



PLANNING COMMISSION MINUTES

April 5, 2010

7:00 p.m.

City Council Chambers

701 Laurel Street, Menlo Park, CA 94025

CALL TO ORDER – 7:00 p.m.

ROLL CALL – Bressler (Vice Chair), Ferrick, Kadvany, Keith, O'Malley (Chair), Pagee, Riggs

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

1. **Approval of minutes from the February 22, 2010 Planning Commission meeting.**

Commissioner Keith said that the minutes reflected Assistant Public Works Director Nino's comment that the Parks and Recreation Commission had voted approval on the use of synthetic turf for Tinker Park at Hillview School. She said there had previously been a controversy at another school related to synthetic turf, which was why she had asked about the proposed use of it. She said she obtained the minutes for the April 18 Parks and Recreation Commission meeting that had been referenced. She said there was an update on Tinker Park at that meeting but no vote to approve synthetic turf. She said the Planning Commission's minutes should be corrected.

Planner Chow said that staff was conferring with Mr. Nino to determine if the April 18 meeting were the minutes he was referring to. Commissioner Keith suggested adding a note to the minutes to clarify. Planner Chow said she would like Mr. Nino to be able to respond. Commissioner Ferrick suggested continuing approval to allow for further review of the Parks and Recreation Commission's discussion about the use of synthetic turf and Hillview School/Tinker Park.

Commission Action: Unanimous consent to continue the minutes for further review of the Parks and Recreation Commission's discussion about the use of synthetic turf and Hillview School/Tinker Park.

C. PUBLIC HEARING

1. Use Permit/Neil Swartzberg and Loreli Cadapan/277A Willow Road:

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 and would add more than 50 percent of the existing square footage on a substandard lot with regard to lot width and area in the R-1-U (Single-Family Urban) zoning district. The proposed remodeling and expansion are considered to be equivalent to a new structure. ***Continued from the meeting of February 22, 2010***

Commissioner Pagee recused herself due to a potential conflict of interest as she owns property within 300 feet of the subject property.

Staff Comment: Planner Fisher said a letter from Ms. Robin Kennedy, land use counsel representing the Shafers, the neighbors of the subject property owners, had been received since the publication of the staff report. She said there was also supplemental information from the Shafers and the applicants, which had been distributed to the Commissioners and was available to the public at the table in the back of the Chambers.

Question of Staff: Chair O'Malley asked staff to address existing required parking and what was being proposed. Planner Fisher said the residential zoning ordinance requires two parking spaces, one covered and one uncovered or covered, which are neither in the side or front setback nor in tandem. She said panhandle lots require two guest parking spaces and these usually were 20-feet by 20-feet. She said the property currently has one covered parking space in the garage, no second parking space and two guest parking spaces in the right front corner. She said the driveway although not counted toward parking was used for parking.

Public Comment: Ms. Loreli Cadapan, property owner, said one of the major issues about the proposed project that came out of the Commission's first hearing was the northeast elevation, and she wanted to show them the original and revised plans, and what was now being proposed. She said one of the redesign guidelines from the Commission and she and her husband had taken that to heart and had wanted to have a friendly mutual resolution.

Mr. Neil Swartzberg, property owner, said the Commission had considered this project at a previous meeting and had given redesign guidelines, which was what they used in their revision of the plans. He said they were asked to interrupt the left-side second

