



## PLANNING COMMISSION MINUTES

December 7, 2009

7:00 p.m.

City Council Chambers

701 Laurel Street, Menlo Park, CA 94025

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**CALL TO ORDER** – 7:00 p.m.

**ROLL CALL** – Bressler (arrived at 7:05 p.m.), Ferrick, Kadvany, Keith, O'Malley (Vice chair), Pagee, Riggs (Chair)

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

### A. PUBLIC COMMENTS

There were none.

### B. CONSENT

Commissioner Ferrick moved to approve the minutes of the October 5 and 19 meetings excluding excerpt minutes previously prepared. Chair Riggs pulled the set of minutes for October 19, 2009 noting that the appellant's name for the Safeway project had been spelled "Howe" and should be "Houck." Planner Chow said staff had noted the errors and would make the corrections. Commissioner Pagee seconded the motion to approve the minutes with the modification stated.

Commission Action: M/S Ferrick/Pagee to approve the minutes of October 5 and October 19 with the modification stated to the October 19 minutes.

1. **Approval of minutes from the October 5, 2009 Planning Commission meeting, excluding Menlo Gateway excerpt minutes** approved by the Planning Commission on November 2, 2009.

Motion carried 5-0 with Commissioner Kadvany abstaining and Commissioner Bressler not in attendance.

2. **Approval of minutes from the October 19, 2009 Planning Commission meeting, excluding Menlo Gateway excerpt minutes** approved by the Planning Commission on November 2, 2009.

- Replace "Howe" with "Houck"

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

### C. PUBLIC HEARING

1. **Use Permit/Noel Cross/1045 Cascade Drive:** Request for a use permit for excavation (removal of more than 12 inches of dirt) within the required front, rear, and side setbacks for driveway and landscaping improvements associated with the construction of a new single family residence on a standard size lot in the R-1-S (Single-Family Residential Suburban) zoning district.

(Commissioner Bressler arrived.)

Staff Comment: Planning Technician Peralta noted that staff had received additional correspondence from a neighbor at 1081 Sierra Drive, who wrote in support of the proposed project.

Public Comment: Mr. Noel Cross, project architect, thanked staff and the Commission, and said that other neighbors had signed letters of support. He said this was a corner lot which required a lot of the square footage dedicated to the front yard with a small amount of square footage in the rear yard. He said the existing property had a steep driveway in front and steep yard in back. He said the property owners had small children and wanted more private space and reasonably flat areas for the children to play. He said they proposed to remove a Mexican palm tree which was non-native, which would be replaced with a native tree. He said the existing driveway was at a 25% slope and they would be pushing the garage slab down and pushing the garage back to get a better grade, which was why they had to remove soil.

Commissioner O'Malley said he understood the Commission was being asked to look at a use permit request to excavate and were not considering architectural control but he was curious about the plan that showed the office on the left with what seemed to be an archway in front of it. Mr. Cross said there was a recessed area in front of the office space. Commissioner O'Malley asked why. Mr. Cross said to accommodate a simple, hip roof.

Chair Riggs closed the public hearing.

Commission Comment: Commissioner Pagee said she had some questions for the landscape architect. Mr. Christopher Yates said he was the landscaper for the proposed project. Commissioner Pagee said that the review prepared for the excavation indicated that care needed to be taken for the roots of neighbors' trees. She asked him to describe the potential impacts. Mr. Yates said that really none of the excavation would impact the neighbors' landscaping as the excavation would be 15 feet from the property line. Commissioner Pagee asked about the tree canopy. Mr. Yates

said there were no neighbors' trees whose canopies hung over this property. Chair Riggs asked about a Monterey cypress which he had not noticed. Mr. Yates said it was located at the top of the project in the middle. Chair Riggs asked about the Deodar cedars. Mr. Yates said they were not his favorite trees but the property owner liked them.

Commissioner Pagee moved to approve as recommended in the staff report, noting that the excavation would not impact neighbors' trees. Commissioner O'Malley seconded the motion.

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

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 State CEQA Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the use permit subject to the following **standard** conditions:
  - a. Development of the project shall be substantially in conformance with the plans prepared by Noel F. Cross Architect, consisting of 23 plan sheets, dated received November 19, 2009, and approved by the Planning Commission on December 7, 2009, 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, and utility companies' regulations that are directly applicable to the project.
  - c. Prior to building permit issuance, the applicants shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.

- d. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
- e. Prior to building permit issuance, the applicant shall submit plans indicating that the applicant shall remove and replace any damaged and significantly worn sections of frontage improvements. These revised plans shall be submitted for the review and approval of the Engineering Division.
- f. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a Grading and Drainage Plan for review and approval of the Engineering Division. The Grading and Drainage Plan shall be approved prior to issuance of a grading, demolition or building permit.
- g. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance. Prior to the building permit issuance, the applicant shall implement the tree protection plan and technique recommendations in the Arborist Report for all applicable heritage trees.

