



PLANNING COMMISSION MINUTES

February 9, 2009
7:00 p.m.
City Council Chambers
701 Laurel Street, Menlo Park, CA 94025

CALL TO ORDER – 7:02 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. VISIT FROM MAYOR ROBINSON

Mayor Robinson will be attending the Commission meeting to address the overall role of Commissions, especially with respect to the importance of the involvement of each Commission and Commissioners in Community Engagement. The City Council is committed to participatory government as well as creating and maintaining an open and welcoming governmental environment. Mayor Robinson will also discuss the roles and relationships of the Commission, the staff and the City Council. Time permitting Mayor Robinson will also speak to the specific goals of each Commission's charter.

Planner Chow in response to Chair Riggs said that Mayor Robinson had not arrived and suggested the Commission move forward on the agenda until the Mayor's arrival.

Item was continued to the meeting of February 23, 2009.

B. PUBLIC COMMENTS

There were none.

C. CONSENT

1. **Approval of minutes from the December 15, 2008, Planning Commission meeting.**

Item pulled for comments. Commissioner Keith asked on page 10 that "said" be replaced with "asked" and "wastes" replaced with "waste." Chair Riggs noted there were comments that had been emailed by Commissioner O'Malley.

Commission Action: Consensus to approve the minutes with the following modifications.

- Page 10, last paragraph, first sentence: Replace “said” with “asked” and replace “wastes” with “waste.”
- Page 16, second full paragraph, first sentence: Delete “and” between the words “asked” and “if.”
- Page 23, fourth paragraph, last sentence: Delete the extra period.

Motion carried 5-2 with Commissioners Bressler and Riggs abstaining.

2. **Approval of minutes from the January 12, 2009, Planning Commission meeting.**

Commission Action: Approve the minutes as submitted.

Motion carried 6-1 with Chair Riggs abstaining.

D. PUBLIC HEARING

1. **Use Permit and Variance/Robert Mayer/208 Lexington Drive:** Request for a use permit to construct first- and second-story additions to an existing single-story, single-family, nonconforming residence that would exceed 50 percent of the replacement value of the existing structure in a 12-month period in the R-1-U (Single-Family Urban) zoning district. In addition, a request for a variance for a building coverage of 39.3 percent where 35 percent is required for two-story development.

Staff Comment: Planner Rogers said there was an additional piece of correspondence from Ms. Barbara Cole, 633 Woodland Avenue, which had been distributed to the Commission at the dais and was available for the public on the table at the rear of the Chambers. He directed the Commission to attachment A.1 which showed the location map and the proximity of Ms. Cole’s property to the subject property. Ms. Cole indicated that she had reviewed the plans for the proposed changes and second story addition and had no objections to the proposed project. He said that a shading study was available for the Commission’s review.

Questions of Staff: Commissioner Keith asked for a copy of the shadow study. Commissioner Kadvany asked if there was any history of variances similar to this request. Planner Rogers cautioned that variance requests should not ever be used as establishing precedence for other variance requests. He said there had been a few building coverage variances over the years, some of which predated the 2005 ordinance change, which had first allowed the 40 percent building coverage for one-story buildings. He said he did not know of any variance requests specific for floor area limit (FAL), but there might have been a few scattered over the years.

Commissioner Ferrick said the staff report indicated a standard cost estimate calculation on page 3 that determined cost of proposed construction and asked when that standard was created. Planner Rogers said it was established before he came to Menlo Park in 2005 and had been reviewed in an ongoing basis to meet the ordinance intent to flag remodels and additions that exceeded a general scope of over half the value of the existing structure.

Public Comment: Mr. Rob Mayer, project architect, said the lot was substandard in size and the owners were looking for a master suite retreat and an office that was more comfortable. He said that the existing home had already 39.3 percent lot coverage and that had been the existing footprint since 1953 as evidenced by County records. He said the owners' only option to increase space was to add a second story. He said adding to a ranch home was challenging. He said the large covered porch would be used to create stairs and an entry foyer. He said there were concerns from the neighbor on the north side regarding shading of their patio by the second-story addition, which was why he had done a sun study. He said the greatest impact would occur in the months of October through February and that was because of the location of the sun during those months. He said in those months it was expected that the patio, because of weather, would not be used as frequently. He said they had worked with the neighbors on the left and rear to incorporate changes to the design and had gotten those neighbors' support for the proposed project. He said he had done outreach with all three contiguous neighbors but had not received a response from the neighbor on the right. He said this property had always been at 39.3 lot coverage, and in some respect the 2005 ordinance amendment hurt this property.

Commissioner Pagee asked if it was necessary for the chimney to extend as much as shown as it would not be for a wood-burning fireplace. Mr. Mayer said it would only be the height needed by the fireplace appliance. Commissioner Pagee said often homes having a nine-foot ceiling on the second story and eight foot ceilings on the first story tended to appear top-heavy. She asked if they would be willing to reduce the plate on the second floor ceiling to eight feet. Mr. Mayer said the property owners were willing to look at that change. Commissioner Pagee said they were matching materials from the existing home on the addition and adding artificial trim to give depth. Mr. Mayer said it would either be stucco mold or wood slope sills to give the traditional wood window look.

Commissioner Keith asked about the neighbor at 627 Woodland Avenue. Mr. Mayer said he mailed them the plans and called. It was noted that the neighbor at 627 Woodland Avenue was present for the hearing. Commissioner Keith asked about the type of windows on the second floor bathroom. Mr. Mayer said the windows were proposed as clear glass and the sills were at three-foot six-inch sills with a casement in the middle and fixed on the sides and at the toilet the sills were at five-foot.

Mr. Adam Kerr, Menlo Park, said he was one of the neighbors to the proposed project, and had no objection to the use permit and variance requests.