story wall with a five-foot setback, which they had done for 26-feet of that second story well. He said they were asked to consider articulation on the same wall to break up the massing of the second story. He said they have now varied the roof lines, made some window changes, and incorporated a belly band. He said working with the left side neighbors they had created a horizontal look and higher sight line for windows as desired by the neighbors. He said another redesign guideline was to show their revised plans to their adjacent neighbors. He said they met with the Shafers in July and there had been sincere efforts to resolve the issues. He said after discussions with the Shafers they drew up plans and gave them to the Shafers for comments but had received none. He said they again met with the Shafers on July 12, who then indicated that the redesign did not go far enough. He said they specifically asked about the proposed parking and the Shafers had indicated that it would not be a problem. He said they even marked out the driveway to show what they were proposing and the neighbors continued to indicate that parking would not be a problem. He said they took their neighbors' feedback and reworked their plan. He said at that point the Shafers indicated there was progress and suggested it was time to discuss landscaping. He said they made sincere efforts to get a landscaping plan. He said there was no agreement on the plan but a goal to put as much greenery as possible in the six-foot width. He said he put into writing to memorialize what had been discussed and agreed to. He said the Shafers then asked to have a fence and use of part of the applicants' property for a nominal lease amount for 30 years and exchange they would agree to the revised plans. He said he and his wife suggested no fence but to use landscaping and at the very least to put trees on the applicants' properties and presented the neighbors with a redesign. He said the neighbors then withdrew their support of either redesigns shown them. He said the neighbors then withdrew their approval of either redesigns. He said that the redesign was supposed to come to the Commission on February 7 but the Shafers said they had not been noticed so he had for a continuance. He said he and his wife on the Thursday and Friday before the February 22 meeting had received a nine-page letter from the land use counsel representing the Shafers and a 14-page letter from the Shafers, and again he had had to ask for continuance of the item. He said that the proposed project would not be a McMansion noting that there were several houses in the surrounding area of equal size to what was being proposed and that there would not be a 56-wall on the second story. He said despite parking not previously being an issue for the Shafers that it now was. He requested the Commission approve the use permit request as he and his wife had followed the Commission's redesign guidelines and they had been willing to incorporate many of the neighbors' suggestions.

Chair O'Malley asked that speakers limit their comments to five minutes.

Ms. Kara Shafer said she and her husband owned the neighboring flaglot directly behind the subject property. She said the design process had been going on for some time and that they had approached it neighbor to neighbor. She said however that they had found out in January 2010 that the neighbors had submitted plans in December 2009. She said they felt the tone of the remarks made by the applicant misconstrued

the discussions. She said that the applicant was an attorney and was approaching the interactions as an attorney. She said she and her husband had trusted the applicant and staff that the project would meet all City requirements, rules and regulations. She said when she and her husband consulted an attorney, the attorney had noted that the project did not follow the rules. She said they then sent the letter to the applicants and he called to meet with them regarding the parking. She said they then received guidance that parking was not negotiated between neighbors and they wrote to the City Manager on March asking his office to review the project. She said they received a response only one business day, holiday day and weekend before this hearing. She said the project flagrantly disregarded parking rules and that the drawings did not show clearly that the proposed parking was completely in the front yard. She said the applicants would demolish a perfectly good garage and place the new garage forward, which would abolish the existing covered parking space and create a new parking space 20-foot into the front yard with no discussion or variance. She said the neighbors had started parking further back from the garage door to show where they would be parked with the proposed changes. She said it impacts their ability to back out as now they have 10-feet between their car and neighbors' car but with the changes there would be no distance. She urged the Commission to deny the use permit application.

Commissioner Riggs said they wanted their neighbor to park near garage door. Ms. Shafer said they wanted the parking to exist as it is. Commissioner Riggs asked if Ms. Shafer parked in her driveway to the garage. Ms. Shafer said they did not have access to their garage. Commissioner Riggs asked about a memo from the Shafers shown on C-12 memo regarding reviewing plans and indicating that there was hope for positive outcomes. He asked if their position changed when they found out Mr. Swartzberg was an attorney. Ms. Shafer said at the time they were optimistic there could be an expansion of landscaping but that did not occur. She said they did not think the plan was appropriate. She said subsequent to meeting with the applicants it became clear by October that there was no resolution. Commissioner Riggs noted that the subject property had legal non-conforming parking and the non-conformity would not increase with the proposed plan.

