



MENLO PARK PLANNING COMMISSION MINUTES

Regular Meeting
March 12, 2007
7:00 p.m.
City Council Chambers
701 Laurel Street, Menlo Park, CA 94025

Teleconference with participation by:

| | | |
|---|-----|---|
| Commissioner Keith from: Camino a Las Gatos Playa La Ropa Junta al Capricho, Del Ray Zihuatanejo, Gro. Tel: 755-55-4-48-41 | AND | Commissioner Bims from: Caribe Royale Hotel 8101 World Center Dr. Orlando, FLA 32821. Tel: 800-823-8300 |
| (Posted March 9, 2006) | | (Posted March 9, 2006) |

CALL TO ORDER – 7:00 p.m.

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

INTRODUCTION OF STAFF – Deanna Chow, Senior Planner, Megan Fisher, Associate Planner, Thomas Rogers, Associate Planner

A. PUBLIC COMMENTS

There were none.

B. CONSENT

There were no consent items on the agenda.

C. PUBLIC HEARING

- Use Permit/Carl Hesse/129 Pope Street:** Request for a use permit to demolish an existing single-story, single-family residence and construct a new two-story, single-family residence on a substandard lot with regard to lot width in the R-1-U (Single-Family Urban) zoning district, and for excavation into a required side yard setback for a light well and egress associated with a basement. *(Continued from the meeting of February 26, 2007.)*

Staff Comment: Planner Rogers said there was a colors and materials board for the Commission to review; he noted that a letter had been received from John and Sarah Wolking,

neighbors across the street from the project site in support of the project and urging the Commission to approve the plans.

Questions of Staff: Commissioner Keith asked about the 129 Pope Street garage construction mentioned on page 5 of the staff report, and when that occurred. Planner Rogers said the permit was issued in 2004 and the project was completed in 2005.

Commissioner O'Malley asked if staff's recommended condition 4.d would require a change to the plans. Planner Rogers said that no change to the exterior would be needed.

Commissioner Pagee asked how the setbacks were determined as the front of the lot was over 50 feet and the rear of the lot was less than that. Planner Roger said that in an R-1-U zoning district the side setbacks are based on a percentage of the lot width. He said as defined by the ordinance the minimum lot width was the shortest dimension between two side property lines in the area in the front setback and in the rear setback. He said the rear setback was 44-feet in width; however, 10 percent of that would be 4.4 feet but a 5-foot setback was the minimum requirement. He said minimum lot depth was measured as an average. Commissioner Pagee asked about the daylight plane and where it started in the flood plane area. Planner Rogers said that the daylight plane on a sloping lot was an average of the highest and lowest points for the footprint of the building in question. He said that did not differ for flood plane areas or non-flood plane areas. He said the rear of this property has been exempted by FEMA from the flood zone and that all of the area of construction was outside the flood zone. Commissioner Pagee asked about the allowed penetrations of the daylight plane. Planner Rogers noted plan sheet A2.04, which was the roof plan that showed the daylight plane lengthwise encroachments, including one encroachment on the left at 16-feet 10-inches and a second encroachment on the right at 13-feet 0-inches, or a total encroachment of 29-feet, 10-inches. He said there was a maximum encroachment into the daylight plane of 30-feet on this dimension. He said plan sheet A3.01 showed lateral encroachments in the daylight plan and that these were allowable to 10-feet. He noted that the lateral encroachments were not cumulative and that there was one lateral intrusion of six- feet 10-inches and one at six-foot three-inches. Commissioner Pagee commented that these were the allowed encroachments for the gables, eaves and chimney. Planner Roger said when viewed in the context of the daylight plane these were considered the allowed intrusions but the concept was the same as a permitted encroachment. Commissioner Pagee said the staff report did not address the bay window penetration of the daylight plane. Planner Rogers said the daylight plane was the area of the triangle, noting that the side setback line was governed under the encroachments and balcony section of the zoning ordinance and those encroachments have been minimized to be no more than 18-inches. He noted that 18-inches was the maximum allowed encroachment a side setback of five feet. Commissioner Pagee said she recalled in prior discussions with Director Heineck that daylight plane started at the base of the setback up to 19-feet six-inches and measured at 45-degrees. She said that there seemed to be two definitions of daylight plane under the zoning ordinance. Planner Rogers said the bay window fell under the section of the zoning ordinance related to balconies and encroachments. Commissioner Pagee asked about the allowance of two bay windows that were not addressed in the daylight plane. Planner Rogers said that those did not intrude into the daylight plane; he said to his knowledge there was not a specific amount of bay windows encroachments that were allowed to be permitted. Commissioner Pagee noted that bay windows were being allowed on the second story.

Commissioner Sinnott asked about condition 4.d and if the City had ever requested additional parking such as this was requiring on alleys. Planner Rogers said this condition derived from

numerous discussions with the Community Development Director, City Attorney and Transportation Manager regarding projects with alley use. He said the Transportation Manager had indicated that 15-foot alleys might be considered an appropriate part of site development as long as the alley was considered as secondary access; and for a single-family residence that only one of the two required parking spaces might be accessed from alley.

