



MENLO PARK PLANNING COMMISSION MINUTES

**Regular Meeting
November 27, 2006
7:00 p.m.**

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

CALL TO ORDER – 7:02 p.m.

ROLL CALL – Bims (Chair), Deziel, Keith (Vice-chair), O'Malley, Pagee, Riggs, Sinnott (Absent)

INTRODUCTION OF STAFF – Deanna Chow, Senior Planner, Megan Fisher, Associate Planner, Thomas Rogers, Associate Planner, Justin Murphy, Development Services Manager

Senior Planner Chow announced that for this meeting and all future Planning Commission meetings the City would be audio streaming the Planning Commission live on the City's website and then archiving those meetings for the public's use.

A. PUBLIC COMMENTS

There were none.

B. CONSENT

There were no consent items on the agenda.

C. PUBLIC HEARING

1. **Use Permit/Mandana Jamshidnejad/578 Olive Street:** Request for a use permit to construct a new two-story, single-family residence on a substandard lot with regard to lot width in the R-1-S (Residential Single-Family Suburban) zoning district, and for excavation into required side yard setbacks for lightwells and egress associated with a basement.

Staff Comment: Planner Fisher said staff earlier in the day received a statement from the project architect and that had been distributed to the Commission.

Public Comment: Mr. Steve Pope, project architect, read his prepared statement. He said the proposed design was mindful of one-story designs in the neighborhood and that many larger homes were being built on Olive Street. He noted that the proposed style of the project was French Colonial; the height was shorter overall than what was allowable; the front setback was greater than required; second story massing was set back from the adjacent neighbors; the entry feature was downsized; a low second-story wall and low eaves diminished the height plate; the long wall of the second story would be screened by existing redwoods; garage doors were turned away from the street and the garage was one-story; materials would match neighboring homes; and the project arborist had thoroughly reviewed the proposed design and determined that it would have no impact on existing trees.

Commissioner Pagee asked if the arborist had a set of plans with him when he visited the site as he did not discuss excavation. Mr. Pope said that the arborist had plans prior to the site visit and was aware of the excavation. Commissioner Pagee said it did not appear that the arborist had measured the size of trees on neighboring projects. Mr. Pope said the arborist had measured the tree roots and canopies. Commissioner Pagee said the arborist report did not address the lightwells. Mr. Pope said that the arborist had reviewed the lightwells and prepared an addendum to the original arborist report regarding them.

Commissioner Deziel asked for a confirmation of the height of the wall plates. Through discussion, Mr. Pope and he established that the general height was 17 feet and some inches. In response to Commissioner Deziel's observation about that being a very low height, Mr. Pope noted that the wall height on the second story was low as the ceiling would be less than eight feet, and the use of dormers would allow windows above the roof height.

Commissioner Keith confirmed that the tree survey was dated July 26, 2006 and asked if the arborist had the plans prior to July 26, 2006. Mr. Pope said the arborist was well aware of the proposed design prior to July 26, 2006. Commissioner Keith asked if the applicant had discussed the project with neighbors. Mr. Pope said that to his knowledge there had not been discussions. He said the front wall would be cut in so that it was not imposing, but would provide privacy and screening to the home entry. Commissioner Keith said neighbors had commented that it was not inviting. Mr. Pope said that was dependent upon the landscaping; he again noted that the wall was cut in and only six feet tall. Commissioner Keith asked about neighbors' concerns with landscape screening and privacy. Mr. Pope said that the windows in the master bedroom would present to the neighbor on the left hand side, but the windows would only look out on the neighbors' roofs. Commissioner Keith asked about the sill heights in the master bedroom. Mr. Pope said those were 24-27 inches. Commissioner Keith asked if the architect would reconsider changing the sill heights to mitigate privacy concerns. Mr. Pope said that windows in the proposed French Colonial design were tall in proportion to width, but he could work on the height somewhat. He said that sill heights higher than 30 inches were not attractive.

Commissioner O'Malley said that many of his questions had been asked. He confirmed with the project architect that the project was designed without input from the neighbors.

Commissioner Pagee asked about the plate height on the right hand side where there was a pop-out. Mr. Pope indicated that it was a higher plate height than the rest of the perimeter of the house and was the length of that bedroom as noted on page A.3.1, south elevation. Through discussion with Commissioners Deziel and Pagee, Mr. Pope confirmed this height was 19-feet, 6-inches.

Chair Bims noted Mr. Pope's statement and his description of the typical client. Chair Bims asked if the family he described needed a home of this style and dimensions. Mr. Pope said that his clients tended to have three or more children and wanted a bedroom for each child, a guest bedroom, office space, a family room with kitchen, a recreation room as proposed here in a finished basement, and a home about 3,600 square feet in size above grade that was ample, but not a mansion. Chair Bims asked if the architect considered that the proposed home met high end or middle end market demand. Mr. Pope said that it was high end. Chair Bims asked why the plans were not shared with adjacent neighbors. Mr. Pope said that he could make suggestions to clients and they could take his advice or not. He said the idea of the proposed design was to be sensitive to neighbors by providing ample setbacks, and that he had not anticipated the level of negative feedback.