Commissioner Ferrick asked if not having access to a garage was nonconforming. Planner Fisher said she was not sure why there was not space for the Shafers to access their garage but it looked like landscaping and fencing had gone up which seemed to block access to the garage. Commissioner Ferrick asked Ms. Shafer about the photo showing the neighbor's husband holding a pole and whether the pole indicated the property line. After some discussion, Commissioner Ferrick said the pole indicated where the end of the neighbors' vehicle would be parked with new garage. Ms. Shafer said that was correct; she said it was a use that had never been done. Commissioner Ferrick confirmed with Ms. Shafer that the existing fence was about 18-inches on the applicants' property.

Commissioner Kadvany asked Ms. Shafer what their objections to the proposed plan were other than parking. Ms. Shafer said the project was too big for the lot and out of

proportion to other buildings in the neighborhood. She said there would be a 50-foot wall on the second story five feet from their property, which would block their sunlight and tower over their front yard. She said their home was very private and green and had views of all the existing trees in the area, and that they had remodeled their home to those values. She said the proposed house was bigger than what was previously designed and had no architectural continuity. She said this was designed to be done as cheaply as possible which was reflected in the design. Commissioner Kadvany asked about the 26-foot second story wall section setback at five feet. Ms. Shafer said they did not think the middle setback was appropriate but that was the only option Mr. Swartzberg was willing to discuss. Commissioner Kadvany said there did not seem to be any easy changes that would make the design agreeable to the Shafers. Ms. Shafer said that the parking was a problem and should be resolved before any design went forward. Commissioner Kadvany asked about the fence proposal made by the Shafers to the applicants. Ms. Shafer said there was no discussion prior to the applicant submitting plans. She said at the first meeting they thought how issues might be resolved. She said the neighbors do not use their side yard so she and her husband suggested expanding the area to be incorporated with her existing front yard. She said she did not understand why Mr. Swartzberg considered this an unconditional demand as there were all kind of conditions attached to it. She said she and her husband had never supported the proposed house plan.

Queried by Commissioner Keith, Ms. Shafer said they had not seen plans until the June 22, 2009 meeting had been noticed. She said they called Planning at that time and said they opposed the plan. After that meeting, they met several times with the applicant and could not resolve the issues. Commissioner Keith asked if there was anything salvageable. Ms. Shafer said there was not. She said however they had attempted many times to offer suggestions that would make the project amenable to them and the applicant refused to discuss them. Commissioner Riggs asked if the original design would be acceptable as the revised design was not. Ms. Shafer said both designs were unacceptable. Commissioner Keith asked if the Shafers would get more sunlight with the proposed redesign. She said the five-foot setback might allow for more sun but the issue was the impact of the second story massing on their main area of house.

Commissioner Kadvany said Ms. Shafer's letter indicated they had asked for a full set of blueprints. Ms. Shafer said they were never given them nor did Mr. Swartzberg have them. She said they asked to meet with the architect and they were told no by the applicant. She said they asked to meet with Planning staff and the applicant, but the applicant said no. She said they asked to meet with a landscape architect with the applicant, but the applicant said no. She said there were two kitchen windows that would look directly into their living room. She asked the applicant if the windows could be glazed and were told no. Commissioner Riggs said the fence and landscaping should block the view. Ms. Shafer said the fence was only five feet tall. Commissioner Riggs said the Shafer's deck was raised and asked if they could see into their neighbors' yard from the deck. Ms. Shafer said they look at the garage wall and that the status quo was acceptable.

Commissioner Keith asked if there was the possibility for an acceptable landscaping plan. Ms. Shafer said not at this point.

Chair O'Malley suggested that comments be kept to three minutes.

Mr. Dave Shafer, neighbor, said with the proposed design that the house was even bigger than before and that none of the impacts had been mitigated. He said there were alternative solutions but which would cost more. He said approving a project of this size would reduce the value of the property and his property. He said he and his wife reviewed 469 property records from the area and the houses comparable in size to the proposed home had much larger lots. He requested that the Commission deny the use permit.

