



## PLANNING COMMISSION MINUTES

October 6, 2008

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** – Bressler, Ferrick, Kadvany, Keith, O'Malley (Vice chair), Pagee, Riggs (Chair)

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

**A. PUBLIC COMMENTS** – Mr. Clem Maloney, Menlo Park, said he was a 35-year resident of Menlo Park, an environmental activist, and an environmental manager in Silicon Valley for 20 years. He said he was pleased with the visioning process the City had been conducting. He said that Mr. Don Weden, a retired planner for Santa Clara County, had made a presentation before the City Council in April that was entitled "Adapting Planning to the Changing Realities of the 21<sup>st</sup> Century." He said one point emphasized by Mr. Weden was that land use planning was a key piece of modern environmentalism and that transit-oriented planning and housing were key to addressing environmental impacts from traffic with the emissions from vehicles having a much greater impact on the environment than the emissions from the use of energy in buildings. He gave the Commission a handout of key points made by Mr. Weden.

### **B. CONSENT**

Chair Riggs pulled the minutes for August 25, 2008 from the consent calendar.

1. **Approval of minutes from the July 28, 2008, Planning Commission meeting.**

Commission Action: M/S Keith/Ferrick to approve the minutes as submitted.

Motion carried 5-0 with Commissioners Ferrick and Kadvany abstaining.

2. **Approval of minutes from the August 11, 2008, Planning Commission meeting.**

Commission Action: M/S Keith/Ferrick to approve the minutes as submitted.

Motion carried 5-0 with Commissioners Ferrick and Kadvany abstaining.

3. **Approval of minutes from the August 25, 2008, Planning Commission meeting.**

Commission Action: M/S O'Malley/Pagee to approve the minutes as modified.

- Page 5, third from last paragraph, 4th line, Replace the word "gray" with the words "gray out" and add the words "wall color" after the word "green".

Motion carried 5-0 with Commissioners Ferrick and Kadvany abstaining.

**C. PUBLIC HEARING**

1. **Use Permit/Chris and Kristine Ball/555 Morey Drive:** Request for a use permit for first and second story additions to an existing single-story, nonconforming residence that would exceed 50 percent of the replacement cost of the existing structure in a 12-month period, and would increase the floor area by more than 50 percent on a substandard lot with regard to lot size, width, and depth, in the R-1-U (Single-Family Urban) zoning district.

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

Public Comment: Mr. Chris Ball, property owner and applicant, said he and his wife had lived in the home for five years. He said that they came before the Commission two years ago with a proposed two-story remodel, which had triggered quite a bit of dialogue. He said in particular there were concerns with the amount of parking being provided and the proposed five-bedroom home design. He said they decided to look at other properties in Menlo Park that might satisfy their needs, but found themselves committed to staying on Morey Drive. He said they contacted their architect and now were proposing a three-bedroom with an office home design. He said they produced copies of the proposed design and sent those to 16 neighbors and met with many of them individually and heard their feedback. He said 15 of the neighbors have signed a petition that they support the project. He said they had not spoken with one set of neighbors as their stance on a two-story remodel had not changed. He said the immediate abutting neighbors were highly favorable of the proposed design. He said those neighbors were unfortunately unable to attend the meeting but had drafted a note of support. He said the north side neighbor was supportive but had had some comments and suggestions. He said they met with her and went through those concerns, which were resolved amicably by modifications to the plan. He said that neighbor also was not able to attend the meeting but had drafted a note to the Commission expressing support for the project. He thanked the Commissioners for their time in visiting the site and providing constructive feedback.

Mr. Rich Harmon, project architect, said the project had been redesigned from the previous submittal. He said they eliminated the request for a variance by moving the

side wall in to meet the setback and reduced the house from a five-bedroom, four-bathroom home with an office to a three-bedroom, three bathroom home with an office. He said the existing parking was discussed lengthily during the consideration of the item previously. He said his clients and he also discussed this at length. Their feeling was they would not pursue a second parking space in the design as meeting that requirement would have a significant impact on the neighborhood. He said it would be the only two-car garage in the neighborhood. He said that the width of the front elevation of the house was 53 feet and a second garage would take up half of the front elevation. He said also that the first floor would have to be significantly impacted to get a second parking space that was not in the setback. He said also other homes in the neighborhood that had remodeled had set a precedent of having only a one-car garage. He said they felt that requiring a second parking space for this proposed project created a hardship. He said the existing driveway accommodated two cars parked side by side. He said the proposed project was designed to be sensitive to the neighbors and to fit in the fabric of the neighborhood. He said they minimized bulk with by using a Mansard roof and that the height of the home was 16 and ½ feet below the allowable maximum height. Using a visual, he showed the Commission visual views of a 3-D model of the proposed home. He said the proposed 2,700 square foot two story home was very modest in its approach and its face to the street.

Commissioner Keith noted that changes had been made to the second story windows. She asked what the revised height of the sills was. Mr. Harmon said they were at four-foot one-inch. Mr. Ball said he climbed on the roof to where the windows and balcony would be located so he could take photographs of the view to show the neighbor. He said that was very assuring for the neighbor.