Commissioner Pagee noted that page A.1.2 described the lightwells and the decorative planter areas on the side property lines and asked about the excavation for those. Mr. Pope said that the lower section could be excavated and laid back just to the perimeter of the lightwells. In response to Commissioner Pagee, Mr. Pope said the patio was needed for egress for the bedroom and recreation room. He said that the size of the windows was based on codes relative to light and ventilation needs for the size of the rooms. Commissioner Pagee asked whether the windows opened half-way or entirely. Mr. Pope said all of the windows were operable. Commissioner Pagee asked about the size of the windows. Mr. Pope said that the arched top windows were dotted on the plans and were five-foot by four-foot-eight-inches with sills at 36 inches in height.

In response to a question from Commissioner Riggs, Mr. Pope said the proposed project was an investment property for the property owners. Commissioner Riggs asked what the architect's preference of design would have been without client input for a 3,700 square foot home that would blend with existing homes. Mr. Pope said that he would use a similar design, but a different selection of materials and iconographic elements to mitigate the formality. He noted that he had used the proposed massing in other projects next to smaller homes and the design integrated well. Commissioner Riggs said the proposal was an attractive and fun house, but belonged to an Atherton address.

Mr. Jim Crowley, Menlo Park, said that he and his wife live in the home facing the subject property on the left. He said the six-foot scalloped wall along the front would not fit with the neighborhood and might pose a safety problem as there was a nearby busy intersection, and it might block his family's view as they exited from their driveway. He said it was a bad precedent to have lightwells in the setbacks. He said the architect had made a lot of effort to make the height not so imposing but the second story was situated such that it would block the sunlight to their home significantly; it would impact the value of his home, his family's quality of life and the health of their vegetation. He indicated that a greater second-story setback was desired. He said the proposed house was too large and imposing for the neighborhood.

Ms. Lee Crowley, Menlo Park, said her first impression of the proposed project was that the home had been selected from a catalogue of pretty houses. She said the lot however did not support the project design and size. She described her concerns that the location of the project's driveway would impact the safety of children going to school, bikers, and pedestrians. She said drainage on Olive Street was problematic from Oakdell to Middle Avenue and that such a large home would add to the drainage and flooding problems. She indicated that it would have been helpful if the neighbors had had the opportunity to provide the applicant and architect with the residents' experience living on Olive Street.

Ms. Joan Inglis, Menlo Park, said she and her family had lived in the neighborhood for 50 years and she was concerned that the neighborhood would become overgrown like Silicon Valley. She said that the home proposed did not fit the neighborhood and that there were flooding problems in the area. She said that she would like to give some of her comment time to Ms. Nancy Cox, a neighbor.

Commissioner Deziel asked whether Ms. Inglis and other neighbors had considered an overlay for the neighborhood. Ms. Inglis said that there had not been a need; she said she wished the applicants and owners had conferred with the neighbors. She said in the neighborhood there were a number of new homes and it was obvious the design of those had been done in an effort to fit within the neighborhood and had been built lovingly.

Ms. Nancy Cox, Menlo Park, said that she and her husband both worked and they have three children. She said they expanded their home in 2003 with a local architect and it was now 3,000 square feet, and was ample for the family. She said however this proposed home was over 5,000 square feet, it was a boxy two-story that took up the whole lot on a substandard lot, and the owners had selected an out-of-town architect. She said the Commission had received seven letters in opposition to the project and that there were no neighbors to her knowledge who supported the project. She said the side setback requirement should not be violated. She said also they were requesting that the balcony, which would overlook her family's yard, should be removed and the sills of the windows on the back and sides be raised to transom height to maintain the privacy of their yard. She said they have a swimming pool for which they had just re-landscaped. She said they also wanted the second story to be stepped in so it would not tower over the neighboring one-stories. She said every two-story house on substandard lots on Olive Street, and there were 13 of them, were all substantially set in so as not to intrude on neighbors' light, air and privacy. She said they requested that the style of the home be modified to be in keeping in with the character of the neighborhood with modest, California-style architecture. She said the staff report highlighted the ways the project departed from the neighborhood styles with its elaborate slate roofs, enormous cast stone framed picture windows, and stucco fortress walls with automated gate entries. She said those features were inappropriate for these small Menlo Park lots. She said front-end loading a wide house on a long narrow lot over their redwood trees lot was wrong. She said they have owned their home for 14 years and plan to remain long after the developer has built and sold the property. She said it had come to their attention that the measurements of their trees were inaccurate and they wanted time to consider the impact of the project on their trees.

Mr. Kevin Harris, Menlo Park, noted that their home was immediately adjacent to the proposed project. He said the heritage redwood trees on their property were literally inches from the property line. He said the two most affected trees were numbers 9 and 10 on the plans. He said the trees were majestic and an asset to the entire neighborhood. He said regarding the tree survey that the arborist had not measured trees numbered 9 and 10, but estimated their size. He said the arborist's son had indicated that his father had measured wrong. He said tree number 13 was not shown in the right location on the plans. He said the arborist had not known about the stucco wall that would be placed over the root structures of the trees. He said because of the inaccuracies and omissions in the tree survey that they were requesting a continuance so they could get a second opinion from an independent arborist. He said the arborist had misstated that the project would not have an impact on the trees. He said they were very concerned that there would be excavation for a driveway, garage foundation and basement and that would impact the tree roots. He said the properties in the neighborhood were susceptible to flooding and the size of the proposed project because of its size would displace storm water. He said the proposed home was too massive and big for the neighborhood.

Commissioner Deziel asked about the diameter of the trees. Mr. Harris said that Mr. McClenahan had indicated he would forward that information to the Commission. Ms. Harris said that Mr. McClenahan had indicated that he wanted to speak with his client first. Mr. Harris indicated that he had a written submission that he presented to staff for distribution to the Commission.