Ms. Robin Kennedy, land use attorney with Miller Starr Regalia, said that if the Commission approved the project despite technical violations her clients would need to bring the project to the attention of the City Council. She said the property was zoned R1-U for which the minimum parking needed was two spaces, at least one covered, not in side or front setbacks and not in tandem. She said Planning staff had indicated that the nonconforming parking situation would be continued although the staff's subsequent memo indicated that the driveway would not function as a required parking space. She said that staff's recommendation to make an exception for parking based on existing nonconforming use was inconsistent with the guideline. She said a car parked at what would be the relocated driveway located next to the easement was unsafe should someone be standing at the trunk of the car in the driveway as that person would not be visible. She said the minimum backup required was 24 feet and that the nonconformity of the parking would be increased because the maximum back up area would be three and a half feet less than the minimum required. She said the new garage driveway would extend 20 feet rather than 10 feet into front setback and that also expanded the nonconforming parking. She said there were no good reasons to approve and many to deny.

In response to Commissioner Riggs, Ms. Kennedy said the nonconformity was that there were two tandem parking spaces in the driveway and staff was indicating there was only one parking space in the garage. Commissioner Riggs said that was looking at parking based on historic use but the zoning ordinance defined what or what did not meet code. He said that parking in the driveway in the setback did not make that a parking space under City code. Ms. Kennedy said the applicants' plans indicated a parking space there.

Commissioner Keith asked how many spaces were required. Planner Fisher said under the zoning code two spaces, at least one of which was covered, were required. She said under the subdivision ordinance that two guest parking spaces were required for a panhandle lot. She said there was only one parking space in garage and the ability to

park cars in the driveway did not meet the parking requirement. She said the parking was an existing nonconformity and would not change with the proposed plans.

Chair O'Malley closed the public hearing.

Commission Comment: Commissioner Ferrick moved to approve as recommended in the staff report as it was clear the applicant had tried to comply with all the direction provided by the Commission at the June 2009 meeting. Commissioner Riggs seconded the motion for the sake of discussion. He asked if the fence between the two properties would remain or relocated to the property line; it was indicated the fence would remain.

Commissioner Keith said she would like a friendly amendment for both parties to work on a landscaping plan with review and approval by staff. Commissioner Riggs said that was acceptable to him. Commissioner Ferrick said she did not want that as a condition of approval as it was not clear there could be agreement. Commissioner Riggs said it would be subject to staff review and approval and that staff could review with the neighbors. If there was no resolution with the neighbors then staff could approve the plan if it was found to be acceptable. Commissioner Ferrick said in that instance she would accept the friendly amendment.

Commissioner Bressler said the parking was not the issue but that the massing of the house fell upon the left side neighbors. He said the applicant had made a good faith effort to comply with the Commission's directions. He said there might be changes that would make the design better but those were not directions the Commission could give but was something the applicants and neighbors had to come to.

Commissioner Kadvany said that there was parking in the driveway and when the parking was moved 10-feet there was a difference in the parking; he said it was a safety and design issue. He said the context was that these houses were jammed into a panhandle lot and any change would impact both properties. He said he would like the applicant to try to sort out issues with the neighbor. He said that there was a failure of process.

Commissioner Riggs said he agreed with both Commissioners Bressler and Kadvany. He said although the house was not beautiful as proposed it fit within projects that the Commission tended to approve because of second-story setback and window placement. He said he visited the parcel and parked in the driveway about 12 feet from the garage and backed up without entering on to the 227-B property and exited with just the one maneuver. He said it was appropriate to move forward with the project.

Commissioner Keith said this was a tough situation for both the applicants and the neighbors. She said she was not able to make finding number two which was the project would not be detrimental to the health, safety, morals, comfort and general welfare of persons residing or working in this neighborhood. She said there was only one parking space for a four-bedroom house, which was inadequate. She said pulling

the driveway to the edge of the access easement made it impossible to make the finding.