Commissioner O'Malley asked if they had come to agreement with the neighbors about the location of the fence. Mr. Ball said that the fence had not been installed exactly on the property line. He said he and the neighbor have agreed to replace the older fence with one the same height as the other newer fence and to install it on the property line. Commissioner O'Malley said staff had recommended that they have a TV inspection of their sewer line, and if that was acceptable to them. Mr. Ball said it was.

Commissioner Pagee said with the proposed design that rooms had been described differently but the volume of the home was the same. She said the furnace in the garage would intrude two-feet into the width of the garage. She said this did not take the duct work into consideration. She asked if they were open to a condition to require that the duct work outside of the required 10-foot width for the garage. Mr. Harmon said that was acceptable. Commissioner Pagee confirmed they would be using simulated true divided light windows and that the second parking space would be in the front setback.

Mr. Ball said the characterization that they had just relabeled rooms from bedroom uses was not completely accurate. He said one bedroom had been expanded into a great room into which the proposed remodeled kitchen would also extend. He said the office

was too small for a bedroom and had no closet. He said that the configuration of the rooms would not favor future conversion to bedrooms and if in the future they thought about doing such a conversion that it would have to be permitted.

Commissioner Keith said she had seen a plan that showed a two-car garage. She said a two-car garage could be accommodated by removing the office and relocating the stairway. Mr. Harmon said it was not a plan Commissioner Keith had seen but an elevation. He said moving the stairway would take up the use of space otherwise dedicated differently. Commissioner Keith said the concern was about tandem parking. Mr. Ball said after the Commission's previous consideration of their project that he realized there had been a genuine misunderstanding about tandem parking as in fact two cars could park easily in the driveway side by side. .

Mr. Paul Kick, Menlo Park, said there were 42 homes in the neighborhood tract of which there were two two-story homes. He said he and his wife fundamentally questioned the advisability of a two-story home on substandard lots, particularly in this neighborhood because of the old sewer system and above ground utilities that were strung across back yards. He said he would be fine with the proposed project if he knew for sure that it would be the only two-story residence built in the neighborhood, but his concern was that it would lead to more two-story residences being built in a distinctive one-story neighborhood.

Chair Riggs said that Mr. Kick's wife had e-mailed him with their concerns, and had suggested in response that they look at a neighborhood overlay. Mr. Kick said that then the project was apparently dropped, and he had not been notified by the Balls of the project coming forward again. Chair Riggs suggested that Mr. Kick find out if there was consensus in the neighborhood to have an overlay. Mr. Kick said that he and his wife would not want to forestall the Balls' proposed project but would pursue a neighborhood overlay after the outcome of this project was determined by the Commission. .

Chair Riggs closed the public hearing.

Commission Comment: Commissioner Keith asked staff to address the sewer issue. Planner Fisher said that she had spoken with West Bay Sanitary District staff who indicated that the sewer main was fine but the material of the laterals from the homes to the main apparently had a tendency to fail. She said West Bay Sanitary District could only require TV inspection of a lateral for new construction, which was why she had advised the applicants to have the lateral TV inspected. Commissioner Ferrick asked how a sewer line would have more usage just because it was two-story rather than one-story if the size of the family and the usage was the same. Planner Fisher said that the home could accommodate a larger family in the future.

Chair Riggs said the applicant made an interpretation that two or three two-story homes with one-car garages in the neighborhood set a precedent. He asked if an approval of this two-story with a one-car garage would set or add to a precedent. Planner Fisher

said that the Commission considered residential projects case by case and consider the size of the home and its potential impacts. She said that approval of those projects did not set a precedent as the Commission weighed all the evidence and was consistent in the findings it made.

Commissioner O'Malley said the front elevation shown on page A.4-1 looked significantly different from the front elevation the architect had shown on the screen. He said the front elevation on the screen looked skinny and out of proportion. Chair Riggs said that was perhaps the angle at which Commissioners were looking at the screen. He asked if the elevation could be shown on a laptop. Commissioner O'Malley went to view the image on a laptop.

Commissioner Bressler said he was supportive of the project as the proposal was not a threat to the integrity of the neighborhood and the applicants were being sensitive to the neighbors. He said he was impressed that the family wanted to stay in the neighborhood as opposed to a developer who would buy the site, build to maximum allowances and then sell it. He said the barrier of the need for the Commission's review also protected the neighborhood. He moved to approve as recommended in the staff report.

Chair Riggs said there had been discussion about replacing the fence, increasing the height of the window sills on the second floor from two-foot eight-inches to four-foot one-inch, and that the duct work in the garage be outside the required parking width in the garage. Commissioner Bressler said those modifications were acceptable to him. Commissioner O'Malley seconded the motion.

Chair Riggs commented that the applicants had gone through the process including neighbor outreach and had created an attractive home on a substandard lot.

Commissioner Pagee said she was hesitant to accept the revised design. She said because it was such an extensive remodel that the required parking was possible to accommodate within the design.

