



## PLANNING COMMISSION MINUTES

August 27, 2007

7:00 p.m.

City Council Chambers

701 Laurel Street, Menlo Park, CA 94025

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**CALL TO ORDER** – 7:00 p.m.

**ROLL CALL** – Bims, Bressler (Absent), Deziel (Vice chair), Keith (Chair), O'Malley (Left at 10:45 p.m.), Pagee (Arrived 7:05 p.m.), Riggs

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

### A. PUBLIC COMMENTS

Mr. Phillip Bahr, Menlo Park resident and architect, read a prepared statement on sustainable design and suggested that this be considered for all development in Menlo Park. He said he would really like Menlo Park to become a "Green City."

Mr. Don Brawner, Menlo Park resident, had comments regarding construction at 64 Willow Road. He said the project had been proposed as a remodel of an existing building, which building he thought was actually the original "green" building in Menlo Park. He said that the existing structure was completely demolished, and the work was done without a demolition permit. He said however that recently the demolition permit was printed in the Palo Alto Weekly. He expressed his dissatisfaction with management of the Planning Department.

### B. CONSENT

There were no items on the consent calendar.

### C. PUBLIC HEARING

1. **Use Permit Revision/Sujendra Mishra/1151 Windermere Avenue:** Request for a use permit revision to modify requirements related to driveway size and spacing between garage doors for a previously-approved single-family residence in the R-1-U (Single-Family Urban) zoning district.

Staff Comment: Planner Rogers said that there were no additions to the written report.

Questions of Staff: Commissioner O'Malley asked if the completed construction was done in compliance with the building permit. Planner Rogers said in broad terms that the construction matched the building permit as issued. Commissioner O'Malley asked whether a process had been instated to prevent something like this happening in the future. Planner Rogers said there was with the City's database permit tracking software that has an activity called "Planning Conditions" that requires sign-off before a building permit is issued.

Public Comment: Mr. Sujendra Mishra, Jaanie Designs, said he was representing the property owners and noted that he was not the original designer for the project.

Commissioner Pagee asked what was different between the permit plans and the as-built plans. Mr. Mishra said that the three areas in question were the driveway, garage separation and the pathway from the front of the house to the property line. He said there was a use permit condition that the separation between both garages was not to be more than 12-inches, but the original designer resubmitted the plans with a sheer wall of 24-inches. Commissioner Pagee confirmed with Mr. Mishra that between the permit plans and the as-built plans, nothing changed on the interior work.

Commissioner O'Malley asked why the project was built even though it was not approved. Mr. Mishra said the property owner died and the project was taken up by the wife, and through her, by her son. He said he was not sure why they built the way they did.

Chair Keith said it appeared that only the walkway would be changed. Mr. Mishra said a backup area had been constructed that was not functional and he was proposing to remove it and install landscaping, in particular grass.

Commissioner O'Malley said on drawing A.2 it was not clear if there was grass between the driveway and walkway. Mr. Mishra said it should show grass in that area.

Chair Keith closed the public hearing.

Commission Comment: Commissioner Deziel moved to approve as recommended in the staff report; Commissioner Bims seconded the motion.

Commissioner Riggs said he was uncomfortable legalizing after the fact a project obviously built contrary to the conditions set by a previous Commission. He said he could see revising the use permit as the City had issued a building permit. He said that the property is on a very prominent corner and suggested the Commission require two Heritage-type trees be planted out toward the intersection. This would make up for some of the loss of aesthetics that had been intended in the original conditions with the paring down of the driveway and reduction in asphalt. He said having 24-inches between the garage doors was of no structural value. He proposed two 15-gallon trees from the Heritage tree list be added to the street perimeter with approval of staff as to the location. Commissioner Deziel suggested some condition of irrigation as this size

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tree would need irrigation for at least a year. He said that the owner could set an appropriate water regimen or install an appropriated irrigation system, and/or replace the trees if they died within two years. Commissioner Riggs said if the trees died within two years they would need to be replaced with 24-inch box trees.

These modifications were acceptable to Commissioners Deziel and Bims as the maker of the motion and second.

Commission Action: M/S Deziel/Bims to approve with the following modification.

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 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 revision subject to the following **standard** conditions:
  - a. Development of the project shall be substantially in conformance with the plans prepared by Jaanie Designs, consisting of six plan sheets, dated received August 15, 2007, and approved by the Planning Commission on August 27, 2007, except as modified by the conditions contained herein.
  - b. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance.
4. **Approve the use permit revision subject to the following specific condition:**
  - a. ***Prior to final inspection, the applicant shall install two new 15-gallon trees, selected from the Heritage Tree Replacement list, to be located along the street perimeters of Howard Street and Newbridge Street subject to review and approval of the Planning Division. The applicant shall either install an automatic irrigation system, or an acceptable water regimen, and if the trees die within two years from the date of installation, the applicant shall replace them with 24-inch box size replacements.***

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

2. **Use Permit/Rick Loretz/1371 Sevier 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 with regard to lot width and lot area in the R-1-U (Single-Family Urban) zoning district.

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

Questions of Staff: Commissioner O'Malley asked what a flood vent was. Planner Rogers said it was a way for water to flow in and out underneath the floor without damaging the structure and related to flood levels. Commissioner O'Malley asked about the height of the existing one-story. Planner Rogers said it was 20-feet in height.