Mr. Branco Perazich, Menlo Park, said he was one of the neighbors to the proposed project and would like some type of treatment to the bathroom windows to provide more privacy for his property.

Mr. Barry Eisler, subject property owner, thanked the neighbors for their cooperation and support. He noted that he and his wife loved the Willows neighborhood and had lived there since 1997. He said that both of them worked at home and their in-laws visited for extended visits at least twice a year and the additional space would be very welcome.

Chair Riggs closed the public hearing.

Commission Comment: Commissioner O'Malley asked if Commissioner Pagee's request to reduce the plate height on the second floor related to aesthetics; he said he thought the proposed design was attractive. Commissioner Pagee said reducing the plate height on the second floor would help with shading on the adjacent neighbor, and it would help neighbors on both sides and the rear to have an increased sky view and access to sun. She said the additional foot for the ceiling was not necessary for full enjoyment of the space.

Commissioner Bressler said the applicant had done a thorough job of vetting the neighbors, and he preferred this addition to a complete demolition and rebuild.

Commissioner Kadvany said he understood the logic of the existing single-story home footprint but he could not make the findings for the variance request. He said it was a good design but he was not sure what it meant in terms of the rules and future application of a similar pursuit by others.

Commissioner Keith said that staff had done a thorough job reviewing and recommending the findings for the variance. She moved to approve to make the findings for the variance request, noting that the conditions applied would not be applicable to other homes in the area. She said she was impressed with the work done with the neighbors by the applicant and the neighbors' support. She said she would also move approval of the use permit as recommended by staff. Commissioner O'Malley seconded the motion.

Chair Riggs asked if Mr. Eisler could address the ceiling height on the second story. Mr. Eisler said they had preferred the nine-foot ceiling as it was less expensive than coffered ceilings but from the standpoint of the neighbors they would be willing to reduce the plate height if it created a lower profile or provided more access to the sky and sun. Commissioner Keith asked if part of the window next to the bathtub might be glazed. Mr. Eisler said that he was amenable to using some type of obscuring window treatment for that window.

Commissioner Ferrick said she agreed with comments made by Commissioners Pagee and Keith and appreciated the applicants' willingness to reduce the ceiling height on the second story. She noted that the zoning ordinance allowed 28 feet in height and the proposed project was at 25 feet and asked if it was arbitrary of the Commission to decide that the height should be further reduced. Commissioner Pagee said that the Commission had design review capability for use permit requests.

Chair Riggs said he would defend the design as proposed. He said the architect understood design and proportion and made good use of space. He said he generally supported Commissioner Pagee's concerns about the shading of neighbors' lots and window issues, but the second-story as proposed had significant setbacks on each side; he said he thought that shadowing of neighbors' properties would not be significant. He said he appreciated Commissioner Pagee's comments about a top-heavy house with a second floor addition. He said however that the second floor wall was engaged by the first floor roof and the massing of the second story was very considerate. He said he would like the architecture unmodified. He noted he preferred higher heights for chimneys.

Commissioner O'Malley asked if the motion on the floor was without modifications. Chair Riggs confirmed it was, but noted that the neighbor had requested some treatment of the bathroom window for privacy. He said the sill could be raised to four feet or higher or obscure glass might be used. He made a friendly amendment that the bathroom window have either a four-foot six-inch high sill or obscured glass. Commissioners Keith and O'Malley as the maker of the motion and second accepted the friendly amendment. Commissioner Pagee made a friendly amendment that if the applicant decided to reduce the second-story ceiling height that he would not have to return to the Commission for approval. Commissioners Keith and O'Malley as the makers of the motion and second accepted the friendly amendment.

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

1. Make a finding that the project is categorically exempt under Class 3 (Section 15303, "New Construction or Conversion of Small Structures") 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. Make the following findings as per Section 16.82.340 of the Zoning Ordinance pertaining to the granting of variances:

- a. The hardship is based upon the unique and original lot coverage of 39.3 percent and the relatively small size of the subject parcel that predates the City's first Zoning Ordinance and building coverage limitations, and is particular to the property and not created by any act of the owner.
 - b. The variance is necessary for the preservation and enjoyment of substantial property rights possessed by other conforming property in the vicinity, in particular with the ability to achieve an FAL (Floor Area Limit) close to the maximum allowed. The variance will not increase the maximum allowed FAL or change the existing building coverage, and therefore will not constitute a special privilege.\
 - c. The second story will be well within the required daylight planes, and the second-floor setbacks would be twice the required 5.5-foot minimum side setback. In addition, while the building coverage would exceed the new, two-story 35 percent maximum, the absolute square footage of coverage would not change from the existing condition. As a result, the proposal will not be materially detrimental to the public health, safety, or welfare, and will not impair an adequate supply of light and air to the adjacent properties.
 - d. Because the variance request is primarily based upon the specific and unique existing lot coverage and the relatively small size of the subject parcel, it is not applicable, generally, to other property within the same zoning classification.
4. Approve the use permit and variance subject to the following **standard** conditions:
5. **Approve the use permit and variance subject to the following specific conditions.**
- a. ***Concurrent with the submittal of a complete building permit application, the applicant shall submit revised plans showing that the second-floor right side bathroom window above the bathtub be revised to have a sill height of four feet, six inches or greater and/or use obscured glass, subject to review and approval of the Planning Division.***
 - b. ***Concurrent with the submittal of a complete building permit application, the applicant may submit revised plans showing a reduced second-floor plate height, subject to review and approval of the Planning Division.***

Motion carried 4-3 with Commissioners Bressler, Kadvany and Pagee opposed.

Planner Chow in response to Chair Riggs said the Mayor had been present but had to leave as he had another engagement, but he would return.