Motion carried 7-0.

2. **Use Permit/Jack McCarthy Designer/1956 Menalto Avenue:** Request for a use permit to construct a new two-story, single-family dwelling unit at the rear of a substandard lot with regard to lot width in the R-2 (Low Density Apartment) zoning district. The existing front residence would remain, with small demolitions/additions taking place at along its rear facade. The existing detached garage would be demolished and replaced with a new single-car, detached garage at the middle-left side of the parcel. Also, a request for a parcel map for the condominium conversion of the existing front residence and the creation of the new rear residence.

Staff Comment: Planner Rogers noted that the section plan sheet 6 on page 3 of the staff report was shown incorrectly for the dormer and a corrected sheet had been distributed to the Commission.

Questions of Staff: Commissioner Pagee said the daylight plane was being extended to the right into the 19-foot six-inch building envelope. Planner Rogers said the design proposed had a permitted intrusion into the daylight plane. Commissioner Pagee asked for the definition of a dormer. Planner Rogers said there was no definition of a dormer in the ordinance but a dormer was generally defined as a projecting element with a

vertical element and a horizontal top projecting outward usually with a window; he noted that an allowance for intrusion into the daylight plane also applied to a gable which was a dormer made up of the whole massing of the house. Commissioner Pagee asked about the base of a dormer. Planner Rogers said that sheet 8 of the plan set showed the bottom right elevation and that the dormer base was four-foot six-inches into the daylight plane where 10 feet was the maximum allowed. He said for the right side elevation that the dormer width was nine-foot eight-inches where it could be up to a maximum of 30 feet into the daylight plane for lots less than 10,000 square feet.

Commissioner Pagee said the existing driveway was 11 feet in width and asked whether the Fire District had approved the width. Planner Rogers said that the Fire District had tentatively approved with a requirement for sprinkling of the rear unit. Commissioner Pagee asked if that was because of the insufficient width of the driveway. Planner Rogers said it was also because of distance to the nearest hydrant and sprinkling was required as mitigation. Commissioner Pagee asked if sprinkling was uniformly required or if it was required case by case. Planner Rogers said that usually it was case by case but there was a proposal going before the Council that would require sprinkling for projects with similar configurations.

Commissioner O'Malley asked what was meant by the statement that the Public Works Department had reviewed the project and tentatively approved the rear residence for compliance with FEMA regulations. Planner Rogers said this was part of staff's preliminary review to confirm that what was being proposed was possible.

Commissioner Pagee noted the revision to the plans and asked if the roof plan on sheet 1 would be changed as well. Planner Rogers thanked Commissioner Pagee for catching that error and noted that the elevations and corrected sections would take precedence over the plans shown on sheet 1.

Public Comment: Mr. Jack McCarthy, project designer, said the project would be an in-fill project on the rear area of the parcel and the existing house in the front would remain. He said he originally had the dormer drawn as a hip roof and found that it would have needed to be a gable so he changed it so it could be a dormer, but had not shown the change on the other elevations. Commissioner Pagee asked about the hidden ceiling in the front residence. Mr. McCarthy said the original structure had had a flat roof and at some point a gable roof was placed on top of the flat roof. Commissioner Pagee asked whether the driveway would be maintained or replaced, and if replaced, with what materials. Mr. McCarthy said it would be replaced but he was not sure what material was being proposed.

Commissioner Ferrick said the second residence would create more non-permeable surface and asked if they would consider using permeable materials for the driveway. Mr. McCarthy said that they had calculated expected water runoff which would be minimal as this was a small area lot. He said he had found the note that asphalt was planned as the material for the driveway. Chair Riggs asked about dry wells to conduct

from rain water leaders. Mr. McCarthy said they would be in three locations, the rear right side, one in front and one between the front of the proposed new structure and the first parking spot.

Commissioner Keith asked about outreach to the neighbors. Mr. McCarthy said the owners had met with the neighbors on the left, who were comfortable with the proposal, and had sent letters to the owners of the right side properties, but had gotten no response from them.

Chair Riggs closed the public hearing.

Commission Comment: Commissioner Keith made a motion to approve as recommended in the staff report. Commissioner Pagee asked if the windows were true divided or simulated true divided windows. Mr. McCarthy said that they would be simulated true divided windows with grids on the exterior and in between the windows. Commissioner Pagee asked if that could be noted to prevent omission when the project was built. Recognized by the Chair, Planner Rogers said that the windows were called out in the staff report. Commissioner Pagee seconded the motion.

Commission Action: M/S Keith/Pagee to approve the use permit as recommended in the staff report.