Commissioner Riggs asked if staff had reviewed the 2005 proposal and compared the aesthetics of that proposal with this one. Planner Rogers said staff had reviewed the previous proposal.

Commissioner Deziel asked about the six-foot sills for the windows and if those were proposed because of comments received previously. Planner Rogers said that part of this requirement was prior direction from the Commission related to privacy concerns expressed by a neighbor and additional direction from staff.

Chair Keith said on page 3 of the staff report that the applicant reviewed the proposal with the building official who tentatively confirmed that the height and finished floor of the structure would not need to be raised above what was shown on the project plans. She asked if the work "tentatively" was removed now. Planner Rogers said that would not occur until a building permit was issued. Chair Keith said staff had also indicated that flood vents were not shown on the elevations. Planner Rogers said that would be a condition of approval.

Public Comment: Mr. Rick Loretz said he was representing the property owners. Commissioner Deziel asked about the six-foot sills. Mr. Loretz said that previously there were no windows on the side, but staff direction had indicated a need to break up the mass of the second story. The six-foot sills were to protect the privacy of the neighbor.

Commissioner Pagee asked if he was okay with a single-garage door. Mr. Loretz said they were.

Mr. Ronald Booth, Menlo Park, said his only concern was privacy as the second story would look directly into his backyard and an existing eight-foot fence would be replaced by a six-foot fence. He said there had been mention of planting trees for screening but he did not see anything on the plans. Chair Keith asked if he wanted trees for screening. Mr. Booth said he would or for the applicant to use opaque or obscure glass in the windows. Commissioner Deziel asked if he cared whether the sills on the side were five or six-feet if there were trees for screening. Mr. Booth said trees would suffice. Chair Keith verified that Mr. Booth wanted evergreen trees.

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Chair Keith closed the public hearing.

Commission Comment: Commissioner Pagee moved to approve as recommended by staff with the addition of three to four trees starting at approximately the midpoint of the residence (near the second-story laundry room window) and extending back toward the rear of the property to block the view to the neighbors' yard with review by staff. Commissioner Riggs suggested the trees be a minimum 15-gallon size and of a species that is evergreen and fast-growing. Commissioner Deziel asked if the sills could be reduced to five feet from six feet. Commissioner Pagee said that should not be a requirement but a condition to give the builder that flexibility. Commissioner Deziel seconded the motion.

Commissioner Riggs said he looked at his notes from September 2005 and he had comments related to the garage, bedroom windows privacy, landscape plan, window quality and overall design quality. He said this proposal's garage has the same forward prominence as the 2005 proposal and this design was not an aesthetic improvement over the 2005 proposal. He said in 2005 vinyl windows with interior grids were specified and asked what was specified in the current proposal. Planner Rogers said the current proposal was for vinyl windows with no grids. Commissioner Riggs said he did not think the project was necessarily improved aesthetically from the 2005 proposal.

Commissioner Pagee said she appreciated that the applicant had a front porch in their plans and it was an enhancement.

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

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 revision subject to the following **standard** conditions:
  - a. Development of the project shall be substantially in conformance with the plans prepared by Loretz Construction, Inc., consisting of six plan sheets, dated received July 31, 2007, and approved by the Planning Commission on August 27, 2007, 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 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, demolition or building permit.
  - g. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance.
4. Approve the use permit subject to the following ***project-specific*** conditions:
- a. Concurrent with submittal of a complete building permit application, the applicant shall submit revised plans incorporating flood vents, if required by the flood damage prevention requirements. The revised plans shall be subject to review and approval of the Planning and Building Divisions.
  - b. Concurrent with submittal of a complete building permit application, the applicant shall submit a revised landscape plan subject to review and approval of the Planning Division. With regard to the proposed three new trees, the revised plan shall specify tree species from the City's Heritage Tree Replacement list and shall specify a minimum 15-inch box size.

- c. Concurrent with submittal of a complete building permit application, the applicant shall revise the landscape plan to include three to four new trees along the right side property line, starting at approximately the midpoint of the residence (near the second-story laundry room window) and extending back toward the rear of the property. The new trees shall be a minimum 15-gallon size and of a species that is evergreen and fast-growing. The landscape plan revisions shall have the intent of limiting direct views from the residence to the backyard of the adjacent right side property and shall be subject to review and approval of the Planning Division.***
- d. Concurrent with submittal of a complete building permit application, the applicant may revise the plans on the second-story right elevation to lower any windows with six-foot sill heights to five-foot sill heights, subject to review and approval of the Planning Division.***

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

- 3. **Use Permit/ /Unidym, Inc/1430 O'Brien Drive, Suite G:** Request for a use permit for indoor use and storage of hazardous materials for research and development of carbon nanotubes in the M-2 (General Industrial) zoning district.

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

Questions of Staff: Commissioner O'Malley said that condition 3.d indicated an increase in hazardous materials but did not specify how much of an increase. Planner Fisher said that this was a standard condition and the applicants were encouraged to define materials quantity based on future need projected to one year; if they increased the amount, they would need to reapply for a use permit.

Chair Keith noted condition 3.e stated that any citation or notification of violation would be grounds for considering revocation of the use permit.