2. Use Permit Revision/Menlo Park Presbyterian Church/700 Santa Cruz

Avenue: Request for a revision to an existing use permit for a social hall in a commercial building in the C-3 (Central Commercial) zoning district. The modifications would include increasing the permitted days of operation to allow for use of the social hall seven days a week, in addition to extending the expiration date for the use permit from 2009 to 2014.

Questions of Staff: Chair Riggs asked staff if the matter was more the use during the seven days rather than the seven evenings.

Planner Rogers said there were days under the current permit that allowed for standard uses and this revision would extend those standard uses to all seven days rather than just on the current three days. He said they had the current ability to opt for special events on all seven days.

Commissioner Pagee asked if the uses were limited to 7 a.m. to 10 a.m. Planner Rogers said during the weekdays it was limited to 7 a.m. to 10 a.m. but on weeknights the time would be 6 p.m. to 10 p.m.

Commissioner O'Malley asked if there had been any current utilization studies done for the parking lot. Planner Rogers said a study was done most recently as part of MTCR Regional Transportation Agency as part of their Smart Growth study and that was not included because it was not City-generated data. Commissioner O'Malley asked if that study showed any average occupancy rates between 8 a.m. and 5 p.m. Planner Rogers said that study looked at the whole parking lot at 10 a.m., 11 a.m., 12 p.m. and 1 p.m. during weekdays. The lot was 64 percent full at 10 a.m., 75 percent full at 11 a.m., 79 percent full at 12 p.m., and 84 percent full at 1 p.m. He said they also looked at Parking Plaza 1, the lot closest to Menlo Park Presbyterian Church (MPPC), and found during the weekdays that it was 64 percent full at 10 a.m., 70 percent full at 11 a.m., 72 percent full at 12 p.m. and 80 percent full at 1 p.m. Commissioner O'Malley asked how many spaces were in the lot. Planner Rogers said Parking Plaza 1 had 249 off-street parking spaces.

Commissioner O'Malley said the maximum attendance requested was 225 persons and asked how many vehicles that equated to. Planner Rogers said that the worst case scenario would be that all 225 people would drive and best scenario would be no cars. Commissioner O'Malley said he suspected there would be four people per car. He said also he would not expect attendance of 255 persons to be the norm.

Commissioner Keith said MPPC was requesting allowance for 50 people to attend once a week from 7 a.m. to 10 a.m. and asked about typical parking during the day. Planner Rogers said staff did not have data on that but from his experience the parking amount was generally the same each day.

Commissioner Bressler said he had received an email from a former Planning Commissioner, who had been on the Commission when MPPC's use permit was originally approved. He said that Commissioner had indicated this location was meant to be a temporary space while MPPC looked for a permanent location. He asked if staff had any information about that as there was nothing related to it in the staff report. Planner Rogers said he had reviewed the file in detail and the five year term of the permit implied some desire to review at a five year point, if not necessarily supporting the presumption that the location was meant to be temporary.

Commissioner Pagee said the major component of the use permit revision request other than the hours was that there would be no youth only activities. Planner Rogers said that was correct and was considered an improvement based on the neighbors' input about the youth only activities.

Commissioner O'Malley asked how the sales tax in-lieu fee was determined. Planner Rogers said it was not a standard fee and had been applied ad hoc on certain projects. He said that the application of an in-lieu fee for retail tax looked at the retail square foot availability and a site's proximity to the downtown retail area. He said this in-lieu fee had been based on the previous hardware store use at the site.

Commissioner Kadvany said he thought the allowance of up to 225 people was to give MPPC more flexibility, but that it was not expected to reach that attendance each day. Planner Rogers said the overall attendance was a discussion at staff review. He said feedback they had gotten from neighboring properties was there was a conflict in the weekday mornings which was why staff was proposing that attendance be limited to 50 people between 7 a.m. and 10 a.m. He said there did not appear to be an obvious reason to require a lower attendance level on week day evenings.

Public Comment: Mr. Bill Frimel said he had lived in Menlo Park for 37 years and was present to represent MPPC as their CFO. He said they were seeking another five year extension of the use permit and to expand the flexibility of the use of the Social Hall. He said 1873 the site of this existing building history had been the original site of MPPC, and later when the parking lot and shopping area were developed, MPPC moved to its current site on Santa Cruz Avenue. He said the building previously housed the Menlo Park Hardware Store for many years until the major increase in rental prices. He said the building then stood vacant for two years. He said MPPC was in need of space for youth events and other faith activities, and proposed to use the building. He said they wanted to have a youth program and to expand a café type faith service that was then at the main Church. He said previously the Commission approved the use permit, a City Council member then appealed the decision, and the proposal went before the Council and was ultimately approved. He said the conditions placed on the use permit were to allow use of Tuesday and Wednesday for youth activities, and then on Sunday morning and Sunday evening. He said the conditions were limited hours and to find a hardware store operator. He said also they were required to allow access from the back

parking lot to the front of the store and add emergency exits. He said they modernized and added bathrooms that are available to the hardware store employees. He said this request was to use 7 a.m. to 10 a.m. every weekday, and 6 p.m. to 10 p.m. each weekday night, and all day Saturday and Sunday. He said this raised feedback from the neighbors and he worked with them. He said the mornings would be used for staff meetings and downtown association meetings. He said generally the parking lot was quite less than full in the morning and quite vacant in the evenings. He said the maximum attendance set at 225 persons was based on the Fire District's limits. He said the evening events would possibly be married couples and young adults groups, which might run to 100 people. He said the 225 persons would most likely occur on the Sunday morning service. He said the feedback from neighbors was there was noise and littering from the student events. He said they would eliminate the student programs from the week nights at this site. He said they would like to use the Saturday nights for family nights. He said regarding parking that there had been an impact during the day on Saturdays on business owners, so they pulled that use during the day. He said related to the question of this site as being temporary that he recalled the Commission wanted to put a five year limit on it and restrict the uses. He said one Commissioner was thrilled with the proposal as it created a community center downtown. He said they had opened the building to community events, such as the charette design meeting for downtown. He said they received numerous requests from non-profits to use the facility but it was limited use. He said they do not charge at all for use of it. He said they would like to give these groups an opportunity to use the facility. He said they completely remodeled the building and did seismic and emergency improvements. He said the Ace Hardware Store had also been a success downtown, and the store was a sublease of their master lease, and there was uncertainty for the business if MPPC's lease was not extended for five more years.