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 findings that the proposed tentative parcel map is technically correct and in compliance with all applicable State regulations and City General Plan, Zoning and Subdivision Ordinances, and the State Subdivision Map Act.
4. Approve the use permit and tentative parcel map subject to the following **standard** conditions:
  - a. Development of the project shall be substantially in conformance with the plans prepared by Jack McCarthy, Designer, consisting of 9 plan sheets, dated received December 1, 2009, and approved by the Planning Commission on December 7, 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 applicants shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
- c. Prior to building permit issuance, the applicants shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
- d. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
- e. Simultaneous with the submittal of a complete building permit application, the applicant shall submit plans indicating that the applicant shall remove and replace any damaged and significantly worn sections of frontage improvements. The plans shall be submitted for the review and approval of the Engineering Division.
- f. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a Grading and Drainage Plan for review and approval of the Engineering Division. The Grading and Drainage Plan shall be approved prior to issuance of a grading, demolition or building permit.
- g. Simultaneous with the submittal of the final parcel map, the applicant shall submit Conditions, Covenants and Restrictions (CC&Rs) to the Engineering Division for the approval of the City Attorney and the Engineering Division prior to the recordation of the final parcel map. The map and CC&Rs shall be recorded concurrently.
- h. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance.

Motion carried 7-0.

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

1. **Appeal of Administrative Permit/Safeway, Inc./515 El Camino Real:** Appeal of the Community Development Director's approval of an administrative permit for outside seating in conjunction with food services (both Peet's Coffee and Rubio's Restaurants) and to allow the sale of beer and wine in conjunction with a restaurant use (Rubio's Restaurants only) in the C-4 ECR(X) (General

Commercial, Applicable to El Camino Real, Conditional Development) zoning district. ***Continued from the meeting of October 19, 2009.***

Staff Comment: Planner Rogers indicated there was no additional information or clarifications to the staff report.

Public Comment: Mr. Fred Ponze said he was the Tenant Improvement Coordinator, Neighborhood Liaison and an agent for Safeway. He said on page 2 of the staff report there was a list of bullet items for which the Commission had requested more information or clarification. He noted that Mr. Greg Freel, the site's landscape architect, was present to answer questions about the landscaping. He said he would go over each bullet point.

- Revise plans to clearly relay existing and proposed conditions in an equivalent manner;

Mr. Ponze confirmed that the Commission had received the plans in color, which had been revised to show existing landscaping and hardscape more clearly.

- Provide more detail (and possibly enhancements) for the railing at Rubio's;

Mr. Ponze said the Commission wanted to know the type of plants and wanted more color and life along the edge of the patio. He said in the colored plans they had included photos of the Fantail palms and annuals which would be used. He said the gate had to be moved.

- Provide more information about the Transportation Demand Management (TDM) plan and its ongoing enforcement;

Mr. Ponze said the staff report thoroughly reviewed the TDM plan. He said at this point Safeway was in compliance with the TDM plan. He noted that employees were being offered commuter checks and vouchers and provided with a direct phone connection to 511 for transit options. He said in addition to written information, employees would have a seminar with the company that coordinates transportation plans for Safeway. He said they would begin reporting to the City twice a year on the use of public transit by employees. He noted that Mr. Stan Loew, the store manager, was present. Chair Riggs asked if the report would be made to the Planning Division. Mr. Ponze said it would be made to the Transportation Division.

- Review delivery van parking and potentially relocate it (at least during the day) to the outskirts of the parking lot;

Mr. Ponze said they had worked with store, planning and transportation staff on a number of schemes to relocate the vans for loading and found that they could not move them away from the spaces being used because of OSHA requirements related to the



safety of the employees loading the van. He said they came up with additional parking spaces to compensate but that was rejected by the Transportation Division. He said they arrive at a compromise solution that would keep those spaces available from 10:00 a.m. to 1 p.m. and from 4 p.m. to 8 p.m. for customers. He said that the trucks would be there for the balance of hours for charging of the refrigerator units and loading.

- Specify that ashtrays will be regularly maintained;

Mr. Ponze said before the last presentation that the ashtrays had been cleaned every morning and they had added an additional cleaning Monday through Friday.

Commissioner O'Malley said he was not present at the last presentation and it appeared that they were trying to address all of the points. He said however that the weekends were the busiest and questioned why the ashtrays were not going to be cleaned. He said also there had been a preference expressed for smaller ashtrays. Mr. Ponze said that the ashtrays were cleaned once in the morning on the weekends and he would check with Safeway property management group about the size of the ashtrays.

- Provide the total number of bicycle parking spaces, both existing and proposed;

Mr. Ponze said they were in compliance with the Conditional Development Permit (CDP) requirement for bicycle parking spaces but only with counting the existing older racks. He said the older racks would be removed sometime soon and additional bike spaces would be installed. Chair Riggs asked for clarification as to whether they would have the required amount of bike parking or not. He said that with the older racks that they had more than needed. Mr. Ponze said when they removed the existing old racks they would not be in compliance until they added five new racks. He said the approved plans showed a rack by the loading docks for employees that was not presently installed but they would install. Chair Riggs asked about racks near the store entrance. Mr. Ponze said they would remain and four more would be installed by Rubio's. Commissioner Pagee asked how many were required. Mr. Ponze said 25, and there would be 24 spaces for customers and five for employees. Commissioner Pagee asked if more bike spaces needed to be added when new tenants moved into the vacant spaces. Mr. Ponze said 25 was the required amount for the project per the CDP. He said the request for additional bike racks were from the neighborhood group and they wanted to accommodate them.

