that was included in the conditions of approval as the language proposed at the meeting and what was used in the approval was not what was understood by the School and some of the Commissioners. He said that the Commission could clarify or change the condition if desired.

Public Comment: Mr. Sam Bronfman, Chair of the School's Board of Trustees, thanked the Commission for a willingness to consider the language of condition "o" in the use permit revision approved by the Commission on December 15, 2003. He said that staff had proposed a condition "o" to provide a mechanism for reviewing any future complaints from the neighborhood, which the School had no objections to. He said that the condition was to allow the neighborhood to voice unresolved complaints through the City's Community Development Director with potential review by the Planning Commission of unresolved complaints at intervals that were reasonable and tied to the School's lease. He said that if there were no unresolved complaints, the School's use permit would simply remain in effect. He said that in the final moments of the December Commission meeting, the School agreed to a change to the language in condition "o" that the School had not fully understood. He said that the language was modified to change the timing for review of unresolved complaints by the Planning Commission and as approved, condition 'o' now allowed for review of the School's use permit and its conditions annually. He said that in 2001, the School had requested an increase of enrollment from 228 students to 276 students, and the increase was approved for one-year to allow the School to demonstrate that the increased enrollment would not create an increase in traffic. He said that in 2002, the use permit was extended for two years to allow the 276 students based on the School's success with its carpooling program. He said that the School has successfully demonstrated for three years its ability to handle traffic and he did not think it was the Commission's intent to require an annual review of the revised use permit over the next 19 years. He asked that the Commission consider approving a revision to condition "o" to allow staff's recommendation as presented in the staff report.

Chair Halleck asked what happened in a year if neighbors had complaints. Mr. Bronfman said that as he understood the process any unresolved complaints between the School and its neighbors would be referred to the Community Development Director who would help the neighbors and School resolve the complaints. He said that if the complaints were not resolved, the complaints could come to the Planning Commission for review at any time. He said that any change to be made would be tied to the School's lease, which was up in four and a half years. He said that the School would have to know any required changes 18 months prior to the expiration of the lease so as to be able to let the landlord know if they would continue to accept the lease.

Ms. Beth Passi, the Head of the School, said that the School's neighbors were important to them and it was important to resolve any complaints. She said that they have regularly held meetings with the neighbors and would continue to do so. She said that the attendance at those meetings had been limited but they felt that it was important to continue holding the meetings to allow an opportunity for neighbors to voice their concerns. She said that the School had demonstrated that it was able to work with the neighbors and control the School's traffic. She said that they needed the stability and predictability to continue their work. She said that condition "o" as currently worded only allowed the School to look ahead one year with any certainty. She said that they needed to plan for more than a year at a time. She asked the Commission to approve the language of condition "o" as presented by staff in its report.

Commissioner Fry said at the last meeting when the School's revised use permit was reviewed that neighbors had presented comments and letters regarding their concerns. She asked whether the School had met with those neighbors. Ms. Passi said that they had not met since then, but there was a meeting on February 26, 2004. She said that there had been comments made regarding parking on side street and she had been trying to monitor that and had not seen any problems.

Ms. Ginny Hull, Menlo Park, said that she was representing both constituencies as a neighbor and parent of a student at the School. She said that she understood both sides of the issue in that the neighbors needed a voice and the School needed to plan long term to apply resources to educating the children. She said that the carpooling program had admirable results. She said that there was a concern about parents parking on Bellair Way; she said that she walked up and down Bellair Way several times and had seen either no parents' cars parked there or very few. She asked that the Commission approve the School's request.

Ms. June Chapin, Menlo Park, said that she was very concerned with the School's poor record in such things as inaccurately doing traffic counts. She said that the neighbors needed more options to express their concerns. She said that the use permit should not be changed.

Mr. Tom Warden, Menlo Park, said that the main problem with the School at the site was excessive enrollment. He said that the School had indicated that their lease expired July 31, 2022 but actually the lease would expire on July 31, 2007 unless it was renewed. He requested that the references to the lease expiring in 2022 be deleted and all extensions of the use permit be tied to the July 31, 2007 date. He said that condition "o" as written would allow in essence that any violation of any of the other conditions of the use permit could continue for five years. He proposed that the Commission should delete condition "o" entirely. He said that the issue was the School's accountability to be a good neighbor.