Commissioner O'Malley said in the staff report mentioned that the Chamber of Commerce was supportive of the project, but he did not see any correspondence from the Chamber relating that support. Mr. Frimel said that the Downtown Association used the facility for meetings. He said at the last meeting of that group, he asked for feedback about the facility's use and impact on parking. He said one business owner expressed concern about the parking because of the morning meetings. He said he reviewed the proposed changes with that business owner and found she was supportive of what was being proposed.

Commissioner Keith expressed appreciation that the building had been brought back to life and provided a hardware store for the community. She asked about moving the youth programs to the Santa Cruz location. Mr. Frimel said the junior high had already been moved. Commissioner Keith asked about the high school program as the staff report had indicated the meetings would be less frequent. Mr. Frimel said part of that program was outreach to individual students from East Menlo Park and East Palo Alto. He said whenever the doors opened there was a high level of noise, and the noise vibrated the windows of two nearby business owners. He said the program originally was started at 6 p.m. and they then moved it to 7 p.m. He said they were not giving up

on the high school students and would continue to do outreach and mentoring, but would probably move it to the Fellowship Hall. He said that they had remodeled a basement in a separate building for the junior high program. He said there were about eight letters of complaint regarding noise and parking. He said one event occurred, a speaker's series, that overwhelmed the parking lot, and that created a bad reputation for the site. He said they discontinued that series. Commissioner Keith asked about other programs during the week. Mr. Frimel said they would like to have a staff meeting at the Social Hall. Commissioner Keith asked if they encouraged people to park in MPPC's parking lot. Mr. Frimel said they did encourage people to park there, but he could not guarantee that always happened.

Commissioner Pagee said that part of the Commission's original approval was to encourage the growth of a hardware store at the place. Mr. Frimel said there had been discussion about that; he said the hardware business owner might provide more detail. He said that the owner had indicated he would only want to expand along the front. He said if most of the traffic was in front that this would create a retail dead spot in the back space.

Commissioner Kadvany asked if the hardware store would continue if MPPC's use permit was approved. Mr. Frimel said that if the use permit revision was approved a similar lease arrangement would be made with the hardware store.

Mr. Vasile Oros, Menlo Park, said he was the owner of the Ace Hardware store. He said this arrangement with the Church made it possible to have a hardware store in Menlo Park. He said regarding expansion that they had looked at the next door space when the economy was better, but right now they did not need to grow the business.

Dr. Jo English, Menlo Park, said she had a practice at the Oak Grove clinic since 1985. She said originally she understood that the site would be a bookstore and meeting space, however, the project morphed into a Social Hall. She said the music bothered her patients, and it took many months and phone calls to resolve the matter. She said with this notice she examined what the Church was proposing to do, and she talked to all the business owners in the area. She said there were about 40 owners. She said they were particularly upset with parking taken on Saturday during the day and also on Friday morning. She said however the business owners were also upset with the parking impacts with Sunday morning. She said 225 persons attending functions at the evening businesses would be a great impact. She suggested that attendance be limited to 100 people. She said the amplified music could be heard even when the doors were closed. She said amplified music should be limited to only one evening and only after 7:30 p.m. She said that the conditions of the use permit should be provided to the property owners so that they understood what met the conditions and what did not. She said the parking lot was funded by the local business owners. She said Dr. and Mrs. Eggers wanted to attend and speak against this request, and were in route, but would not get to the meeting on time.

Commissioner O'Malley asked if the noise problems were resolved. Dr. English said they solved the problem by ending the program. Commissioner O'Malley asked if she was representing all of the 40 business owners. Dr. English said she was not representing them but was speaking on their behalf.

Chair Riggs asked if Dr. English was a member of the Chamber of the Commerce. Dr. English said she was formerly a director of the Chamber. Chair Riggs asked if the Chamber was unaware of the conditions of the use permit. Dr. English said she was still a member but not aware of the use permit conditions.

Ms. Fran Dehn, Menlo Park, said the Chamber of Commerce fully supported the request for the revised use permit. She said the Church was very much tied to the hardware store use, and they were delighted with having a hardware store downtown. She said the downtown group meetings were open to anyone who wanted to attend. She said at the group's last meeting at the end of January there was great discussion about the proposed revised use permit and issues raised. She said she was pleased that Mr. Frimel had responded by adjusting the times and moving the location of the youth programs to address noise and parking, which was now being presented to the Commission. She said the Saturday day parking concerns were addressed by having activities in the evening, but they had not realized there was a problem with Sunday parking. She said the Church had done a great job in addressing the concerns of the business owners, and she thought that Mr. Frimel had been very responsive. She emphasized the importance of retail space in the downtown. She said they wanted the space to be used as retail and the payment of an in-lieu fee, which fee had been paid.

Commissioner Ferrick asked about the properties in this area, and if offices were charged retail tax in-lieu fee. Planner Rogers said that the properties were zoned C-3 for retail and conditional use permits allowed for office use. He said some of those offices paid a sales tax in-lieu fee.