Commissioner Sinnott asked if this was only for houses that have both alley and street access. Planner Rogers said for when the functional face of the home was on the street.

Public Comment: Mr. Carl Hesse, applicant, said he was both the owner and architect for the project. He said that their current City approved parking was two spaces off the alley with one in the garage and one along the garage. He said they would like to keep the parking as is. He said the flexible space in front would accommodate a parking space but it was his hope to keep the flexibility regarding the use of that space. He said from a design standpoint that they tried to keep with the character of the neighborhood and to fit in scale-wise but with the use of more modern finishes and some green features such as a metal roof and a type of stucco that would not need paint. He said he tried to keep the design simple and that most of the utilities would be housed within. He said one big thing they were intensely researching was pre-built panels which would reduce job-site framing, construction waste and time on the site. He said with this method the home could be framed in one week rather than in one and a half months.

Commissioner Deziel asked about obtaining the flood zone exemption. Mr. Hesse said it was not difficult but a lot of paperwork. Commissioner Deziel asked about the small-size windows and if those were preferred or being offered in the hopes of approval. Mr. Hesse said there were larger windows on the side of the bay windows. He said the smaller windows and the higher sills were to address privacy. He said the front and rear windows were sizable and there were a number of skylights. He said the stairwell was mostly glass and would use translucent glass.

Commissioner Riggs said the site plan was delightful and the use of the pre-fabricated framing would save construction time and prevent waste. He said Mr. Hesse has worked well with the neighbors. He said the design however had several functional goals that brought up some aesthetic issues, specifically the pitch roofs with the pulled blocks and the large flat planes within a context of quite detailed articulation. Mr. Hesse said they were intentionally looking at something more contemporary than very traditional houses and that the plan respects the volume of the traditional homes but departed enough from those to be contemporary. He said regarding the exterior that there were quite a few other stucco homes in the neighborhood. He said the use of stucco was kinder to the world-wide wood supply and needed less maintenance. Commissioner Riggs said that they had met the goal of massing; he noted that stucco with pre-war detailing comes out much different and that there were other low-impact, low maintenance materials.

Vice-chair Sinnott closed the public hearing.

Commission Comment: Commissioner Deziel moved to approve as recommended with the elimination of condition 4.d; Vice-chair Sinnott seconded the motion. Commissioner Deziel said that the applicant would have to invest in the maintenance of the alley and there were two parking spaces there. Commissioner Riggs said he agreed that condition 4.d was inappropriate. Commissioner Pagee said she liked the architecture of the project overall but did not like the second story at a five-foot setback with what was basically a step out rather than a step in. Commissioner Bims said that there was concern with parking on the alley but that the alley was

not a through alley and he did not see the project causing a traffic problem. He said he understood Commissioner Pagee's concern with the second story at the side setbacks; he noted however the neighbors' support for the project. Commissioner Keith said she thought this was an interesting design and that the lateral windows brought light into the bedrooms. She said she agreed with elimination of condition 4.d as there was only one entrance to the alley, which was only for the properties having alley access.

Commission Action: M/S Deziel/Sinnott to approve as recommended in the staff report with the following modification.

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 prepared by Square Three Design Studios, consisting of 15 plan sheets, dated received March 6, 2007, and approved by the Planning Commission on March 12, 2007, except as modified by the conditions contained herein.
 - b. Prior to building permit issuance, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
 - d. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. All 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. Simultaneous 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. The plans shall be submitted for the review and approval of the Engineering Division.
 - f. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a Grading and Drainage Plan for review and approval of the Engineering Division. The Grading and Drainage Plan shall be approved prior to issuance of a grading or building permit.

- g. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance. Prior to the building permit issuance, the applicant shall implement the tree protection plan and technique recommendations in the Arborist Report for all applicable heritage trees.
- 4. Approve the use permit subject to the following *project-specific* conditions:
 - a. Simultaneous with the submittal of a complete building permit application, the applicant shall submit an Alley Improvement Plan. The plan shall specify that all potholes between 129 Pope Street and the alley's intersection with Laurel Avenue will be patched. The plan shall be subject to review and approval of the Planning and Engineering Divisions.
 - b. Prior to final inspection, the applicant shall conduct one of the following four actions with regard to the patching of alley potholes, subject to review and approval of the Planning Division:
 - i. Submit documentation that the patching of alley potholes has been completed by the applicant, along with a copy of the invoice of the cost of this work, for potential future partial reimbursement by the 205 Pope Street applicant.
 - ii. Submit documentation that the patching of alley potholes has already been completed by the 205 Pope Street applicant, and that the 129 Pope Street applicant has reimbursed the 205 Pope Street applicant for 50% of the cost of the pothole patching work.
 - iii. Submit documentation that the 129 and 205 Pope Street applicants have entered into an agreement, and have jointly conducted and paid for the patching of alley potholes.
 - iv. Submit documentation that the patching of alley potholes has already been completed by someone not affiliated with either of the 129 or 205 Pope Street projects.
 - c. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a draft Access Alley Maintenance Agreement, subject to review and approval of the Planning Division and City Attorney. Prior to issuance of a building permit, the applicant shall submit documentation of the approved Access Alley Maintenance Agreement's recordation, subject to review and approval of the Planning Division. The Access Alley Maintenance Agreement shall include the following provisions:
 - i. If any other maintenance agreements have already been recorded on this alley, the agreement shall provide for joint sharing of maintenance costs.
 - ii. The property owner shall record an amended agreement to provide for joint sharing of maintenance costs, if any future properties along this alley record such maintenance agreements.
 - iii. "Joint sharing of costs" shall mean that all properties are responsible for an equal share of all maintenance costs for the alley up to the farthest property recording such agreements, unless the property owners are able to reach a private agreement for an alternate cost-sharing scheme.