Commissioner Ferrick said she could make the finding as the parking situation was all by choice by the neighbors and applicants. She said the neighbors had fenced off their garage driveway and were parking where they should not be. She said they were creating the unsafe situation. She said the Commission should not look at habitual use but how it should be. She said the nonconformity was not expanded with this proposal as there would continue to be one covered space and two guest parking spaces. Commissioner Keith said however that the Commission had sent the project back for redesign and there was still a massive wall. She called for a vote.

Chair O'Malley said there was additional room for cars to back up and the property as proposed had room to turn around in and leave property. He said the building was not beautiful but acceptable and not massive. He said he agreed with Commission Ferrick. Commissioner Riggs said the revised roof line was not cheap.

Commission Action: M/S Ferrick/Riggs to approve the item as recommended in the staff report with the following modification.

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. 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 Retail Design Services, consisting of 11 plan sheets, dated December 29, 2009, and approved by the Planning Commission on February 22, 2010, 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. 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 City standard tree protection measures for all applicable trees.

4. Approve the use permit subject to the following specific conditions:

- a. Simultaneous with the submittal of a complete building permit application, the applicant shall provide a landscape plan that reflects consultation with the neighbors at 277B Willow Road. The intent of the landscaping plan is to assist with screening for privacy of 277 B Willow Road. The plan shall be reviewed and approved by the Planning Division.***

Motion carried 3-2-1 with Commissioners Kadvany and Keith opposed and Commissioner Bressler abstaining.

Commissioner Riggs said for the record that there was a great deal of work necessitated by the extensive correspondence and commended staff for the care with which all of the documents were prepared for this project.

- 2. Use Permit Revision/Vasile Oros/1170 Santa Cruz Avenue:** Request for a revision to a use permit granted in 2008 for construction of a new two-story, single-family residence on a substandard lot with regard to lot width and lot area in the R-E (Residential Estate) zoning district. The revision is for the conversion of a non-habitable basement into a larger, habitable space, and for excavation within the required left side setback for a lightwell and egress associated with the basement.

Staff Comment: Planner Rogers said the property owner of the house immediately to the left of the subject property had written that she approved of the revisions and reached agreement with the applicant regarding a light at the top of the stairwell.

Questions of Staff: Responding to a question from Commissioner Kadvany, Planner Rogers said that for every single family residential zone district a discretionary review use permit for excavation in side setback was required.

Public Comment: Mr. Dennis O'Connor, project designer, said that they would only use a down light for the stairwell and would do landscaping to screen. Mr. Vasile Oros, property owner, said he initially planned the basement as a storage area but when he saw the expanse created and considered the money being spent for it that it was wiser to make it habitable. Chair O'Malley said that the neighbor had asked that the light outside the stairwell not shine on her property nor be placed higher than the existing fence. Mr. O'Connor said they would locate the light accordingly.

Chair O'Malley closed the public hearing.

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

1. Make a finding that the project is categorically exempt under Class 1 (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 revision subject to the following **standard** conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Dennis J. O'Connor & Associates, consisting of seven plan sheets, dated received March 29, 2010, and approved by the Planning Commission on April 5, 2010, 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 or building permit.
- g. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance.

Motion carried 7-0.

- 3. **Use Permit/Dario Slavazza/20 Kelly Court:** Request for a use permit revision for the storage location of hazardous materials used for research and development (R&D) purposes in the M-2 (General Industrial) zoning district. The hazardous materials would be stored both inside the main building and in a new, fully-enclosed structure designed for hazardous materials storage that would be located outside at the rear of the building.