- Confirm that the arcade light fixtures and materials match what was required;

Mr. Ponze said the Commission had wanted confirmation that what was approved as the design of the center was in fact what it was. He showed a series of color photos related to the arcade light fixtures and wood details.

- Provide more information about the ability of employees to conduct on-site

banking transactions; and

Mr. Ponze said there had been direction for employees to be able to make deposits onsite. He said that service was not available but employees have the option to participate in free direct deposit, and that 35% of the employees currently have their pay directly deposited into their banking account. He said they could perhaps encourage more employees to participate in direct deposit. He said employees can cash their paychecks at the store's customer service center. Commissioner Pagee confirmed that a banking institution had not been part of the original plan. Mr. Ponze said a bank had not been part of the center's design, but at one point before the economy flatten, Wachovia had considered leasing there. Commissioner Pagee asked what the intent of that CDP condition had been. Planner Rogers said the intent was to reduce employee trips from and to the site.

- Provide more information about security standards and program for the complex.

Mr. Ponze said Safeway employs an interior security officer, who does in-store security only, and they did not currently have security for the rest of the site. He strongly urged customers to contact any Safeway employee about any possible concerns related to safety or suspicious activities. He said the employee would then report the problem to management for resolution. He said that Safeway did not believe security was necessary outside and staff had confirmed with the Menlo Police Department that there has been no record of any violent crime in the parking lot. He said the cost for 24-hour security in the parking lot would run \$170,000 annually at \$20 per hour.

There being no questions of the applicant, Chair Riggs called for public comment.

Ms. Elizabeth Houck, appellant, indicated that having meth dealers in the Safeway parking lot might be considered dangerous. She said referring to the idea of reporting suspicious activity that the public should not have to police the site. She said it was the intent of the neighborhood group to have banking in the store and Safeway had indicated that there would be. She expressed frustration that she has not gotten a definitive answer about the total number of employees and how many parked onsite. She said she called the Menlo Park Police about incidents at the site but they indicated they had no information, yet she witnessed the store manager's chagrin at the delivery vans being broken into yet again. She said the vans were parked all of the time at the front of the store. She said even if the spaces were freed up for seven hours that 210 more customers could be served if the vans were not there the remaining time using a calculation of about 30 minutes per customer shopping and parking. She said the site needed better security. She said she had asked for smaller ashtrays and to keep them away from the eating areas. She said if the working group had known the project would be exempt from CEQA that they would have asked for much more stringent conditions. She said there were no details for the proposed furniture at Rubio's, actual annuals to be planted, alternative designed ashtrays nor an accurate count of the number of employees or security presence during peak hours.

Commissioner Bressler asked about the concern with the vans parking on the site and whether there was a parking problem. Ms. Houck said the local neighbors were concerned about offsite parking particularly during holiday times. She said employees were instructed to park at the outer perimeters but knew they parked closer to the store. She said neighbors have witnessed parking spillover into the neighborhood mostly for Peet's and Rubio's. She said the parking lot was extremely congested. She said it was a large store but under the CDP it had been allowed to have a lesser number of parking spaces. She said Safeway might consider gift checks to employees who ride bikes. Commissioner Bressler asked if there was really a spillover parking problem at this time. Ms. Houck said it had to do with "good will" and what Safeway had promised the neighborhood. Chair Riggs asked if there was parking on Morey Drive during the Thanksgiving shopping season. Ms. Houck said there was. Commissioner Bressler said it was not clear whether the reports of drug dealing in the parking lot were factual, and if there was a crime problem with the site, he would have expected the police to be present. Ms. Houck said that a Safeway employee was arrested for dealing in the parking lot at this store and at the Safeway store parking lot in Palo Alto.

Chair Riggs closed the public comment period.

Commission Comment: Commissioner Kadvany noted that there seemed to be a marginal parking issue at this time but wondered about parking entitlement and traffic in terms of potential future tenants in the currently vacant space. Planner Rogers said that parking and traffic impacts were calculated on square footage based on national standards for this type of facility and not on individual tenants. He said there were some restrictions on the types of uses. He said that total restaurant or food service could not exceed more than 10% of the site's total square footage and there were caps on office and banking establishments. He said personal service and retail were generally permitted. Commissioner Kadvany said there was a perception of congestion in the parking lot and he was concerned about adding to that. He asked how Safeway knew what was happening in the lot as to parking and traffic and he would like better data. Planner Rogers said that occupancy of the retail buildings were not purely additive to parking and traffic as visits to different retail might overlap in one trip and future new uses might be complementary to existing uses. He said that staff currently had no knowledge of any recurring parking problems at the site. He said there were also six landscape reserve parking spaces and this application if approved would turn one additional parking space to reserve. He said if there were complaints about the parking and traffic at the site, City staff would inspect the site and if needed, require conversion of the reserve to parking. He said if there were larger and more severe issues to arise those would need Council consideration for a change to the CDP, but there was no basis to expect that. Commissioner Kadvany asked if the number of employee spaces had been spelled out in the CDP. Planner Rogers said that was not usually written in but the abstract figures based on the national standards for the industry included employees associated with the retail center. Commissioner Kadvany asked if other communities designated or limited employee parking or required the use of a permit