Mr. John Inglis, Menlo Park, asked in reference to so-called "monster" homes why the City did not comply with the regulations and build according to setback regulations. He said he lived and worked in Menlo Park for over 50 years and had served on the local sewer district for 23

years. He said there was an Eichler home directly across from the proposed project that was well maintained and had no fences. He indicated that the proposed design did not fit the neighborhood.

Commissioner Deziel said that several speakers had indicated that the proposed lightwells were a violation of the zoning regulations and that staff or the Chair should point out that lightwells were allowable in the setbacks through the use permit process. Chair Bims said that was indicated in the staff report.

Commissioner Pagee noted that the house was proposed within the setbacks and at a lower height than the allowed height in the City of Menlo Park. She said the use permit was needed because the lot width was only 70-feet and the applicant wanted to put the lightwells into the setback.

Mr. Inglis said flooding was an issue on Olive Street and that one time they had had to pump out their living room. He said they would like to see the applicant modify the design and get rid of the fence in front.

Commissioner Deziel asked about the section of ordinance regarding lightwells. Planner Fisher said that was section 16.08.100.

Ms. Florence Barr, Menlo Park, said she had submitted a letter to the Commission. She said across the street from the entrance to her home a new house had been built. She said it was a large, Craftsman-style house on a corner lot that was surrounded by sky and air and fit well into the space. She said cramming a structure onto an inappropriately-sized lot close to an intersection would impact safety there. She said she thought the proposal met the regulations, but the location of the lot had to be considered. She reiterated the flooding problem and that the developer had never consulted any of the neighbors.

Chair Bims closed the public hearing.

Commission Comment: Commissioner Pagee said the architect and owner had now heard the neighborhood's concerns about the proposed project and the apprehension of the validity of the arborist report; she moved to continue the project for redesign to allow for the architect to get improved information on the location and the sizes of the trees and revisit the design to address concerns raised about privacy and solar access to adjacent neighbors. She said also because of the flooding in the area that there should be more permeable surface and a landscape plan with methods to control the storm water. She said that was staff's recommended option 3. Commissioner Riggs seconded the motion. He said the design was charming and fun and would be entirely appropriate on lots measured in acres not in square feet. He said however that the only reason the project was before the Commission was that the lot was 70-foot wide and not 80-foot wide. He said if the neighbors were interested in keeping the architectural context of their neighborhood that they should consider pursuing an overlay. He said he hoped in continuing the project that the lightwells would be addressed sensitively so that recreation rooms were not placed next to adjacent neighbors' bedrooms. He said that there were other two and three-story homes in the area, which had been constructed sensitively to the neighbors in terms of massing, materials and style.

Commissioner Keith said she agreed with the Commissioners' comments and expressed her hope that the architect and developer would work with the neighbors. She noted another project

on Olive Street in which the property owner and adjacent property owners worked on a landscape plan that was agreeable to all.

Commissioner Deziel said developers needed to be aware that some level of public outreach was needed in a discretionary review process. He said he was surprised that this developer had not gotten that advice, but it was the developer's responsibility to be aware of that need. He said there were many positives about the proposed project and the Commission should give the developer and architect more specific instructions. He said the neighborhood was described as rural California ranch-style, but he did not think that style should be required and was restrictive. He said the courtyard was a nice construct and allowed the garage to be turned 90 degrees. He said a gated wall was nice but suggested that it not completely extend the width of the front and perhaps only at a height of four-foot. He said the house without the garage was about 3,300 square foot above ground and that was needed for the renewal of Menlo Park. He said a nice feature was that the second story was clipped, but the area with height at 19-foot, six-inches needed to be set back more. He said the height generally was 17-foot four-inches. He said there were requests for the proposed project to fit the neighborhood and there was ambiguity about that.

Chair Bims said that with use permit approval the applicant would be allowed to build lightwells in the setback. He said there were good aspects of the design. He noted that the neighbors were not against a two-story residence; he suggested that if the architect/owner met with the neighbors there would be a design agreeable to all.

Commissioner Pagee said the second story could be improved to be more sensitive to the neighbors' privacy and light. She said the home needed a friendly face and to protect the privacy of neighbors by landscaping, placement of windows and height of sills. She noted that the lightwells could be placed more sensitively.

Commissioner Riggs said that Commissioner Pagee had made helpful points. He said the lightwells were not needed, but were forced into existence by full use of the property and the second story. He said he thought the formality of the style was one of the biggest problems for the neighborhood. He said if the front fence was wood rather than stucco it would be less formal. He said regarding flooding that the project might be required to not increase storm water drainage. Planner Fisher said that because the property was residential there could be an increase in impervious surfaces but the applicant would be required to submit a grading and drainage plan to comply with the City's standards.

Commissioner Keith said it was obvious that the arborist did not visit the neighbors' site but that the Harris' appear to want the arborist to go on their site and measure the trees. Commissioner Deziel said the trees on the neighbor's property were very visible and noted whether the trunks were 44, 48 or 50-inches that those trees were mature and hearty. He said he favored putting the driveway as proposed in that the removal of the current driveway would create space for tree roots to breathe and grow - notably the two oak trees, numbers 9 and 10. He said if people wanted landscape screening that the apple and magnolia trees might be replaced.