Public Comment: Mr. John Tarlton, Menlo Business Park, introduced himself and said he was available for questions.

Dr. David Thomas, Unidym, said he was the Vice President of Products, and his job was to bring products to the market. He said Unidym manufactures carbon nanotubes at their Houston, Texas site. He said at the Menlo Park site, they were doing research and development and using the nanotubes for building electronic components for such things as solar cells and touch screens. He said that Unidym has a strong active safety plan for the protection of their employees, the community and environment.

Commissioner Bims said there was a three-page inventory list and asked if anything on the list was confidential. Dr. Thomas said that they considered the materials proprietary. Commissioner Bims asked why they chose Menlo Park for their R&D business. Dr. Thomas said they had moved to Menlo Park because of the talent and entrepreneurship in the area, and the potential for partnerships. Commissioner Bims asked if they expected to outgrow the current space. Dr. Thomas indicated at some point they would.

Commissioner Pagee said there was no EIP number listed and asked about storage and pickup schedules for the hazardous waste. Ms. Ellen Ackerman, Green Environment, said that until this use permit was secured they were not creating hazardous waste and upon this approval, application would be made for the EIP number. She said they were allowed up to two five-gallons of hazardous waste onsite, all hazardous waste was stored inside, and could be stored for 180 days before it had to be picked up for disposal. Commissioner Pagee asked if there were any fume hoods. Dr. Thomas said there were three fume hoods. In response to Commissioner Pagee, Ms. Ackerman said that because the business was R&D there was no need for an air quality permit for these fume hoods as there was little or no emission. Dr. Thomas noted that they had just received the EIP number.

Commissioner Deziel asked for hypothetical worst case scenarios related to hazardous wastes. Ms. Ackerman said that a bad situation might be a crack in the drum and leakage. There is a spill-kit onsite with absorbent for acids and bases and employees have safety gear for the handling of such spills. She said if an entire drum leaked that the disposal vendor might be contacted to remove it. She said spilling of any of the one-gallon chemicals stored would not necessitate any emergency services nor would the impacts extend beyond the site. Commissioner Deziel asked about fumes. Ms. Ackerman said if a gallon of acetone spilled there would be a smell but she highly doubted it would be detectable outside of the building.

Mr. Adonis Butler, Menlo Park, protested the application and indicated that there should not be any addition to hazardous materials or waste in this area because of its proximity to two residential communities and a school. He said there were more appropriate locations for such types of businesses as this one.

Mr. Bonus Harris, Menlo Park, said there was no need for a chemical plant in this area and he would like the Commission to deny the use permit.

Chair Keith asked about the spill prevention plan on page D.14 and who the disposal vendor was. Dr. Thomas said it was Veolia Disposal located in Fremont. Chair Keith asked about storage tanks. Dr. Thomas said there were none. Chair Keith asked about a building alarm for spills. Mr. Tarlton indicated there are a fire alarm and a burglar/security alarm, but he was not aware of an alarm for spills. Chair Keith asked about safety training. Dr. Thomas said that there was a requirement for employees to read the safety manual and take a two-hour core course. He said there was periodic training and monthly safety inspections. Chair Keith asked if this was a chemical plant.

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Dr. Thomas said a chemical plant would either create chemicals or synthesize chemicals, and that while Unidym does that at their Houston site, this site was strictly R&D and there would be no manufacturing at this site.

Chair Keith closed the public hearing.

Commission Comment: Commissioner Deziel said he thought this was a good use for an industrial area, and moved to approve as recommended in the staff report. Commissioner O'Malley seconded the motion.

Commissioner Bims said his priorities were the quantities of materials on the chemical inventory list, assurances that the safety procedures in place would be followed, and if an accident occurred that there were procedures in place to contain without any harm to the public. He said the quantities listed were roughly comparable to what other R&D facilities in this area used; the company seems to have adequate safety programs and training and the processes and procedures to prevent any impact on the public were in place.

Chair Keith said that condition 3.d would require the use permit to be revisited or revoked if the hazardous materials quantity increased and agreed that the total quantities of flammable and combustible materials were comparable to other R&D businesses. She again highlighted condition 3.e that any violations found by the jurisdictional agencies with oversight would be grounds for revocation of the use permit.

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 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 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 provided by Green Environment, Inc., consisting of seven plan sheets, dated May 14, 2007, and approved by the Planning Commission on August 27, 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 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.

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

- 4. **Use Permit/CAS Architects, Inc./1360 Willow Road:** Request for a use permit for the indoor use and storage of hazardous materials for a life sciences company developing analytical systems in the M-2 (General Industrial) zoning district.

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

Questions of Staff: Commissioner O'Malley said that a piece of correspondence received expressed a concern that this business was a hazardous waste company. He asked if staff responded to such correspondence as this concern repeatedly arose for projects that were not hazardous waste companies. Planner Fisher said staff responds when return mail information is provided. She said they have highlighted on the notices when a project is an R&D facility.

Public Comment: Ms. Laurie Carbell, environmental health and safety consultant for Forte Bio, said she was available to answer questions.