sticker. Rogers said the City's historical zoning ordinance standards had based parking on the number of employees which was before his employ with the City. His understanding was that method very unwieldy in practice and had not produced a significant improved result, and the City subsequently went to the square footage standard for parking.

Commissioner Pagee asked for clarification of the revised landscape plans as there seemed to be significantly fewer plants on the new plan than on the older one. Mr. Greg Freel, landscape architect, said there were a number of plants on the old plans that were not show on the new plans, as the new plans only showed additional plants. Commissioner Pagee asked about the type of annuals and how often they would be planted. Mr. Freel said they would be planted quarterly and they would use seasonal annuals that were available commercially.

Chair Riggs asked about the use of Boston ivy. Mr. Freel said it would be used on the screen wall along Middle Avenue. He noted that it was deciduous and would be maintained so that it would not be attractive as rat habitat. Chair Riggs noted a new landscaped area that replaced on handicapped parking spot; he suggested as it was fairly open that a tree might be planted there. Mr. Freel said that they could do that. Chair Riggs said a deciduous tree might be more appropriate in that location than the existing Crepe myrtle.

Commissioner Kadvany said at the last hearing on this application that a problem was noted with the soil composition and asked if that had been resolved. Mr. Freel said they had soil fertility analysis done which indicated a need for additional fertilizer and other recommendations, which were being incorporated into the landscaping. Commissioner Kadvany questioned the health of the Trumpet vine along Middle Avenue. Mr. Freel said that plant had been there less than six months which was the amount of time it took plants to adjust after being planted and that it was now fall, which was not the season of growth for that plant. He said it would take off in the spring.

Chair Riggs said there was concern about employee parking and the difficulty of maneuvering from the site to northbound El Camino Real. He noted concerns about drug dealing in the parking lot and break-ins of the delivery vans. He said the Commission had not gotten a response on the quality of the railing proposed or a solution for the carts abandoned at the Peet's end of the parking lot.

Mr. Ponze said there were two tenant spaces that would be under construction soon, a Beauty Avenue and next to the dry cleaner a T-Mobile store, neither of which would either impact traffic or parking negatively. He said there were two remaining retail spaces, one 2,000 square feet and the other 1,000 square feet. He said there was a limit of 5,000 square feet for restaurant use of which only 900 square feet remained, and which might be used for something like a yogurt shop. He said it was not possibly to have any assembly uses such as gymnastics as there was no rear exit. Chair Riggs said that observations were being made that the parking was already maxed. Mr.

Ponze said the parking was not maxed out and that parking related to the new businesses would not be concentrated in terms of occupancy load. Chair Riggs said he hoped they would address existing parking. He said it appeared the vans were in front of the store all of the time and he had only noticed one van being charged. He asked if there was an option to designate that the majority of vans park out on the perimeter and just keep two in front for deliveries. Commissioner Kadvany asked if only four vans were needed whether there was a motor pool where they others could be stored. Mr. Ponze said the manager for the Safeway.com had reported the need for five vans at the site to handle customer delivery business. Chair Riggs suggested that the vans perhaps should be moved out of those spaces by 3:00 p.m. whether or not they were charged. He asked in terms of employee parking whether there was a program to require employees to park near exits. Mr. Stan Loew, Manager, said that they did not want employees to park in the front of the parking lot and ask employees to park in the corner where Middle Avenue and El Camino Real meet. Chair Riggs asked how they get the employees to comply, whether there was a record of employee license numbers or if a visual check was done. Mr. Loew said as a manager he was trained to observe what was going on at the facility inside and out and if he or his assistant managers notice an employee parking close to the entrance they talk to that person. Chair Riggs asked how they know whether a car has been parked in the lot for an excessive amount of time. Mr. Loew said it was observation. Chair Riggs said the only employees regularly in the parking lot were the cart attendants and it did not appear that they observed activity in the lot other to gather carts. He asked who specifically was looking after the parking lot. Mr. Loew said it was store management.

Commissioner Kadvany asked if there was any particular obstacle to obtain better information on parking and other situations in the lot. He asked if they could assign tasks to employees to specifically monitor what was going on in the parking lot.