Commissioner Soffer asked how often the School met with neighbors to resolve concerns. Mr. Warden said that it was his understanding the meetings were to be held quarterly. Commissioner Soffer asked Mr. Warden to describe the meetings. Mr. Warden said that the quarterly meetings established as a condition of the 2001 use permit revision and neighbors' attendance at those were minimal due to the School's continued insistence that the School would be relocating. He said that since the move did not occur, he had attended one of the meetings and when he brought up his concern with over-enrollment that the tone had been

less than cordial. He said that one issue for him was that drivers exiting the School did not turn right as had been agreed but used the neighborhood to turn around, noting that it was his driveway and that he had had to replace the sprinkler heads five times after they had been run over by those drivers.

Commissioner Soffer asked about the review period for the German-American School's use permit. Planner Smith said that there was an annual review but not of the use permit. Planner Murphy said that staff did not have that information and would have to research it and get back to him.

Ms. Joyce Macero, Atherton, said she was employed by the School and wanted to respond to Commissioner Soffer's question about the quarterly meetings with the neighbors. She said that part of her role at the School was to coordinate those meetings and the carpooling. She said that 82 households were regularly invited to the meetings. She said that at the first meeting there were five neighbors and at subsequent meetings there was only one neighbor who attended. She said that they held a special meeting in November 2003 specifically regarding the activities related to the use permit and Mr. Warden had attended that meeting. She said that they have held the meetings both in the evening and during the afternoon to accommodate neighbors' schedules. She said that over the six meetings held, Ms. Chapin had attended regularly.

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

Motion carried 7-0.

Commission Comment: Commissioner Bims asked for a clarification of the lease expiration date. Planner Smith said that the current lease was scheduled to expire July 31, 2007 and the School had three options to extend that lease and by July 31, 2022 the lease would expire completely.

Commissioner Soffer said that any changes to the use permit would require notification of the applicant 18 months prior to the lease expiration date of July 31, 2007, which would put that review at two and a half years. Planner Smith said that condition "o" as written did not require review unless there were unresolved complaints. He said that changes to the use permit could be put in effect with the new lease if those complaints were reviewed 18 months or more prior to the lease expiration. In response to a question from Commissioner Soffer, Planner Smith said that violation of the use permit could result in revocation of the use permit. He said at any point of time if the School was in violation of its use permit that review of the use permit could come to the Commission for possible revocation. He said that the purpose of condition "o" was for new issues that might arise and that were not covered by the conditions of approval.

Commissioner Soffer said if there was an issue that needed resolving this would not occur until five years with the terms of a new lease. Planner Murphy said that if there were problems that could not be resolved by the School and the neighbors, those complaints would come to the Community Development Director and if the Community Development Director could not resolve the matter then the problem was an extreme situation and it would be something that the School was unwilling to live with and potentially the School could finish out its option on the lease and look for a different site for the School.

Commissioner Fergusson said that she supported the changes to condition "o" and it allowed for several tiers of actions for neighbors, including the quarterly meetings, working with the Community Development Director, and the conditions of the use permit if violated by the School could be brought before the Planning Commission by neighbors. She moved to approve the revision of the use permit as recommended by staff. Commissioner Bims seconded the motion.

Commissioner Fry said that she was almost in agreement, but she was concerned that in other instances where there were non-residential activities in residential neighborhoods, such as the concert series at Fremont Park and Sunset Magazine's annual fete, the Commission had seen things that were not anticipated and worked on some of the conditions of those use permits over time. She said that in this instance the Commission would be saying that it thought it knew all of the problems and a five-year gap was sufficient. She said that she was balancing a somewhat short leash on the School with the School's responsiveness to date and the School's need for some predictability. She said perhaps if there was a surge of unresolved issues before the 18-month date prior to expiration of the lease that there might be conditions changed or added along the way. Commissioner Fry suggested that changes to the use permit other than revocation could be made on an annual basis.

