



PLANNING COMMISSION MINUTES

November 17, 2008

7:00 p.m.

City Council Chambers

701 Laurel Street, Menlo Park, CA 94025

CALL TO ORDER – 7:03 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, Justin Murphy, Development Services Manager

A. PUBLIC COMMENTS

There was no public comment.

B. CONSENT

1. **Approval of minutes from the October 20, 2008, Planning Commission meeting.**

Commission Action: Unanimous consent to approve the minutes with the following modification to Page 12, last sentence, replace “20” with “27.”

Approval action was 7-0.

C. PUBLIC HEARING

1. **Use Permit/Permit Me for T-Mobile/1340 Willow Road:** Request for a use permit to install wireless telecommunications antennas on the roof of Mid-Peninsula High School and associated equipment inside the school building in the M-2 (General Industrial) zoning district.

Staff Comment: Planner Fisher said existing and proposed coverage maps had been distributed to the Commission at the dais as well as a photocopy of the color simulation to the Chair.

Public Comment: Mr. Rick Hirsch, representative for T-Mobile, said the design was for eight antenna towers on four sectors of the roof of the school building. He said the towers would be hidden or stealthed from view from any point beyond the school. He

said the six equipment cabinets would be within the walls and roof above the gymnasium. He said the project was essential for T-Mobile to provide more thorough and adequate coverage particularly between University Avenue to the east, Hwy. 84 to the north, Hwy. 101 to the south and the Hamilton Avenue and Ivy Drive neighborhoods west of Willow Road. He said in addition to expanding coverage for the network's customers, the project would provide for 3G technology including voice, data, Internet, multi-media and 9-1-1 capacity to enhance the ability of first responders including EMS, Fire and Police to communicate in the event of earthquake, fire or other disaster that might make land phone lines inoperable. He said regarding safety that there were concerns about radio frequencies and health. He said their licensed radio frequency engineer, Mr. Bill Hammett, principal of the firm Hammett and Edison, was present and could address questions about radio frequency and electromagnetic emissions. He said T-Mobile agreed with all of the conditions recommended by staff, and requested approval of the project.

Mr. Bill Hammett, Hammett and Edison, said he was a registered engineer in the state of California. He said his task was to evaluate proposed or existing sites through calculation of what the manufacturer had specified were their antenna patterns and what T-Mobil had indicated was the operating power and to project those levels to assess exposure conditions. He said they found maximum exposure at ground level was .42 percent and maximum exposure at any nearby building was .98 percent, both less than 1 percent. He said that anyone at any location would have exposures at least 100 times below the safety standards set by the FCC.

Commissioner Pagee asked about the safety of persons working on mechanical equipment behind the screen. Mr. Hammett said because the antennas were turned outward that the maximum exposure was also .98 percent, well below the safety standards. He said if there was to be work such as painting the screen in which a worker was outside the screen that the equipment would have to be turned off to protect the worker(s).

Chair Riggs closed the public hearing.

Commission Comment: Commissioner Keith said there was a discussion on page 3 related to a five or ten year time expiration of the use permit. She moved to approve the use permit as recommended by staff with a ten year time expiration. Commissioner Pagee seconded the motion noting that as technology improved T-Mobil would want to upgrade equipment.

Chair Riggs asked what would occur if technology improved such that antennas were no longer needed and whether there should be removal of the antennas required by the City or whether that was between the applicant and the business owner. Planner Fisher said the City would like the antennas to be removed if technology improved such that they were not needed.

Commissioner O'Malley said he supported the motion as it was appropriate, needed and safe, and called for the vote.

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

1. Make a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current State California Environmental Quality Act (CEQA) Guidelines.
2. Make necessary findings, pursuant to 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 safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of the proposed use, and will not be detrimental to property and improvements in the neighborhood or general welfare of the City. (Due to the Federal Communications Commission (FCC) preemption over local law regarding concerns over health where the proposed facility meets FCC requirements, staff has eliminated the standard finding for "health" with respect to the subject use permit.)
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 MSA Architecture & Planning, Inc., dated October 16, 2008 consisting of nine plan sheets and approved by the Planning Commission on November 17, 2008, except as modified by the conditions contained herein and the recommended mitigation measures described in the RF report.
 - b. Prior to building permit issuance, the applicant shall comply with all County, State, and Federal 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 that are directly applicable to the new construction.
4. ***Approve the use permit subject to the following project-specific conditions.***
 - a. ***This use permit shall expire at the end of ten (10) years from the date of building permit issuance unless extended by the Planning Commission. If the applicant desires to extend the use permit, the applicant shall explore and implement, to the extent feasible, the available technology to reduce the size and/or visibility of the antenna.***

Motion carried 7-0.

2. **Use Permit/Anter Enterprises dba Curves/1800 El Camino Real, Suite D:**
Request for a use permit to operate a private recreation facility in a multi-tenant building with non-conforming parking in the C-4 (General Commercial, Applicable to El Camino Real) zoning district.

Chair Riggs said that Items C.2 and C.3 were interrelated and would be opened at the same time. He said under public comment the Commission would hear comments on both items.

Staff Comment: Planner Chow said since the publication of the staff reports that staff had received numerous additional comments, which had been distributed to the Commission. She said regarding item C.2 (Curves) that staff had received six additional support letters from Ms. Joyce Phillips, Ms. Uma Chokolingham, Ms. Allison Bank, Ms. Dolores Copeland, Ms. Carol Dobberpul, and Ms. Charmaine Sungy. Their comments included observations that the facility was a needed inexpensive and local fitness service for women; many who used the services lived nearby and walked or bicycled to the site; it was convenient for women who worked in Menlo Park and lived nearby; and it was a well-run and clean space. She said there were four pieces of correspondence that referred to both C.2 and C.3. Ms. Ada Duan had commented that over the past eight years she had seen an increase in cars parking along Buckthorn Way and at the Gaylord's property, which she attributed to these services. Ms. Joanne Blackford had written that she agreed with comments on parking by Ms. Lisa Chow. Ms. Susan Basso had reiterated that parking was a problem and suggested limiting hours of operations for the businesses. She said that if parking all day on Buckthorn Way by clients of these businesses continued, the residents would petition the City for parking limitations on Buckthorn Way. Ms. Betty Howell and Mr. Jerry Anderson wrote that parking remained a concern even though Dance Works had left the site. They also commented that many clients of the businesses came early in the morning or near rush hour, which raised traffic concerns. They said that clients of the businesses had grown accustomed to parking at Gaylord's, which would be developed eventually. Planner Chow noted that there was a correction on the staff report for C.3 on page 8 and that expiration of the lease under condition 4.a was July 31, 2010.

Questions of Staff: Commissioner O'Malley asked if staff knew how much Dance Works had contributed to the parking demand. Planner Chow said she did not have actual data but had heard estimates in the 20 car range; she noted that Dance Works had had larger class sizes than Curves and The Pilates Zone. Commissioner O'Malley asked how the parking conditions would be enforced. Planner Chow said the City could do spot checks but if parking was a problem the City would hear about it from the residents. Commissioner O'Malley asked if there were parking problems whether the use permit could be revoked. Planner Chow said that was a possibility if there was a violation of the conditions of the use permit.

Commissioner Keith said the staff report on page 6 for C.2 indicated a complaint about noise from the hair salon service. She asked if that complaint had been received before or after shock absorbers were installed by Curves. Planner Chow said she thought the complaint was made before the installation but suggested the question be asked of the applicant. Commissioner Keith said the sessions were limited to 30 minutes once a day and asked why a client could not come twice a day. Planner Chow said that was something the applicant wanted. Commissioner Keith said that for C.3 and the group sessions under 4.e there was a condition for 15 minute intervals between the end and beginning of classes. Planner Chow said this was a condition that staff added to address double car stacking by clients arriving before other clients left. She said staff had discussed this with the applicant.