Chair Riggs closed the public hearing.

Commission Comment: Commissioner Keith said Mr. Frimel had indicated the Church did not charge for use of the facility, and asked how the requests were evaluated. Mr. Frimel said only non-profits who provided a benefit to the community could use the facility. Commissioner Keith said that currently only 75 people were allowed in the evening but the request was to allow for up to 225 people. Mr. Frimel said that he wanted the flexibility but that for most events attendance would not be 225 people. He said a normal event was in the 100 people range. Commissioner Keith asked about restricting any 225 people event to once a week. Mr. Frimel said he could live with that but he would prefer the flexibility for scheduling. He said the benefit to the City from people using this facility was the promotion downtown of retail activity. He said having the events at the Social Hall would increase the frequency of people visiting the downtown to eat or shop.

Commissioner Kadvany asked about Mr. Frimel's perception of parking on Sunday. Mr. Frimel said the impact was between 9:30 a.m. to 12 p.m. He said he was surprised that people could not find parking on Sunday as there were other parking plazas. He said that perhaps the Church could reserve spaces for the tenants. He said there was a comment that complaints could go to the Planning Department and then those would come to him for resolution. He said that was a great idea.

Commissioner Ferrick moved to approve the use permit revision as recommended in the staff report. Commissioner O'Malley seconded the motion.

Chair Riggs said there had been responses to neighbor input in the moving of the youth programs and the addressing of the Saturday day parking. He said one issue was the maximum of 225 people as opposed to 100 people and whether the number of events at 225 people should be limited. He said staff had put in specific language related to music. He said they might address limitations with the possibility of high school youth meeting at the social hall. He said also they had to consider whether to address Sunday services.

Commissioner Ferrick said on Sundays most of the retail stores were closed and she thought limitations on the Sunday services would hurt restaurants. She said the people attending services were the only sign of life on Sundays. She said she thought the applicant had worked hard to respond to the neighbors. She said the applicant was being a good neighbor to allow community groups to use the facility and she thought that MPPC should not lose their use in accommodating other groups. She said they also were paying the in-lieu fee.

Commissioner O'Malley said he was surprised that MPPC only charged the hardware store the same rent as what MPPC pays, which encouraged the business security of the store. He said having Ace Hardware store was a benefit for the community. He asked if Commissioner Ferrick wanted to expand use or restrict. Commissioner Ferrick said that there was some thinking to limit the morning use to one day. Commissioner O'Malley said he could support expanded use.

Commissioner Bressler said parking was pretty tight on Sundays because of the Farmers' Market; he thought that if the neighbors needed parking on Sunday that they needed to stand up and say so. He said on weekday mornings that MPPC had parking at its Santa Cruz site. He thought the neighbors should be given a mechanism to voice their needs.

Chair Riggs said he had not had experienced parking problems in Menlo Park as those he had heard tonight. He said a test was needed to see to what degree parking was a problem; he said one way would be to have an intermediate review. He said the building used to be an 8,000 square foot hardware store and that there had to have been a lot of parking use for that in the late 1990s. He said he anticipated that part of the downtown visioning plan discussion would look at alternative solutions to parking.

He said he was very appreciative five years ago when this building was brought back to life and a hardware store was made available for the community. He asked if there should be an intermediate hearing on the use permit revision.

Commissioner Keith said regarding the 225 limit that if it was the goal to bring people downtown then perhaps there should not be a restriction. She said condition 4.c indicated the youth programs should be limited to the weekends. She said however that it had been indicated that the youth programs had been moved. She asked for clarification. She said that the music was not just associated with youth. She said that perhaps an intermediate review would help.

Mr. Frimel said he had talked to the Church pastor and told him that they needed to eliminate the youth program at the Social Hall. He said the pastor however would like the ability to do an activity on Saturday evening for youth but with the accompaniment of parents. He said the music was entirely tied to the youth programs.

Commissioner Ferrick said there was a recommended condition that the Community Development Director had the discretion to modify the use permit conditions to address problems and/or bring complaints to the Planning Commission for review. She said that might be preferable to an intermediate review as that might cause problems for the lease arrangement. Chair Riggs said that was a good point. Commissioner Bressler said that if the people who had complaints did not know the process it was not very helpful for them. He said that there should be some notice of the conditions under which the use permit revision was granted.

Commissioner Ferrick asked if condition 4.f should be amended to add "and supply contact information for staff for unresolved issues." She thought that this could be distributed to the neighbors. Commissioner O'Malley as the maker of the second accepted the modification.

Planner Chow asked if this was something that would be sent out to a 300-foot radius or whether the information would be added to the Church's website. Chair Riggs said to be mailed to the neighbors. Planner Chow said that the conditions, staff contact information, and the Church's contact information could be provided. Chair Riggs suggested that the Church could bear the cost for that mailing. Commissioner Keith suggested if the use permit revision was approved that it could be placed on the Church's website. Commissioner Ferrick suggested that the information should also be distributed to neighbors. Commissioner Bressler said it was fairly common to have the hours of operation posted at a site and to provide contact information. This was acceptable to Commissioners Ferrick and O'Malley as the maker of the motion and the second.

Chair Riggs asked Mr. Frimel if he could do that. Mr. Frimel said they would figure out a way to do it.

Chair Riggs asked if there was any additional response to the Sunday parking issue. There was not.

Commissioner Kadvany said he thought having more people downtown on weeknights was desirable. He thought that there might be some more options for the morning weekday meetings as it was limited to one. Commissioner Pagee said that perhaps the community-type meetings should not be counted against the total of one meeting. Commissioner Kadvany suggested amending the number of events to three weekday mornings in the 7 a.m. through 10 a.m. time period.