Planner Smith asked if Commissioner Fry was requesting an annual review or addressing the enforcement of new conditions related to unresolved issues. Commissioner Fry indicated enforcement. She said that she had confidence in the working relationships of the School and neighbors, but that sometimes there were changes. Planner Smith asked if the language on the bottom of page two regarding imposition of changes other than revocation was what she intended. Commissioner Fry said that another difference was that she would not like review to be erratic but annually. Planner Smith said that unresolved issues would be brought annually rather than at the time the unresolved issues were determined. Commissioner Fry indicated that was correct. Commissioner Soffer said that if the permit were given for five years and there were operational issues, those could come back to the Commission for modification of the permit and if there were conditions of the permit that were not made, revocation of the permit could occur at any time. Commissioner Fry said that revocation would occur if the conditions were not met. Commissioner Soffer said that if there was a violation of the permit that could be considered at any time.

Commissioner Fergusson said that there had been a good testing period and the Commission had a good sense of what the problems were. She said that the Commission would hear in two and a half years if there had been issues that had not been resolved through the two-tier process. She said that she would like to give condition "o" as recommended by staff a chance.

Commissioner Fry said that she would like to see a review in a year from now as there had been an expectation that the School would move and it was unclear if there had been the type of interaction with the neighborhood that would have resulted if it had been known that the School was not moving. She said that she had heard from neighbors that there continue to be unresolved issues and she would be more comfortable with a more expedient way to resolve those issues.

Commissioner Soffer said that the Commission knows what the problems were, but not what the solutions were. He said that the School had done well with its traffic control and it was hard to leave the neighbors without a safety net.

Commissioner Fergusson said that the School had an incredible incentive to address the neighbors' concerns.

Commissioner Bims said that the neighbors' concerns were not really solved by any of the conditions of the use permit. He said that as worded now whether condition "o" was revised or not, there would continue to be a tension between the School and some of the neighbors.

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

1. Make a finding that the project is categorically exempt under Class 14 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 revision subject to the following conditions:
 - a. 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.
 - b. The applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the new construction.
 - c. The following provisions for the use permits dated March 3, 1980, and revised on April 1, 1985, March 17, 1997, May 5, 1997, and February 23, 1998, shall remain in effect:
 - Subleasing of the site, or allowing use of the site for non-school related activities, by Phillips Brooks School shall require approval of a use permit revision by the Planning Commission.
 - The applicant shall install and maintain landscaping along the entire Avy Avenue street frontage. The type of landscaping along the street frontage shall be a mix of young and mature trees and shrubs. The landscaping plan shall be subject to Planning Division review.
 - d. The maximum allowable student population on the site shall be 276 students. This increase shall be valid until either the earlier of the school leaving the site or the expiration of the school's lease on July 31, 2022, at which time the maximum student population will be 228 students.