Commissioner Bressler noting residential parking in other areas said that having more parking spaces was actually be an enabler for more cars parked. He said that having limited parking would deter a large group of people from occupying the house.

Commissioner Keith said the substandard parking was her main issue with the proposed project. She noted however projects on Willow Road that had been allowed tandem parking configurations.

Commissioner Pagee said she did not like the idea of tandem parking and when it was allowed then it became precedent.

Commissioner Keith said that other homes on Morey Drive would remodel eventually and they would look at the parking on this project and seek the same allowance.

Commissioner Kadvany said that the load on the sewer would be commensurate with the existing use, but if it needed repair that it should be repaired. He said he liked the one-car garage configuration as the two-car garage design was unattractive. He said that even with two-car garages people tended to also park on the driveway as the garages become storage. He said he upon reading he Kicks' letter that he was concerned about the impact of the proposed project on the neighborhood. He said he visited Morey Drive which he found very attractive and which deserved to be preserved. He said this project could have somewhat less bulk but the proposed rooms were not outsized. He said he had also been concerned with the bedroom and bath windows but those were offset. He said overall the scale was done well and if other homes in the neighborhood remodeled similar to this such projects would maintain the neighborhood character.

Commissioner O'Malley said the tandem parking in the Willows area that the Commission had considered was actually tandem parking within the garage. He said the rendering of the front elevation showing a two-car garage was less attractive than the design presented.

Chair Riggs said if this project had needed functional tandem parking that he would have opposed it; however, there was the ability to have two cars parked next to each other in the driveway. He said he would also have been more concerned with the view from master bedroom windows into the neighbors' yard, but there was existing landscape screening to protected privacy.

Commissioner Ferrick said this was one of the most sensitively designed two-story remodels in a one-story neighborhood that she had seen.

Commission Action: M/S Bressler/O'Malley to approve the item with the following modifications.

1. Make a finding that the project is categorically exempt under Class 1 of the current State CEQA Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be 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 Alfonso Harmon Architects, consisting of six plan sheets, dated received on August 26, 2008, and approved by the Planning Commission on October 6, 2008, 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.
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 revise the plans to show the depth of the proposed balcony/guardrail not to exceed 17.5 inches, subject to review and approval by the Planning Division.
  - b. *Simultaneous with the submittal of a complete building permit application, the applicant shall revise the plans to show the windowsill heights for Bedrooms 2 and 3 on the west elevation as four feet, one inch, subject to review and approval by the Planning Division.***
  - c. *Simultaneous with the submittal of a complete building permit application, the applicant shall revise the plans to show the proposed fence on the right side of the property from the front gate to the rear corner of the house as being located along the property line, subject to review and approval by the Planning Division.***

- d. Simultaneous with the submittal of a complete building permit application, the applicant shall revise the plans to show the duct work for the furnace as not encroaching into the garage width any further than the base of the furnace, subject to review and approval by the Planning and Building Divisions.***

Motion carried 6-1 with Commissioner Pagee opposed.

Chair Riggs noted that the two bars under existing and proposed on the parking form should have been shaded as nonconforming. He said also in the future he would encourage that projects have site plans so the as to identify existing trees.

2. **Use Permit/InVisage Technologies/978 Hamilton Avenue:** Request for a use permit for the indoor use and storage of hazardous materials for the research and development of novel semiconductor materials and devices in the M-2 (General Industrial) zoning district.

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

Questions of Staff: Commissioner Keith said the staff report indicated that a proposed fume hood would not need a permit. Planner Fisher said the requirement for a permit from the Bay Area Air Quality Control Management District related to the number of fume hoods and other triggers, but one fume hood did not require a permit from that agency. Commissioner Keith noted on D.3 under Section E that the form was signed but there was no consent circled.

Recognized by the Chair, Mr. Jess Lee, InVisage Technologies, said they had intended to circle "yes" on the form.

Commissioner Keith noted that E.4 indicated it was for office use only, but again there was an area to be checked and it was not. Planner Fisher said the intent of the Fire District was to check the box that they had reviewed the plans and noted that she had spoken with Ron Kiefer, the Fire Marshall about that. Commissioner O'Malley said the forms should be checked for completion before they came before the Commission.

Commissioner Keith said Ms. Shirley Morris had sent an e-mail indicating concerns with the application, and asked if staff had spoken with Ms. Morris. Planner Fisher said she responded to Ms. Morris by e-mail but did not receive a response from her. Planner Fisher said in her e-mail she tried to clarify that this application was for a lab that would have very small quantities of hazardous materials that were used and stored, and that this was not a facility that was receiving hazardous waste. .

Commissioner O'Malley said there seemed to be discrepancies in the amount of materials, such as chloroform, when listed by volume and weight. Chair Riggs suggested the question be addressed to the applicant.



Public Comment: Mr. Jess Lee, CEO of InVisage Technologies, said they were a semi-conductor research firm established about two years prior, and they had recently moved to Menlo Park from Santa Clara. He noted that he was a Menlo Park resident. He said in their research and development that they employed standard and custom design tools to design semi-conductors and different processes. He said the new processes involved using different materials. He said they were adding the semi-conductor to chips, which was unique to the industry. He said all of their activities focused on research and development with a goal to get to product within two to five years. He said production would occur offshore.

