



## PLANNING COMMISSION MINUTES

June 14, 2010

7:00 p.m.

City Council Chambers

701 Laurel Street, Menlo Park, CA 94025

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**CALL TO ORDER** – 7:02 p.m.

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

**INTRODUCTION OF STAFF** – Deanna Chow, Senior 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. *Continued from the meeting of May 17, 2010.*

Commissioner Keith said she would like a paragraph added stating that there was no vote for or against synthetic turf and read the language she had emailed to staff for inclusion. Planner Chow said Commissioner Keith was right in that there had been no vote but the point Mr. Nino had tried to make was that the Parks and Recreation Commission had indicated general support for the proposed project at Tinker Park at Hillview School. Commissioner Keith moved to approve the minutes with the language she had emailed to staff. Commissioner Ferrick seconded the motion. Commissioner Riggs asked whether staff could accept that change to the minutes. Planner Chow said although the added language was true, it did not but did not fully represent what Mr. Nino was trying to convey. Commissioner Kadvany questioned changing the minutes noting there had been instances in which the Planning Commission had made comments that were not true per se but had been reflected in the minutes without change. Commissioner Keith said she thought it was important to clarify as Mr. Nino indicated there was unanimous approval by the Parks and Recreation Commission for the use of synthetic turf.

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

- Page 5, 1<sup>st</sup> paragraph, 1<sup>st</sup> line: Change “useful handy either” to “useful either.”

- Page 16, 2<sup>nd</sup> paragraph, end of paragraph: Add “(Upon reviewing the minutes and audio tape of the Parks and Recreation meeting dated November 18, 2009, it was discovered that there was no vote for or against synthetic turf at Hillview School by the Parks and Recreation Commission.)”

Motion carried 7-0.

## C. PUBLIC HEARING

1. **Use Permit/Joyce Dickerson/943 Lee Drive:** Request for a use permit to construct a single-story addition and conduct interior and exterior modifications to an existing single-story, single-family, nonconforming residence that would exceed 75 percent of the replacement value of the existing structure in a 12-month period in the R-1-U (Single-Family Urban) zoning district.

***Continued to a future meeting at the request of the applicant.***

2. **Use Permit/David Tucker/505 Concord Drive:** Request for a use permit for interior modifications and first- and second-story additions that would exceed 50 percent of the floor area of an existing single-story residence located on a substandard lot with regards to lot width in the R-1-U (Single-Family Urban) zoning district. The proposed project would include the removal of one heritage size pittosporum trees in the rear yard. The proposed remodeling and expansion are considered to be equivalent to a new structure.

Staff Comment: Planner Chow said staff had no additional comments. She noted that color and materials boards were being distributed to the Commission for their review.

Public Comment: Mr. Mark Donahue, project architect, said the proposal was to add living space. He said the front door would be moved to the center of the front façade. He said the design took inspiration from the homes on either side noting the second story was similarly set back. He noted that materials used elsewhere in the neighborhood were incorporated in the design.

Chair O'Malley said it appeared that the balcony came to the end of the rear wall but the staff report indicated it would not. Mr. Donahue referred to the A-42 sheet and said that the line indicated separation between the walkable surface and the new roof. He said staff had asked for a guard rail there for safety.

Commissioner Keith asked about the variety of window sizes and combinations. Mr. Donahue said the purpose was to provide views of the rear yard in such a way as to make the windows look continuous.

Commissioner Kadvany asked why there was a bedroom and closet being created in the front of the house. Mr. Donahue said bedroom suite would be the area where the

applicants would live during the construction of the rest of the project. He said also they were trying to keep bedrooms on one side of the hall and other more public spaces on the other side as well as to provide a better view of the rear yard. Commissioner Kadvany said he was curious about the closet. Mr. Donahue said that the existing front door was not evident and the remodel would place the front door centrally.

Commissioner Bressler asked how long the applicants had lived there. Mr. David Tucker, property owner, said that they had owned the property two and a half years and had lived on the same street for 10 years. He introduced his wife, Ms. Sylvie Stefant. He said they were excited about the project and enjoyed living in the neighborhood very much.

Commissioner Riggs said a red Maple was proposed as a replacement tree and asked if that was chosen because it was a City recommended tree. Mr. Tucker said it seemed like an appropriate choice. Commissioner Riggs said there were different varieties of red Maples noting one undesirable variety that has red leaves which then turn brown in November and remain brown through May. He asked if they were feeling pressure to keep the yucca. Mr. Tucker said there were two yucca plants and they wanted to keep the one in the front.