- e. The maximum allowable number of staff on the site shall be 50 staff. This increase shall be valid until either the earlier of the school leaving the site or the expiration of the school's lease on July 31, 2022, at which time the maximum teacher population will be 22 teachers.
- f. The three portable buildings on the site shall be removed at the earlier of the school leaving or at the expiration of the school's lease on July 31, 2022.
- g. All student instruction and regular school activities shall continue to be limited to the hours of 8:00 a.m. to 3:30 p.m. The school's hours of operation shall be extended with the goal of ending at 10:00 p.m., except for the monthly board meetings, which would be allowed to occur until 11:00 p.m., for the following ancillary School activities:
 - Daily student drop off from 7:30 to 8:00 a.m.;
 - Daily after school care;
 - After school sports practices (three times per week);
 - "Back-to-School" night (once per year);
 - Middle School Admissions Night (once per year);
 - Board Meetings (once per month);
 - Board Committee Meetings (two to three times per month);
 - Parent Coffees (six per year);
 - Parent's Association Meeting (two to three times per year);
 - Student Presentations (once per year for each class);
 - New Family Picnic (once per year);
 - Book Fair (once per year); and
 - Neighborhood meetings on school operations.
- h. The applicant shall not allow more than 140 vehicles to exit its driveway during the morning traffic peak hour period (7:45 a.m. – 8:45 a.m.). The applicant shall satisfy this requirement by means it deems appropriate without review by the City, but the City may verify compliance at any time by conducting traffic counts at the driveway exit of the site.
- i. The applicant shall continue to communicate in writing to all parents of students enrolled in the school that no parking is allowed on the north side of Avy Avenue. Documentation of the communication shall be submitted to the Planning Division on an annual basis, and the effectiveness of the street parking restriction shall be analyzed by the Transportation Division.
- j. The existing "right turn only" sign located at the exit of the school's parking lot shall be maintained until the City Council directs otherwise.
- k. The applicant shall submit a copy of the student enrollment roster and the staff roster to the Planning Division for purposes of verifying the student enrollment and staff numbers. The rosters shall be submitted annually three months from the first day of the school year. The Planning Division shall return the rosters to the school within one week of receipt. The City shall not

make copies of the rosters or disseminate any information from the rosters to the public to the extent allowed by law.

- I. The applicant shall maintain the committee of school representatives and neighbors to identify issues related to the school's operation and develop resolutions to those issues. The committee shall meet a minimum of once every three months starting from October 2, 2001. The results of the committee's work shall be reported annually by the applicant in writing to the Planning Division.
- m. The applicant shall comply with all aspects of the traffic safety control program approved by the City Council on February 12, 2002. Compliance with these items shall be to the satisfaction of the Transportation Division.
 - Maintain the landscaping in front of the site in order to provide adequate visibility for vehicles exiting the driveway, yet also maintain the screening of the school facilities.
 - Continue the operation of the double lane of traffic within the parking lot in order to reduce the queuing of traffic on Avy Avenue during afternoon pick-up times.
 - Encourage the Las Lomitas District to monitor the intersection of Avy Avenue and Altschul Avenue during the times when the District's students use the intersection.
 - Maintain the curb red for a distance of 20 feet on the south side of Avy Avenue to the east of the driveway exit to allow improved visibility and to allow improved turning movements from the driveway exit onto Avy Avenue.
 - Maintain the curb red for a distance of 165 feet on the south side of Avy Avenue to the west of the driveway exit to allow improved visibility and to allow improved turning movements from the driveway exit onto Avy Avenue.
 - Maintain "school zone" signage on the eastbound and westbound approaches of Avy Avenue near the site.
 - The Police Department shall augment its enforcement efforts to enforce the parking prohibitions at the red curb locations on Avy Avenue, as budget resources allow.
 - The Police Department shall augment its enforcement efforts near La Entrada School and the intersection of Avy Avenue and Altschul Avenue during the morning drop-off and afternoon pick-up periods, as budget resources allow.

- n. If the applicant desires to extend this use permit revision allowing a student population of 276 students, a staff population of 50 employees, and the retention of the three portable buildings beyond July 31, 2022, the applicant shall submit such application prior to April 2022 for consideration by the Planning Commission.
- o. The Community Development Director shall review any complaints received by the City regarding the increase in student enrollment from 228 students to 276 students and the increase in staff numbers from 22 teachers to 50 employees at Phillips Brooks School. These student and employee increases were first approved in August of 2001, and approvals were later extended in February of 2002 and again in February of 2004. The Community Development Director and his/her designee shall work with the School and the neighbors to try to resolve such complaints, when possible. The Community Development Director shall have the discretion to bring such complaints to the Planning Commission for review. Any future changes to the conditions of approval based on these complaints, including revocation of the use permit revision, shall be timed so that the School is aware of these changes a minimum of 18 months prior to the renewal dates of the School's lease agreement with the Las Lomas School District. The implementation of any changes to the conditions of approval, including revocation of the use permit revision, shall be timed to coincide with the renewal date for the lease agreement. The current lease is up for renewal on July 31, 2007, and will be up for renewal again every five years after that until its automatic termination on July 31, 2022.
- p. The applicant shall maintain the site in compliance with the site plan dated received July 18, 2001, prepared by A.L. Bliss Consulting Engineer, and included as Attachment B.