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

Questions of Staff: Commissioner Pagee asked about a flood zone certificate. Planner Fisher has there was one in file and storage would be above the flood zone elevation. Commissioner Riggs asked if there was any comment from 1 Kelly Court and if they had been notified. Planner Fisher said staff had not received any comments and had notified for a quarter mile. Chair O'Malley asked if there was an expiration date for the original use permit. Planner Fisher said the 2003 use permit would expire only the use was discontinued for 90 consecutive days. Chair O'Malley asked if the use permit had expired. Planner Fisher said it had not. Chair O'Malley asked if there had been any violations of their hazardous materials plan over the years. Planner Fisher said not to staff's knowledge.

Public Comment: Mr. Jason Chang, Director of Operations, said the Fire Marshal had requested they supply the outdoor structure for the storage of hazardous materials. He said they would move 10 drums of solvent from inside the building to the exterior structure.

Commissioner Bressler asked why the Fire Marshal had requested that. Mr. Chang said that previously the Fire Marshal had approved the storage inside but now indicated he would prefer it to be outside.

Commissioner Riggs said there were two 55-gallon drums for waste and there would be some co-mingling of chemicals and whether there were issues with that. Mr. Chang said there were not.

Commissioner Keith asked when the business plan was prepared. Mr. Chang said it was updated for this submission in January. Commissioner Keith asked about the employee training program. Mr. Chang said when each lab employee starts they are given Good Manufacturing Process training, which is six hours of training. Commissioner Keith said that there were a number of typographical errors in their documents. Mr. Chang said he would review and correct.

Commissioner Pagee said that it was indicated that Kaiser was the closest hospital and asked whether Stanford Hospital was closer. Mr. Chang said he would have to check. Commissioner Pagee said there was a curb and catch basin around all sides and asked about the result of leaking. Mr. Chang said it was a self-contained unit. Commissioner Pagee said she was worried about leaks into the storm drain system. Mr. Chang said the unit was approved by the Fire Marshal. Commissioner Pagee asked that it be reviewed. Mr. Chang said he would take care of it. Commissioner Keith asked if there should be a letter submitted to the City related to that. Chair O'Malley asked how much of the 55-gallon drums would be contained. Mr. Chang said there was about 30-gallons containment. Chair O'Malley suggested daily inspection as part of the safety plan. Mr. Chang agreed.

Chair O'Malley closed the public hearing.

Commission Comment: Commissioner Keith moved to approve for the sake of discussion. Commissioner Riggs seconded the motion. Commissioner Keith asked what Commissioner Pagee thought should occur related to the system. Commissioner Pagee said in one of her projects they had to develop a leak detection system and a plan to assure that there would be no impact to the storm drain. Commissioner Keith asked what Commissioner Pagee suggested. Commissioner Pagee suggested a leak detection system. Commissioners Keith and Riggs accepted the modification. Chair O'Malley said it would make sense to have a daily visual inspection and to have a leak detector system installed. He asked if a daily visual inspection be required each day. Commissioner Keith asked if that was possible of the applicant. Mr. Chang said it was. Commissioner Keith said she accepted that amendment as well. Commissioner Riggs

said the leak detection system made sense but was not sure what would work. Chair O'Malley said the daily inspection made sense. Commissioner Kadvany said he would prefer a recommendation rather than a condition.

Planner Fisher said one concern mandating a leak detection system was whether it existed through the manufacturer as the unit had already been purchased and it was not definite that they could do an add-on. Chair O'Malley said a daily visual inspection would cover it. Mr. Chang asked if daily inspection would be Monday through Friday or the weekends as well. Chair O'Malley said he would require inspection on Saturday and Sunday. Commissioner Pagee suggested either the seven day inspection or some kind of leak detection system with an enunciator. Commissioner Kadvany asked if those were a recommendation or condition. Commissioner Keith said a requirement.

Mr. Chang said he just found out that the leak detection system would cost as much as the containment system itself.

Commissioner Keith said that Commissioner Riggs had not seconded the either/or amendment. Commissioner Riggs said he would approve that although he felt funny about requiring Sundays and holidays inspection.