- ~~d. Simultaneous with the submittal of a complete building permit application, the applicant shall submit revised site and floor plans, designating that the front "Projects, Crafts, Bikes, Scooters, and Strollers" room has been redesignated as a required off-street parking space. The plans shall be subject to review and approval of the Planning Division.~~

Motion carried 6-1 with Commissioner Pagee opposed.

2. **Use Permit/Robert Shawn Hector/323 Pope Street:** Request for a use permit to demolish an existing single-story, single-family residence and two detached accessory buildings, and construct a new two-story, single-family residence and detached garage on a substandard lot with regard to lot width in the R-1-U (Single-Family Urban) zoning district.

Staff Comment: Planner Fisher said there was a letter from the owners of 370 Noel Lane related to possible variance requests and also the removal of heritage trees in 2005 for which there had been no trees replaced. Planner Fisher noted that the applicant was not requesting any variances. She said she spoke with the applicant about the trees and they had indicated they had planted replacement heritage trees.

Questions of Staff: Commissioner Pagee asked if the bay window encroached into the daylight plane. Planner Fisher said the gable and bay window encroached, but it was a permitted encroachment.

Public Comment: Mr. Richard Morrison, the project architect, said the staff report was very thorough and he supported the recommendations. Commissioner Pagee asked about the replacement trees. Mr. Robert Shawn Hector, property owner, showed the trees that were removed and replaced, including three laurels. He said the trees were removed because they were dangerous. He said when he bought the property in 1998 that the neighbor had asked him to remove one tree because it was dangerous. He said an arborist had indicated the tree was not dangerous, so he did not remove it. He said the tree later lost a limb that fell on the neighbor's garage roof. He then had the tree removed with a permit.

Commissioner Deziel asked if they had considered expanding the area where there was grasscrete so the car in the covered parking would have more backup area. Mr. Hector said his emphasis was to make as much of the yard and living space as possible. Commissioner Pagee said that apparently the replacement trees were not large enough for the neighbor to know that there had been replacement trees. Mr. Hector said that privacy was important to him but he wanted to develop a landscaping plan through careful review of the type and placement so that he made a good decision for the future.

Vice-chair Sinnott closed the public hearing.

Commission Comment: Commissioner Deziel moved to approve as recommended in the staff report and Commissioner O'Malley seconded the motion. Commissioner Pagee said she hoped the applicant would work with neighbor on acceptable trees. Commissioner Deziel said he did not think that was necessary noting that there was a large rear setback between the neighbor and this project, and there were trees planted already. Commissioner Riggs said it would be a benefit to the neighbors at 370 Noel to plant a tree along the left property line anywhere in the 30 feet back of the deck stairs as the windows of the southwest rear corner would look onto the

neighbor's backyard. He said the house was extremely handsome and he congratulated both the owner and the architect.

Commission Action: M/S Deziel/O'Malley to approve the item as recommended 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 prepared by Richard Morrison, AIA, ASID, consisting of four plan sheets, dated received February 8, 2007, and approved by the Planning Commission on March 12, 2007, except as modified by the conditions contained herein.
 - b. Prior to building permit issuance, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
 - d. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. Landscaping shall properly screen all utility equipment that is installed outside of a building and that cannot be placed underground. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
 - e. Simultaneous 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. The plans shall be submitted for the review and approval of the Engineering Division.
 - f. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a Grading and Drainage Plan for review and approval of the Engineering Division. The Grading and Drainage Plan shall be approved prior to issuance of a grading or building permit.
 - g. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance. Prior to the building permit issuance, the applicant shall implement the tree protection plan and technique recommendations in the Arborist Report for all applicable heritage trees.

4. Approve the use permit subject to the following ***project-specific*** conditions:
 - a. Concurrent with building permit submittal, the applicant shall comply with all flood zone building requirements. In the case that the height of the house needs to be increased, due to construction techniques to comply with the flood zone regulations, the house shall not exceed a height of 27 feet. The Planning and Building Divisions shall review the plans for compliance.