Motion carried 6-0-1 with Commissioner Fry abstaining.

- 4. **Use Permit/Curtis Allen/980 Hamilton Avenue:** Request for a use permit for structural alterations to a building resulting in a change of use, the outside storage of equipment, and the use and storage of hazardous materials in relation with a light manufacturing business.

Staff Comment: Planner Smith said that the applicant, Altair Technologies, Inc., was proposing to occupy the entire building at the site replacing a previous predominantly manufacturing use. He said that the applicant was proposing structural alterations to the building to accommodate this new use that would result in a change in the distribution of the square footage of the building between manufacturing, office and storage uses. He noted that the zoning ordinance required use permit approval for structural alterations that changed the use or increased the intensity of the use of a building. He said that the applicant also proposed to replace, relocate and add some equipment along the north and east sides of the building. He said that the outside storage of equipment was considered a conditional use within the M-2 zoning district and required approval of a use permit as well. He said that additionally the company used a number of chemicals and materials in its research, many of which were considered hazardous. He said that the use and storage of hazardous materials was also a conditional use and subject

to the approval of a use permit. He said that there was one correction to the staff report. He said that the staff report had indicated that an HVAC unit would be moved to the roof. He said that the applicant had notified him that HVAC was not required for the building and the unit would be completely removed. He said that staff recommended that condition "e" be deleted from the conditions.

Questions of Staff: Commissioner Pagee said that the staff report indicated a chiller at the front of the building and asked if that was being removed. Planner Smith said that the chiller was new proposed equipment. Commissioner Pagee said that mechanical screening was required on the roof and asked if it was not required for equipment on the ground. Planner Smith said that was at the discretion of the Commission. Commissioner Pagee said that there appeared to be no neighbors who would potentially be impacted by noise. Planner Smith said that was correct.

Commissioner Fergusson asked the distance from the site to the high school. Planner Murphy said that there was probably 1,000 feet between the properties and 2,000 feet between buildings.

Commissioner Soffer asked how long the application took to get to the Planning Commission after receipt of the plans on December 17, 2003. Planner Smith said that the application was received on December 17, 2003 and deemed complete shortly thereafter. He said that the application had gotten to the Commission within two months. Planner Murphy said that about four weeks was needed for noticing and this project had a hazardous materials use permit requirement, which required four agencies to sign off on the project. Commissioner Soffer said that he wanted to get a sense of the time for the process and it seemed that this application had moved quickly.

Public Comment: Mr. Curtis Allen, San Carlos, co-owner of Altair Technologies, introduced himself. Commissioner Soffer asked why he had chosen Menlo Park for his business. Mr. Allen said that the company's current location had to be vacated as the building was being sold; he said that Menlo Park was convenient both for location and economically. In response to a question from Commissioner Soffer, Mr. Allen said that they had 28 employees and were hiring. He said that the site was only large for the company in terms of office space, but it provided space for them to grow.

In response to questions from Commissioner Fergusson, Mr. Allen said that the company did contract manufacturing and they produced other people's products for them. He said that they specialized in high temperature applications, which included the production of computer chips and x-ray tubes. He said that their annual sales were about six million dollars not all of which was sales taxable. Regarding the tanks on the outside of the building, Mr. Allen said that hydrogen was the most flammable of the substances stored in the outside tanks. He said that outside storage of hydrogen was the safest storage and that they kept the levels of hydrogen low in the tank. He said that the storage pad was not in a parking area and there would be a chain link fence around that area which would prevent accidental vehicular incidents to the tanks.

Commissioner Fry said that there seemed to be more hazardous materials than what the Commission normally saw and asked if there were special requirements imposed for

earthquake safety of the tanks. Mr. Allen said that the hydrogen tank would have a seismic shutoff valve.