Commission Action: M/S Pagee/Riggs to continue the item to allow the applicant to redesign to take into account neighbor concerns regarding the proposed style of the residence, window placement and sill heights, lightwells in the side setbacks, loss of sunlight, and landscaping. More accurate information regarding the heritage trees on the adjacent site and a landscape plan need to be provided with the revised plans. The new design should maintain the existing amount of pervious area on site. The neighbors should be consulted prior to resubmittal.

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

2. Use Permit/Casa dei Bambini School/1215 O'Brien Drive: Request for a use permit to locate a private school in the M-2 (General Industrial) zoning district.

Staff Comment: Planner Rogers said there was a problem on the plans regarding the aisle next to the handicapped zone as it was shown as five feet when it should be eight feet and that also a secured access path from that aisle to the front door was needed. He said staff was recommending a condition "4c" that would read as follows: "Concurrent with building permit submittal, the applicant shall submit a revised site plan, showing the access aisle next to the accessible parking space with a width of eight feet and a clear path of travel from the head of the access aisle to the front door. These revisions may result in the loss of one parking space and the removal of some landscaping at the front of the building. The revised site plan shall be subject to review and approval of the Planning and Building Divisions." He said that would change the site plans. He said he received a phone call message from Mr. Jose Sandoval, Sanford Metal Processing Company, related to his concerns with the location of a school in an M-2 zoning district because of the storage of hazardous materials. He said that the permit approval included conditions for future storage of hazardous materials.

Questions of Staff: Chair Bims said the revised condition indicated that the project might lose one parking space and asked if that was less than a significant impact. Planner Rogers said the reduction of one space from 23 to 22 in staff's opinion was not significant.

Commissioner Pagee asked about the required dimension of frontage with a driveway in a corner. Planner Rogers said he did not specifically know that and noted that the Transportation Division had reviewed and approved the plans. Commissioner Pagee asked whether the three trees would be removed. Planner Rogers said the Transportation Division had reviewed the plans with the three trees, which would not be removed, and were considered significant.

Commissioner Riggs said that a company had written a letter expressing concern that a school might be located in the M-2 zoning district. He asked if the school use was compatible with existing uses. Planner Rogers said in conversations with the Fire District that they did not have specific requirements regarding this use with other uses. He said a new use on the site might require higher safeguards next to a school than those which were currently required.

Commissioner Pagee asked if having the school eliminated the possibility of developing adjacent M-2 lots to their fullest potential whether that would be good use of the site. Planner Rogers said the Fire District had indicated there would be stricter requirements for future businesses near the school. Commissioner Pagee asked if there was a way of identifying properties that have noxious fumes or stored hazardous materials. Development Services Manager Murphy said the difference was going from quantities pertinent to research and development and scaling up for production and in those cases there would need to be more requirements. He said regarding noxious fumes and hazardous materials that the Fire District maintains records of such facilities.

Commissioner Deziel said he had same concern about precluding M-2 development and if that would restrict a business to only research and not production. Planner Rogers said the location of the OCIW and Mid-Peninsula School already required this level of restriction and protection. Development Services Manager Murphy said that the question about the difference between

research and production restrictions was not known to staff before this evening and would need to be addressed later.

Chair Bims asked about slower speed limits because it was a school zone. Planner Rogers said because of the age of the children that there would not be children walking so there was no need for lower speed limits or crosswalks. He said the requirement for a "Drug-Free Zone" would go into effect when the school became operable.

Commissioner Keith referred to an anonymous letter, which indicated that there had been an increase in drug use and traffic at this business park. Mr. Rogers said the Police Department had indicated that there was no substantiation of that claim. .

Public Comment: Ms. Sandra Balzaretto, co-owner of Casa dei Bambini, said that she looked forward to the use of the proposed site and being in Menlo Park.

Commissioner Keith asked about the large space that seemed to be unused. Ms. Balzaretto said that it was a wonderful indoor play area for the children's use during inclement weather. Commissioner Keith asked if there would be any activities past 5:30 p.m. Ms. Balzaretto said that there were parent/teacher conferences twice a year and those would all take place before 5:30 p.m. She said that other activities would also occur during the day. Commissioner Keith asked if parents were aware that the site would be in an industrial area. Ms. Balzaretto said that their existing clients understood their need to get a larger and more convenient space.

In response to a question from Commissioner Deziel, Ms. Balzaretto said there was a 10-year lease with a five-year option. Commissioner Deziel said that the street and parking lot were one expanse of asphalt and there was nothing to show children that the street was more dangerous than the parking lot. Ms. Balzaretto said most children would come to the site in car seats and would not just jump out of the vehicle. Commissioner Deziel said that it was possible there might be other children in the cars, who would get out from the opposite side of the vehicle near the street. Ms. Balzaretto said they had thought about landscaping to create a barrier. Mr. Carlos Balzaretto, co-applicant, said they were thinking about a see-through metal fence along the length of the parking lot.

Commissioner Riggs asked about trees in the enclosed outside play area. Ms. Balzaretto said that they were not planning to do planting. She said in Palo Alto they used dwarf lemon trees in terra cotta pots in the outside areas.

Commissioner Riggs asked staff if there was a potential for planting or a fence in the front and whether that would come before the Commission or to staff. Planner Rogers said there was some excess City right-of-way that would allow for some planting or fencing and the Commission could direct the applicant to come back with those items or to allow them to come to staff for review and approval. Commissioner Riggs asked about the materials and color of proposed painting. Planner Rogers said that the Commission could either direct staff to review and approve or have the applicant return for approval. Development Services Manager Murphy said that staff would be comfortable reviewing and approving color choices.