Motion carried 7-0.

3. **Use Permit/Jeff Kravitz/900 Cloud Avenue:** Request for a use permit to demolish an existing single-story, single-family residence and construct a new two-story, single-family residence on a substandard lot in regard to lot area and width in the R-1-U (Single-Family Urban) zoning district. *Continued to the meeting of March 26, 2007 at the request of the applicant.*
4. **Use Permit/Corium International, Inc./235 Constitution Drive:** Request for a use permit for the use and storage of hazardous materials associated with the development of pharmaceutical products in the M-2 (General Industrial) zoning district.

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

Questions of Staff: Commissioner Keith asked about condition 4.a regarding a need to revise plans pursuant to West Bay Sanitary District's direction. Planner Fisher said the ph neutralization was covered by condition 4.b.

Public Comment: Mr. Wade Worsham, Corium, said the company had relocated from Redwood City to Menlo Park and had working relationships already with all of the agencies having jurisdiction.

Commissioner Bims asked why the manufacturing for the company was done in Grand Rapids, Michigan. Mr. Worsham said the owner was from Michigan and began manufacturing in 1995 there and later came to California to do research and development.

Commissioner Deziel asked for clarification of the color coded map. Mr. Worsham clarified the colors and letters shown. Commissioner Pagee asked if there were eyewash stations located near the fume hoods and corrosive materials. Mr. Worsham said these were located throughout the facility.

Ms. Margaret Fruth, Menlo Park, asked the Commission to review all cumulative effects of the permitted sites in the M-2 before approval of this request because of the proximity of these sites to elementary schools. She said that Kaiser and Sequoia were identified as the closest hospitals and the indicated hospitals to be used in an emergency, but she thought Stanford was closer.

Commission Comment: Commissioner O'Malley moved to approve as recommended and Commissioner Deziel seconded the motion. Commissioner Deziel asked about the proximity of Stanford Hospital to the site. Mr. Worsham said he would be glad to get Stanford Hospital on the list.

Commissioner Pagee asked staff about cumulative effects of handled and stored hazardous materials. Planner Fisher said the Fire District had the most easily accessed information on the

sites in the M-2 district that handle and store hazardous wastes. She said that the City researches each application for that use. She said that Bay Area Air Quality Management District had jurisdiction over emissions and air quality and read the definition for an exempt project. Commissioner Pagee said that no one then monitors a fume hood. Mr. Worsham said the County's Hazardous Materials Inspectors audit the facility and look at fume hoods and hazardous materials disposal. He said the former use at this facility had been production with a much higher volume use of similar products. He said their use and storage would be much less because they were doing research and development.

Commissioner Bims asked about the average daily storage amount of 30 gallons and a maximum annual disposal of 600 gallons. Mr. Worsham said that meant when 30 gallons of hazardous waste had been accumulated that it had to then be disposed of and annually the maximum disposal amount would be 600 gallons.

Commission Action: M/S O'Malley/Deziel to approve the item as recommended 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 prepared by Corium, consisting of three plan sheets, dated received on January 29, 2007, and approved by the Planning Commission on March 12, 2007 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, West Bay Sanitary District, Menlo Park Building Division, BAAQMD, 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 revise the plans to comply with West Bay Sanitary District's requested conditions; regarding the installation of removable floor drain covers and floor sink plugs, and the posting of the accidental spill notification.
 - b. Prior to using hazardous materials at the site, the applicant shall complete a Wastewater Discharge Permit Application, submit it to South Bayside System Authority, and obtain approval.
 - c. Prior to using hazardous materials at the site, the applicant shall update the hazardous materials business activities plan with the revised sheets provided by the San Mateo County Environmental Health Services Division.

Motion carried 7-0.

- 5. **Use Permit and Architectural Control/Dennis Kobza Jr./68 Willow Road:** Request for site improvement work, including modifications to the parking lot, installation of new landscaping and outdoor passive areas, and construction of a new trash enclosure associated with an existing office building located in the C-1 (Administrative and Professional District, Restrictive) district. The application also includes a request for a parking ratio of 1 space per 300 square feet of gross floor area.

Staff Comment: Planner Chow said that staff had no additional comments.

Questions of Staff: Commissioner Deziel asked about condition 5.b and asked if it was the general description of reserve landscape. Planner Chow said it was. Commissioner Deziel thought it was odd to have a general standard under project-specific conditions. Planner Chow said that the condition for landscape reserve was not codified so it was best kept under project-specific conditions.

Public Comment: Mr. Dennis Kobza, Jr., Kobza and Associates Architecture, Mountain View, project architect, introduced Mr. John Aldrich, the landscape architect for the project. Mr. Kobza said they were representing Mr. Scott Hassen, the property owner. He said the owner was interested in green interiors and they had done quite a bit research on that. He said Mr. Hassen had also treated the application more like a residential project than a commercial project.