Commissioner Keith called for the vote. Chair O'Malley asked if there was consensus to call for the vote. There was not. Commissioner Ferrick said that the external storage was already above and beyond what seemed to be regularly required. Commissioner Bressler said he would accept the motion with a visual inspection every work day.

Commission Action: M/S Keith/Riggs to approve the item as recommended in the staff report with the following modification.

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 March Design, consisting of six plan sheets, dated received February 22, 2010, and approved by the Planning Commission on April 5, 2010 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 specific conditions:

- a. Prior to storing hazardous materials in the proposed unit, the applicant shall provide the Planning Division with a revised Hazardous Materials Business Plan that includes provisions for a visual inspection for leaks of the chemical drums in the unit on all workdays.**

Motion carried 7-0.

- 4. Use Permit/Douglas Van Lare for Rennovia/1080 Hamilton Avenue:** Request for a use permit for indoor storage and use of hazardous materials for the research and development (R&D) of renewable chemicals at an existing building located in the M-2 (General Industrial) zoning district.

Staff Comment: Planning Technician Perata said the application was originally filed under 1050 Hamilton Avenue and the address was updated for the suite to 1080 Hamilton Avenue. He said he received an email from the Fire Marshal that he intended to check the middle box.

Public Comment: Mr. Fred Mosler, Vice President of Engineering, said this was his second clean tech venture in Menlo Park. He said Rennovia was working on creating existing chemicals already made by oil based processes through chemical catalysis rather than by bio catalysis. He said current staff members were all Menlo Park residents. He said this location would be the headquarters for the business and would provide the space needed for their corporate expansion.

Commissioner Keith asked about the employee training. Mr. Mosler said the training described by the previous applicant was related to medical devices and food. He said their normal safety training was two-hours and referred to spill actions and reporting.

Commissioner Bressler asked how the molecules were synthesized through testing. Mr. Mosler said they used existing molecules placed into wells in metal plate trays to which robots added different chemicals in small amounts. These are then sealed, heated, cooled, and put through an analytic process. He said there was a very small use of chemicals and they were able to do thousands of tests per week without creating large amounts of materials.

Commissioner Keith asked about the 300 pounds of adipic acid. Mr. Mosler said this chemical was a solid at room temperatures, was nonvolatile and sometimes used as food preservative.

Chair O'Malley closed the public hearing.

Commission Comment: Commissioner Pagee moved to approve noting that the Fire District had checked the middle box. Commissioner Ferrick seconded the motion.

Commission Action: M/S Pagee/Ferrick to approve the item as recommended in the staff report with the following modification.

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 Dennis Kobza & Associates, consisting of four plan sheets, dated received March 24, 2010, and approved by the Planning Commission on April 5, 2010 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.

Motion carried 7-0.

D. COMMISSION BUSINESS

1. Update on pending planning items.

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

Planner Chow said there would be two open houses on the Specific Plan; one on Wednesday, April 7 at 7 p.m. and the other on Sunday, April 11 4 p.m. She said both presentations would be the same and present an overview of the draft plan and how to provide input on the plan, the draft environmental impact report and the draft fiscal impact analysis. She said the presentation would be presented at the April 12 special Commission meeting.

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

Planner Chow said the City Council would meet 5:30 p.m. to 6:45 p.m. on April 6, 2010 to consider the Final Environmental Impact Report and the Final Fiscal Impact Analysis. She said the Council would consider the term sheet at their regular 7 p.m. meeting. She said the special meeting presentations would not be made before the Planning Commission. She said on Wednesday, April 7, the Housing Commission would review the below market rate housing element of the project. She said these items would be brought to the Planning Commission on April 19.

E. REPORTS AND ANNOUNCEMENTS

There were none.

ADJOURNMENT

The meeting adjourned at 10:08 p.m.

Staff Liaison: Deanna Chow, Senior Planner

Recording Secretary: Brenda Bennett

Approved by Planning Commission on May 17, 2010