Commissioner Ferrick said the property had been developed under the jurisdiction of San Mateo County prior to its annexation to the City. She asked if the County had commercial parking ratios. Planner Chow said she did not know what the conditions were when the property was developed under the jurisdiction of San Mateo County.

Chair Riggs said it appeared that parked cars were partially on the site and partially in the right-of-way. Planner Chow said along El Camino Real that cars did park partially onsite and partially in the right-of-way and that along Buckthorn Way cars were parked entirely in the right-of-way.

Commissioner Kadvany said he did not see anything about the parking needs of the nearby convenience store and the Zinks hair salon. Planner Chow said Tri-EZ Liquors and the residential apartment above it were on a separate parcel. She said that Zinks was a permitted use and that a blanket use permit had previously been granted for C-4 uses, except restaurant and medical office uses, to be allowed without going through the use permit process. Commissioner Kadvany confirmed that the salon's parking was rolled into the total. He asked whether patrons of the liquor store used the spaces at this property to park. Planner Chow said she did not know.

Commissioner Ferrick said that Buckthorn Way was a public street and asked if there were other limitations on parking other than the restriction on overnight parking. Planner Chow said there were not.

Commissioner Keith asked about the proposed bicycle racks and if those would be installed on the second floor. Planner Chow said the business owner had offered to install bicycle racks to promote alternative transportation and there were constraints on the down floor but there was a deck on the second floor that was an option. She said that one possible location on the first floor was in front of the hair salon, but because there were windows there the bike racks would have an impact on the aesthetics.

Chair Riggs asked if it could be assumed at 8:30 a.m. that cars parked on Buckthorn Way were owned by patrons of these services. Planner Chow said it was difficult to determine that. Chair Riggs asked if there were overnight parking permits for Buckthorn

Way. Development Services Manager Murphy said that only the apartment building near the Gaylord's was a candidate for overnight parking permits for Buckthorn Way. .

Commissioner Kadvany asked where employees park. Planner Chow said that the applicant could better answer that.

Ms. Lisa Anter said she was a small business owner in Menlo Park. She said Curves in Menlo Park has been in operation for five years, and has carefully observed the stipulations of the use permit granted five years prior. She said members of Curves can go to any Curves around the world. She said regarding parking that members do 30 minute sessions of cardio and strength training once a day. She said they use hydraulic weight equipment which was quiet and after they had installed the shock absorbing pads this eliminated any impact to the tenant on the first floor. She said their busiest hours were different from the other tenants, noting Mondays were Curves' busiest days and Zinks was not open on Mondays. She said they were closed for lunch when Pilates and Zinks are busy. She said 20 to 40 percent of her patrons use alternative transportation. She said that students at Menlo College are parking at Gaylord's. She said the tenant that used the space prior to Curves was a dot.com business with 9 to 12 cars parking all day. She said the Curves' members come and go and there was only one staff person onsite. She said she had not realized that her use permit was conditional and that having to renew this permit was a hardship as the application and approval process imposed uncertainty on developing her business. She requested that the use permit be granted permanently.

Commissioner Keith asked where bicyclists parked. Ms. Anter said they chained their bicycles to a water pipe on the first floor. Commissioner Keith asked if a bicycle rack would be useful. Ms. Anter said her members were 40 to 70 years old and she did not think they would carry a bicycle to the second floor to use the bike rack. Ms. Anter said many of the members walk to the site. Commissioner Keith asked about frequency of use. Ms. Anter said that members come for 30 minutes for three days a week. Commissioner Keith asked about staff. Ms. Anter said there was only one staff person on site at anytime.

Ms. Manthi Nguyen, The Pilates Zone, said she was the owner of The Pilates Zone and she had bought the business without realizing that the previous owner had not secured the right permits. She said The Pilates Zone promoted health and education and provided a community service. She said the last seven months had been difficult because of the economy and the preparation for the use permit application. She said her business would suffer and probably collapse if she had to move. She said parking complaints started in 2007, which she attributed to clients of the prior service Dance Works.

Commissioner Keith asked if Ms. Nguyen would want an extension on the use permit as requested by Ms. Anter. Ms. Nguyen said she would. Commissioner Keith asked if the 15 minutes between classes was desirable for Ms. Nguyen. Ms. Nguyen said that

classes were 55 minutes long and that having a 15 minute gap between classes meant reducing three morning classes to two classes, between 8:30 a.m. to 11:30 a.m., which impacted revenue. Commissioner Keith said a 7:00 a.m. start time was shown for Tuesdays and Fridays. Ms. Nguyen said that they would like to have hours from 7 a.m. to 8:30 p.m. Monday through Friday to allow for flexibility of class scheduling.

Commissioner O'Malley said there was a retail element of the business that accounted for about 5 percent of the business and was intended to go to 50 percent of the business. Ms. Nguyen said their idea was to bring a boutique line to offset operating costs but right now retail was flat. She said they were modeling that business model on Devi Yoga, another Menlo Park small business, whose retail accounted for 40 percent of the revenue.

Chair Riggs said the building has been originally permitted as a retail store, and noted that it was 1,650 square feet. He asked if the parking requirement would have been six spaces per 1,000 square feet if it was retail. Planner Chow said parking was based on the C-4 zoning district requirements and not use, so required parking was six spaces per 1,000 square feet. Chair Riggs said that equated to about nine spaces.

Chair Riggs said regarding public comment that usually comments were held to three minutes. He encouraged speakers not to repeat comments if they agreed with comments previously made.

Ms. Mary E. Pimentel, said she was a long time resident of Menlo Park. She said Curves was a great place to get a workout, noting she worked with school children at Laurel School. She said the Curves' members have also organized outreach projects such as food collections for people, care packages for veterans overseas and school supplies for underprivileged children.

Mr. Marilyn Wong said she was a long time resident of Menlo Park and a retired law school teacher. She said she began Curves at the recommendation of both her physician and her intern because she has high blood pressure and diabetes. She said that through her workouts at Curves she was keeping her medical condition stable. She said if Curves did not continue at this location she would have to take her business out of Menlo Park, noting that would be unwanted as Menlo Park had already lost so much business and revenue. She said she carools to the site.

Ms. Sharon Wilson said she was a long time Menlo Park resident and had been a member of Curves since it opened. She said she had experienced a disability and needed Curves to stay healthy. She said she also was a patron of Zinks and had never heard noise from Curves when she was at Zinks. She said she carools to Curves.

Ms. Shawna Creech said she lived in Portola Valley but the Curves in Portola Valley was not run as well the Curves in Menlo Park. She said she had become a member of Curves at her doctor's recommendation. She said she thought that much of the parking

at Gaylord's was caused by Menlo College students, noting she had frequently seen young men parking there and then walking away. She said she goes five days a week to Curves and parks at Gaylord's as it was easier to park there than onsite. She said there were usually parking spaces available onsite.

Ms. Bernadette Wahle said she had lived on Stone Pine Lane for 35 years. She said she walks to Curves and usually at any time of the day there were only 2 to 5 others using the site.

Ms. Laurie Thomas, Menlo Park, said she has passed 1,000 workouts at Curves and that her doctor had observed to her to keep doing whatever she was doing as it was beneficial to her health. She said she bikes to Curves. She said that other times she visits friends on Buckthorn Way and has driven there and had never had a problem finding parking.

Mr. Rick Rosensweig, said he was a resident of Buckthorn Way and he was concerned with parking but he thought that overflow parking would happen after the development of the Gaylord's site. He said he consistently leaves his home at 6:37 a.m. and had never experienced a traffic problem nor had he in the middle of the day when he returned home to walk his dog. He said that he had not witnessed any problems with parking or traffic related to Curves. He said a resident had written a letter complaining that patrons of these services were parking all day on Buckthorn Way, which he found highly unlikely since the sessions at Curves were only for 30 minutes.

Ms. Susan Rosensweig said she had lived on Buckthorn Way for 23 years. She said because of a complaint about parking in 2007 she now monitors the cars on Buckthorn Way on her way to and from Curves. She said usually there were only three or four cars parked on Buckthorn Way some of which she knew belonged to Buckthorn Way residents. She said there was not a problem with parking on Buckthorn Way.