Chair Keith asked about the emergency spill alarm. Ms. Carbell said that it was a "fire-pull" alarm that could be activated if there was an emergency spill. Chair Keith asked about an eye-wash/emergency shower station. Ms. Carbell indicated the location on

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the plans. Chair Keith asked about Best Management Practices that indicated no hazardous materials should be disposed of down drains. Ms. Carbell said all hazardous materials and waste were stored onsite until the hazardous wastes were removed offsite.

Commissioner Riggs asked if the company was dealing with high or medium quantities of hazardous materials. Ms. Carbell said that Forte Bio was dealing with only very small quantities of hazardous materials. Commissioner Riggs asked her to compare what was onsite to what hazardous materials were in a typical garage. Ms. Carbell said the type and quantities of materials they used were comparable to what was under the typical kitchen sink.

Mr. Fidel Rios, Menlo Park, said he was concerned about hazardous materials and storage at this site, and whether the waste was removed to another location. He said there was a high school immediately next door and middle school nearby.

Mr. Johnny Walton said he was a Menlo Park resident and a member of the Mt. Olive Apostolic Original Holy Church of God, and wondered what the company was creating as it was a bio-company. He said he would like to know what bio-companies are producing and if local groups could tour their facilities. He asked about possible misuse of products being developed there. He said the concern was for the people who live in the area, noting the company employees do not live in the area.

Chair Keith asked the applicant to explain what the company was doing. Ms. Mila Poyat, Forte Bio, said they build an instrument that other companies use to develop drugs. She said they use human proteins in test fixtures on the instruments. Ms. Carbell said the chemicals are used for different types of cleaning, disinfecting, and adhesive for the products and that hazardous waste was removed by North State Environmental, located in San Francisco. Ms. Carbell said that because they generate such a small amount of hazardous waste that the container might be frequently inactive, and that if it was not an active container it could be there for 365 days. She said the largest container of waste was five-gallons and were double-contained and lidded. She said the maximum amount of containers allowed onsite was three. She said all of the chemicals used were in one-gallon containers.

Commissioner Deziel asked if they were willing to allow tours. Ms. Carbell said she could speak to individuals but because the business was proprietary that the public would not be allowed inside.

Commission Comment: Commissioner Riggs said that it would be a good idea to inquire of such applications what was being produced. He moved to approve per the staff report. Commissioner O'Malley seconded the motion.

Commissioner Deziel said in response to public comment that each chemical should be looked at one by one that the agencies having jurisdiction over hazardous materials and waste do just that.

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Commissioner Bims commented on the mixed use conflict between M-2 districts and schools and day care centers.

Commissioner O'Malley said that the free agents and chemicals were very small amounts in these applications and the people handling them were highly trained and professional. He noted he had no qualms about these applications.

Commission Action: M/S Riggs/O'Malley to approve the item as recommended in the staff report.

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 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 provided by CAS Architects, Inc., consisting of four plan sheets, dated August 2, 2007, and approved by the Planning Commission on August 27, 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 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. Within 30 days of chemical storage, the applicant must submit a hazardous materials business plan using OES forms 2730 and 2731 to San Mateo County Environmental Health, which would include chemical description pages for sulfuric acid and sodium azide.

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

#### **D. STUDY ITEM**

**The study session item will not begin before 8:00 p.m.**

**Study Session on a General Plan Amendment, Zoning Ordinance Amendment, Rezoning, Development Agreement, Architectural Control, Below Market Rate (BMR) Agreement, and Environmental Review/Bohannon Development Company/101-155 Constitution Drive and 100-190 Independence Drive:**

1. General Plan Amendment to create a new Mixed-Use Commercial Business Park land use designation, which would allow research and development (R&D) facilities, offices, hotels/motels, health/fitness centers, cafes and restaurants, and related commercial uses. The maximum floor area ratio (FAR) would be set at 100% for offices, R&D, and related commercial facilities, 13.5% for health/fitness centers, cafes and restaurants, day care facilities, and related retail/community facilities, and 25% for hotels/motels (total maximum FAR of 138.5%);
2. General Plan Amendment to change the land use designation of the properties from Limited Industry to Mixed-Use Commercial Business Park;
3. Zoning Ordinance Amendment to create a new M-3 (Mixed-Use Commercial Business Park) zoning district to allow for uses and FAR as stated in the corresponding General Plan land use designation. In addition, the M-3 zoning district would permit a maximum building height of 140 feet and a maximum number of 245 hotel rooms, and would specify use-based off-street parking requirements;
4. Rezoning the properties from M-2 (General Industrial) to M-3 (Mixed-Use Commercial Business Park);
5. Architectural Control approval of specific project plans for the construction of new buildings with a total of 962,196 square feet of gross floor area (138.5% FAR) and a maximum building height of 140 feet (equating to eight stories);

- The Constitution Drive site would include two office buildings, two parking structures, and neighborhood-serving retail and community facility space;
  - The Independence Drive site would include one office building, a 173,682-square foot, 245-room hotel, a 76,420-square-foot health/fitness center, a shared parking structure, and associated commercial space;
  - The combined office gross floor area on the two sites would total 694,726 square feet.
6. BMR Agreement for the payment of in-lieu fees associated with the City's Below Market Rate Housing Program;
  7. Development Agreement to guarantee development rights associated with the requested entitlements; and
  8. Environmental Impact Report to analyze the potential environmental impacts of the proposal.