Planner Rogers said the public might have a reasonable expectation that one meeting in the weekday mornings was the worst case scenario, and he cautioned generally about expanding the use.

Chair Riggs asked if staff had a process to add the possibility without the need for additional notification or delay. Planner Rogers said that staff could disallow a community meeting so that MPPC could meet once a week and there could be a community meeting as well. He noted that the attendees for the MPPC meeting tended to park at the church site. Commissioners Keith and O'Malley indicated they were uncomfortable with allowing for that interpretation and that the condition should remain as noticed.

Commissioner Bressler said there was a concern about Sunday parking and there was no definition as to what the other tenants in the area were entitled to, and there was no recourse for them. He said if parking was legitimately a problem and the neighbors were impacted that there should be some recourse for them. He said that the applicant had indicated that the Church might be enabled to reserve spots for other tenants.

Commissioner O'Malley said that the Farmers' Market occurred on Sunday and no limit was placed on the parking for that.

Commissioner Keith said the applicant had eliminated the Saturday day use and that was when most of the shops were opened. She said she thought Saturday day parking was more of a problem than Sunday day parking.

Chair Riggs asked if staff had heard of a problem with Sunday parking prior to 48 hours ago. Planner Rogers said that they had been collecting comments about the use permit for some time and that the Sunday day parking was first called out as a problem this evening.

Commissioner Keith called for the vote.

Commission Action: M/S Ferrick/O'Malley to approve the item 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 revision subject to the following **standard** conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by B.H. Bocook AIA Architect, consisting of three plan sheets, dated received January 29, 2009, and approved by the Planning Commission on February 9, 2009, except as modified by the conditions contained herein, subject to review and approval of the Planning Division.
4. Approve the use permit revision subject to the following **ongoing, project-specific** conditions:
 - a. The social hall shall be limited to the following days and times of operation:
 - i. Monday – Friday:
 1. 7:00 a.m. – 10:00 a.m.; limited to one event per week
 2. 6:00 p.m. – 10:00 p.m.
 - ii. Saturday: 6:00 p.m. – 10:00 p.m.
 - iii. Sunday: 7:00 a.m. – 10:00 p.m.
 - b. Attendance shall be limited as follows:
 - i. Weekday mornings: 50 persons
 - ii. All other times: 225 persons
 - c. Youth programs shall be limited to weekends. Attendees at youth programs shall be properly supervised at all times, and loitering before, during, and after the events shall be minimized. The Community Development Director shall review complaints received by the City regarding the youth programs. The Community Development Director shall have the discretion to modify the use permit conditions to address problems and/or bring complaints to the Planning Commission for review.

- d. The facility doors and windows shall be kept closed when live music is being performed and when other amplified sound is being used. The Community Development Director shall review complaints received by the City regarding noise. The Community Development Director shall have the discretion to modify the use permit conditions to address problems and/or bring complaints to the Planning Commission for review.
- e. During the period of the use permit, the applicant or property owner shall pay a fee (plus applicable yearly Business License fees) to the City in lieu of sales tax for the 8,255 square feet of area leased by the applicant. The fee for the current year (ending April 30, 2009) shall be set at \$2.18 per square foot. The fee for each year thereafter shall be adjusted annually according to the percentage change in the All Urban Consumer Price Index (CPI) for the San Francisco-Oakland-San Jose area. Any annual sales tax generated for the City by the retail use (currently Ace Hardware) would offset this sales tax in-lieu fee. The procedure for collecting the in-lieu fee shall be established by the Finance Division.
- f. Contact information (e.g., cell phone numbers) for on-site facility supervisors, ***the conditions of approval, and contact information for the Planning Division*** shall be posted in a prominent location on the Menlo Park Presbyterian Church web site. **The approved hours and days of operation, contact information for on-site facility supervisors, and contact information for the Planning Division shall be posted at the entrance to the facility. The conditions of approval and contact information for the Planning Division and the Menlo Park Presbyterian Church shall be distributed by mail to all owners and occupants within a 300-foot radius of the subject property. The mailing shall be coordinated through the City and paid for by the applicant.**
- g. The use permit shall expire on August 31, 2014, unless the applicant obtains approval of an extension of the use permit.

Motion carried 6-1 with Commissioner Bressler abstaining.

Chair Riggs asked if the Commission wanted to weigh in on whether the one morning meeting was too restrictive. Commissioner Pagee said it would serve no purpose as the use permit would have to be revised. Commissioner Keith indicated the sentiment would be expressed in the minutes.

- 3. **Use Permit/Amprius/1430 O'Brien Drive, Suite C:** Request for a use permit for the indoor use and storage of hazardous materials for the research and development of lithium ion battery technology in the M-2 (General Industrial) zoning district.

Staff Comment: Planner Fisher said that staff had additional comments to the staff report.

Public Comment: Mr. John Tarlton, Menlo Business Park, introduced Mr. Mark Platshon, the CEO of Amprius, Inc. Mr. Platshon said that better batteries were needed to support cell phones, laptops and electric vehicles. He said a professor at Stanford University had found that silicon would be useful to create longer lasting batteries using nano-technology. He said they had a group of scientists working together to develop this prototype battery and found this facility in Menlo Business Park to accommodate that work. He said there was a process that required some hazardous materials to develop the silicon. He said that the persons involved were highly aware of safety and they had gotten expert advice from Ms. Ellen Ackerman, an environmental consultant.