Mr. Masoud Shahidi, the property owner of 1800 El Camino Real, said he was proud to hear how his tenants' businesses served the community. He said it was his understanding when he bought the property that everything was permitted and he did not realize that his tenants would have to reapply for permits. He said he has monitored parking and even when these businesses were closed there was parking on Buckthorn Way. He said parking in Gaylord's was either by nearby residents or students of Menlo College.

Ms. Gail Buschini said she had lived in Menlo Park for 32 years, and that Curves was a fabulous model in that a member may use any Curves facility wherever located. She said she also enjoyed the camaraderie with the other members at Curves. She said she was dedicated to Menlo Park and made every effort to use businesses and services located in Menlo Park. She said she hoped the parking issue would be resolved.

Ms. Mariah Eppes said she had moved to Menlo Park about four years ago from New York and that like the previous speaker, she liked to support local businesses. She said she agreed with other speakers that Curves was an important business for Menlo Park.

Mr. Morris Brown, Menlo Park, said he had no objections to Curves but the question was inadequate parking. He said when the 1706 El Camino Real property was developed that the parking for these businesses would no longer be adequate. He said on Saturday there were 25 cars in the Gaylord's parking lot. He said without the Gaylord's site that the overflow parking would be on the residential streets. He said the use permits for these two businesses should only be extended until when 1706 El Camino Real was developed and that these could not be permitted on a permanent basis.

Chair Riggs closed the public hearing.

Commission Comment: Commissioner Ferrick said the blanket use permit granted in 1996 would cover retail, financial office and personal services all of which could cause potentially greater parking issues more than these businesses whose parking needs were fluid.

Commissioner Bressler said that this part of town was annexed from the County and this building was built and under-parked under the County's jurisdiction. He said the residents wanted this area to be annexed to City for protection. He said projects developed in this area since annexation had met parking requirements. He said there was already a vacancy in this building and he did not want businesses to move out of Menlo Park. He said granting a permanent use permit made him uncomfortable however. He said that Curves was a good model for the types of businesses that would work at this site. He said they would have to look carefully at uses for the vacant space.

Chair Riggs asked what type of uses were permitted in the residence that had been previously used as a dance studio. Planner Chow said the allowable use was residential and if there was a desire to have a home occupation use that the owners would have to follow the City's home occupation processes. Chair Riggs said that staff had calculated peak parking for the building and had determined that 21 spaces were needed as opposed to 17 existing spaces, which were partially in the right-of-way. Planner Chow said there were two peak hours they had looked at and two different businesses that operated during those peak hours. She said during 8:30 to 9 a.m. they determined the need for 21 parking spaces as there were nine attendees at Curves and 12 at The Pilates Zone. Chair Riggs asked about Zink's. Planner Chow said it was not yet opened so it was zero.

Commissioner Bressler said the use permit was scheduled to expire with the lease. Planner Chow said that was correct. Commissioner Bressler said his concern was any use that would go beyond this particular use. He asked what the purpose was of having the use permit expiration tied to the lease expiration. Planner Chow said it was the

ability to manage the use permit with the facility's operation. Commissioner Bressler asked how it might be easier for the applicants to renew the use permit. Planner Chow said as currently conditioned in staff's recommendation that the use permit would expire and then the business owner would have to go through the use permit process. She said however that on page 8 of the staff report, an option was offered that the Commission might consider which was to modify condition 4.a to allow permit renewal to occur at the staff level. She said with that staff would notify residents of the proposed renewal within a 300-foot radius of the property, and if any one of those people requested that the renewal be considered by the Commission, that would occur. If there was not a request for a hearing, staff would work with the applicants and renew the use permits. Commissioner Ferrick asked if there was a way to make it a tenant specific automatic renewal to make it less onerous. Planner Chow said use permits were not generated specific to a company.

Commissioner Kadvany asked if the subtotals of parking demand for the now empty dance studio were being rolled into the parking count. Planner Chow said that it was considered to be zero as the residential unit has a garage and a tandem parking space.

Commissioner Keith said the option on page 8 of the staff report said that the use permit might be extended indefinitely with or without conditions. Planner Chow said that if conditions needed to be modified that would allow the Director of Development Services to do so. Development Services Manager Murphy said that if the conditions as recommended by the Commission's use permit approval were determined at the expiration of the use permit to continue as previously approved then "without conditions" would apply. He said "with conditions" would be modifications to the conditions and added at the staff level. He said the Commission could also indicate that if conditions were to be added that the use permit renewal come to the Planning Commission.

Commissioner Keith said she wanted to acknowledge the tough business climate for the business owners. She said it was great that these businesses had such positive support from the community. She moved to approve the use permit for Curves with the option to extend the use permit if there were no modifications to the existing conditions subject to review and approval by staff, but if there were modifications for the use permit renewal then it would come before the Commission. Commissioner Ferrick seconded the motion. Commissioner Bressler noted that if someone objected to the use permit renewal that the application would come back before the Commission.

Recognized by the Chair, Ms. Anter said at some point she would want to start a family and sell the business but with the uncertainty of the use permit renewal process she doubted she would be able to sell the business in the future. She said Curves has specifications on location and she would not be able to move the business elsewhere in Menlo Park. She said if she had to go through this process again in four years that she might have to close the business.

Chair Riggs said use permits usually run with the property but in this instance they would be putting a limit on an already established business. He asked if the renewal would have to come back before the Planning Commission when it expired if someone told staff they did not like the use even if the applicant had complied fully with the conditions of the use. Planner Chow suggested the Commission could define the parameters of when the renewal would need to come before the Commission. Development Services Manager Murphy said if there were no expiration and no review, and the permit ran with the land, that later if there were complaints that the applicant had violated the conditions of the permit then the permit could possibly be revoked and come back to the Planning Commission for review.

Commissioner Bressler said the owner could choose to not renew the lease and that the Commission could not control everything. Chair Riggs asked if the Commission wanted to preprogram a challenge in 2012. Commissioner Bressler said it was a question of whether there was notification or not and unless someone had a valid complaint that the renewal should be automatic.

Chair Riggs said he would make a substitute motion to approve as recommended by staff with the exception that there would be no expiration date built into the approval with the understanding that if the use permit conditions were not met that the use permit was revocable. Commissioner Bressler said he did not think it was particularly onerous that in five years that there should be some type of public review. He said he thought the bar should be low enough so that there should basically be an automatic renewal. Commissioner Keith said her motion was that unless a formal request was made for the renewal to come to the Commission that the permit could be renewed indefinitely. Chair Riggs said that any complaint at all would mean the use permit renewal would have to come before the Commission. He said they had an opportunity to leverage the applicant but he was not sure if that was advantageous to the neighborhood. He asked if there was a second for his motion. The motion died because of the lack of a second.

Commissioner Pagee called for the vote. Chair Riggs asked if Commissioner Kadvany wanted to comment before the vote.

Commissioner Kadvany said he was sympathetic to a lively business location on El Camino Real and that eventually 1706 El Camino Real would be developed. He said the concern was an obnoxious parking problem and it appeared that parking had just recently started to become obnoxious for residents. He said if the parking at Gaylord's was Menlo College students that perhaps that could be addressed. He said he hoped that the neighbors would tolerate minimal parking on Buckthorn Way. He encouraged the members of the two businesses to be sensitive to the parking situation. He said he would like this site and the future developed site to work together with the neighbors to solve this issue on the ground level.

Commissioner Ferrick asked for a restatement of the motion. Commissioner Keith said she would like to add installation of the bicycle rack under 4.g. and asked if

Commissioner Ferrick as maker of the second would accept that. Commissioner Ferrick said she would accept that addition as long as the bike rack was on the first floor level and could be installed without removing a parking space.