Chair Keith said this Study Session was requested by the Commission to allow public comment prior to development of an EIR for the project proposal. She said a member of the public had requested that this item be continued, but the Commission thought it was important to keep this date as there was an expectation with local schools back in session that more people were in town and could attend if they chose. She said if the Study Session was not concluded by 11 p.m. that another session could be scheduled. She noted that the staff report listed meetings already conducted on the project proposal as well as future meetings that would be held.

Staff Comment: Planner Rogers said a study session allowed the Commission and public to receive information and make comments. He noted that page 6 of the staff report listed all of the meetings thus held and future meetings to be held. He reminded the public that the City has created a "Project Page" to which the public can sign up for e-mail notification when content was changed.

Questions of Staff: Commissioner Deziel said he was concerned that the public was not given enough opportunity to comment on the scope of the project as opposed to the EIR. In reply to Commissioner Deziel, Planner Rogers said there were no public hearings required by the zoning ordinance on a General Plan Amendment at this stage. Commissioner Deziel upon confirming with staff that this was not a public hearing but was an opportunity for public comment requested that minutes be prepared for this study session meeting so the City Council might receive these comments. Planner Chow said that typically minutes were not prepared for study session meetings, mainly due to budget and so that regular Commission meeting minutes were prepared in a timely manner. She said staff would look into having minutes prepared for this study session meeting.

Commissioner Deziel said the first opportunity for the public to participate in a public hearing would be after the publication of the draft EIR. Planner Rogers said that was correct. Commissioner Deziel said a public hearing on the project after the preparation of an EIR might mean the project analyzed would not be the same as the project which evolves from the public hearing and the EIR might need revision or to be redone.

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Planner Rogers said the applicant understood that nothing was guaranteed with this process and that potentially the EIR would have to be revised or restarted.

Commissioner Deziel asked whether the applicant prepared the proposed General Plan and Zoning Ordinance Amendments and if staff had reviewed those. Planner Rogers said the applicant had developed these proposed amendments with revisions based on conversations with staff. Commissioner Deziel said page 2 of the staff report stated that the project proposes to make site-specific changes to the General Plan and Zoning Ordinance, but would not allow other nearby parcels to apply for the proposed new General Plan land use designation and zoning district. He said he would like to know how this could be done without violating the General Plan and Zoning Ordinance which does not allow special privileges. Chair Keith asked if the last question could be held until after the applicant's presentation. Commissioner Deziel agreed.

Public Comment: Mr. David Bohannon, Bohannon Development Company, said that the project proposal could certainly be discussed, but he thought it was somewhat difficult to have a qualitative conversation about the project without the draft EIR.

Mr. Phil Erickson, Bohannon Development Company, said the presentation he would make was similar to the presentation made a month or so prior to the City Council. He said the project proposal included amendments to the General Plan and Zoning Ordinance for an M-3 zoning district that would allow more specifically some uses already implied in the General Plan but not allowed in the M-2 zoning district, and that it would also provide for increased Floor Area Ratio (FAR). He said a development agreement would be made with the City that specifically detailed benefits to the City from the project. He said within those amendments the project included a 206-room hotel with an associated 68,000 square foot health club that would offer a range of court and workout facilities, a pool and child care associated with the health club. Additionally the project proposed to construct just less than 70,000 square feet of office space, and under 15,000 square feet of restaurant, café and retail type services. He said the concept of this development proposal was to have a set of uses in an attractive complex that would attract certain knowledge-based and creative-type businesses to Menlo Park. He said there was an opportunity for shared parking because of differences of peak parking times during the day and week related to the proposed uses. He said that the CEQA process would more clearly define the parking. He said regarding the EIR that this was an opportunity for a clear discussion of the benefits and impacts of the proposed project such as aesthetics, traffic and circulation, air quality, and the whole range of topics considered. He said they believed there was a clear economic benefit for the City from the proposed project related to increased general fund revenues from property and sales taxes, hotel taxes, impact fees, Below Market benefits, the new jobs that would come and the new spending from those jobs. He said they wanted to get a shared point of view to build discussion upon and would have the fiscal impact study and environmental review occur together.

Mr. Tom Gilman, DES Architects, said the buildings were oriented on the site to create the greatest energy efficiency with the long axis in an east-west configuration. He said

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the building skins would be energy-efficient. He said south-facing facades would have more horizontal surfaces that would both provide sunshade and act as light shelves to bounce light further inside the building. He said the buildings were designed to be LEED certifiable and would use sustainable design with cool roofs and energy-efficient skins and HVAC. He said there would be tenant standards related to construction, good air quality, types of finishes and materials to include sustainable materials and recycled content and materials. He said as construction occurred that existing development would be recycled to the greatest extent possible. He showed a western-orientation façade and pointed out the more vertical elements, which would provide shade from the sun. He said they would have onsite bio-filtration swales, storm water cleaning and handling, low flow irrigation systems and use native drought resistant materials and plants. He said within the hotel site sports club facility there would be an acre of open space, and on the Constitution Drive side was another four acres of open space. He said 90 percent of the parking would be in structures which reduced the heat island effect overall and allowed much more usable space for open space and a greener site overall. He said part of the project was to create a human-scale streetscape and would create bulb-out landscape fingers for the on-street parking. There would be a double row of trees along the streets and planters that would give a friendlier look to the street but which also dilated water from building gutters.