Commissioner O'Malley asked if the exhaust system was state of the art. Mr. Platshon said it was. He said after the chemicals reacted in a controlled chamber, then those chemicals went to a scrubber where they were burned or mixed with water so that the exhaust was completely benign. Commissioner O'Malley said silane was a fairly hazardous material and asked if they would periodically retrain staff. Mr. Platshon said there would be periodic retraining and the training of new employees. Commissioner O'Malley asked the educational level of the persons using the silane. Mr. Platshon said that most of them held PhDs. Commissioner O'Malley asked if the amount of silane would be the amount used in a year. Mr. Platshon said 100 cubic feet was the maximum amount of silane that could be stored, and that there would be very small quantities used. Commissioner O'Malley asked if there were any other reactive gases used in the processes using silane. Mr. Platshon said the silane was usually diluted in helium.

Commissioner Bressler asked if the phosphoric gases would be delivered in small tanks. Mr. Platshon said that was correct. He said those were delivered in small cylinders that were then stored in a gases cabinet.

Commissioner Keith said the staff report indicated that the generation of hazardous waste would be less than 220 pounds. Ms. Ellen Ackerman said the operations would produce less than 220 pounds in a month, and that this company would probably not generate 220 pounds a month. Commissioner Keith mentioned to staff that D.3 was hard to read as to whether it was checked "yes" or "no." Commissioner Keith asked how long the training was for employees. Ms. Ackerman said the training took one to two hours. She said in this instance there were highly technically qualified people. She said persons handling hazardous waste would have additional one to two hours of training. She said persons doing emergency response would have additional one to two hours of training.

Commissioner Pagee said that the staff report indicated that if silane were used in greater quantities that an administrative permit could be obtained for outside storage. She said that meant it would not go through the planning process and be publicly

noticed. Mr. Platshon said silane would be used for research and development and that greater quantities of silane would be needed for manufacturing. Planner Chow said the maximum quantities for silane at this site and for this use would be 150 cubic feet. Chair Riggs said that the larger amounts related to manufacturing which would not occur at this site. Mr. Platshon said that was correct.

Chair Riggs closed the public hearing.

Commission Comment: Commissioner Keith moved to approve as recommended in the staff report. She suggested applications like this in the future be placed before lengthy items on the agenda. Commissioner Ferrick seconded the motion.

Commission Action: M/S Keith/Ferrick to approve the item as recommended in the staff report.

1. Make a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") 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 DES Architects/Engineers, consisting of 13 plan sheets, dated received January 15, 2009, and approved by the Planning Commission on February 9, 2009 except as modified by the conditions contained herein, subject to review and approval of the Planning Division.
 - b. Prior to building permit issuance, the applicant shall comply with all sanitary district, Menlo Park Fire Protection District, and utility companies regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.

- d. If there is an increase in the quantity of hazardous materials on the project site, a change in the location of the storage of the hazardous materials, or the use of additional hazardous materials after this use permit is granted, the applicant shall apply for a revision to the use permit.
 - e. Any citation or notification of violation by the Menlo Park Fire Protection District, San Mateo County Environmental Health Department, West Bay Sanitary District, Menlo Park Building Division or other agency having responsibility to assure public health and safety for the use of hazardous materials will be grounds for considering revocation of the use permit.
 - f. If the business discontinues operations at the premises, the use permit for hazardous materials shall expire unless a new business submits a new hazardous materials business plan to the Planning Division for review by the applicable agencies to determine whether the new hazardous materials business plan is in substantial compliance with the use permit.
4. Approve the use permit subject to the following ***project-specific*** conditions.
- a. Prior to use, silane gas cylinders shall be equipped with restrictive-flow orifices not exceeding 0.010 inches in diameter and Fail-Safe valves to shut off the flow of gas in the event of a problem with the system. The silane gas cylinders shall be stored in approved gas cabinets, subject to review and approval by the Building Division and Menlo Park Fire Protection District.
 - b. Prior to use, the silane gas cabinets and chemical vapor deposition tools located in the lab area shall be provided with continuous exhaust ventilation, subject to review and approval by the Building Division and Menlo Park Fire Protection District.
 - c. Prior to use, the silane gas cabinets and chemical vapor deposition tools that use silane shall be seismically anchored, with the anchor designed to provide to provide a 50 percent increase over typical design standards, subject to review and approval by the Building Division and Menlo Park Fire Protection District.

Motion carried 7-0.

The Commission recessed briefly.

The Commission reconvened.

E. REGULAR BUSINESS

1. Commission comments on the draft City of Menlo Park Climate Action Plan.

Ms. Dianne Dryer, the City's Environmental Programs Coordinator, introduced Ms. Lisa Ekers, the City's Engineering Services Director. She said they were both on the staff team that worked with the consultant to develop the first draft of the Menlo Park Climate Action Plan (CAP). She said the purpose of the CAP was to present research strategies to help reduce greenhouse gas emissions that were originating in Menlo Park. She said the strategies were options that annually the City Council could look at to determine projects and programs that would lead to the reduction of greenhouse gas emissions. She said it was an ongoing guideline that would be updated with new strategies as those occurred. She said commercial buildings were one of the greatest contributors to greenhouse gas emissions, making up 30 percent of that; she noted transportation made up 46 percent of those.

Commissioner Pagee said projects seen by the Planning Commission have minor chemicals exhausts in the atmosphere and the Bay Area Air Quality Management District (BAAQMD) did not review those, although they added to the commercial greenhouse gas emissions. She said the individual occupant did not have a tremendous amount of exhaust, which put them under the radar, but cumulatively there would be a more significant impact. She said that under LEED certification a project could pay to offset certain environmentally unsound emissions.

Ms. Ekers said that Ms. Dryer and she were not specialists in this area as this was a newly developing science, but they had general environmental management and civil engineering covered. She said that the BAAQMD was looking at various ways to tighten up regulations as to how they processed and reviewed emissions reported, but they would not review individual projects. She said they were working regionally with ABAG to develop funding sources and resources for local government to use to develop these programs. She said that questions and comments on CAP would be compiled to present to the Council in March.