Chair Riggs said when 1706 El Camino Real was developed that they would either allow illicit parking or not there but he did not think that parking from that developed site would compete with this project's parking. He said if the parking from that developed site ended up on Buckthorn Way it would not be an issue for the Planning Commission but for the Transportation Division.

Commissioner Keith restated her motion to approve as recommended by staff with a change to condition 4.a to state: "Approval shall expire on November 1, 2012 unless an extension is requested and granted. A request for an extension shall be submitted no later than 180 days prior to the expiration date of the current lease. Staff would then send a notice regarding the extension request to a 300-foot noticing radius. Unless a formal request is made to bring the item before the Planning Commission, the use permit may be extended indefinitely by the Community Development Director." She said that under 4.g that a bicycle rack installation be added. Development Services Manager Murphy clarified with Commissioner Keith that a basic u-rack would suffice.

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

1. Make a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current California Environmental Quality Act (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 Lisa Anter, consisting of 3 plan sheets, dated received November 10, 2008, and approved by the Planning Commission on November 17, 2008, except as modified by the conditions contained herein, subject to review and approval of the Planning Division.
 - 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.

4. Approve the use permit subject to the following **project-specific** conditions:
- a. The approval shall expire on November 1, 2012 unless an extension is requested and granted. A request for an extension shall be submitted no earlier ~~later~~ than one-year **180 days** prior to the expiration date **of the current lease. Staff would then send a notice regarding the extension request to a 300-foot noticing radius. Unless a formal request is made to bring the item before the Planning Commission, the use permit may be extended indefinitely by the Community Development Director.**
 - b. No more than two workers shall be on the site at any one time during normal business operations.
 - c. No more than ten clients shall be on the site any one time during the normal business operations.
 - d. No more than 14 pieces of large exercise equipment shall be on the site available for client workouts.
 - e. Workouts shall be limited to one 30-minute session per client per day.
 - f. Hours of operation shall be limited to 6:30 a.m. to 1:00 p.m. and 3:30 to 7:00 p.m. on Mondays and Wednesdays, 7:00 a.m. to 12:30 p.m. and 3:30 to 7:00 p.m. on Tuesdays and Thursdays, 6:30 a.m. to 1 p.m. on Fridays and 8:00 to 11:00 a.m. on Saturdays. The business shall be closed on Sundays.
 - g. Within 30 days of the approval of this use permit, the property owner shall provide a comprehensive parking plan that addresses the following items: the removal of the existing tenant space markings, and restriping of the parking spaces to comply with disabled parking requirements while 1) maintaining access to the covered parking space and providing a tandem parking space for the residential unit, and 2) maintaining 12 parking spaces along Buckthorn Way. ~~Additionally, No assigned commercial tenant parking spaces are allowed on-site.~~ **Additionally, the applicant shall show the location of a new bicycle rack that 1) is located on the ground floor of the subject property and 2) does not reduce the number of parking spaces.** The plan is subject to review and approval by the Planning, Building and Transportation Divisions. Within 30 days of staff approval, the property owner shall implement the plan. All applicable permits must be obtained.

Motion carried 7-0.

3. **Use Permit/Evergreen Mountain, Inc. dba The Pilates Zone/1800 El Camino Real, Suite C:** Request for a use permit to operate a private

recreation facility in a multi-tenant building with non-conforming parking in the C-4 (General Commercial, Applicable to El Camino Real) zoning district.

Commission Comment: Commissioner Ferrick said she thought the motion would be similar to the one made for C.2, but noted that the expiration of the lease for this business was July 31, 2010, which was quite soon. She said there was also a concern expressed by the applicant to build some flexibility into the hours of operation.

Commissioner Keith said she would like the applicant to have the flexibility to open at 7 a.m. Monday through Friday. She said she also was concerned with the 15 minutes between classes and the impact on the number of classes the applicant could offer. She asked whether the applicant had any suggestions about that time period between classes. Ms. Nguyen said the 15 minutes was a hardship and the classes were 55 minutes. She said the members were mostly stay at home mothers who dropped their younger children off and then picked them up by noon. She said she thought people were reacting to parking problems that had been caused by Dance Works.

Commissioner Keith moved to approve as recommended in the staff report with modification to 4.f so that Monday through Friday the facility would open at 7 a.m. and under 4.e to require 5 minutes instead of 15 minutes between the classes. She said she was not sure what to do with 4.a. Commissioner Ferrick suggested that the same language be used for 4.a as was used in the Curves' approval. Recognized by the Chair, Ms. Nguyen said she had an option to renew for five years after July 31, 2010. Commissioner Riggs said he thought the renewal should be tied to the expiration date of July 31, 2010 because this business potentially had more impact than Curves on parking. Commissioner Keith suggested that it read as the prior item tied to the July 31, 2008 expiration.

Chair Riggs asked staff to comment on the change to the 15 minute gap between classes. Planner Chow said that staff thought 15 minutes provided more of a buffer and with the facility opening at 7:00 a.m. Monday through Friday there was a potential for overlap of members of The Pilates Zone and Curves for the parking. Commissioner Ferrick said she teaches a fitness class and has found 10 minutes sufficient between classes. Recognized by Chair Riggs, Ms. Nguyen said that the studio was willing to try the 10 minutes between classes for parking turnover.

Commissioner Bressler said this was a different use than Curves and he thought the renewal should be noticed every five years after the first renewal at 2010 to make sure the use permit was working. Commissioner Keith said she would support that modification. Commissioner O'Malley seconded the motion. Development Services Manager Murphy said that if the applicant wanted a change to the use permit that would come back before the Commission. He said that condition 4.g should include the language about the bike rack with the understanding that there would only be one rack installed to serve both Curves and The Pilates Zone.

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

Menlo Park Planning Commission
Approved Minutes
November 17, 2008

1. Make a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current California Environmental Quality Act (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 Manthi Nguyen, consisting of eight plan sheets, dated received November 4, 2008, and approved by the Planning Commission on November 17, 2008, except as modified by the conditions contained herein, subject to review and approval of the Planning Division.
 - 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.
4. Approve the use permit subject to the following **project-specific** conditions:
 - a. The approval shall expire on ~~November 1, 2012~~ **July 31, 2010** unless an extension is requested and granted. ~~A~~ **The** request for an extension shall be submitted no ~~earlier~~ **later** than ~~one year~~ **180 days** prior to the expiration date **of the current lease. Staff would then send a notice regarding the extension request to a 300-foot noticing radius. Unless a formal request is made to bring the item before the Planning Commission, the use permit may be extended for five years by the Community Development Director. The use permit is subject to a five-year renewal notice to the neighborhood unless the Planning Commission approves a revision to this condition of the use permit.**
 - b. No more than three workers shall be on the site at any one time between the hours of 7:30 a.m. and 12:30 p.m. and no more than two employees thereafter until closing.
 - c. No more than ten clients shall be on the site any one time during the normal business operations.
 - d. The workout schedule shall be generally group classes between the hours of 7:00 a.m. and 12:30 p.m. and between 5:30 p.m. and 7:30 p.m. Individual or semi-private lessons are permitted throughout the day, but shall comply with conditions 4b and 4c.

- e. Group sessions shall have a minimum of ~~45~~ **10** minutes between the end of a class and the start of a new class.
- f. Hours of operation shall be limited to the following:
 - i. Mondays – ~~8:30~~ **7:00** a.m. to 8:30 p.m.
 - ii. Tuesdays – 7:00 a.m. to 7:30 p.m.
 - iii. Wednesdays – ~~8:30~~ **7:00** a.m. to 8:30 p.m.
 - iv. Thursdays – ~~8:30~~ **7:00** a.m. to 5:30 p.m.
 - v. Fridays – 7:00 a.m. to 3:30 p.m.
 - vi. Saturdays – 9:00 a.m. to 2:00 p.m.
 - vii. Sundays – Closed
- g. Within 30 days of the approval of this use permit, the property owner shall provide a comprehensive parking plan that addresses the following items: the removal of the existing tenant space markings, and restriping of the parking spaces to comply with disabled parking requirements while 1) maintaining access to the covered parking space and providing a tandem parking space for the residential unit, and 2) maintaining 12 parking spaces along Buckthorn Way. ~~Additionally, No assigned commercial tenant parking spaces are allowed on-site.~~ ***Additionally, the applicant shall show the location of a new bicycle rack that 1) is located on the ground floor of the subject property and 2) does not reduce the number of parking spaces.*** The plan is subject to review and approval by the Planning, Building and Transportation Divisions. Within 30 days of staff approval, the property owner shall implement the plan. All applicable permits must be obtained.