Commissioner Deziel said he had a concern with sprinklers shown on plan sheet 11-3 as they were pointing directly at oak trees. He said it also appeared that roots would be destroyed on the tree to trench for the irrigation system. Mr. John Aldrich, Palo Alto, landscape architect for the project, said the trees were 10 feet away from the sprinklers and they would only spray a distance of three feet.

Commissioner Pagee said there appeared to be large courtyard gated openings and asked if they were to provide privacy for the tenants or for security. Mr. Aldrich said they were for security and noted that the entire back of the building with the cafeteria, patio and fountain would remain open during the day. Commissioner Pagee said that there appeared to be a cut into the slope and asked if that was for the picnic area. Mr. Aldrich said that the cut into the slope was for steps leading to a flat area that would be graveled and used for the picnic site. He said the picnic area was at grade. Commissioner Pagee asked about the material around the tree. Mr. Aldrich said it was gravel. Commissioner Pagee said there was a tree in the front on Willow Road that did not have construction fencing and asked if it was being removed. Mr. Mike Becker, general contractor for Vance Brown, said there was no fencing on the cherry tree as there was no construction occurring at this time. Commissioner Pagee asked if there would be any other trees removed. Mr. Aldrich said one birch tree was being recommended for removal by the arborist and was located in the parking area near the trash enclosure.

Commissioner Bims asked about the number of employees and possible increase of employees. Mr. Kobza said that the staff report indicated there would be 68 employees initially, that the owner hoped to develop a better hybrid car and eventually hoped to do well enough to need more employees. Commissioner Bims asked if the research and development would include more than computer simulation. Mr. Kobza said that the owner has an offsite location for working with actual cars but on-site research would be done with the computer.

Commissioner Keith said she was also interested in the irrigation because of its proximity to the oak trees. She asked why the new trees would be fruit trees. Mr. Aldrich said that the property owner like planting something that produced and might be enjoyed by the employees. He said the plants on the banks near the oak tree were chosen to be drought resistant, but would need consistent watering for about one year. He said they had removed ivy that was growing on the bank.

Commissioner Pagee said that the City encourages biking but noticed there were no bike racks on the plans. Mr. Aldrich said those would be added. Mr. Kobza said that the owner's intent was to allow the employees to bring their bicycles inside the building for safety reasons.

Vice-chair Sinnott closed the public hearing.

Commission Comment: Commissioner Riggs moved to approve as recommended in the staff report and Commissioner Pagee seconded the motion. Planner Chow asked if the bike racks would be a condition. Commissioner Pagee suggested encouraging bike racks but not making a condition. Commissioner Riggs said he was positive the applicant would make the project bicycle-friendly and he was content with the staff's recommendation.

Commissioner Deziel said he appreciated that the owner had a spirit and theme of preserving this commercial property and its aesthetic beauty, but that many of the oak trees would be in jeopardy. He said many of the oak trees being removed had been impacted by the parking lot and over-watering. He said the remaining oak trees after being hit by irrigation water would die eventually. He noted page L.4 that showed a 27-inch diameter oak tree with an irrigation head less than five-foot way and pointing directly at it. He said the trenching might easily kill the trees noting that oak tree roots were found in the first eight inches of the top soil. He said that eventually the sprayer head would be knocked off and spray unrestrained or be replaced with a head that would have greater spray. He said the landscape and irrigation plan was not ready for approval. He said a permanently installed irrigation system was not necessary for the other

landscaping. He said he was supportive of everything except the planting and irrigation under the dripline of the oak trees. He said he would move an amendment for a revised landscape plan with no spray irrigation under the dripline of any heritage oak, that used surface drip, and that there would be no water within 10-foot of the base of any oak tree.

Commissioner Sinnott asked if Commissioner Riggs wanted to include the amendment. Commissioner Riggs asked Mr. Aldrich whether there was a viable alternative to permanent irrigation. Mr. Aldrich said that irrigation was needed. He said that the trenches would be hand dug around the oak trees. He said the heads only sprayed three feet thus there had to be more of them. He said they had already removed a lot of plants, lawn and ivy away from the oaks and tried to improve the conditions for the oaks and create a courtyard and space for the employees. He said if the Commission directed, they could eliminate any additional plantings so the irrigation would not be needed. Commissioner Riggs asked if the plants could be hand watered. Mr. Aldrich said perhaps but that was unreliable. Commissioner Riggs said that Commissioner Deziel had a point about the permanent irrigation remaining as eventually there might not be anyone monitoring the system to make sure the oak trees were not watered. He asked about an irrigation system commonly used for hard-to-reach places. Mr. Aldrich said that the irrigation system they wanted to use could be adjusted but there was the possibility in the future of the sprinkler heads being damaged. Commissioner Riggs said because the plants were drought-resistant perhaps there could be a physical disconnect of pipe near the trees after two years. Commissioner Deziel said possibly if it was disconnected in 24 months. He noted however that page L.4 showed an oak tree with four sprinkler heads directed toward it. Vice-chair Sinnott said that she felt they had to trust the property owner to take care of their property. Commissioner Deziel suggested one pipe with drip systems for the plants.