Commissioner Keith asked if they were okay with the guard rails on the balcony. Mr. Tucker and Ms. Stefant said they were.

Chair O'Malley closed the public hearing.

Commission Comment: Commissioner Keith moved to approve as recommended in the staff report. Commissioner Eiref seconded the motion.

Commissioner Riggs asked if the taupe color was what they would use for the stucco. Mr. Donahue said it was grayer in the version that Commissioner Riggs was looking at and would be a warmer, buttery shade. Commissioner Riggs said all of the design looked integrated except for the chimney haunch. Mr. Donahue said that had not popped out at him and they were focusing on the front rather than the side of the street.

Commissioner Bressler asked if they had shown the neighbors the rendered view of the plans. Mr. Tucker said that they had. Commissioner Bressler said there were some unusual features that might cause some discussion but he could support the project as there was neighbor support and the neighborhood also had somewhat eclectically designed homes. Commissioner Eiref asked whether the applicants had forwarded the form letters to the neighbors. Mr. Tucker said they had circulated those to all of the immediate neighbors and surrounding area. He said the one immediate neighbor had not responded in writing but had indicated support verbally.

Commissioner Kadvany said he had asked about the closet in the front of the home as there was no window there. He said also there was a bedroom style window rather than

a living room window with a plain stucco wall and a double-door looking garage, all of which he thought might look austere. Mr. Tucker said there would be landscaping which was not shown. Ms. Stefant said she thought the warmth of wood would help and the landscaping would minimize the stucco. Commissioner Kadvany said he supported modernist designs but hoped they were considering the impacts of all of the materials in this design. Mr. Tucker said they had looked at other modern style homes to get ideas.

Commissioner Ferrick called the question. Commissioner Riggs seconded.

Commission Action: M/S Keith/Eiref to approve the item 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 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 Visible Research Office, consisting of 18 plan sheets, dated received June 2, 2010, and approved by the Planning Commission on June 14, 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 the tree protection and preservation measures identified in the arborist report.
4. Approve the use permit subject to the following ***project-specific*** condition:
- a. Simultaneous with the submittal of a complete building permit application, the applicant shall submit revised plans showing a Building Code-compliant guardrail for the second-story balcony no less than 20 feet from the left side property line to prevent access from the balcony to the adjacent rooftop area. The plans are subject to the review and approval of the Planning Division.

Motion carried 7-0.

**3. Use Permit/Menlo Park Presbyterian Church/700-704 Santa Cruz Avenue:**

Request for a use permit to expand an existing social hall at the rear of a commercial building in the C-3 (Central Commercial) zoning district. The expansion would be coupled with an expansion of the existing hardware store at the front of the property. The applicant is also requesting a use permit for outdoor sales and displays on private property at the front of the parcel in conjunction with the retail use.

Staff Comment: Planner Rogers said there were no additional comments.

Questions of Staff: Commissioner Riggs asked if the 10,898 square feet charged an in-lieu fee was a total of the old square footage and new. Planner Rogers said it was and did not include the second floor and mezzanine. Commissioner Keith asked how often the in lieu fee was paid. Planner Rogers said once a year. Commissioner Kadvany asked if the addition of another 25 person capacity was a new request. Planner Rogers said it was an increment represented by the square footage request. Commissioner Keith asked about the response to Ms. Jo Eggers email regarding a parking study. Planner Rogers said he had responded directly to the correspondent who was also present that over the last 10 years the City had had a number of parking studies done for this area

Public Comment: Mr. Bill Frimel, Menlo Park, said he was representing the Menlo Park Presbyterian Church. He said they would like to expand into the empty space, which is

part of the building. He said that would provide another 5,800 square feet with the Ace Hardware getting use of an additional 3,000 square feet and 2,800 square feet for the Church. He said the Store would get its space in front and the Church would get the space in the back. He said they currently have 9:30 and 11 a.m. services on Sunday and congregation members had indicated a desire to socialize with others somewhere other than the parking lot. He said that the original use permit had authorized 225 persons at one time in the social hall and this request would increase the number to 250 persons. He said morning meetings have a present limit of 50 persons. He noted that the Store subleases from the Church. He said the space has been used by the City and community for different public meetings.

Commissioner Keith asked about the operation of the coffee shop. Mr. Frimel said it would be run by volunteers and would in no way compete with Peets or Starbucks. He said the intent was for internal use.

Mr. Vasile Oros, owner of the Ace Hardware store, said he was pleased to have this chance to expand. Commissioner Kadvary asked where he expected to place the register. Mr. Oros said they would keep both doors open and expand the cash register between two doors.