Commissioner Bressler said it was not the City's job to micromanage Safeway. He said Safeway had the incentive to make sure customers were able to park and feel safe. He said he wanted evidence that police were needed in the lot and that there was really an overflow parking problem. He said the neighbors had indicated they did not want to have permit zone parking but that was a solution if the parking conditions were bad enough.

Chair Riggs said the neighborhood group was challenging the Commission's approval of downgraded parking requirements as part of the CDP, and they were now indicating there was a problem with offsite parking. He said because of the remaining lease space there was a fear that parking would get worse. He said he would at least like to bring things back closer to the requirements of the CDP. Commissioner Bressler said he was not aware of a reduction in parking requirements for this project. Planner Rogers said the project had received use base standards for parking through the CDP on the basis of actual demand; he said the project was required to have 4.5 spaces per 1,000 square feet rather than 6 spaces per 1,000 square feet cited in the zoning ordinance. Commissioner Bressler said that if the location of the vans could not be mitigated and

more parking spaces were needed that the applicant might be required to convert the landscape reserve spaces. He said that there was not clear evidence of a parking problem and it bothered him to hold up a remodel based on the perspective of a parking problem. Commissioner Kadvany said management had to understand what the problems were with the parking and address them. Chair Riggs said enforcement of the CDP was based on citizen complaint which would activate a review of the parking. He said he liked having the landscaping and would rather have a store manager with enough staff time to make sure the parking worked better for the neighborhood. He said the parking requirement through the CDP was granted on good faith that employees would park in the right places. He said it was not a Planning Commission action, but he hoped that Safeway would take the concerns about drug dealing seriously.

Commissioner Ferrick said there improvements to the greenery and tables and she preferred landscape reserve spaces. She said the parking experiences were anecdotal; she noted she has been to the site at least 50 times over the past year and had experienced no problem getting parking even during holidays. She said she would not like the reserve paved just for two peak holiday parking times. She said she was pleased that the TDM plan was underway, ashtrays would be better maintained, and that the amount of bike parking would exceed the requirement. She said the light fixtures looked fine. She said there was a security issue having banks on site and she would rather employees have the choice of banking institutions. She said a main concern was managing traffic. She said she tried the corner where there was supposed to be a problem turning and she had not had a problem. Commissioner Pagee said she saw a woman turn right into the parking lot and make an immediate right and straddle the rock with her vehicle. Commissioner Ferrick said the concern she shared with others was what to do about the security of the parking lot. She said otherwise she was pretty satisfied with the rest. She said perhaps the vans could be parked elsewhere when they were redone charging.

Chair Riggs asked about the railing detail. Mr. Ponze said in response to the concern about the thinness of the construction of the rail that they were adding vertical planters to the side of the rail, which needed to be thin to maximize the width of the walkway, space and number of tables for the patrons. Commissioner Keith asked why the planter boxes were small and did not extend to the ground. Mr. Ponze said the intent was to provide landscaping without sacrificing area. Commissioner Keith said having a more substantial planter box made people feel safer. Mr. Ponze said he had an example of what had inspired the proposed design. Commissioner Pagee said it was critical that the material for the railing be high quality and that it complemented the center's architecture. Chair Riggs said what was shown in the photograph had more interesting details than what was shown in the plan for Rubio's. Mr. Ponze said the railing had not been fabricated yet so they were willing to accept a condition as to the style.

Commissioner Ferrick said she would like the railing to be somewhat nicer and more substantial, and to make sure the tables were a nice addition. Mr. Ponze said that for Rubio's this was a bistro style table.

Commissioner Bressler asked whether the location of the delivery vans was out of compliance with the CDP. Planner Rogers said that the parking of the vans was indicated in the CDP and there had not been a great deal of discussion about it in 2007. Commissioner Bressler asked why the parking of the vans there was such an issue. Commissioner Pagee said it was wonderful to park in front of the store rather than to park in the large parking lot and those spaces were reduced by the number of vans parked there. She suggested the vans could load and charge up there and then be relocated. She said if they could load in the loading deck area perhaps then an enclosure could be built so the vans then could be enclosed and locked. Commissioner Bressler said that was a valuable perspective and it would be a good policy if Safeway could free those spaces. Mr. Ponze said they researched putting the vans in the loading dock. He said trucks load in tandem there and it was not a desirable place for the vans. He said they wanted to maximize the number of hours for the spaces in front of the store for the customers, which they were working toward by having the vans loaded and charged during non-peak hours, from 8 p.m. to 10 a.m. and from 1:30 to 4:00 p.m. Chair Riggs asked if the manager for Safeway.com would accept 1:30 to 3:30 p.m. rather than to 4:00 p.m. Mr. Ponze said the manager asked for 2:00 to 4:00 p.m. but they thought 1:30 p.m. was better to allow customers time to shop and leave. He said 2:00 to 4:00 p.m. would be acceptable.