Commissioner O'Malley asked about the discrepancies in the volume and weight of materials, using chloroform as an example.

Ms. Ellen Ackerman, Green Environment, Inc. said that they were consultants for the applicant to provide assistance with permitting and safety management. She said that the material chloroform was liquid and was stored by the gallon. She said its quantity was required to be shown as both volume and weight, noting that chloroform was very dense. She said one inventory showed what would be on hand now and an amount projected out to the future. Commissioner O'Malley said he still thought there was a discrepancy but he would speak with Ms. Ackerman after the meeting.

Commissioner Keith said the public had concerns with the application and asked Ms. Ackerman to address those. Ms. Ackerman said that InVisage Technologies was a relatively small quantity user of hazardous materials and that they would not create chemicals. She said the company would not want to have a large amount of chemicals stored there, but the goal was to have a balance in which they had enough materials on hand so as not to need frequent deliveries. She said they also provided hazardous materials handling and hazardous waste management training on an annual basis.

Commissioner Keith asked Ms. Ackerman to describe the training provided. Ms. Ackerman said there were several types. She said one was a hazardous materials training that described hazardous materials and how to handle, label and store those. She said there was training on hazardous waste and how to handle, manage and store it. She said hazardous waste would be disposed of offsite. She said there was general safety training, an emergency action plan and evacuation procedures. She said currently the firm had few employees. Commissioner Keith asked if there were records kept of training. Ms. Ackerman said that Human Resources would keep those records and those were required by OSHA and other agencies. Commissioner Keith asked about a wash station in the event there was a spill. Ms. Ackerman said there were wash and shower systems for employees to use if they had come into contact with a hazardous material. Mr. Lee said that there was an eyewash center in each corner of the facility. Commissioner Keith asked in reference to Ms. Morris' letter if this was a hazardous materials plant. Ms. Ackerman said that the facility would receive hazardous materials but it was not a plant as they were strictly research and development. She said there was no manufacturing; they would not use great quantities of hazardous

materials; and they would not receive hazardous waste. Mr. Lee said that they were using small amount of chemicals to treat their product. He said he had worked in the industry for 35 years and his VPs and staff scientists were very experienced and knowledgeable. He said their staff would be trained. He said they worked in the office 10 to 12 hours a day. He said the vast amount of work was done in a glove box, which is a fully contained and isolated environment or in a fume hood. He said hazardous waste disposal was done by licensed professionals.

Commissioner Bressler asked if there had been any incidents with hazardous materials spills when the company was located in Santa Clara. Mr. Lee said there had not been any incidents. Commissioner Bressler asked if there were similar businesses in Menlo Park. Ms. Ackerman said there were several research and development businesses in Menlo Park Business Park that used and stored similar materials. Commissioner Bressler confirmed that the company did not use any biological or radioactive materials.

Commissioner Kadvany asked about possible pathways outside of the building that might conduct hazardous materials. Mr. Lee said that no hazardous waste or chemicals were stored outside; he said all materials were stored in their respective appropriate containers and those were stored in flameproof cabinets. He said there would be no outside surge of waste. And hazardous materials and waste would be outside when delivery was made or waste picked up by a professional waste disposal company. Commissioner Kadvany asked if an act of negligence could cause a problem of exposure. Mr. Lee said that it would take much more than an act of negligence to create exposure.

Commissioner Ferrick asked if an earthquake or fire could cause exposure to the public. Mr. Lee said the materials were contained in cabinets within the labs within the buildings, and that there were no piped materials going to the outside. He noted that the storage cabinets were fireproof.

Commissioner Pagee said that the chemical types and their exhaust from the fume hood did not require a BAAQMD permit. Ms. Ackerman said that research and development firms did not need a BAAQMD permit. Commissioner Pagee asked if BAAQMD monitored cumulative exhaust from the numerous research and development businesses in the area. Ms. Ackerman said she did not know.

Chair Riggs asked if a gallon container of ammonium hydroxide should spill in the lab whether a person outside could smell it. Ms. Ackerman said that ammonium hydroxide did not have much odor and it was not on any list requiring an emergency action plan. She said that there were state lists of quantities of chemicals requiring an emergency action plan and that none of the quantities of the hazardous materials used by this company met any threshold to require an emergency action plan. She said regarding a distance at which there might be a smell that a gallon of a material spilled in the lab would not even be detectable outside the building.

Chair Riggs said one of the questions asked in the application was whether the company was the only tenant in the building. He said that the applicant had checked "yes." He asked if the company occupied three out of four spaces in the building. Mr. Lee said they were using 20,000 square feet of a 26,000 square foot building. He said currently there were only two possible occupants for the building but the other space had not been leased in about five years.