Ms. Jo Eggers, Menlo Park, said her concern was with the economy changing that retail occupancy would increase and there would be less retail space available. She said although there might not be parking problems presented that she wanted to raise awareness there could be if parking was able to be extended so that cars did not need to move after a certain amount of time. She suggested that there be a way for businesses to contact someone directly who could resolve problems if they arose.

Mr. Robert Carter, Chair, Menlo Park Chamber of Commerce, and resident, said the social hall would complement and not take away from downtown businesses. He noted that the Chamber and City have held numerous meetings at the site, and that parking had never been a problem with meetings he had attended there. He said it was a benefit that the vacant space could be used by the Store and Church. He said he would like the outdoor sales displays to meet City's standards. He said they supported the expansion.

Ms. Fran Dehn, President, Chamber of the Commerce, said they had mourned the passing of the Menlo Park Hardware Store, but had been thankful for the creative solution that resulted in the Ace Hardware Store and Menlo Park Presbyterian Church. She said it was wonderful that both of them could expand and use vacant space to their advantage. She said it was important to keep the front as a retail use. She said that the Church was willing to work with the City so there were no tensions.

Chair O'Malley closed the public hearing.

Commission Comment: Chair O'Malley said he agreed with Mr. Carter and Ms. Dehn's comments. He said this project has been a benefit for the City.

Commissioner Ferrick moved to approve the use permit as stated in the staff report. Commissioner Riggs seconded the motion. He said the Store and the Church had been great partners.

Commissioner Eiref asked whether the Church might be constraining its use of the social hall, limiting weekday events and not using on Saturday prior to 6 p.m. He asked if the Church was artificially constraining its use so there were no problems. Mr. Frimel said that retail was the lifeblood of the downtown and that previously they had asked about an all day use on Saturdays. Staff studied and found that Saturday was the biggest retail day, so the Church scaled back its activities on that day. He said they were pleased with the hours they were requesting.

Commission Action: M/S Ferrick/Riggs 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 California Environmental Quality Act (CEQA) Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the use permit revision subject to the following **standard** conditions:
  - a. Development of the project shall be substantially in conformance with the plans prepared by B.H. Bocook AIA Architect, consisting of two plan sheets, dated received May 26, 2010, and approved by the Planning Commission on June 14, 2010, except as modified by the conditions contained herein, subject to review and approval of the Planning Division.
4. Approve the use permit revision subject to the following **ongoing, project-specific** conditions:
  - a. The social hall shall be limited to the following days and times of operation:
    - i. Monday – Friday:
      1. 7:00 a.m. – 10:00 a.m.; limited to one event per week
      2. 6:00 p.m. – 10:00 p.m.
    - ii. Saturday: 6:00 p.m. – 10:00 p.m.

- iii. Sunday: 7:00 a.m. – 10:00 p.m.
- b. Attendance shall be limited as follows:
  - i. Weekday mornings: 75 persons
  - ii. All other times: 250 persons
- c. Youth programs shall be limited to weekends. Attendees at youth programs shall be properly supervised at all times, and loitering before, during, and after the events shall be minimized. The Community Development Director shall review complaints received by the City regarding the youth programs. The Community Development Director shall have the discretion to modify the use permit conditions to address problems and/or bring complaints to the Planning Commission for review.
- d. The facility doors and windows shall be kept closed when live music is being performed and when other amplified sound is being used. The Community Development Director shall review complaints received by the City regarding noise. The Community Development Director shall have the discretion to modify the use permit conditions to address problems and/or bring complaints to the Planning Commission for review.
- e. During the period of the use permit, the applicant or property owner shall pay a fee (plus applicable yearly Business License fees) to the City in lieu of sales tax for the 10,898 square feet of ground-floor area leased by the applicant. The fee for the current year (ending March 31, 2011) shall be set at \$2.30 per square foot. The fee for each year thereafter shall be adjusted annually according to the percentage change in the All Urban Consumer Price Index (CPI) for the San Francisco-Oakland-San Jose area. Any annual sales tax generated for the City by the retail use (currently Ace Hardware) would offset this sales tax in-lieu fee. The procedure for collecting the in-lieu fee shall be established by the Finance Division.
- f. Contact information (e.g., cell phone numbers) for on-site facility supervisors shall be posted in a prominent location on the Menlo Park Presbyterian Church web site.
- g. The use permit shall expire on August 31, 2014, unless the applicant obtains approval of an extension of the use permit.