Commissioner Pagee said that the scale of the chiller was higher than what was on the Commission's plans and appeared to extend above the fence. She asked if there were colors offered by the manufacturer. Mr. Jason Albright, Castro Valley, the architect for the project, said that the existing cooling tower was proposed to be relocated. He said that the color of the cooling tower was galvanized metal and they were proposing to paint it to match the building color as well as the screens and fencing would have color to blend. Commissioner Pagee noted the bollards and asked if the piping would follow the vertical direction and then penetrate the building in similar locations as the current ductwork did. Mr. Albright said that they would use any penetrations that they could but it might be more economical in using their process piping to not go as high up as it was not needed. He said that most of the process piping in size was considerably smaller than the existing duct openings. Mr. Albright said that there would be a reduction in the amount or size of ductwork. Commissioner Pagee asked about the process for filling the hydrogen tank. Mr. Allen said that they would have a hydrogen generator and that would be the sole source of hydrogen. Mr. Albright said that the elevation of the storage pad was about two feet higher than the parking lot and was in a landscaped zone.

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

Motion carried 7-0.

Commission Comment: Commissioner Fry said that she would move to approve as recommended by staff with the removal of condition 3.e as it was no longer required. Commissioner Sinnott seconded the motion. Commissioner Pagee said that she would like to add a friendly amendment to have the cooling tower painted to match the color of the building. Commissioners Fry and Sinnott as the maker of the motion and the second accepted the friendly amendment.

Commission Action: M/S Fry/Sinnott to approve as recommended in the staff with modifications to eliminate condition "e" related to roof mounted equipment and to add the following 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 subject to the following conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Vitae, consisting of four plan sheets dated November 6, 2003, and approved by the Planning Commission on February 9, 2004, except as modified by the conditions contained herein.

- b. 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 will need to apply for a revision to the use permit.
- c. 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.
- d. In the event that the use is discontinued for 90 consecutive days, the use permit will automatically expire.
- e. Prior to building permit issuance, the applicant shall submit revised plans indicating that the cooling tower shall be painted to match the building, and that all new screening enclosures shall use white or off-white vertical slats to approximately match the color of the building. These revised plans shall be submitted for the review and approval of the Planning Division.

Motion carried 7-0.

5. Tentative Parcel Map/Kier Wright/1392-1394 Hamilton Avenue: Request for a tentative parcel map to subdivide an existing property in the M-2 (General Industrial) zoning district into two conforming parcels.

Staff Comment: Planner Thompson said that the applicant was seeking approval to subdivide the existing property at 1392 and 1394 Hamilton Avenue into two standard size parcels. She said that Parcel 1 would contain the building at 1394 Hamilton Avenue and Parcel 2 would contain the building at 1392 Hamilton Avenue. She said that the parcels would be conforming in regard to setbacks, lot coverage and Floor Area Ratio (FAR). She noted a correction to the floor area calculations in the staff report. She said that each building has a mezzanine of 8,000 square feet that had not been included in the numbers in the report. She said that Parcel 1 would have a total gross floor area of 28,040 square feet and a FAR of 41-percent and Parcel 2 would have a total gross floor area of 28,020 square feet and a FAR of 32-percent.

Public Comment: Mr. David Readler, Pleasanton, a civil engineer with Kier Wright, said that the function of the subdivision was to sell the buildings with their own individual lots.

Commissioner Fergusson said that there was a very uniform look to the buildings in this area and asked if there were CC&R's to go along with the buildings. Mr. Readler said that there were not currently CC&R's but that there would be some restrictions on the subdivision as there would be common easements shared for ingress/egress and utilities by the two parcels.

Commissioner Soffer asked if the property values would be reassessed after they were subdivided. Planner Murphy said that he understood that after the subdivision, the two parcels could be reassessed.

Commissioner Pagee said that there was a cutout on Parcel 2 and asked who owned it. Mr. Readler said that it was owned by the adjacent property owner. She confirmed with Mr. Readler that a fence could be installed there so as not to create a bad situation relating to parking.