Commissioner Bressler said there were a lot of businesses that had used similar materials and whether there was public hazard impact from those materials during the Loma Prieta earthquake. Ms. Ackerman said she had not heard of any disaster stories related to chemical spills and the Loma Prieta earthquake, noting such stories tended to get talked about environmental management conventions. She said at InVisage Technologies that the only chemicals that would be out would be in active use and that chemicals not in use were stored in cabinets to mitigate problems in the case of earthquake. Commissioner Keith asked if the cabinets were locked. Ms. Ackerman said there was no need to lock the cabinets but they had a positive latch and there was a handle to open the doors. She said this should keep the doors from opening in the instance of an earthquake.

Chair Riggs said that individual public comment would be limited to three minutes.

Mr. Johnny Walton, Menlo Park, said his children attended the Beechwood School, which was in the vicinity of this company. He said he was against companies that use and store hazardous materials coming into their neighborhood. He said that businesses tended to start off small with small quantities of hazardous materials, but then the companies grow and the amount of hazardous materials increases. He said his concern was the cumulative impact of numerous businesses in the area using hazardous materials. He said that there was no input about delivery and pick up of hazardous materials and whether those companies being used had had accidents. He said the delivery and pickup vehicles would travel roads used by residents and near where children walk to and from school.

Ms. Nancy Cash said she was speaking on behalf of the Mt. Olive Apostolic Original Church of God located on Hamilton Avenue. She said the Church has many members in the Belle Haven area and she had been asked to speak on their behalf and the Church's. She said that the company was near a day care center, schools and the Belle Haven residential area. She said those residents bore the brunt of the industrial area. She said there had been no guarantee made that accidents would not occur. She said they wanted to register opposition to any more businesses with hazardous materials in their neighborhood.

Dr. H. L. Bostic, Menlo Park, said the business would have hazardous materials 500-feet from a school and 800-feet from the nearest residence. She said if there was no research as to how far those chemicals would reach that there was no assurance for the community. She said the public was limited to three minutes but others could speak as

long as they wanted. She said there should be a limit by distance as to how close such businesses could be to residences and schools. She said children walk by this area from school and could be impacted by dangerous air quality, spills and fire. She said she opposed the project.

Chair Riggs closed the public hearing.

Commission Comment: Commissioner Bressler said that SRI was located right in Menlo Park and used hazardous materials that were delivered and used. He said that throughout Menlo Park, Stanford and Palo Alto there were numerous businesses that used and stored hazardous materials. He said that there was no greater risk for the area around this company than any other areas where similar companies were located.

Commissioner Keith said the Commission had seen many of these research and development project applications. She said it was great to have those businesses in Menlo Park, but she understood the neighbors' concerns. She said that this company was not a hazardous materials plant and would only have small quantities of hazardous materials onsite. She said had asked questions of the applicant and the environmental consultant to demonstrate that safety training and procedures were in place. She moved to approve as recommended in the staff report.

Commissioner Pagee seconded the motion. She noted that Menlo Park was lucky to have such businesses, which used only small quantities of hazardous materials, and to have a very proactive Fire District that monitored facilities using and storing hazardous materials.

Commissioner Kadvany said that there was history in Menlo Park of egregious use of chemicals in the broader area. Chair Riggs noted the company Commission Kadvany was referring to was closed and located in East Palo Alto. Commissioner Kadvany said that generally Menlo Park was a pretty clean city but he thought people probably remembered the company that violated safety. He said that explaining the processes and communicating with the public would help ease concern.

Commissioner Ferrick said that people want to reduce chemicals in the world. She said whether this applicant got approval or not that chemicals were being transported throughout the City every day and that there was no greater impact to this specific area than to the general area of the City.

Chair Riggs noted that the five gallon container of acetone was the largest amount of flammable material that would be stored by the company. He recalled that his father had kept two gallons of acetone in the garage for the cleaning of a fiberglass boat. He said the quantities to be used and stored by InVisage were modest and the danger of those materials was low. He said related to growth that the Commission's approval of this application would authorize only the use and storage of hazardous materials in the minimal amounts listed. He said the Commission's approval would not authorize a

larger operation. He said two of the Commissioners lived within 200-feet of businesses that used and stored hazardous materials. He said they also have two Commissioners with knowledge of chemicals and hazardous materials and the expertise to make an informed decision.

Commission Action: M/S Keith/Pagee 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 two plan sheets, dated August 4, 2008, and approved by the Planning Commission on October 6, 2008 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 7-0.

#### **D. REGULAR BUSINESS**

1. **Sign Review/76 Gas Station/1380 El Camino Real:** Request for sign approval for a new sign that contains the color red.

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

Questions of Staff: Commissioner Pagee asked if the numbers on the Willow Road gas station in red were permitted. Planner Fisher said that this project and the station on Willow Road had their signage approved by the Commission at the same time. The Willow Road gas station had installed the signage as approved but the signage had not been installed at this gas station, and a change in the signage was now desired by the applicant.

Chair Riggs said one of the conditions was for a secondary sign on the pole to be moved to nine-feet about the sidewalk. Planner Fisher said that a staff person had looked at the sign and thought it was low, and might impede air space. Chair Riggs asked if nine-foot height above the ground was required for awnings in the Design Guidelines. Planner Fisher said she would look. Chair Riggs suggested they continue, and recognized the applicant.