Motion carried 7-0.

- 4. **Architectural Control/SRI International/333 Ravenswood Avenue:** Request for architectural control approval for the construction of a carbon dioxide (CO<sub>2</sub>) capture structure in the C-1-X (Administrative and Professional, Restrictive - Conditional Development) zoning district. The proposed structure would be 33 feet, eight inches tall and located next to the interior side of Building S, at the

southeastern portion of the site. The requested approval would be limited to a term of one year, in order to allow for use of the equipment for testing.

Staff Comment: Planner Rogers said one additional item, a color rendering, was distributed to the Commission for review and was available for the public

Questions of Staff: Commissioner Bressler asked if the Commission was seeing this project because there were concerns about the structure's visual impact. Planner Rogers said that was correct because it would be a new structure with significant height. Commissioner Bressler said that one year seemed like a short period of time. Planner Rogers said staff had pressed the applicant about that and the applicant was confident that they would finish testing within that time period.

Public Comment: Mr. Tom Little, Director of Support Operations at SRI, said he was representing SRI. He said they were requesting architectural control approval for the proposed structure. He said they were testing an innovative process of direct air abstraction that would remove CO<sub>2</sub> from the atmosphere to create a pure stream of CO<sub>2</sub> for algae growth for bio-fuel production or for enhanced oil recovery. He said the structure would be in the interior and surrounded by three existing buildings. He said the tower would be located at the rear of the property and that an independent acoustical study found that noise levels at the property line would be about 40 decibels (DB).

Commissioner Bressler asked how much energy was needed to extract a unit of carbon. Mr. Little said that in full scale wind power would be used to have air pass over the absorbent to absorb the CO<sub>2</sub> and then dissolve the CO<sub>2</sub> using waste steam. He said that it would need wind for power and waste heat to channel; he said that industrial areas were likely locations. Commissioner Keith asked about the fans used for testing. Mr. Little said there would be 12 fans.

Ms. Susan Connelly, Menlo Park, said she lives adjacent to SRI, and her concern is sound impact, noting that she hears the regeneration plant and fans day and night. She said that even if this use was under 40 DB that it would be perceptibly louder than what it is now. She asked if the new use would occur both day and night.

Mr. Little said the intent was to test 24/7 and it was anticipated that the tests would run for three to six months. He said the plant referenced by the speaker was a cogeneration plant that generates electricity and steam which is used onsite. He said they also sell back the steam. He said they had an independent company do an acoustical study of the fans used for this experiment and at property lines the noise was at 38 to 42 DB. He said the City's Noise Ordinance indicates a maximum 50 DB at night and 60 DB during day. Commissioner Kadvany asked if the study included the noise of the cogeneration plant. Mr. Little said the test was done only on the fans.

Commissioner Bressler said the residences were behind another building and asked where the sound was studied. Mr. Little said there were apartments to the south and east that were 370 to 230 feet away from the structure. Commissioner Riggs said that the staff report indicated the measurements were done at two residences.

Chair O'Malley said there was an existing noise that bothered neighbors. He said the question was whether this new noise would further exacerbate the problem. Planner Rogers said the acoustical study was measured at the residential property lines and it did not consider other noise. He said that the concern about noise was first heard this evening; he said that the Commission might want to have a modification to the approval related to this concern.

Chair O'Malley closed the public hearing.

Commission Comment: Commissioner Bressler said it was important for the residents to get relief if noise proved to be an issue. Commissioner Eiref asked if the noise ordinance took into consideration constant background noise as opposed to pulsing sounds such as chain saws and weed whackers. Planner Rogers said it was easier to measure constant types of noises and that there were different standards for more infrequent and intrusive sounds. He said it sounded like both sounds were constant and those would be enforced by the City's Code Enforcement Unit. He said they would encourage anyone experiencing a problem with noise to call Code Enforcement, which would send a person out to the caller's location to measure the noise level. He said if it was above the ordinance level, Code Enforcement would then take up the issue with the party causing the noise.

Mr. Little confirmed for Commissioner Keith that the cogeneration plant was in operation 24/7. He said he asked his engineers if there was some way to muffle the fans and still have a viable experiment and had gotten confirmation they could mitigate, which they would accept as a condition of approval. Commissioner Keith asked if there was some way to stop the fans for a period of time during the day. Mr. Little said that would not work for the experiment. Commissioner Keith said if there was an additional study done and the noise decibel was too high, then SRI would have a problem. Commissioner Ferrick suggested if there were any possible mitigation that was not too onerous that those be put in place right away. Mr. Gopala Krishnan, SRI, said that the study was done on maximum size fans. He said they would be using fans that are two-thirds the size of the maximum. He said the sound was measured on the maximum capacity.