Commissioner O'Malley asked if the present school was the same size. Ms. Balzaretto said they have about 65 children at their Palo Alto school. Commissioner O'Malley asked about the size of the current school site. Mr. Balzaretto said it was about 10,000 square feet. Commissioner O'Malley asked about the number of parking spaces. Mr. Balzaretto said that they have 13 spaces. Commissioner O'Malley said this building was 40,000 square feet and

asked if the additional space would be used for recreation. Mr. Balzaretto said part of the building would be used for a playground and part of the building would not be used at all. Commissioner O'Malley asked about the parent/teacher conferences held twice a year during the day and whether the meetings would be staggered. Ms. Balzaretto said that parents sign up for a time slots and potentially they have never had more than six parents at one time onsite.

Commissioner Keith asked the applicants to elaborate on plans to beautify the rear area. Mr. Balzaretto said the playground would be a soft surface area and there would be a sandbox and a deck. He said that would provide different type of surfaces and on the rear fence there would be materials to cover the chain link fence. Ms. Balzaretto said there would also be a canopy for shade and possibly picnic tables with umbrellas. Commissioner Keith asked about traffic circulation. Ms. Balzaretto said at 3 p.m., 40 children would be picked up and that took about 20 minutes. She said that there were other pickups at 4 p.m., 4:30 p.m., 5 p.m. and 5:30 p.m.

Commissioner Pagee asked about the lavatories for the children, noting the plans only showed women and men's room. Ms. Balzaretto said that those were for the children and the bathrooms would be co-ed. Commissioner Pagee said there were five HVAC units on the roof and if there was ventilation. Mr. Balzaretto said that a technician had inspected the units and they could be used. Commissioner Pagee said she would like greenery in the rear area.

Ms. Nancy Noe, Alza Corporation, a pharmaceutical company, said they have three research facilities in the area of this school and the proximity of those to this proposed school caused them great concern. She said young children were much more susceptible to hazardous materials than older children and adults. She said also all of the children were in carseats and she did not see how eight teachers would be able to evacuate all of the children quickly. She said they also have business concerns caused by the proximity of a school to their site as there were other regulations for businesses imposed by the state and region for use of hazardous materials within 1,000 feet of a school and that was for existing uses as well. She said schools could be located in different zoning districts but companies with hazardous materials might only be located in certain zoning districts. She asked that the application be denied.

Commissioner Pagee asked if the company had exhaust fumes. Ms. Noe said they use a backup generator and Regional Air Quality might question the use of that within the vicinity of young children.

Mr. John Tarlton, Menlo Business Park, said Menlo Business Park was immediately adjacent to this site. He said he wanted to be supportive of a use that would use a building that had been vacant so long, but there were other issues of concern. He said that they have a number of generators on their site and probably would request the use of more as these were needed for research conditions. He said that there might be a limiting to the amount of research in the area because of the use of this site for a school. He said he was not aware that OIWC had a daycare center. He said he was very concerned that a school should be placed in the area.

At Chair Bims' request, Mr. Tarlton discussed the development of the area for use by research and development companies.

Ms. Kimberly Dawn, Noren Products, said they have been at the site for 20 years. She said children at the OIWC daycare were only there when their parents were also there. She said near this site there had been three accidents and at rush hours in the morning and evening there was intense traffic and speeding vehicles.

Mr. Jose Sandoval, Sanford Metal Processing Company, said they have over 250 chemicals at the site, including many different solvents. He said it would be very difficult for parents to get to the site in time to retrieve their children should there be a hazardous materials accident. He said he had not received a notice in the mail about this project but was fortunate that a neighboring owner brought this to his attention. He said they had been at the site since 1977. Commissioner Keith asked about the last accident that had occurred at his site. Mr. Sandoval said there had been a small fire in 1998 that created some fumes.

Ms. Balzarette noted that the site where the school was proposed was within one block of a residential area and there was a bus drop off nearby. She said her request was unusual but would provide a much needed service. She said the school at this site would give the City a tool to mitigate against future dangers.

Commissioner Keith asked if the school had a bus for evacuation. Ms. Balzarette said they have an evacuation plan for small emergencies and larger emergencies. Commissioner Keith asked why they wanted this site. Ms. Balzarette said there was no other place for schools to be developed in Menlo Park that were affordable.

Commissioner Deziel asked why the facility would not have worked at SRI. Mr. Balzarette said that SRI was considered a chemical plant and when they met with the Fire District this was not a possibility. He said in consideration of this site that he had gone to County Environmental Health and gotten a report on the type of permits of all of the companies in the area. He said he had talked with the Fire District and the permits in the area were only for small amounts of chemical storage for research and development.

Chair Bims asked about evacuation for the site if there was a hazardous materials accident. Ms. Balzarette indicated that neither County Environmental Health nor the Fire District had recommended an evacuation plan as the permitted uses for hazardous materials in the area was for research and development. Chair Bims confirmed that neither the County nor the Fire District had requirements for them to have an evacuation plan. Mr. Balzarette said because the amount of chemicals used in this area did not warrant this level of program. Ms. Balzarette said a representative from the Fire District looked at the site and plans and made comments and suggestions, but expressed no concerns about hazardous materials in the vicinity. Mr. Balzarette said that if there were companies nearby storing large amounts of chemicals that would be of concern.