Chair Riggs asked about the employee parking location and whether corporate would support a labor budget for someone to tour the exterior. He asked about carts in front of Peet's being collected more frequently. Mr. Steve Berndt, Safeway, said they have installed a corral at the Peet's end of the center to help with that issue. Chair Riggs said he saw four carts on the sidewalk this afternoon near Peet's. Mr. Berndt said the carts lock after a certain distance. Chair Riggs asked if they could put signage about the locking of the carts. He asked if someone touring the lot made sense. Mr. Berndt said with 370 parking spaces that there was not a parking problem. He said he visited the store on Thanksgiving and parked with no problem. He said he was not aware of employees or customers parking offsite. He said if they found there was a parking space problem they would resolve. He said high use lots such as in San Francisco have more aggressive programs for their parking lots, but Safeway did not want to put resources into solving a problem if there was not one. Chair Riggs said the neighborhood was complaining about stray carts and ashtrays that needed cleaning. Mr. Berndt said that Safeway had made a commitment to the neighborhood that the plan would not result in people parking offsite; he said he would make it his job to oversee the lot to determine whether there was parking offsite. He said he wanted people to contact him or the store manager if they saw offsite parking.

Chair Riggs asked what there was for the public to put pressure on Safeway other than this hearing. Planner Rogers said that a CDP required continuous compliance with its

conditions, and if violations of those conditions were observed that information should be emailed to staff or if desired, more formally to code enforcement, and that in some instances the CDP might be revoked and/or the applicant fined. Chair Riggs asked whether the CDP specified no parking on Morey Drive. Planner Rogers said the CDP established the parking standard for the site. He said staff had no indications either from their own observations or from reports that there has been a parking problem at the site.

Commissioner O'Malley said he had visited the store many times and never had a problem parking. He said the Planning Commission was not an enforcement agency. He said Safeway representatives had made good attempts to respond to the Commissioners' comments from last meeting. He said Safeway had an obligation to preserve its profitability; therefore the Commissioners comments about safety should encourage Safeway to ensure its parking lot is secure. He said he was ready to approve the request being made by Safeway.

Commissioner Keith said that the request was for tables for 12 people each at Rubio's and Peet's. She said it was important that the tables be a good quality. She asked how long it took to charge a van. Mr. Loew said the charging takes four hours. Commissioner Keith said she appreciated that Safeway would work with those parking spaces to make them more available for customers. She suggested a permit for employees' cars that would indicate they were employees. She said she thought the employees gathering the carts should make an effort to also monitor the parking lot. She said that what they were doing in regards to banking was satisfactory. She said she was inclined to approve and if there proved to be a parking problem that it should be taken up with the City.

Chair Riggs moved to support the administrative action as recommended in the staff report with the condition to provide a higher quality railing such as represented in the photograph provided by Mr. Ponze and that the they and the bistro table detail be given to staff for review and approval as to quality of materials and fit with existing architecture. He said the Commission had sympathy with the concerns raised by the neighborhood, which were enforcement issues. He said conditions of approval were enforced by the Planning Division upon citizen complaint. He said the administrative action was very supportable in that outdoor seating was an advantage for Menlo Park. Commissioner Keith suggested the upgraded landscaping requested. Chair Riggs noted the addition of a tree planted in the new landscape reserve space; he noted that the revised landscaping plan was good. Commissioner O'Malley seconded the motion.

Commissioner Pagee said that also the parking lot needed to be managed better by Safeway but that was not something the City could do.

Commissioner Kadvany asked if there was a need for further comment from the appellant.



Recognized by the Chair, Planner Chow said that if the Commission wanted more information from the appellant to assist in the formation of the motion, they could reopen the comment period. It was the Commission's consensus to have the appellant speak.

Ms. Houck thanked the Commission for their consideration and noted that her focus was not to micromanage Safeway but to hold them to the CDP and Safeway's assurance to the working group that the vans would not be parked in front. She said she supported outdoor seating. She said the quality of the El Camino Real corridor redevelopment was brought into question by Safeway's lack of attention to cleanliness of the outdoor spaces and cart management. She said that Safeway should provide security so there was no drug dealing in the parking lot.

Commission Action: M/S Riggs/O'Malley to support the administrative permit approval as outlined in the staff report 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 16.82.440 of the Zoning Ordinance, that the proposed outdoor seating and the sale of beer and wine in conjunction with a restaurant are appropriate and would not be detrimental to the health, safety, morals, comfort or general welfare of the persons residing or working in the neighborhood. In addition, a public convenience or necessity would be served by the issuance of a license to sell alcohol, and the outdoor seating would maintain unimpeded pedestrian access on the public right-of-way.
3. Approve the administrative permit subject to the following **standard** conditions:
  - a. Development of the project shall be substantially in conformance with the plans prepared by ArcPath Project Delivery, consisting of 10 plan sheets, dated received November 30, 2009, and approved by the Planning Commission on December 7, 2009, except as modified by the conditions contained herein, subject to review and approval of the Planning Division.
4. Approve the administrative permit subject to the following **project-specific** conditions:
  - a. Any citation or notification of violation by the California Department of Alcoholic Beverage Control (ABC) will be grounds for considering revocation of the administrative permit.
  - b. The hours of use for the outside seating shall be as follows:
    - i. Peet's Coffee: 6:00 A.M. – 9:00 P.M.
    - ii. Rubio's: 10:00 A.M. – 9:00 P.M., Sunday – Thursday; 10:00 A.M. – 10:00 P.M., Friday – Saturday