Commissioner Bressler said that the Green Ribbon Committee had discussed incentives for commercial buildings to be developed under LEED certification, such as expediting the planning process. He said now it seemed there was a move for developers to pay as offset to impact, which he thought was counterproductive and not what the Committee had recommended. Ms. Ekers said she did not think the City offered incentive for green features. Planner Chow said it did not in terms of planning process but the fee was waived for the installation of solar panels. Ms. Ekers said that

the County of San Mateo had adopted a Green Building Ordinance and this provided this provided a baseline requirement for green building points and beyond that a guaranteed 30 day turnaround for planning approval as well as incentives for inspection. Commissioner Bressler said he thought that was a good way to go and would be something developers would want. Planner Chow said that the Commission had recommended to the Council to continue to look at green building and sustainable development.

Commissioner Kadvany said greenhouse gas emissions were not yet regulated by the BAAQMD whereas some other air pollutants mentioned in the Draft report were already highly regulated. He said there needed to be a basis to work from and he thought the City could be more proactive. He said putting in the stubbing for solar panels in new buildings might be required. He said there would have to be caution though in making changes as not everyone could afford to do what might be required. He asked if the computation for the City's emissions were regional. Ms. Ekers said there were two highways running by the City and that it was hard to factor out their impact. She said the state was implementing regulations and programs that would lower the City's total emission count by it appeared almost a fourth. Commissioner Kadvany said factors had to be identified that the City could work on locally. Ms. Dryer said that they would work with the consultant on that over the next few weeks for the final report.

Commissioner Keith said when she was Chair of the Commission that she had a speaker from "Build It Green" address the Commission. She said there had not been a really proactive response by the City for green building. She said Palo Alto was requiring green building, and that might be a good prototype for Menlo Park to use. She said she would like to encourage higher density development along the railroad.

Commissioner O'Malley said if greenhouse gas emissions were really a problem that the report should indicate at what point not taking action would prove catastrophic. He said also estimates were presented as facts in the report. He said the percentages were not supportable. He said that the City could do everything recommended and not accomplish anything because of things outside of the City's control such as traffic increases. He said to get the community behind the CAP that it would have to be more factual and use better ways of measuring the true effects. He said the City should try to do something to slow down the climate change. He said people had to be convinced that actions taken would produce a desired effect. He said overall the CAP was a good document.

Chair Riggs said there were specific actions that the City and citizens could take. He said as a college student he had worked with a team to develop an inner city transit system that addressed the issues of traffic and emissions, but many years later, such a system had yet to have been created anywhere. He said the City should make it a top priority to market the concept of density and transit together. He said there was a clear need to make the two-mile loop for the downtown travelable without the use of automobiles. He said if the occupants at the new office buildings on Sand Hill Road had

a viable transit option they could come downtown for lunch. He said that a project had proposed four-story units along the railroad which was shot down by public opinion and had been reduced to three-stories. He suggested encouraging industry rather than closing down a person's behaviors. He said for instance rather than outlawing wood burning fireplaces that there should be a regulation related to the level of particulates and emission so that an attachment might be used to reduce emissions. He said they needed to keep issues local for reasons of focus and measurability. He said overall that individuals could encourage and discourage actions but could not mandate human behavior.

Commissioner Ferrick said developers do not build four-story buildings along a railroad to be environmentally sensitive but to make more money on the square footage. She said there should be public benefit in allowing such projects by the project getting LEED certification, providing money for residential shuttle and more green space and trees. She said there was some value in making some mandatory guidelines related to green building whether for residential or commercial or a combination of both.

Commissioner O'Malley said the report indicated payback intervals from investments in green programs but some were forecasted out 25 or 30 years during which time it was highly likely that there would be new technologies to address emissions. Ms. Dwyer said that would be something they would be looking at in the next few weeks.

Commissioner Keith noted that the staff report indicated comments would be received until March 1, 2008 rather than 2009.

Commissioner Kadvany said he did not see CO₂e equivalents defined in the document, and a few examples would be helpful. He said the task of completing the report might be easier if thought was given to identifying things more oriented to the decision making needs of the Council and the City. He said the objective findings overlooked desirable outcomes such as quality of life and economic improvement. He suggested aggregating areas for the Council's decision making. He moved to endorse the report and encourage its use. Chair Riggs said he had not read the whole report and if they were to endorse the report that he felt the need to put it into context as climatic considerations were key to the El Camino and Downtown efforts. He said the City could have a lot of effect in those efforts to make El Camino denser and more transit dependent. He said a firmer economic foundation would make the next step for the City easier in terms of the CAP.

Commissioner Keith said it was important to have better and safe bicycle pathways if the desire was to get people out of their cars.

Summary of Commission comments:

- desire for green building guidelines
- review of incentives and trade-offs related to development
- encouraging higher density projects in appropriate locations

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- several Commissioners also noted that known measurements and computations are needed to make this effort meaningful to the public and decision-makers.
- emphasize the need for local transit loop.

The comments will be forwarded to the City Council for consideration during its review of the draft CAP, which is tentatively scheduled for March 24.

F. COMMISSION BUSINESS

1. Review of planning items on City Council agendas.

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

Planner Chow said there would be a joint session of the Council and the El Camino Real/Downtown Specific Plan Oversight and Outreach Committee the next night at 6 p.m. in at the lower level basement of the Library.

G. REPORTS AND ANNOUNCEMENTS

There were none.

ADJOURNMENT

The meeting adjourned at 11:12 p.m.

Staff Liaison: Deanna Chow, Senior Planner

Recording Secretary: Brenda Bennett