Mr. Kobza introduced the property owner Mr. Scott Hassen, whom he said had gone to lengths to save and preserve trees. Mr. Hassen, Palo Alto, said it was not shown on the drawings but they were putting a special irrigation system in with the capability of monitoring the pressure on the line so that if a line broke, the pipe would clamp shut and a message would be sent via computer that there was a problem. He said he also planned to use software that based irrigation flow on the weathercast. He said when he moved to the site that arborists had told him that many of the oak trees were having problems because of impacts to their roots from the paving and over-watering. He said he had concerns with the trees because of the liability issues, but made efforts to preserve them through his design. Commissioner Deziel said that the irrigation system as planned was spraying directly toward the oak trees.

Vice-chair Sinnott called for the vote. Commissioner Deziel moved to make a substitute motion to approve the use permit but have the landscaping plan revised and brought back to the Commission. Commissioner Keith seconded the motion noting her direction would be to trench less and to use more drip systems.

Commission Action: M/S Deziel/Keith to make a substitute motion to approve the use permit but require revision of the landscaping plan.

Motion carried 4-3 with Commissioners Pagee, Riggs and Sinnott opposed.

Commissioner Deziel said the motion was to approve as recommended with the condition that the landscape plan was not approved and for the plan to come back to the Commission. Commissioner Keith suggested bringing the revised landscape plan for a consent calendar. Planner Chow said that would be a continuance with direction from the Commission.

Commissioner Deziel said that the Commission could approve the use permit with the landscape plan coming back to the Commission.

Mr. Kobza suggested that they bring the irrigation plan back to staff and have a third-party expert on oaks look at it rather than bringing it back to the Commission. Commissioner Deziel said he thought the Commission would want to see the revised plan. Planner Chow asked if the Commission wanted the applicant to work with staff on the landscape plan and bring the report back to the Commission. Commissioner Deziel said he thought the use permit should be approved with a requirement for the landscaping plan to be revised and reviewed by the Commission. Commissioner Riggs said that he did not think the approvals could be split and he understood Commissioner Deziel's motion to be a continuance.

Vice-chair Sinnott said that Commissioner Deziel's motion was for a continuance and not approval. Commissioner Deziel said that he moved to approve the use permit but to require the revision of the landscaping and irrigation plan to come back for the Commission's review and approval. Commissioner Pagee suggested a motion approving with the condition that the landscape and irrigation plan be revised so that there would be no irrigation within 20-feet of the heritage oak trees. Commissioner Deziel said that there should not be any irrigation within the dripline of the heritage oak trees. Commissioner Pagee suggested making a calculation to establish the dripline.

Mr. Mike Becker, said that the fountain, foundation wall, and trash enclosure had to be installed and irrigation was one of the last things to be installed, which provided time to resolve the irrigation issue. Planner Chow said the irrigation plan however would impact the rest of the architectural control. Commissioner Riggs suggested approving everything except for irrigation under the dripline of the oaks and that would allow the applicant to return to request a revision to the use permit to add plantings. Planner Chow said the use permit could be approved with the condition of a revised landscape plan with no plantings or irrigation or watering within 20-feet of the tree. Commissioner Deziel said he preferred the watering and planting to not be allowed within the dripline of the trees which could be calculated by multiplying the diameter of the trees by 10.

Mr. Hassen, partner, said the project would bring added employment and revenue to Menlo Park and frankly they did not want to hold up the deal over irrigation or landscape plans. He said staff was well qualified to review a revised landscape and irrigation plan. He suggested approving the project conditionally with the understanding that the irrigation would stay out of the dripline of the trees.

It was the consensus of the Commission that the motion as stated by Commissioner Deziel and seconded by Commissioner Keith would approve the project with a condition for a revised landscape and irrigation plan that would keep irrigation out of the dripline of the heritage oak trees and which was calculated by multiplying the diameter of the trees by 10.

Commission Action: M/S Deziel/Keith to approve as recommended in the staff report with the following modification.