Mr. Ben Storms, McHale Signs, Sacramento, said he was representing the gas station and that his company was contracted to do the signage installation.

Commissioner Kadvany asked what the motivation for the change was. Mr. Storms said that nationwide, Conoco, Phillips 66 and 76 designed a standard image. He said this site was put on hold but he did not know why. He said they were now moving ahead with this application. Commissioner Kadvany asked if the gas station owner wanted to change the sign. Mr. Storms said the owner wanted to conform to the image program as the company did periodic evaluations of sites, and not conforming to the image program was a negative grade.

Commissioner Keith said that the City's design guidelines discouraged the use of color red. Mr. Storms said that red was the color selected for use nationwide. He said the logo had been approved to be refaced. He said the pole sign was the only element that had not been changed from the original plan. Commissioner Keith asked if other communities discouraged the use of red. Mr. Storms said that Lafayette was requiring

Oasis dark gray. Commissioner Keith asked if he had anything to say about the requirement to raise the sign from seven-feet to nine-feet. Mr. Storms said he thought they could achieve the nine-foot clearance.

Commissioner Ferrick said it appeared on page B.2 that if the sign was raised a couple of feet it would block the street sign. Mr. Storms said the ball sign had been there for over 30 years and the street signs had been installed later. He said the photograph had been taken from an interior of the parking lot as opposed to from line of sight down the sidewalk.

Chair Riggs asked staff if anything was found in the Design Guidelines regarding the height clearance for awnings. Planner Fisher said that for awnings an eight-foot clearance height was recommended. She said that recommendation was not made for signs encroaching in the right-of-way air space, which the Commission would want to take under consideration.

Chair Riggs said the sign would be refaced and asked if the ball would stay. Mr. Storms said it would. He said the plan originally approved was for a two-pole sign to separate their image from the image of Unocal, which was known for the globe sign. He said they found that many municipalities wanted them to keep the balls. He said a brand new ball would be installed.

Chair Riggs said he had not seen a lot of support for the red secondary signs. Mr. Storms said one option was to opaque the reverse of the sign so that it was red during the day but at night the only portion of the price or wing signs would be silver bands, the products and the numerals, which would reduce the amount of red at night.

Chair Riggs asked what staff's reaction was to Mr. Storms' suggestion. Planner Fisher said staff's position was there were a lot of red sign requests and that were related to corporate image. She said the red used was very bright and glaring during the day.

Commissioner Kadvany asked if gas stations used monument signs. Mr. Storms said gas stations used monument and pole signs.

Commissioner Keith moved to approve with a modification to use Oasis dark gray. Mr. Storms said the blue was more acceptable than the gray. He said the Shell station across the street was white, yellow and gray. He said the rest of this station was white with red and blue trim. Commissioner Keith said she could change her motion to approve as recommended by staff. Commissioner Ferrick seconded the motion.

Commissioner Ferrick asked if the blue was the same as the Oasis blue. Mr. Storms said it was.

Chair Riggs suggested that an eight-foot height might make the signs more visible to people in cars. Planner Fisher said that would be acceptable to staff. Chair Riggs

confirmed the change to eight-foot was acceptable to Commissioner Keith and Ferrick as the makers of the motion and second.

Commission Action: M/S Keith/Ferrick to approve the item with the following modification.

1. Make a finding that the project is categorically exempt under Class 1 of the current State CEQA Guidelines.
2. Make a finding that the signs are appropriate and compatible with the businesses and signage on El Camino Real, and are consistent with the Design Guidelines for Signs.
3. Approve the sign review subject to the following **standard** conditions:
  - a. Development of the project shall be substantially in conformance with the plans prepared by McHale Sign Company, consisting of five plan sheets dated received September 23, 2008, and approved by the Planning Commission on October 6, 2008, except as modified by the conditions contained herein.
4. Approve the sign review subject to the following **project specific** conditions:
  - a. Simultaneous with the submittal of a complete building permit application, the applicant shall show the gasoline price signs that are part of the pole sign and the secondary price signs as having blue background with white letters and numbers, subject to review and approval by the Planning Division.
  - b. Simultaneous with the submittal of a complete building permit application, the applicant shall show the bottom of the gasoline price signs that are part of the pole sign as being at least **nine eight** feet above the ground, subject to review and approval by the Planning Division.

Motion carried 6-1 with Commissioner Kadvany opposed:

2. Discussion of and Possible Direction on the El Camino Real/Downtown Specific Plan (Phase II) Process
  - A. Written correspondence from Commissioners Kadvany and Bressler

Planner Rogers said this item had been requested by the Commission, and staff had not written a staff report.