Chair Bims closed the public hearing.

Commission Comment: Commissioner Riggs said the Fire District was asked to issue approval of the proposed project, but this use in the M-2 district was a bigger issue involving regional and state regulations. He said there seemed to be information presented tonight that indicated there were larger quantities of chemicals in the area. He asked if Mr. Sandoval could indicate where his company was located; it was noted to be three properties in from Willow Road. He asked whether the proximity of this business to the proposed project would have changed staff's recommendation. Development Services Manager Murphy said that staff produces recommendations based on the information available and that provided by reviewing agencies. He said that the Commission had heard concerns from other property owners this evening, and the Commission should take the concerns into consideration.

Chair Bims asked about paperwork from County Environmental Health and Fire Services that indicated there was no need for an evacuation plan or anything to mitigate the location of

hazard materials near the site. Development Services Manager Murphy said that staff had not received any paperwork like this, but that it was not standard routine to receive such paperwork.

Commissioner Keith asked about the 1998 accident at Mr. Sandoval's company and if there had been an evacuation. Mr. Sandoval said there had not been a major evacuation as the Fire Department arrived quickly and determined that it was not a major accident. He said they are inspected annually by EPA, Fire District and County Health annually because of the chemicals that are stored onsite.

Commissioner Deziel said he read the document from the Silicon Valley Leadership Development group, which he characterized as a regional best practices and guidelines. He said there was a tradeoff of needs of uses such as schools and other industry. He said however there was a risk of the school use in the M-2 district that there might not be future investment there. He noted information on air emissions on page 3 of the report that indicated if there were children (sensitive receptors) nearby those operations, existing and new, might be required to significantly change operations. He said regarding these businesses being close to residences that this use would bring the residential zone into the M-2 by another 540 feet. He said that the region's best practices were stating that this was not a good idea.

Commissioner Riggs moved to deny the project. He said that chemical explosions were guarded against but the risk was increased with children who would be more susceptible than adults. He said that the Commission had to be responsible to support zoning and the uses planned for that zone. He said he hoped that the preschool would be able to find another location. Commissioner Deziel seconded the motion.

Chair Bims said he understood the need for more schools and preschools. He said however that this location had both a hazardous materials issue and a traffic issue. He said as Commissioner Deziel had mentioned, there was a potential economic impact that might discourage business development in the area and impact the fiscal health of the City. He said the businesses there already were indicating that there were not other locations for them whereas the school could find a suitable location.

Commission Action: M/S Riggs/Deziel to deny the project.

1. Make a finding that the project is categorically exempt under Class 1 of the current 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 would further discourage investment by, and potentially hinder the operations of, R&D (research and development) and production facilities in the area, and would potentially increase the risk of exposure to children of hazardous materials, resulting in the project being detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and being detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Deny the use permit.

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

3. **Use Permit and Architectural Control/Kenneth Rodrigues & Partners, Inc./4040 Campbell Avenue:** Request for a use permit and architectural control to demolish an existing two-story, 48,505-square-foot office and R&D building, and construction of a new

two-story, 41,284-square-foot office and R&D building in the M-2 (General Industrial) zoning district.

Staff Comment: Planner Rogers said that there had been a slight discrepancy in the square footage for Floor Area Ratio (FAR) because an earlier iteration had not been replaced in certain areas of the staff report. He said that this worked out to a requirement of one parking space per 243 square feet as opposed to one space per 238 as stated on page 3 of the staff report.

Questions of Staff: Chair Bims said the numbers on the front page of the staff report for building square footage in the existing development and proposed development were different from the numbers listed in the agenda. He said on page 2 of the staff report the square footage of the new building was also a different number. He asked for clarification. Planner Rogers said the data table on the front page of the staff report was accurate.

TJ Bianchi, Deerfield Realty, Menlo Park, said the intent was to replace a 1960s building with a smaller building and the use was consistent with the neighborhood. He said they had worked closely with staff and had a materials board and PowerPoint if the Commission wanted to see them.

Commissioner Keith asked about the reference to "possible" location of HVAC on A.6 and asked if there was another location in mind. Mr. Bianchi said it was pretty common to have the systems on the roof with a screen. He said it was state as possible because it would be dependent on the division of the internal space as to whether there was one tenant for the whole space or four 10,000 square foot spaces.

Commissioner Riggs asked why they decided to demolish rather than remodel. Mr. Bianchi said they originally intended to remodel, but when they began taking the existing building apart it was apparent that its construction had been changed and added to over the years and the cost to remodel would be greater than the cost to completely replace it.

Commissioner Deziel said the oak tree, tree number 17, which was represented being up against the new building was actually four-foot, five-inches from the existing building. He said there was value in keeping the tree. Mr. Bianchi said some of the root system was under the building and the landscape architect had indicated the possibility of moving the tree, but it was not guaranteed to survive that.

Mr. Ken Rodrigues, project architect, said they saw a value in the oak tree, but his client was concerned that there might be a condition to move the tree successfully and then the tree might not survive. He said they would like to demolish the building first and then have their arborist look at the roots system and make a determination of the viability of moving it.

Commissioner Deziel asked if there was a list of persons who have removed heritage trees illegally. He suggested that one of those persons be required to take this tree as the Heritage Tree ordinance requires a replacement tree when there was a violation. Staff indicated that there was no mechanism in place to take that action.