Motion carried 7-0.

- 4. **Use Permit, Architectural Control, Below Market Rate Housing Agreement, Environmental Review/Kenneth Rodrigues and Partners, Inc./2550 Sand Hill Road:** Request for use permit and architectural control approval to demolish an existing convalescent facility and to construct a new 23,011-square-foot non-medical office building and related site improvements in the C-1-C (Administrative, Professional, and Research District, Restrictive) zoning district. In addition, the applicant is requesting approval of the Below Market Rate (BMR) Housing Agreement for this project. A traffic study has been conducted as part of this project and is available for public review at the Department of Community Development. The project is categorically exempt under Class 32 (Section 15332, "In-Fill Development Projects") of the current California Environmental Quality Act (CEQA) Guidelines.

Staff Comment: Planner Fisher said the draft excerpt minutes of the Housing Commission meeting had been distributed to the Commission at the dais; there was a

colors and materials board; and in the arborist report that trees 12 through 17 and 19 through 21 were London plane and not White Alder as labeled.

Questions of Staff: Commissioner Keith said the Housing Commission had reviewed the project and approved by a vote of 5 to 1 and asked who cast the dissenting vote and why? Planner Fisher said that Housing Commissioner Brawner did not indicate why he had voted against recommending the project to the Planning Commission.

Commissioner Pagee asked what the estimated Below Market Rate (BMR) fee would be. Planner Fisher said based on the current rates that it would be \$198,000 but the fee would be calculated on the rates in effect at the time the building was built. Commissioner Pagee asked how construction costs were derived. Planner Fisher said the builder provided that information and it was reviewed by the Building Division to verify that it was reasonable.

Public Comment: Mr. Kenneth Rodrigues, Kenneth Rodrigues and Partners, said that they had modified aspects of the proposal based on Commission suggestions made at the study session. He said there was a suggestion to add more green space to the parking lot and they added landscape to the rear parking lot including bioswales and fingertip planters as well as a series of planters and increased landscaping along Monte Rosa. He said the Commission had suggested they rethink bicycle parking areas and the revised design shows a bicycle rack next to the building and a sheltered area for bikes between both buildings. He said the Commission had suggested the design features have a more residential feel. He said they increased overhangs, secondary setbacks and detailing along eave lines. The Commission also suggested making the main window at the corner feel more residential. He said they split the large individual windows into two windows and wrapped those with a nice precast trim element and increased landscaping at the corner. He said they looked into transit service for the site, which was described in the staff report. He said they utilized landscaping reserve parking, an increase from 19 stalls to 42 stalls. He said they increased landscaping in the parking area adjacent to the residential neighborhood. He said the revised design preserved quite a few heritage trees. He said related to traffic patterns and site entrances that they worked with Planning and Public Works staff and the neighbors to create their site entrance design.

Mr. Jeff Morris, property owner, said the neighbors had provided input on the design, which had been extremely helpful in modifying the original design. He said he had developed the neighboring project in the 1980s and they planned to own the properties for a long time.

Mr. Patrick Amor, Menlo Park, said that he was still concerned about the residential sight lines to the residential fences. He said he was pleased with the setback but there was an increase in elevation and he feared this building would look directly into his backyard, noting he has a swimming pool. He would like to see something that addressed the angle of the elevation. He said he was concerned about a large Olive

tree proposed for planting at the fence line as he feared it might shade his yard. He said there was already a lot of shade that was cast onto his yard from existing neighbors' trees.

Commissioner O'Malley asked if Mr. Amor had attended neighborhood meetings. Mr. Amor said he was not aware of any meetings prior to the study session and he was invited to one session after that, which was canceled, and another invitation was blocked by the spam filter at his place of employment.

Mr. Mark Waissar, Menlo Park, said he was speaking for himself and other neighbors in complimenting the process conducted by the applicant and owner. He said there were three neighborhood meetings that he attended and that there was considerable change between the first meeting and the last meeting. He said they were impressed with how the applicant had listened to the neighbors. He said he fully supported the project.

Chair Riggs closed the public hearing.

Commission Comment: Commissioner Keith said she had questions for the applicant. She asked Mr. Rodrigues if he could address Mr. Amor's concern. Mr. Rodrigues said A1.1 showed the closest distance between the elevation and the fence was about 308 feet. He said they were aware of Mr. Amor's pool and would work with him on the landscaping to prevent shadow casting. He said the design moved the building forward and were able to depress the slab down so that the street was only four to five feet below the level of the second floor. He said the second floor windows would not look into the rear yards. Chair Riggs said there had been a comment made that it was hard to reference the design compared to the existing building. Mr. Rodrigues said that if a sight line was projected from the second floor across the parking lot to the fence that it would show that it was not possible to see into the backyards from the second story windows.

Mr. Gary Lehman, Gazardo Partnership, said there was a lot of flexibility in how close to the fence the trees might be planted. Chair Riggs said the plans showed an Olive tree and shrubbery. Mr. Lehman said that was correct and that there was great flexibility in where those could be placed. He said along the edges there would be smaller scale landscaping as it would work well with existing landscaping.

Commissioner Keith said it was interesting that the entry was next to the barbecue pit. Mr. Lehman said it was seen as a communal gathering place for employees and visitors for social events. Commissioner Keith said she was pleased that they were going for LEED certification. She asked what kind of tenants they expected. Mr. Rodrigues said they expected similar tenants as in other sites along Sand Hill Road. Mr. Morris said there were venture capital firms, banks, and personnel firms. He said if the City's regulations allowed, he would be happy to build a higher fence for Mr. Amor.

Commissioner Kadvany asked how in depth they had gone in considering design options and LEED certification. He said that they might have one or multiple tenants and that was a consideration. Mr. Rodrigues said they had been working with LEED criteria for about four years and they looked at where to site the building, what materials to use, the depth of overhangs, passive solar, and where to locate trees in terms of heating and cooling. He said they were proposing a massive landscape biosystem to treat water. Mr. Kadvany asked if the windows were operable. Mr. Rodrigues said they were not but noted there was a large arcade on the north side of building that allowed for outdoor seating as well as the employee area in front. Mr. Rodrigues said they would be using very sophisticated mechanical and electrical systems to gain LEED credit.

Commissioner Pagee said she had just finished a platinum LEED building and that this design could easily pursue higher LEED certification. She said that story poles might be helpful to show Mr. Amor what the sight line would be. She said she appreciated that the building had been moved forward on the lot. She asked where the materials would be used relative to the elevations. Mr. Rodrigues said the stone would be at the front corner and inboard entry; the building color would be precast concrete and would be sandstone; wood mullions would be used; windows would be lightly tinted; and gutters would be painted instead of the copper previously proposed because of new regulations.

Commissioner Keith asked if there would be showers onsite for bicyclists. Mr. Rodrigues said that probably there would be but noted that they had not planned the interior as they did not have tenants yet. Commissioner Keith asked if they would accept a condition to work with the neighbor on landscaping and fencing. Mr. Rodrigues said that was acceptable.

Commissioner Pagee asked if they had applied for LEED certification yet. Mr. Rodrigues said they planned to apply this year if the project was approved this evening.

Commissioner Ferrick moved to approve as recommended by staff. Commissioner Keith said she would second the motion with the addition of 6.h to work with the adjacent neighbor on landscaping and fencing subject to staff review and approval. Commissioner Ferrick said that was acceptable.