Commissioner Bims said the pool seemed quite close to Highway 101 and asked if there was any sound mitigation. Mr. Gilman said there would be a sound wall about eight-feet high. Commissioner Bims said it was a long distance to walk from the office space to the hotel. Mr. Gilman said the distance was about 500 feet but their intent was to make the walk attractive to encourage activity.

Commissioner Pagee asked if the dotted line along Independence and Constitution Drive was the property line. Mr. Erickson said that they were planning to extend the sidewalk onto the property. Commissioner Pagee said the proposed M-3 zoning indicated "0" setback and she thought that the setback could be "10-foot." Mr. Erickson said that the desire for the "0" setback was to allow retail space to have their fronts close to the street. In response to Commissioner Pagee, Mr. Erickson said the elements currently proposed were about 15 to 16-feet from the property line.

Commissioner Deziel asked about the height and number of levels of the parking structures. Mr. Gilman said that they were surface plus three or four levels and the surface plus four levels would be 45 feet high. Commissioner Deziel asked about the entrance for hotel users as it appeared that traveling from Highway 01 they would have to go through the industrial area. Mr. Erickson said a person traveling north on 101 would take the Marsh Road exit and then turn onto Independence Drive.

Commissioner Deziel asked for a description of potential tenants. Mr. Erickson said that it would be professional type uses associated with high-tech. Commissioner Deziel asked if that would include attorney firms. Mr. Erickson said that it could.

Commissioner Deziel asked what market the hotel would serve. Mr. Erickson said it was in a good location in proximity to Redwood City, the airport, and south Santa Clara.



Commissioner Deziel asked what the minimum amount of office square footage was needed to make the hotel work. Mr. Erickson said the health club was also important to the hotel and the office was important to the health club. Commissioner Deziel asked what the minimum amount of square footage of office was needed for the viability of the hotel/health club. Mr. Bohannon said that when the appropriate time came he would have Marriott answer this question. He said they originally made a proposal without a hotel operator. He said Marriott had become involved with the project because of the office space.

Chair Keith asked Mr. Bohannon to share his vision for the project site. Mr. Bohannon said they believed that Bohannon Park as currently configured was antiquated and was not drawing attractive businesses, just tenants. He said regional neighbors were attracting the best kinds of businesses and they wanted Menlo Park to have a space that would attract these types of businesses.

Commissioner Bims said the turn from Marsh Road to Independence Drive was easy to miss if a person was not familiar with area. He said with the current configuration that the hotel should be given a Chrysler Drive address. He said an issue of concern for him was the walking distance between the office and hotel.

Mr. Elias Blawie, Menlo Park, said that the proposal was actually two projects in terms of use and physical separation and that they should be separated. He said he supported the hotel project within reason but not the office tower as presently conceptualized. He said he supported reasonable development within existing zoning but did not support spot zoning or general plan changes. He said that the hotel was not a public benefit as claimed but was a development. He referred to a similar project "Rosewood" and that the office space desired for this project was at least five times greater than what was at Rosewood. He said the changes to the General Plan proposed were non-specific and included a hodge-podge of uses with widely differing impacts, benefits and look and feel. He said the project was materially too dense and add-ons should be under 100 percent not over 100 percent. He said the setbacks were inadequate and the presentation was inconsistent with the plans. He said the question had to be asked as to the impact of an M-3 zone on the M-2 zone. He said the proposed operating agreement was too open-ended and gave too much flexibility in terms of time and use. He said there were not enough retail features being proposed and that parking and traffic would be problems. He referred to nearby University Center that provides spaces for numerous legal firms and he thought that was what this office space would attract. He said each legal firm easily needed five to six parking spaces per 1,000 square feet.

Ms. Anne Moser, Menlo Park, said she had lived in the area for over 50 years and had seen many changes. She said looking at the projected growth figures for the area that Menlo Park needed to manage growth and not be obstructionist and negative about changes. She said she preferred a local developer who has ties to the community. She said she preferred height with open space to one-story sprawling development. She said Menlo Park should work with neighboring communities to make plans that work

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and address traffic and public transportation. She said she would like to see some conveniences such as cafes, cleaners, convenience store and personal services on site to diminish the need for transportation to Menlo Park. She said she hoped they could plan reasonably priced housing for support level jobs for the offices and hotel.

Ms. Elizabeth Lasensky, Menlo Park, said the project needed a housing portion and that paying into an in-lieu fee for BMR units would not suffice to help offset the housing needs the project would generate. She said that a lot more shuttles and improved public transit would be needed. She thought the project would be a good neighbor to Bayfront Park and suggested creating an annual fee for the project to pay to offset increased maintenance from the additional use. She said the project was within the character of the 101 corridor; the project would set a standard for development; and would bring good jobs to the area. She said that if the commercial area was not improved, the City would lose valuable businesses and income.

Mr. David Speer, Menlo Park, said Commissioner Deziel had made good comments about the need for public hearings on the project proposal prior to preparation of the EIR. He said that there should be a public hearing to consider the size, scope, and fiscal and environmental impacts to the surrounding properties and businesses. He noted significant proposed changes to the zoning and urged the Commission to look at very carefully at how those might impact now and in the future. He said he had provided copies of his written letter for the Commission.