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

2. 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.
3. 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.
4. Approve the architectural control and use permit requests subject to the following **standard** conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Dennis Kobza & Associates, Inc. dated received March 6, 2007 consisting of 15 plan sheets and approved by the Planning Commission on March 12, 2007 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 project.
 - d. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. All 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. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a comprehensive Grading and Drainage Plan, including an updated hydrology report with an exhibit showing affected impervious and pervious areas, for review and approval of the Engineering Division. The Grading and Drainage Plan and hydrology report shall be approved prior to issuance of a grading or building permit.
5. Approve the architectural control and use permit requests subject to the following **project-specific** conditions:
- a. General office uses (except medical/dental office) are the only permitted uses within the building. All other uses would require a revision to the Use Permit for the parking reduction.
 - b. Should one or both landscape reserve parking stalls be needed in the future, the applicant shall make a request, which is subject to review and approval of the Planning Division.
 - c. Heritage trees in the vicinity of the proposed improvements shall be protected pursuant to the Heritage Tree Ordinance. Prior to building permit issuance, the applicant shall implement the tree protection plan and recommendations in the arborist report from Arbor Resources, dated January 15, 2007 and specific preservation techniques for tree #9 as outlined in the arborist report prepared by Dryad, LLC, dated May 23, 2005.
 - d. Simultaneous with the submittal of a complete building permit application, the applicant shall provide documentation that the applicant's arborist has reviewed the grading and drainage plan for pipe location with respect to existing and proposed trees.
 - e. Simultaneous with the submittal of a complete building permit application, the applicant shall submit revised plans with a widened curb cut and driveway to 24 feet to allow for two-way circulation subject to review and approval of the Planning and Transportation Divisions.
 - f. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a revised restriping plan that meets the minimum parking stall dimension of 8.5 feet wide by 16.5 feet in length, with a two-foot overhang. The minimum back-up distance shall be a minimum of 23 feet. The plans are subject to review and approval of the Planning and Transportation Divisions.
 - g. Simultaneous with the submittal of a complete building permit application, the applicant shall apply for a Heritage Tree Permit for tree #2 (coast live oak), which is subject to review and approval before restriping of the parking lot commences.
 - h. All landscaping shall be installed per the approved landscaping plans prior to October 15, 2007 subject to the review and approval of the Planning Division.

- i. Simultaneous with the submittal of a complete building permit, the applicant shall submit a revised landscaping and irrigation plan showing removal of all landscaping and irrigation within the dripline of all heritage oak trees for the purpose of protecting the health of the oak trees. In this case, the dripline equals 10 times the diameter of the tree measured at 54 inches above natural grade. The plan shall be subject to review and approval of the Planning Division.*

Motion carried 7-0.

Commissioner Keith no in attendance at this point.

D. REGULAR BUSINESS

- 1. Reconsideration of Use Permit/William Harris/511 Grace Drive:** Request for a use permit to demolish an existing single-story, single-family residence and construct a new two-story, single-family residence on a substandard lot with regard to lot depth in the R-1-S (Single Family Suburban) zoning district, and for excavation into a required side yard setback for a light well associated with a basement. *This item was conditionally approved at the February 26, 2007 meeting.*

Vice-chair Sinnott said Commissioner Deziel had requested reconsideration of this item.

Staff Comment: Planner Fisher said that the Commission would need to decide first whether to reconsider their conditional approval of the use permit on February 26, 2007. She said the project had been appealed to the City Council and if the Commission were to change its approval this evening then the new conditions of that approval would be forwarded to the City Council for consideration of the appeal. She said the applicant wanted the Commission to consider reducing the bond for the trees to five years and for the use of a deed restriction or covenant after five years to protect the trees as heritage trees. She said she discussed this concept with the City's Legal Counsel, who indicated that Covenants/Conditions/Restrictions (CC&Rs) have been used for larger projects and that a covenant could be applied to this property through a deed restriction.

Commission Comment: Commissioner Deziel noted the applicant had contacted him with his request of the Commission to reconsider its approval regarding the bond requirements for the replacement trees. He confirmed with staff that a covenant was a deed restriction. He also confirmed with staff that after five years the trees would be considered heritage trees and would have protection as such under the deed restriction. He said that it was the Commission's intent to protect the tree as a heritage tree and he thought this new methodology was reasonable to reconsider.

Commission Action: M/S Deziel/Riggs to reconsider the approval of the use permit related to the bond requirement for the trees.

Motion carried 6-0 with Chair Keith no longer in attendance.

Commissioner Deziel moved to amend the condition 4.d with the addition of one sentence to allow the applicant the option to have the bond requirement end at five years with the

recordation of a deed restriction on the property to protect the two trees as heritage trees thenceforth. Commissioner Riggs said he would second the motion with the proviso that all of the other conditions would remain the same. Commissioner Deziel said his motion was simply to add one sentence and that none of the other conditions of the original approval would change.

Commissioner Pagee asked how the heritage trees would be managed in the future if the trees did not meet the size of the heritage tree ordinance. Planner Fisher said because there was a conditional use permit on the property that any proposed changes to the landscaping would require City review and there would be a note on the file about the deed restriction. Commissioner Riggs said this would put the onus of protecting the trees onto the property owner, the real estate agent and a future property owner. Commissioner Pagee asked if an arborist would be able to access data to know the trees were heritage trees. Commissioner Deziel pointed out that the property owner would know the trees are heritage trees and if the property were sold the new property owner would receive a title report that would indicate clearly the restrictions on the trees. Commissioner O'Malley asked if this change would require the persons who made the appeal to remake the appeal. Planner Fisher said that it would not, but the makers of the appeal would be informed of the change to condition 4.d.