- c. Prior to installation of the Middle Avenue landscaping to screen the utility equipment, the applicant shall submit documentation of approval from all relevant utility agencies, verifying compliance with required service and access requirements, subject to review and approval of the Planning Division.
- d. Prior to construction of the outdoor seating and related improvements, the applicant shall submit a signage and pavement marking plan for the delivery van spaces, subject to review and approval of the Planning and Transportation Divisions. The signage and pavement markings shall be installed concurrently with the outdoor seating and related improvements.
- e. Prior to construction of the outdoor seating and related improvements, the applicant shall submit a revised bicycle parking plan, subject to review and approval of the Planning and Transportation Divisions. Any new racks needed shall be installed concurrently with the outdoor seating and related improvements.
- f. Prior to construction of the outdoor seating and related improvements, the applicants shall revise the plans to include a high-quality railing and planter boxes to reflect the architectural style of the development for the Rubio's patio and add an additional tree near the Peet's outdoor seating area, subject to review and approval of the Planning Division.
- g. Prior to construction of the outdoor seating and related improvements, the applicant shall submit additional details of the outdoor seating tables, subject to review and approval of the Planning Division.

Motion carried 7-0.

## **E. COMMISSION BUSINESS**

### **1. Update on pending planning items.**

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

Planner Rogers said there would be a scoping session for the draft EIR at the City Council meeting of December 15; he said comments would also be accepted in writing through January 8, 2010.

#### **B. 101-155 Constitution Drive and 100-190 Independence Drive (Menlo Gateway Project)**

Planner Rogers said the City Council at a November meeting had authorized staff to begin good faith negotiations with the project sponsor. He said the Council had expressed appreciation to the Commission for holding an extra meeting on the project and providing comments. He said the Final EIR and FIA would be available sometime in January 2010.

Commissioner Bressler asked about the negotiation team. Planner Rogers said the City Manager, City Attorney, and Public Works Director were the core team; the Development Services Manager and Business Development Manager were a supplement body to the core team as well as the Council's subcommittee of Council Members Cohen and Fergusson. Commissioner Bressler asked about witnesses to the negotiations or recording of the proceedings. Planner Rogers said the Council heard the Commission's comment on negotiating but there had been no direction from the Council related to that. Chair Riggs said he had understood there would be a third party professional on the negotiating team. Planner Rogers said that a hotel development and office development professional would provide consulting to the negotiations. Chair Riggs asked if they would be at the actual negotiations. Planner Rogers said if they were requested to attend by the core team. Commissioner Keith asked who the two professionals were. Planner Rogers said that would be made public. Chair Riggs said he thought the City was going to hire expert negotiators. Planner Rogers said the Council had reviewed the experience and qualifications of the City Manager, City Attorney, and Public Works Director to run meetings and develop negotiation points, and had selected them as the core negotiating team.

Commissioner Kadvany asked about carbon emissions reduction and who would provide expertise in that area. Planner Rogers said that the EIR consultants would be brought in to inform the negotiations for environmental matters. He said the draft development agreement would have Commission review and recommendation. He said the term sheet would go straight to Council, but Commissioners would be able to make comments about it individually.

Commissioner Kadvany said that if the experts found that the proposed project was not the right project that any further proposal should come to the Planning Commission for review and recommendation.

Chair Riggs said the Mayor had specifically thanked the Commission for holding an additional and long session on this project.

## **2. Review of draft 2010 Planning Commission meeting calendar.**

Planner Chow said staff had identified the regular monthly meeting dates and potential study session meeting dates.

Commissioner Keith noted that March 29 for the study session was during spring break for Menlo Park School District. Planner Chow said they could look at tentative dates or keep it on. Chair Riggs said April 26 was available. Planner Chow said they would delete March 29 and insert a potential study session for April 26. Commissioner Ferrick suggested May 24 noting the Monday following that date was a holiday. Planner Chow said they would identify May 24 as a potential study session and if something arose sooner they would schedule a study session.

## **F. REPORTS AND ANNOUNCEMENTS**

Planner Chow said at this point there were no items for the December 15 meeting.

## **ADJOURNMENT**

The meeting adjourned at 10:02 p.m.

Commission Liaison: Deanna Chow, Senior Planner

Recording Secretary: Brenda Bennett

Approved by Planning Commission on January 11, 2010