Mr. Frank Carney, Menlo Park, said his main criticism of the project was that it was just too massive for Menlo Park and would affect the quality of life throughout Menlo Park. He said the project as proposed would put a lot of pressure on the housing stock; housing needs would increase impact on the schools and demand for City services. He said the project would be fine for Santa Clara or Sunnyvale. He said the project needed to be pared way back.

Mr. Morris Brown, Menlo Park, said he agreed with much of what Mr. Carney said. He said that ABAG indicated the City was behind in housing stock by 957 units and bringing in 2,000 new jobs would really increase that need. He said he thought the project was just too big and that the project surrounded two different 15-acre parcels, which he thought, should have flexibility when they wanted to develop. He said the community should decide whether a project of this scale was wanted and he said he thought an election and voting on the project would be a good idea.

Chair Keith closed the public comment period.

Commission Comment: Chair Keith said Commissioner Deziel had prepared a statement, and asked if he would like to begin comments. Commissioner Deziel said he had issues with the changes proposed to the General Plan and Zoning Ordinance. He said the developer and property owner wanted to improve his property, but the changes to the zoning ordinance were too specific to this project and should be available as a planning tool for others in the future. He said he believed it was a good principle and

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good for the City to give greater intensity to properties that produce greater revenue in the industrial districts. He said the purpose of the industrial districts was to generate revenue and jobs. He said that looking at a map of Menlo Park he could identify four areas in the M-2 district that might benefit from this proposed zoning change and provide benefit to the City too. He said if there were four of these new districts and those could generate enough revenue to make up for the shortfall the City is experiencing in its M-2 districts then perhaps other M-2 properties might be freed up for housing. He said if the four hypothetical projects were located on both sides of Marsh Road and Bayfront Expressway, Willow Road and Bayfront Expressway, and another somewhere along Willow Road, that would free up about 100 acres in the M-2 district that could accommodate up to 2,500 residential units. He said with the proposal before them that the hotel was a high revenue maker and the office use diluted the revenue percentage as it was non-revenue generating. He said this proposal was offering an opportunity to determine what generation of revenue per square feet would merit M-3 zoning. He reviewed his prepared statement that outlined revenue generation per square foot for various uses ranged from \$1.00 to \$8.00 per square foot. He said this project would deliver about \$2.41 per square feet with about 174,000 square feet of hotel/health club. He asked what number should be parity for the applicant to receive M-3 zoning. He said he considered the concept of having four projects like this proposal and calculated that \$2.48 per square foot revenue would cover the City's shortfall from the M-2 districts. He said there was a calculus to go through to recover the revenue that the City used to get from the M-2 districts. He said a target revenue for a project like this was \$2.50 to \$3.00. He said if the policy embedded in the M-2 District in the General Plan called for a revenue threshold that it would look like about \$3.00 per square foot for the City.

Commissioner Deziel said the M-3 zoning district definition should not be specific to just this project; the parking should not be custom; and the parking-sharing should be more flexible. He said the hotel should just be a portion of total FAR and the height should be generalized. He said M-3 should be made a generally usable district. He said that he thought other parcels should be looked at for addition to the General Plan map. He said that the project proposal should not leave the General Plan and Zoning Ordinance in any worse condition.

Commissioner Bims said that Commissioner Deziel had done a good analysis of the project. He said it was a good point to take this opportunity to look at ways to modernize the general plan and zoning ordinance; to manage growth projections and meet the housing and jobs ratio needs. He said the location of the project was excellent as it was near 101 and Bayfront Expressway. He said there was tension between bringing jobs to Menlo Park and intensifying the housing needs. He said Google started in Menlo Park but when it grew it had to move out of Menlo Park. He said they should consider the growth pattern of businesses and provide space for different levels of development. He said the intensity at this location could protect other parts of the City for open space. He said that hotels as an island do not really work and thought the hotel being proposed next to office space was a good idea but it was not clear how much office space was needed. He thought the hotel perhaps should be larger. He

suggested changing the Independence Drive layout and make that the Bayfront Expressway layout and make the Bayfront Expressway layout the Independence Drive layout. He said that would increase visibility of the hotel from Bayfront Expressway, allow for increased hotel size and have the primary entrance from Bayfront Expressway onto Chrysler Drive.

Commissioner Riggs said the project has a lot of potential but raises a lot of questions. He said there was a downside to the location in terms of transportation. He said that Caltrans had removed a functioning cloverleaf at Marsh Road about nine years prior to create two t-intersections with traffic lights. He said that the design could stack more cars up but it became really backed up during peak traffic times. He said adding 1,800 more jobs in this area would create a transportation disaster. He said more jobs could mean more spending in Menlo Park but would benefit Redwood City and Palo Alto just as much. He said the City needs good solid retail to be included in the proposal. He said he had no objections to the hotel, its revenue and the proposed architecture. He had some concerns about the sound wall and the reverberation it would cause on the opposite side of the freeway. He said about every 10 years new office building is built and eventually there's a glut of office space. He estimated the next glut would be in about five years when this project would be completed. He said there was a lot of attention to the proposed 140-feet for the office space. He said it was not necessary to have eight stories of office building to build to 140-feet. He said 17-feet floor to floor was what was wanted for retail. He said there had to be another reason for the height. He said the City has a housing shortage, and did not need more \$1,000,000-plus homes, but needed reasonably priced housing for support and service workers. He said employees living elsewhere and working in Menlo Park would create more traffic impacts. He said that he would like to see more housing but he did not want the M-2 district to be phased out. He said housing was needed for the people who drive the engine and transportation was needed to move them around.