Recognized by Chair Riggs, Commissioner Kadvany said he had heard Commissioner Bressler talk at one of the work group meetings for the Phase 1 Visioning Plan about increasing transparency about some of the modeling and estimates created. He said there was a need to get up to speed for Phase 2 as there was a lot to be done. He said what he had written was basically a decision analytic approach to think about structuring, organizing, and accounting for the cost and benefits of what could come out of the Visioning Plan in respect to different choices that were made. He said this method would accommodate all choices that people identified. He said that it broke up the planning area into smaller, more manageable pieces such as east, west, north, south, train area, and transportation network. He said then the goal would be to identify for all of those pieces what the major outcomes of interest were for people. He said this was a public policy problem as there was not one bottom line such as with a business, but interests that were incommensurable and needed to become organized. He suggested starting with what was wanted and what the proper measurements were for those, and put up front what the outcomes were rather than the options. He said the options served the fundamental goals of the City. He said noted that the City's Community Engagement Manager, Charisse Grendell had made a presentation before the Council on community engagement and it was his understanding that more of the facilitating of public meetings would be turned over to the City, the Commission and other stakeholders. He said an analytical approach was defensible, transparent and would provide structure for stakeholders such as the Commission, which had a planning responsibility that would be consistent with stakeholder outreach and figuring out tradeoffs in a more public way.

Commissioner Bressler said he had requested time for the Commission to discuss what the role of the Commission was in Phase 2 of the Visioning Plan. He said he was quite impressed by the document prepared by Commissioner Kadvany. He said people had indicated that the Commission should bring to the Council a number of options that have been properly vetted. He said the City was in the process of deciding what consultant to hire but the role for a consultant was not defined. He said the City was paying a community engagement person and he thought the Commission should conduct public meetings and use that person to facilitate those. He said they were trying to inform the consultant choice with that possibility and facilitate a conversation this evening about the role of the Planning Commission. He said he thought the role of the Planning Commission was to present to Council something that was defensible, had public buy-in and was comprehensive in the sense of covering a range of alternatives with justifications for each. He said that a map was needed.

Commissioner Keith asked if it was being suggested that the Commission conduct meetings with the public. Commissioner Bressler said he thought the Council would appreciate recommendations from the Commission that had public buy-in and were fairly complete so the Council could consider options directly and decisively. He said Phase 2 was getting into planning specifics. He said there was a greater role for the Commission to take on if they were willing to do so. He said there was discussion about the citizen's committee role. He said he thought the key was to give a range of options

to the Council that had been publicly vetted and a document reviewed extensively by the citizen's group and through meetings before the Commission. Chair Riggs said there were at least a couple of Council members who wanted such input.

Commissioner O'Malley asked how this related to the process of Phase II which had the citizen's committee task force preparing outcomes that would then come to the Commission for review and recommendation. He asked if it was being suggested to change that process. Commissioner Bressler said he thought it was important to establish the role of the citizen's committee as their input on the preparation of the report would create public buy-in, which would then be brought to the Commission and then to Council. He said in Phase 1 that the consultant and staff wrote a report and the citizen's group was to oversee if the report was being presented to the public in an acceptable fashion.

Chair Riggs said the underlying point was that many were disappointed with what the consultant had prepared in Phase I. He asked Planner Rogers how staff could make use of this input, whether the Commission should expand the input, whether alterations should be made to the RFP or the selection process to define this input, and whether staff would support a modification to the process for Phase 2.

Planner Rogers said he was struck with the similar core of the memorandum's aims and what was put into the RFP. He said Commissioner Kadvany had noted the presentation by the City's Community Engagement Manager and staff had had sneak previews of the community engagement model and incorporated that into the RFP. He said there was a process that was approved by the Council to procure consultant services, and that was in process as the RFP had been sent out, proposals had been received, and those had been distributed to a seven-person consultant review committee. He said the committee was tentatively scheduled to interview the four consultants the following week. He said there were potentially ways for the guidance of the Commission to be incorporated into that process if the team members believe the proposals were in line with the goals of this memorandum. He said if it was found that the proposals did not meet the goals, the Commissioners who were on the review team might ask that the process be revisited in some way, such as asking for revised proposals or an alternative process to more specifically include the aspects of the memorandum prepared by Commissioners Bressler and Kadvany.

Chair Riggs said the key aspect was the existence of a Planning Commission with some members more familiar with the planning processes of the past few years, and that in the past the Commission had been given perfunctory matters to review which he thought put the Council in a vulnerable position. He asked if the work could be done within the purview of the Commission so that it could be packaged and then presented to the Council. Planner Rogers said that might be part of the proposal review as that committee was authorized by the Council to make modifications to the proposal.

Commissioner Keith said if they were talking about the Commission's own planning process that this should be agendized to develop that process and then go to City Council to get their buy-in.

Commissioner Kadvany said it might be useful to distinguish this method as a scorecard and matrix and a rational use of time and improving public discourse. He said the political process was the question of who was doing what. He said if people can communicate more effectively that the roles of the Commission, Council, staff and public should be defined.

Commissioner Bressler said that he agreed with Commissioner Keith and that the Commission should make a formal presentation to the Council. Chair Riggs said they could also go through the Council's subcommittee.