Commissioner O'Malley said he wanted to compliment the applicant and owner for responding to the Commission, listening to the neighbors and going for LEED certification.

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

1. Make findings that the project is categorically exempt under Class 32 (Section 15332, "In-Fill Development Projects") of the current State California Environmental Quality Act (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. Make the following findings, as per Section 16.68.020 of the Zoning Ordinance, pertaining to architectural control approval:
 - a. The general appearance of the structure is in keeping with the character of the neighborhood.
 - b. The development will not be detrimental to the harmonious and orderly growth of the City.
 - c. The development will not impair the desirability of investment or occupation in the neighborhood.
 - d. The development provides adequate parking as required in all applicable City Ordinances and has made adequate provisions for access to such parking.
4. Approve the Below Market Rate Housing In Lieu Fee Agreement, recommended by the Housing Commission on November 5, 2008.
5. Approve the use permit and architectural control subject to the following **standard** conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Kenneth Rodrigues & Partners, Inc. and Kier & Wright, consisting of 26 plan sheets, dated received October 13, 2008, except as modified by the conditions contained herein subject to review and approval by the Planning Division.
 - b. Prior to building permit issuance, the applicants shall comply with all Sanitary District, Menlo Park Fire Protection District, Allied Waste, and utility companies' regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicants shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
 - d. Prior to demolition permit and building permit issuance, the applicant shall comply with the requirements of Chapter 12.48 (Salvaging and Recycling of Construction and Demolition Debris) of the City of Menlo Park Municipal Code, and is subject to review and approval by the Engineering and Building Divisions.

- e. Prior to demolition permit issuance, the applicant shall submit a plan for 1) construction safety fences around the periphery of the construction area, 2) dust control, 3) erosion and sedimentation control, 4) tree protection fencing, and 5) construction vehicle parking. The plans shall be subject to review and approval by the Building and Engineering Divisions prior to issuance of a demolition permit. The fences and erosion and sedimentation control measures shall be installed according to the approved plan prior to commencing demolition.
- f. Prior to demolition permit issuance, the project sponsor shall also submit a heritage tree preservation plan, detailing the location of and methods for all tree protection measures, as described in the arborist report. The project arborist shall submit a letter confirming adequate installation of the tree protection measures. The project sponsor shall retain an arborist throughout the term of the project, and the project arborist shall submit periodic inspection reports to the Building Division. The heritage tree preservation plan shall be subject to review and approval by the Planning Division.
- g. Prior to demolition permit issuance, the project sponsor shall submit a truck route plan and permit to be reviewed and approved by the Transportation Manager.
- h. Concurrent with the submittal of a complete building permit application, the applicant shall submit a plan for any new utility installations or upgrades for review and approval by 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, dimensions, and colors of all meters, transformers, junction boxes, relay boxes, and other equipment boxes. The utility plans shall also show backflow and Double Check Detector Assembly (DCDA) devices.
- i. Concurrent with the submittal of a complete building permit application, the applicant shall submit a Grading and Drainage Plan for review and approval by the Engineering Division. The Grading and Drainage Plan shall be prepared based on the City's Grading and Drainage Plan Guidelines and Checklist and the Project Applicant Checklist for the National Pollution Discharge Elimination System (NPDES) Permit Requirements. The erosion and sediment control plans shall be attached to the Grading and Drainage plans and may be similar to the erosion control plan provided for the demolition permit. The Grading and Drainage Plan shall be approved prior to or concurrent with the issuance of a building permit.

- j. Concurrent with the submittal of a complete building permit application, a design-level geotechnical investigation report shall be submitted to the City of Menlo Park Building Division for review and confirmation that the proposed development fully complies with the California Building Code. The report shall determine the project site's surface geotechnical conditions and address potential seismic hazards such as liquefaction and subsidence. The report shall identify building techniques appropriate to minimize seismic damage.
- k. Concurrent with the submittal of a complete building permit application, the applicant shall submit a lighting plan, providing the location, architectural details and specifications for all exterior lighting subject to review and approval by the Planning Division. The lighting plan shall include a photometric study and shall minimize glare and spillover onto adjacent properties and the public right-of-way.
- l. Prior to building permit issuance, the applicant shall pay the applicable Building Construction Street Impact Fee that is approximately \$42,630 (assuming an estimated construction value of \$7,350,000).
- m. Prior to building permit issuance, the applicant shall enter into and record a "Stormwater Treatment Measures Operations and Maintenance (O&M) Agreement" with the City subject to review and approval by the Engineering Division. With the executed agreement, the property owner is responsible for the operation and maintenance of stormwater treatment measures for the project. The agreement shall run with the land and shall be recorded by the applicant with the San Mateo County Recorder's Office.
- n. Prior to building permit issuance, the applicant shall file a Notice of Intent (NOI) with the State Water Resources Control Board and prepare a Stormwater Pollution Prevention Plan (SWPPP) per Section III of the "Project Applicant Checklist for NPDES Permit Requirements". The SWPPP must be maintained onsite and made available to RWQCB staff upon request. A copy of the NOI and SWPPP shall be provided to the Engineering Division prior to approval of the grading and drainage plans.
- o. Prior to building permit issuance, the applicant shall obtain an encroachment permit, based upon the improvement plans, for work within the public right-of-way. Additional requirements, such as insurance, licensing, and preparation of detailed traffic control plans shall apply and be submitted at the time of the encroachment permit application.

- p. Prior to building permit issuance, a plan shall be provided that details that all on-site permanent stationary noise sources for building operations shall comply with the standards listed in Section 08.06.030 of the City's Noise Ordinance. This plan shall be subject to review and approval by the Building and Planning Divisions.
6. Approve the use permit and architectural control subject to the following ***project-specific*** conditions:
- a. Concurrent with the submittal of a complete building permit application, the applicant shall submit a final driveway design with sight distance information, along with parking lot signage and a striping and circulation plan for review and approval by the Transportation Division.
 - b. Concurrent with the submittal of a complete building permit application, the applicant shall submit a full set of public improvement plans for review by the Engineering Division. The plans shall show, at a minimum, the following items to be constructed in accordance with City standards.
 - Monte Rosa Drive: Replacement of valley gutter from the disabled access ramp at Sand Hill Road and Monte Rosa Drive to the property line; removal, replacement, and widening of the AC parking strip to seven feet in width, closure of the curb cuts for the existing driveways, painting the existing street light pole two coats of Mesa brown, and in kind replacement of pavement striping or markings damaged during construction with thermoplastic paint.
 - Sand Hill Road: Removal of the existing AC pathway and construction of new City standard vertical curb and gutter from the access ramp to the new project entrance driveway; installation of a new five-foot wide concrete sidewalk with reverse slope adjacent to new vertical curb and gutter; the application of structural soil subgrade underneath the sidewalk in the area around the existing redwood tree at the intersection of Sand Hill Road and Monte Rosa Drive, and the restoration and extension of the AC pathway and berm between the proposed entrance driveway and the existing driveway to be removed on Sand Hill Road.
 - c. Concurrent with the submittal of a complete building permit application, the applicant shall submit documentation to dedicate a public access easement for a portion of the proposed sidewalk along Sand Hill Road, near the intersection of Monte Rosa Drive. The acceptance of the deed or dedication requires Menlo Park City Council approval.