Commissioner Pagee asked how the grading and creation of a smooth surface would impact neighbors. Mr. Rodriguez said that properties on either side of the subject site have done the same thing and they would use a thickened curb at each end to conform. He said all of the properties would look similar. He said the drainage would be taken care of on the property.

Chair Bims asked whether the Commission wanted to stay past 11:30 p.m. and the Commission's consensus was not to continue after that time.

Chair Bims closed the public hearing.

Commission Comment: Commissioner Pagee moved to approve as stated in the staff report. She said it was the replacement of an existing building and would be an improvement. Commissioner Keith seconded the motion.

Commissioner Riggs said the oak tree was nice and noted that those who move trees would not guarantee success, but might offer the likelihood of success 90 percent of the time. He made a friendly amendment for a condition to relocate the tree on site without a requirement for the tree to survive. Commissioners Pagee and Keith accepted the friendly amendment. Commissioner Deziel said the tree would need to be moved within 60 days.

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

1. Make a finding that the project is categorically exempt under Class 2 of the current 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 detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Adopt the following findings, as per Section 16.68.020 of the Zoning Ordinance, pertaining to architectural control approval:
 - a. The general appearance of the structure 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.
4. Approve the architectural control and use permit subject to the following *standard* conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Kenneth Rodrigues & Partners, Inc., consisting of 12 plan sheets, dated received November 22, 2006, and approved by the Planning Commission on November 27, 2006, except as modified by the conditions contained herein.
 - b. Prior to building permit issuance, the applicants 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 applicants shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.

- d. Prior to demolition or building permit issuance, the applicant shall comply with the requirements of Chapter 12.48 (Salvaging and Recycling of Construction and Demolition Debris) of the City of Menlo Park Municipal Code, and is subject to review and approval by the Public Works Department.
- e. Concurrent with the submittal of a complete demolition permit application, the applicant shall submit a plan for 1) construction safety fences around the periphery of the construction area, 2) tree protection for the heritage trees to remain on the site, 3) dust control, and 4) erosion and sedimentation control. The fences and erosion and sedimentation control measures shall be installed according to the plan prior to commencing construction. The plans shall be reviewed and approved by the Building and Engineering Divisions prior to issuance of a demolition permit.
- f. Concurrent with the submittal of a complete building permit application, 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 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.
- g. Concurrent with the submittal of a complete building permit application, the applicant shall submit plans indicating that the applicant shall remove and replace any damaged and significantly worn sections of frontage improvements and install new frontage improvements as appropriate. These revised plans shall be submitted for the review and approval of the Engineering Division.
- h. Concurrent with the submittal of a complete building permit application, the applicant shall submit a Grading and Drainage Plan and Hydrology Report for review and approval of the Engineering Division. The Grading and Drainage Plan shall be prepared based on the City's Grading and Drainage Plan Guidelines and Checklist and the Project Applicant Checklist for the National Pollution Discharge Elimination System (NPDES) Permit Requirements. The Grading and Drainage Plan shall be approved prior to issuance of a grading or building permit.
- i. Concurrent with the submittal of a complete building permit application, the applicant shall submit a detailed landscape and irrigation plan demonstrating compliance with Chapter 12.44 (Water-Efficient Landscaping) of the City of Menlo Park Municipal Code. This plan shall be subject to review and approval of the Planning Division.
- j. Concurrent with the submittal of a complete building permit application, the applicant shall submit documentation of approval from Allied Waste for the proposed garbage enclosure, subject to review and approval of the Planning Division.
- k. Concurrent with the submittal of a complete building permit application, the applicant shall submit a lighting plan, providing the location, architectural details and specifications for all exterior lighting subject to review and approval of the Planning Division. A photometric study shall be included. The lighting plan shall minimize glare and spillover.

- I. Prior to the building permit issuance, the applicant shall pay the applicable Building Construction Street Impact Fee.

- m. Prior to final building inspection, the applicant shall enter into a "Stormwater Treatment Measures and Operation Maintenance (O&M) Agreement" with the City subject to review and approval of the Engineering Division. With the executed agreement, the property owner is responsible for the operation and maintenance of stormwater treatment measures for the project. The agreement shall run with the land and shall be recorded by the applicant with the San Mateo County Recorder's Office.
- 5. Approve the architectural control and use permit subject to the following *project-specific* conditions:
 - a. Concurrent with the submittal of a complete building permit application, the applicant shall submit an amendment to the existing parking, ingress, and egress easement to reflect the new building and parking layout, subject to review and approval of the Engineering and Planning Divisions. The applicant shall record the amended easement and submit documentation of the agreement prior to building permit issuance.
 - b. *Subsequent to the demolition of the existing structure and prior to the submittal of a complete building permit application, the applicant shall submit a report from a tree moving service, detailing the existing conditions and feasibility of relocation of tree #17 (coast live oak), subject to review and approval of the Planning Division and City Arborist. If the Planning Division determines that relocation of this tree is feasible, concurrent with the submittal of a complete building permit application, the applicant shall submit a revised landscape plan, specifying that the tree will be relocated to a suitable location on this site, subject to review and approval of the Planning Division.***

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

- 4. **Use Permit/Stion Corporation/3603 Haven Avenue, Suite A:** Request for a use permit for the use and storage of hazardous materials associated with a research and development use in the M-2 (General Industrial) zoning district.

Staff Comment: Planner Fisher said staff had no additional comments.