Commissioner Kadvany said that he was shocked by the consultants' proposed budgets. He said that perhaps some of the front end activities of the consultant could be taken over by the City. He said the consultants indicated they would come up with at least three choices which he thought was highly insufficient.

Chair Riggs said that the budgets were in line with the cost of services and that staff's resources were stretched and most likely they would not be able to take on additional major aspects of the process.

Chair Riggs asked if anyone in the public would like to speak. There being no comment, Chair Riggs closed the public comment period.

Commissioner Bressler said the citizen's committee should have a direct role of input into the writing of the report prepared by the consultant. He said the Commission should have a few meetings to refine that document with public comment. He said that would prepare a defensible report to be considered by the Council. He suggested there should be a description of the process. He said consultants were flexible and that process could be worked on within the selection of a consultant. He said he thought the Commission should discuss the roles of the citizen's group and the Commission.

Chair Riggs asked if that could be placed on an agenda. Planner Chow said that it could be placed on the October 24 meeting agenda.

Commissioner O'Malley said he thought that should occur before the selection of the consultant. He asked Commissioner Bressler to clarify what he wanted to happen.

Commissioner Bressler said he would like to see a fairly clear and powerful role for the residents' committee and for the Planning Commission. He said within the structure proposed that there was room to do that.

Commissioner O'Malley said his concern was this could delay the process for years. Commissioner Bressler said that Phase 2 had to be wrapped up within the next two years. Commissioner O'Malley said that might cause the consultant to rewrite the proposal and cause a delay. Commissioner Bressler said there would be an opportunity to tweak the proposals. Commissioner O'Malley said that the roles of the Commission and the citizen's committee should have been defined already.

Commissioner Kadvany said consultants were experienced working with the public process and would appreciate the City being proactive. He said he thought they should get started on a storyboard or PowerPoint to create a conceptual frame. Commissioner Bressler said that was not a level of detail he wanted at this time as it might bog down the process. He said he would like to develop simple guidelines and expectations of the citizen's group and Commission's role. Chair Riggs said they could incorporate the goals into the discussion with the consultants.

Commissioner Keith asked if Chair Riggs and Commissioner Bressler were on the RFP review. Chair Riggs said they were. Commissioner Keith said there were some questions they could draft now that Chair Riggs and Commissioner Bressler could bring to that arena and plant the seed.

Commissioner Bressler said the citizen's group should have the ability to directly edit the draft report and approve by majority; that the Commission should then consider the report and make a recommendation to Council.

There was discussion about whether the Commission should make a presentation to the Council the following evening regarding the Commission's role in the Phase II process. Planner Rogers said that the Council would not be able to take action the following evening and he thought the Commission should focus generally on broad goals such as more participation of the Commission and the role of the citizen's group.

Commissioner Ferrick said she liked the idea of the clarity of defining roles of the committee and Commission in the process. She also thought individually Commissioners should take part in the public process.

Commissioner Kadvany said he thought the Planning Commission would have a lot of input through this process. He said the methodology in the memorandum made things accessible to people.

Commissioner O'Malley asked how the Working Group would be selected, and who would be on it.

There was discussion about how the Working Group would be selected. Chair Riggs asked whether there should be a statement made about the selection of the Working Group. There was general consensus to not make a statement about the selection of the Working Group.

The Commission discussed bringing concepts of the role of the Working Group into the discussions with the consultants who had submitted proposals.

Commission Action: M/S Bressler/Keith to direct Commissioners Bressler and Riggs, as the Planning Commission representatives on the Consultant Review Committee, to discuss the following topics during the consultant interviews:

- 1) That the Working Group should have the ability to directly edit any draft plan and to recommend approval of the draft plan by majority vote,\* and
- 2) The potential incorporation of the written communication from Commissioners Kadvany and Bressler into the process.

Motion carried 7-0.

\*The motion seemed to indicate that Commissioners Bressler and Riggs would tell the Consultant Review Team and the consultants being interviewed that the Working Group should have the ability to directly edit any draft plan and to recommend approval of the draft plan by majority vote, but Planner Rogers when queried by Chair Riggs expressed concerns with the Commission making that decision as the Council had debated whether the Working Group should have the ability to directly edit any draft plan and a voting role and he thought telling the Review Team and the consultants that would be role of the working group was countermand to the Council's authority. He said also that Ms. Grendell had addressed the break in community engagement when ad hoc groups made decisions outside of the public arena. Chair Riggs said that the motion was to discuss whether the Working Group should have the ability to directly edit any draft plan and recommend approval of the draft plan by majority vote with the consultants during the interview process.

## **E. COMMISSION BUSINESS**

1. Review of planning items on City Council agendas.

### **A. 145 El Camino Real - Easements**

Planner Chow said this was follow up from the use permit approval in 2002. She said there would be a study session on October 27, 2008 for 1706 El Camino Real.

## **F. REPORTS AND ANNOUNCEMENTS**

There were none.

## **G. ADJOURNMENT**

The meeting adjourned at 11:04 p.m.

Staff Liaison: Deanna Chow, Senior Planner

Recording Secretary: Brenda Bennett

Approved November 3, 2008