Commissioner Fry asked if the difference in the square footage of the buildings with the addition of the 8,000 square feet impacted parking. Planner Murphy said that the parking requirements were based first on the number of employees; he noted that one building was occupied and the other was unoccupied. Planner Thompson calculated the parking and said that the total parking requirement was 157 spaces and there were 163 spaces between the two properties.

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

The motion carried 7-0.

Commission Comment: Commissioner Pagee said that she moved to accept the staff's recommendation with the revised building sizes and 163 parking spaces where 157 were required for which there would be a reciprocal agreement with the property owners of the two lots. Commissioner Soffer seconded the motion.

Commission Action: M/S Pagee/Soffer to approve as recommended in the staff report with the staff clarifications regarding building sizes and required parking as presented at the meeting.

1. Make a finding that the project is categorically exempt under Class 15 of the current State CEQA Guidelines.
2. Make findings that the proposed minor subdivision is technically correct and in compliance with all applicable State regulations and City General Plan, Zoning, and Subdivision Ordinances.
3. Approve the minor subdivision subject to the following conditions:
 - a. All requirements of the utility companies, Menlo Park Fire Protection District, Building Division, and Engineering Division shall be met prior to recordation of the Final Parcel Map.
 - b. Prior to the recordation of the final parcel map, the applicant shall submit a parking and access agreement to allow for shared parking between the two new parcels. This parking and access agreement shall be submitted for the review and approval of the Planning and Transportation Divisions.

Motion carried 7-0.

6. **Tentative Parcel Map/Kier Wright/1003 Hamilton Court:** Request for a tentative parcel map to subdivide an existing property in the M-2 (General Industrial) zoning district into two conforming parcels.

Staff Comment: Planner Thompson said that the property owner was proposing to subdivide an existing property at 1003 Hamilton Court into two standard-sized parcels. She said that Parcel

1 would be developed with the existing building. She said that each parcel would be conforming in regard to setbacks, lot coverage, FAR and parking.

Public Comment: Mr. David Readler, civil engineer with Kier Wright, said that the property was being subdivided as the owner would like to sell the building but the archeological sensitivity of a portion of the current lot was an encumbrance.

Commissioner Bims asked about access to Parcel 2 and if there would be a paved driveway. Mr. Readler said that currently what would be Parcel 2 was paved around the perimeter and striped for parking and there was an ingress/egress easement for its benefit.

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

Motion carried 7-0.

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

1. Make a finding that the project is categorically exempt under Class 15 of the current State CEQA Guidelines.
2. Make findings that the proposed minor subdivision is technically correct and in compliance with all applicable State regulations and City General Plan, Zoning, and Subdivision Ordinances.
3. Approve the minor subdivision subject to the following conditions:
 - a. All requirements of the utility companies, Menlo Park Fire Protection District, Building Division, and Engineering Division shall be met prior to recordation of the Final Parcel Map.

Motion carried 7-0.

D. REGULAR BUSINESS

- 1. Consideration of the minutes of the April 7, 2003 Planning Commission meeting.**

Commission Action: M/S Fry/Pagee to approve as presented.

Motion carried 6-0-1 with Commissioner Pagee abstaining.

- 2. Consideration of the minutes of the April 21, 2003 Planning Commission meeting.**

Commission Action: M/S Fry/Pagee to approve with the following modifications.

- Page 8, Item 3, Staff Comment, 2nd line: Change “overage” to “coverage”.
- Page 11: Change “Commissioner withdrew his motion.” to “Commissioner Soffer withdrew his motion.”

Motion carried 7-0.

E. COMMISSION BUSINESS, REPORTS, AND ANNOUNCEMENTS

- Commissioner Soffer suggested the following two topics for Commission discussion at a future meeting:
 - Impacts of non-residential projects in residential neighborhoods.
 - Use and maintenance of alleyways.
- Commissioners reviewed drafts of the attendance report that will be submitted to the City Clerk's office for City Council review.

ADJOURNMENT

The meeting adjourned at 10:00 p.m.

Staff Liaison: Justin Murphy, Principal Planner

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission on July 26, 2004.