- d. Concurrent with the submittal Concurrent with the submittal of a complete building permit application, the applicant shall submit a detailed landscape and irrigation plan demonstrating compliance with Chapter 12.44 (Water-Efficient Landscaping) of the City of Menlo Park Municipal Code. The comprehensive landscape plan shall contain information regarding the size, species, location, and quantity of trees, shrubs, and plants, along with plant materials for the vegetated swale. This plan shall be subject to review and approval by the Planning and Engineering Divisions. The landscaping shall be installed prior to final inspection of the building.
- e. Prior to or concurrent with the submittal of a complete building permit application, the project sponsor shall execute the Below Market Rate (BMR) Housing Agreement. Prior to building permit issuance, the applicant shall pay the in lieu fee of approximately \$198,331.80 in accordance with the BMR Housing Agreement. The BMR fee shall be calculated at the time of building permit issuance.
- f. The applicant shall apply for a separate Sign Permit for the proposed monument sign at the driveway on Sand Hill Road, subject to review and approval of the Planning and Building Divisions.
- g. The applicant shall maintain a minimum of 245 off-street parking spaces, of which 42 parking spaces are in landscape reserve. Should landscape reserve parking stalls be needed in the future, either the applicant or the City can make a request, which is subject to review and approval of the Planning Division.
- h. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a revised landscape plan that incorporates input from the adjacent rear neighbor at 20 Sunset Court on the proposed trees, plantings and fencing along the shared property line. The revised landscape plan shall be subject to review and approval by the Planning Division.***

Motion carried 7-0.

D. STUDY ITEMS

1. **Zoning Ordinance Amendment /City of Menlo Park:** Consideration of a Zoning Ordinance Amendment to clarify the definition of Gross Floor Area to more specifically identify features of a building that are either included or excluded from the calculation. Gross floor area is used in calculating the floor area ratio (FAR) and parking requirements for developments in all zoning districts except for single-family and R-2 (Low Density Apartment) zoning districts. Floor area ratio equals the gross floor area of a building divided by

the lot area and effectively regulates the size of a building. In addition, gross floor area is used in determining the applicability of requirements for below market rate (BMR) housing and the preparation of traffic studies. The clarifications to the definition will focus on new buildings and attempt to minimize impacts to existing buildings. The Zoning Ordinance Amendment will be exempt from the California Environmental Quality Act (CEQA) in that the changes are intended to have no potential to impact the environment.

Continued from the meeting of November 3, 2008.

Chair Riggs asked that speakers limit their comments to three minutes. He noted that the Commission had spent many hours on this project, and encouraged the public to stay for the Commission's discussion. He asked if staff had additional comments.

Development Services Manager Murphy said that a piece of correspondence from Ms. Peggy Lo, the property manager of the Quadrus project on Sand Hill Road, had been distributed to the Commission at the dais.

Chair Riggs said the Commission at the end of detailed discussion on November 5, 2007 had voted to send its recommendation to the Council with a request to have a joint session of the Council and Commission so that the Commission might explain the reasoning that went into its recommendation. He noted that the Council did not desire a joint session. He said that Mayor Cohen then asked the Planning Commission Chair and Vice chair to meet with Council Member Fergusson and him. He said subsequently the Mayor requested that the Commission's recommendation discussion be summarized into two pages with review by the Chair, Vice Chair and Council Member Fergusson. He said the summary was circulated. He noted that the Commission had dedicated much effort to the consideration of gross floor area calculation including looking at how it was calculated in 14 other cities in the bay area.

Chair Riggs asked if there was public comment.

Ms. Peggy Lo, property manager for the Quadrus project on Sand Hill Road, said she supported option A, which incorporated the Commission's ideas and protected existing projects such as Quadrus. She said that there was 4,600 square feet left on the Quadrus property which at some point they would like to develop but which might be jeopardized dependent upon what the City decided. She asked for consideration for older projects that already existed.

Mr. Morris Brown, Menlo Park, said there were new members on the Commission and that should be taken into account. He said he thought Option A was totally contrary to what the Council had wanted to happen at the Planning Commission. He said the Council wanted a literal interpretation of Floor Area Ratio (FAR). He said Option A codified a "give away" of FAR. He said he supported in general Option B. He said if individual Commissioners dissented they should write their own dissenting statements to the Council.

Mr. John Tarlton, Menlo Business Park, said that Option A comported more closely in its interpretation of gross floor area (GFA) and FAR than Option B with his own experience in property management, and with how 12 other cities in the bay area calculated GFA, and the interpretation of GFA under the Uniform and International Building Code. He said the amount of time the City had spent on this issue worried him because it was regulating in the rear view mirror because of a couple of projects that were already beyond such regulation. He encouraged an end to the discussion as the City had much more pressing issues to address.

Chair Riggs said there had been references to Option A and Option B and he had forgotten to make introductory remarks. He said Option A was a summary of the Commission's actions from November 2007 with clarifying language regarding the grandfathering which would cover Quadrus. He said Option B was a statement of the current code that was the historic problem that Council asked the Commission to clarify. Development Services Manager Murphy said he agreed with Chair Riggs description of Option A, but he would describe Option B somewhat differently. He said Option B basically was what staff had drafted for the Commission's review in October 2007 with some modifications for clarification. He said that this did not mean that the Commission would want to recommend two options.

Chair Riggs said that Option B had not been developed by the Commission, but was presented as a context structure to give an alternative to the Quadrus solution. Commissioner Bressler said Option B was staff's attempt to resolve the will of the City Council and was what had been used by staff for the last year to make gross floor calculations. Development Services Manager Murphy said Option B was put forward because that was what staff thought a Commissioner had requested to create a context for Option A. Chair Riggs said regarding the information provided for the November 3, 2008 meeting that he found it unfamiliar, unrequested, and confusing. He said that this did not extend understanding of the Commission's actions in November 2007. He said Option B was not crafted by the Planning Commission. He suggested that the Commission focus on the work done by the Commission, which he believed was represented in Option A. He said that paragraph D in Option A was added in response to the Commission's request to staff on how to handle Quadrus. Development Services Manager Murphy said it should not be simplified to only include Quadrus. He said changes to the zoning ordinance created a potential for a number of properties to be made nonconforming, which impacted those properties' ability to refinance. He said they were trying to deal with this proactively. Chair Riggs said he had not meant to place minor importance on impacts to properties because of changes to the zoning ordinance.

Chair Riggs said a speaker stated that the charge made by the Council to the Planning Commission was to confirm the literal interpretation of the existing code. Development Services Manager Murphy suggested looking at the City Council minutes of May 8, 2007. Chair Riggs read the approved motion of the City Council: *To direct staff to refer*

definition of 16.04.325 (Gross Floor Area) of the municipal code to the Planning Commission to develop a recommendation on clarifications to the definition with consideration of items that in staff, Planning Commission, and the City Attorney's opinion would be categorically exempt from environmental review if included in the definition. The staff report will include a list of possible exemptions for consideration, and those considerations are likely or not to be considered exempt. Chair Riggs said that this information was found on circle page D.4 of the October 8, 2007 staff report to the Commission. Chair Riggs said there was then a motion to clarify that projects in planning application before January 1, 2007 would be exempt and there was a clarifying motion that all existing buildings would not become nonconforming as a result of the new definition. He said all three of those motions by the Council were approved.

Mr. David Speer, Menlo Park, said this was a very important issue, the calculation of FAR, as it dealt with mass, scale, parking requirements, traffic studies and possible CEQA processes. He strongly urged the new Commissioners to consider Option B which he thought was what the Council directed staff to produce. He said it was most clear for staff and builders. He said Option A was ambiguous, and that in Option B, staff served the Council's direction. He urged the Commission to consider Option B.

Commissioner Keith said it seemed that Mr. Speer thought the Council had directed staff to develop the definition of GFA. Mr. Speer said that it sounded to him that the Council directed staff to develop a definition for FAR that was clear. Commissioner Keith said it seemed that the direction from the Council was for the staff to refer the definition of GFA to the Planning Commission to develop a recommendation. Mr. Speer said that staff had prepared the definition because they were directed by the Council. Commissioner Keith said she read it to say that staff would refer definition of GFA to the Planning Commission to develop a recommendation.

Commissioner Ferrick said it was helpful to compare Option A and Option B in attachment C to the staff report. She said perhaps the Commission could look at Option A with possible inclusion of elements from Option B. She suggested clarifying what "building official" referred to. She said in Option A, subsection C, number 4, there was a discussion about building mechanical equipment which looked like a critical distinction to make. She said finally to discuss how to deal with historical practices and perhaps using something to describe intended historical practices. She said the two options were not entirely different.