Commissioner Pagee said M-3 zoning should not be specific to this project and setbacks should be realistic. She said she would like high floor to ceilings in her work but they were not needed and 140-feet high was too much height for the office structure. She said that if the applicant sought LEED certification that the workers needed services onsite. She said there needed to be something to bring people from here to downtown Menlo Park. She said related to the office square footage and the hotel square footage that the City needed tax revenue from hotel more than the rent from the office space. She said she liked Commissioner Bims' idea to flip the hotel layout. She said that would give the pool users a better view and quieter environment. She said City residents were not saying "no" to the project but asking that it be improved.

Chair Keith said the ratio of jobs to housing was critical to look at. She said the height of the project had originally surprised her and she still had not accepted it. She agreed with Commissioner Deziel that there should only be enough office space to support the hotel. She said it was important to upgrade the property and increase productivity, but she was not sure this proposal was exactly what was needed. She said that traffic

would be a very important component of the EIR. She said it would be very important to get housing in the area. She said that Commissioner Bims' idea to have residential space at the hotel was interesting.

Commissioner Bims suggested that shuttles such as those that run from Sand Hill to downtown would solve the issue of connecting this site to downtown.

Commissioner Deziel said that the parking garage was located too close to Independence Drive and Independence Drive might be lost if Caltrans solved the traffic problem at this location and put in an overpass. He said housing was needed as a benefit for the City and that M-2 might be freed up to allow residential in this area. He said those houses would add to Belle Haven community and create enough population for a major grocery store there. He said having more homes would free up traffic. He said he also liked the idea of flipping the layout of the hotel so it could be larger or finding another way to increase the revenue from the project.

Commissioner Riggs said he wanted to support Commissioner Deziel's idea about expanding the opportunity for M-3 zone designation. He said how the project would be phased was also very important to the City.

#### Summary of Commissioners' comments:

- Suggested that the development may improve if the sites were flipped, so that the hotel, shared parking, and office building are on the Constitution Drive site, and the two office buildings and two parking structures are on the Independence Drive site.
- Questioned in particular the current proposed location of the hotel/health club pool near US 101.
- Noted that the proposed M-3 development regulations do not exactly match the current project plans, in particular with regard to the permitted front setback.
- Questioned the need for the proposed amount of office square footage.
- Questioned the structure of the proposed General Plan and Zoning Ordinance amendments, in particular the M-3 district linkage to the specific parcels that are part of this development proposal.
- Suggested that alternate zoning ordinance amendments could help facilitate additional hotel-office developments and, by extension, housing development in other M-2 areas. Such housing development could have additional benefits, such as attracting a full-service grocery store to the area northeast of US 101.
- Presented an alternate fiscal analysis model.
- Questioned how the project affects jobs-housing balance.
- Noted that the location would likely be desirable for many potential tenants, with good US 101 and Dumbarton Bridge access.

- Noted that the proposed office space could provide home for growing companies that would otherwise leave the City of Menlo Park
- Noted that some newer hotels incorporate residential ownership components.
- Suggested that allowing higher-intensity development in the proposed location could ease development pressures elsewhere, allowing open space to be preserved.
- Noted that US 101/Marsh Road interchange already suffers from congestion, particularly during evening commute hours, and that the addition of so many new jobs would likely exacerbate that.
- Noted that consumer spending from office/hotel users would likely go to Redwood City and Palo Alto, as opposed to Menlo Park.
- Complimented the architecture of the proposed buildings.
- Noted that office space has regularly been overbuilt in the past and the proposed development could contribute to an upcoming glut.
- Noted that provision of housing within a reasonable distance for lower/middle-income workers would be necessary.
- Suggested that the proposed maximum height of 140 feet may be unnecessarily high for an eight-story building.
- Noted that the area is not well-served by public transit.
- Noted that not many service uses are located nearby, which may negatively affect LEED certification.
- Noted that scale, particularly height, is unusual relative to current conditions.
- Complimented the proposal in general for proposing a significant improvement to the properties.

## **E. REGULAR BUSINESS**

### **1. Consideration of minutes from the July 16, 2007, Planning Commission meeting.**

Commission Action: M/S Unanimous consent to approve the minutes as submitted.

Motion carried 4-0-1 with Commissioner Riggs abstaining and Commissioners Bressler and O'Malley not in attendance.

## **F. COMMISSION BUSINESS, REPORTS, AND ANNOUNCEMENTS**

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

Planner Chow reviewed upcoming planning items on the City Council agenda.

**ADJOURNMENT 11:07 p.m.**

The meeting adjourned at 11:07 p.m.

Staff Liaison: Deanna Chow, Senior Planner

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission on October 22, 2007.