Public Comment: Mr. Howard Lee, Chief Technological Officer for Stion Corporation, introduced Ms. Ellen Ackerman. He said they hire Ms. Ackerman as a consultant to develop an appropriate hazardous waste program. He said Stion Corporation was a privately funded start up and they were doing pure research and development to develop third generation solar cell technology. He said they needed to use and handle hazardous materials.

Commissioner Pagee asked if the company had an emergency coordinator. Mr. Lee said that currently was function, but there had been a facilities manager hired who would eventually take over the role. Commissioner Pagee asked about safety training. Mr. Lee said that they have done two trainings already and plan to do those regularly. Commissioner Pagee asked about fume hoods. Mr. Lee said there were fume hoods and that they used such chemicals as acetone, ethanol, hexane, and volatile organic compounds. Commissioner Pagee asked about scrubbers. Mr. Lee said those were not required. Commissioner Pagee asked about delivery and security of hazardous materials. Mr. Lee said the materials were brought into shipping at the rear of the site and left in the boxes and stored appropriately in the lab area, the first space beyond the delivery doors.

Commissioner Riggs said the quantities listed were relatively small but asked if they had a spill contractor identified. Mr. Lee said that they did not have a contractor but there were spill kits in several places in the facility.

Commissioner Deziel asked staff if the facility did not perform whether the use permit could be revoked. Planner Fisher said that 3.e and 3.f were conditions to prevent abuse of and limit the use permit.

Commissioner O'Malley said that he thought their hazardous materials plan was excellent.

Chair Bims closed the public hearing.

Commission Comment: M/S Pagee/Keith to approve the item as presented in the staff report.

1. Make a finding that the project is categorically exempt under Class 3 of the current 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 detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the use permit subject to the following *standard* conditions:
 - a. Development of the project shall be substantially in conformance with the plans for the Menlo Business Center and Suite A, consisting of two plan sheets, dated received on November 2, 2006, and approved by the Planning Commission on November 27, 2006 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. If there is an increase in the quantity of hazardous materials on the project site, a change in the location of the storage of the hazardous materials, or the use of additional hazardous materials after this use permit is granted, the applicant shall apply for a revision to the use permit.

- e. Any citation or notification of violation by the Menlo Park Fire Protection District, San Mateo County Environmental Health Department, Fair Oaks Sanitary Maintenance 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.
 - f. If the business discontinues operations at the premises, the use permit for hazardous materials shall expire unless a new business submits a new hazardous materials business plan to the Planning Division for review by the applicable agencies to determine whether the new hazardous materials business plan is in substantial compliance with the use permit.
4. Approve the use permit subject to the following *project specific* conditions:
- a. Prior to using hazardous materials at the site, the applicant shall correct Section A the hazardous materials business activities plan to accurately reflect the quantity of compressed nitrogen to be stored on site, as commented on by San Mateo County Environmental Health Services Division.

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

- 5. Use Permit/Theranos, Inc./1430 O'Brien Drive, Suite C:** Request for a use permit for the use and storage of hazardous materials associated with the development of biomonitoring systems in the M-2 (General Industrial) zoning district.

Staff Comment: Planner Fisher said staff had no additional comments.

Commissioner Pagee asked about condenser units on a trailer with wheels on an adjacent lot, and if that was a normal application. Mr. Tarlton, Menlo Business Park, said the trailer was temporary and for a future use permit for a 430 ton plant. Commissioner Pagee said her concern was the trailer could move slightly and break the lines. Mr. Tarlton said the lines contained water.

Public Comment: Mr. Tarlton, Menlo Business Park, introduced Mr. Ron Arnold, Vice President for Manufacturing, for Theranos, Inc. Mr. Arnold said the company was developing a small fluidic device that patients would be able to use at home to judge the effectiveness of the drugs they were taking and to check that there would not be a reaction. He said for instance that the device would indicate whether cancer medicine was shrinking tumors. He said the device was for use by persons with metabolic or neurological disorders. He said each device contained less than 2 ml. of different buffers and antibodies.

Chair Bims asked where they would do production once the device was fully developed. Mr. Arnold said that this site would be a pilot plant and manufacturing would be done somewhere else.

Commissioner Pagee asked about the company's safety officer and fume hoods. Mr. Arnold named the safety officer and noted there was no need for fume hoods. Commissioner Riggs asked about the spill kit and if it was only in one lab. Mr. Arnold said there were two labs next to

each other and that they receive a very small amount of chemicals. He said they were mostly salt solutions and there were very few solvents.

Chair Bims closed the public hearing.

Commission Comment: Commissioner Riggs asked about backup power for the cryogenics. Mr. Arnold said that they use a generator backup for the computers but nothing for the refrigerators/freezers; he noted that there were no hazardous materials to be concerned about should there be a loss of power.

Commission Action: M/S Keith/Pagee to approve the item as presented in the staff report,

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

D. REGULAR BUSINESS

1. **Consideration of minutes from the August 28, 2006, Planning Commission meeting.**

Commission Action: There was unanimous Commission consent to approve the minutes as submitted.

E. COMMISSION BUSINESS, REPORTS, AND ANNOUNCEMENTS

- **Review of upcoming planning items on the City Council agenda.**

Development Services Manager Murphy provided a review of upcoming planning items on the City Council agenda.

ADJOURNMENT

The meeting adjourned at 11:30 p.m.

Staff Liaison: Justin Murphy, Development Services Manager

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission on February 5, 2007.