Chair Riggs said Option A was what the Commission had developed as a recommendation to Council with the addition of paragraph D. He said that if they were to open up discussion again that it should be done using the minutes of the previous meetings. He suggested continuing the item. Commissioner Ferrick said she did not want to put something forth that would die at Council.

Commissioner Kadvany said he saw three things happening. The first was to provide something to Council so they might take their next step. He said as part of that was a

good representation of the good work the Commission had done in November 2007. He said lastly was a recommendation.

Chair Riggs said the Commission had ended discussion and voted to send their recommendation to the Council. He asked if Commissioner Kadvany wanted to start over on a recommendation. Commissioner Kadvany said he did not. He indicated that the clarification requested was a partial piece of the overall zoning ordinance and could not really evaluate FAR in all of its implications for different zoning districts. He said what Commissioner Ferrick had said resonated with him as it would be helpful to look at a couple of perspectives and he thought that might provide the same benefit for the Council. Chair Riggs said that the Commission had crafted one well-worked out recommendation and did not want to make multiple recommendations. He said the Commission had only asked for a paragraph to deal with historical practices. He said paragraph D met what the Commission wanted. He said their intention was to create a recommendation that could have been voted on without additional changes. He said the summary was helpful. Commissioner Kadvany said in the summary under the test for impact that there had not been a bullet for building bulk. Chair Riggs said that the test was just for two broad issues.

Commissioner Bressler said he thought Option A would be contentious should it go forth to the Council. He said that C.1 allowed for a lot of interpretation and wiggle-room for developers. Commissioner Kadvany said it was strange to have a definition within a section. Commissioner Bressler said he did not like paragraph D because of what happened at 64 Willow Road which was called a remodel but was a total deconstruction. Chair Riggs said that remodel had been redefined elsewhere. Commissioner Bressler said there were not much differences between Options A and B under A, B, and C. He said C.1 allowed too much leeway. He said Option B under A, B and C was clearer and was most close to what staff was doing to calculate FAR. He said they had to make this less ambiguous, and he would not vote for Option A.

Commissioner Pagee said the Council asked the Commission to make the document clearer and in her opinion Option A made it less clear. She said Option B makes it much clearer. Chair Riggs said that Option B was not vetted by the Commission. Commissioner Pagee said the items in Option B were discussed by the Commission. She said the vote on Option A was a majority vote but it was not unanimous on particular items. She said the Commission could send Option A to the Council, or they could look at some of the items in Option B. She said they should look at the differences between the two options and vote on those.

Chair Riggs said it was 11:30 p.m. and he would not look at these items without first reviewing all of the record related to this. He said if they would like to rework the document that it was appropriate to take a vote. He said they then had to decide when they would like to do this proposed consideration.

Commissioner Bressler said staff had been using a definition of FAR over the last year since certain building fiascos and that seemed to work. He thought the Commission could just call it done as it stood. Commissioner Ferrick said there was not much different between the two options, and she did not think it would take hours to discuss. She said that they could vote on the two options. Chair Riggs said that it was optimistic to think they could do that tonight.

Commissioner O'Malley said he would not vote for either option tonight. He said he thought they needed to start from scratch. Chair Riggs asked if Commissioner O'Malley would not confirm the Commissioner's standing recommendation. Commissioner O'Malley said he would vote on that if the motion was made. Chair Riggs said that the Commission did need to decide on whether to include paragraph D.

Commissioner Bressler said his problem with D was that there needed to be a definition of a remodel. Chair Riggs said what the Commission resolved previously was all of the elements of a recommendation to Council. He said however they realized that Council might want to make one or more changes to the recommendation. He said the Commission had validated enough exemptions to the calculation of square footage so there would not be significant difference in FAR for existing buildings. He said they asked staff to prepare wording in the instance that the Council started changing exemptions so that properties such as Quadrus were protected.

Development Services Manager Murphy said the policy for Commission meetings was to end at 11:30 p.m. but with a vote the Commission could continue. He said however that this was a study session and the Commission could not vote to move a recommendation to the Council at this time.

Chair Riggs asked staff to describe what clarification was needed. Development Services Manager Murphy said that in C.1 and C.4 staff needed clarification on the caps the Commission wanted and that there might need to be refinement of certain terms such as gross floor area ratio. He said regarding paragraph D that there would be no definition that would cover all existing buildings without making some nonconforming. Chair Riggs said the problem with all zoning regulation was that if the language was simple that it did not capture all scenarios but that trying to capture all scenarios made the zoning ordinance too complex.

Commissioner Kadvany said he disagreed with what Chair Riggs said and that he thought the Commission should look at what was right to develop, however complex it might prove. He said there were staff notes in the October 8, 2007 report which suggested looking at simple clarification now and then in the future look at a multi-stepped process in which to address different issues such as parking, traffic, BMR, zoning districts and incentives.

Commissioner Ferrick said she thought the handling of existing buildings in Option B was preferable. Chair Riggs said it was more specific. He asked if it was the original

recommendation developed by staff. Development Services Manager Murphy said it was with a few modifications.

Chair Riggs said the Commission needed to decide if it wanted to move ahead with what the Commission had decided upon a year ago or whether the Commission wanted to develop a different recommendation. He said they needed to look at the two methods for addressing historical buildings. He proposed that the Commission could designate a subcommittee to look at that and bring a recommendation back to the Council.

Commissioner Ferrick said she would support a subcommittee to do that. Chair Riggs moved to create a subcommittee to prepare a recommendation to the Commission on how to handle existing buildings and potential non-conformity because of change to the GFA calculation. Commissioner Ferrick seconded the motion.

Commissioner Kadvany asked if the goal was to present one option to Council. Chair Riggs said the Commission in its discussion had resolved to present one recommendation to the Council.

Commissioner Bressler moved to have the Planning Commission review and compare the two versions of a draft Zoning Ordinance Amendment at a public hearing on December 8, 2008 and create a single version of an Amendment as a final recommendation to the City Council. Commissioner Pagee seconded the motion.

Commissioner O'Malley asked if there was going to be more information provided. Commissioner Bressler said only in terms of the Commissioners' perspectives.

Commissioner Ferrick volunteered to serve on a subcommittee to look at Paragraph D and options.

Commission Action: M/S Bressler/Pagee to have the Planning Commission review and compare two versions of a draft Zoning Ordinance Amendment at a public hearing on December 8, 2008, and create a single version of an Amendment as a final recommendation to the City Council.

Motion carried 3-2-2 with Commissioners O'Malley and Riggs opposed and Commissioners Kadvany and Keith abstaining. (The two versions of the Amendment were attached to the staff report and are labeled as Option A, which generally represents the Amendment recommended by the Planning Commission on November 5, 2007, and Option B, which generally represents the Amendment presented by staff to the Planning Commission on October 8, 2007).

Development Services Manager Murphy asked if the meeting would be a public hearing. Commissioner Bressler said the intention was to finalize a recommendation to Council.

Commission Action: M/S Riggs/Ferrick to create a subcommittee to review the language in Options A and B addressing nonconforming buildings with respect to gross floor area.

Motion carried 5-0-2 with Commissioners Kadvany and Keith abstaining.

Commission Action: M/S Riggs/Pagee to nominate Commissioners Ferrick, Keith and Pagee to serve as the subcommittee.

Motion carried 5-0-2 with Commissioners Kadvany and Keith abstaining.

E. REGULAR BUSINESS

There was none.

F. COMMISSION BUSINESS

1. El Camino Real/Downtown Specific Plan (Phase II) Process.

Chair Riggs said the selection committee met for the second round of interviews and selected SMWM as the likely candidate, and contract negotiations would start with them.

2. Review of planning items on City Council agendas.

There was no report.

G. REPORTS AND ANNOUNCEMENTS

ADJOURNMENT

The meeting adjourned at 12:06 a.m.