Commission Action: M/S Deziel/Riggs to modify condition 4.d of the conditional use permit approval from the Planning Commission meeting of February 26, 2007.

- 4.d. Prior to building permit issuance, the applicant shall post bonds equal to the prices of the two proposed replacement oak trees and installations with the City Finance Division for ten years to ensure the preservation, maintenance and health of the trees. The ten-year time period for each bond will commence once each replacement oak tree is successfully installed. The bonds may be released after five years if a deed restriction is recorded, requiring the replacement oak trees to be preserved and protected under the Heritage Tree Ordinance, regardless of their caliber size at the time of the bond release. Prior to the release of the bond, any remaining in-ground irrigation equipment shall be removed subject to the review and approval of the Planning Division.

Motion carried 6-0 with Chair Keith no longer in attendance.

2. Reconsideration of the approval on February 26, 2007 of the minutes of the meeting of January 22, 2007 regarding the recommendation on the project at 1906 El Camino Real.

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

Commissioner Bims asked if in the future there would no longer be formal transcripts prepared because of the media-streaming capability. Planner Chow said that was accurate but noted that for bigger planning projects the applicant would pay for the use of a court reporter. Commissioner Deziel said it would be helpful to have the capacity to hear the media streaming of the Commission meetings during the meetings when there were questions related to the minutes.

Commissioner Deziel asked the Commission to turn to page A.4 regarding "Commission Action:" and to change that to read: "M/S Deziel/Pagee to recommend to the City Council to deny the tentative subdivision map, use permit, and the architectural control request."

Commissioner O'Malley asked if Commissioner Pagee agreed with that. Commissioner Pagee said that she recalled recommending denial of the project. Commissioner O'Malley said he opposed the motion because of the denial of the architectural control.

Commissioners Sinnott and O'Malley said that the record was accurate and that they had recommended approval of everything except the architectural control. Commissioner Riggs said his recollection was the word approval was never used in the motion. Commissioner Deziel said the lack of making the architectural control was sufficient to block the approval of the subdivision map and that was why all of the application was denied. Commissioner Bims said it did not change his vote. Commissioner Riggs said it did not change anyone's vote except it went to the City Council as an approval with a denial but it was different from the motion that was read verbatim by Commissioner Deziel.

Planner Chow said that the Commission needed to vote to reconsider.

Commission Action: M/S Deziel/Sinnott to reconsider the minutes of January 22, 2007 approved by the Commission on February 26, 2007.

Responding to Commissioner O'Malley, Planner Chow said modifications could be made to the minutes if supported by the Commission. She said the City Council was returning the project back to the Commissioner for further review. She said that there would need to be findings for the basis of the denial. Commissioner Deziel said that the findings could not be made for architectural control thus there could not be an approval of a subdivision map.

Discussion ensued regarding how best to state Commissioner Deziel's comments as the basis of recommendation of the denial of the tentative subdivision map, use permit and architectural control.

Commission Action: M/S Deziel/Pagee to change the minutes of January 22, 2007 related to 1906 El Camino Real to recommend to the City Council to deny the tentative subdivision map, use permit, and the architectural control request, and add the following findings.

1. Makes no finding that the project is categorically exempt under Class 3 of the current CEQA Guidelines since the application is being recommended for denial.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that, without prejudice to the proposed medical/dental use itself at this location, the proposed new building has such an unfriendly and unharmonious façade that the proposed medical/dental use housed in such building will be detrimental to property and improvements in the neighborhood and the general welfare of the City.
3. Make the following findings, as per Section 16.68.020 of the Zoning Ordinance, pertaining to architectural control:
 - a. The general appearance of the structure is not in keeping with the character of the neighborhood.

- b. The development will be detrimental to the harmonious and orderly growth of the City in that the El Camino Real elevation does not present an attractive or welcoming façade, which results in an incongruous design.
- c. The development will impair the desirability of investment or occupation in the neighborhood in that the lack of an inviting façade on the El Camino Real side of the building would appear unfriendly to the public.
- d. The development provides adequate parking as required in all applicable City Ordinances and has made adequate provisions for access to such parking.
- e. Make findings that the proposed major subdivision is technically correct and in compliance with the Subdivision Ordinances and the State Subdivision Map Act, but the proposed project would be detrimental to property and improvements in the neighborhood or the general welfare of the City.
- f. Deny the use permit, architectural control and major subdivision.

Motion carried 4-2-0-1 with Commissioners Sinnott and O'Malley opposed and Commissioner Keith no longer in attendance.

D. COMMISSION BUSINESS, REPORTS, AND ANNOUNCEMENTS

1. Review of upcoming planning items on the City Council agenda.

Planner Chow provided the Commission with a brief review of upcoming planning items on the City Council agenda.

ADJOURNMENT

The meeting adjourned at 10:17 p.m.

Staff Liaison: Deanna Chow, Senior Planner

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission on April 23, 2007.