Commissioner Riggs said the issue with noise was that this building would be taller than surrounding buildings. He said since these were fan based and not wind based that they could possibly use an acoustic baffle on one side. He said the Commission might have to acknowledge that noise would be heard if windows were opened. He noted that the perspective on the rendering provided was out of scale by 50 percent. He said he did not however have a problem with the height as the structure was located within an interior of other buildings 30 feet high and it was located deep within the campus. He

said despite the rendering he supported the architectural control. Commissioner Ferrick asked whether an acoustic baffle would be feasible; the applicant indicated assent. She moved to approve the architectural control with addition of an acoustic baffle and a phone number located visibly for neighbors to call in the event of issues. Commissioner Riggs seconded the motion.

Commission Action: M/S Ferrick/Riggs to approve the item as recommended 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. Adopt the following findings, as per Section 16.68.020 of the Zoning Ordinance, pertaining to architectural control approval:
  - a. The general appearance of the structure is in keeping with the character of the neighborhood.
  - b. The development will not be detrimental to the harmonious and orderly growth of the City.
  - c. The development will not impair the desirability of investment or occupation in the neighborhood.
  - d. The development provides adequate parking as required in all applicable City Ordinances and has made adequate provisions for access to such parking.
3. Approve the architectural control subject to the following **standard** conditions:
  - a. Development of the project shall be substantially in conformance with the plans prepared by SRI International, consisting of six plan sheets, dated received May 27, 2010, and approved by the Planning Commission on June 14, 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.
- 4. Approve the architectural control subject to the following **project-specific** conditions:
  - a. The architectural control shall expire one year from its effective date (June 30, 2010), and all associated equipment shall be removed, unless an extension is approved by the Planning Commission.
  - b. ***Simultaneous with the submittal of a complete building permit application, the applicant shall modify the plans to include acoustical baffling or other sound attenuation measures. The revised plans shall be reviewed and approved by the Planning Division prior to building permit issuance.***
  - c. ***The applicant shall notify residential neighbors within a 300-foot radius of the process to report potential Noise Ordinance violations to the Menlo Park Police Department. The applicant shall submit documentation of this notification, which shall be reviewed and approved by the Planning Division prior to final inspection of the building permit.***

Motion carried 7-0.

- 5. **Use Permit Revision/3-V Biosciences/1050 Hamilton Avenue:** Request for a use permit revision for indoor storage and use of viruses, such as the common cold, for the research and development (R&D) of therapies for the treatment of viruses at an existing building located in the M-2 (General Industrial) zoning district. A use permit for the use and storage of hazardous materials associated with the R&D use was previously approved in March 2010.

Staff Comment: Planning Technician Perata said that on condition 3.a the date the plan sheets were received was actually June 7<sup>th</sup> and not June 8<sup>th</sup> as indicated.

Public Comment: Mr. Robert McDowell, Head of Research, 3-V Biosciences, said they were developing therapies to treat viruses by creating chemical roadblocks. He said this work was presently in their Zurich location but the company's intent was to move all purposes to one location. He said that the viruses used were common ones and

manufactured in San Diego. He said there would be small amounts on site, which would be completely contained at all times and destroyed after use.

Chair O'Malley said the hoods used met certain CDC ratings. He asked if these were inspected by the CDC. Mr. McDowell said there was no agency with authority over these type of viruses and that laboratories follow CDC recommendations. He said that the lab would be isolated from other areas of the building. He said the hoods were guaranteed by manufacturers and there was a dust test done on hoods. He said the hoods would be checked on a regular basis. He said they would hold to the highest standards for their workers and the community.

Commissioner Keith said that there was no animal research at this site and asked if there was elsewhere. Mr. McDowell said that in San Diego they were looking at the pharmaceutical distribution of molecules and that they had begun contract discussions with a similar lab located at Moffett Field. He said the clinical candidate would be done at a very specialized lab and they would not handle any animal samples onsite. Commissioner Keith asked about the biosafety levels. Mr. McDowell said that these were levels defined by the CDC and that biosafety level 2 (BSL 2) represented very common viruses. He said that they would not have any BSL 3 materials at their facility. Commissioner Eiref said that they were focusing on more common, lower level viruses, not the more hazardous types. Mr. McDowell said they were focusing on respiratory diseases. Commissioner Eiref asked about their funding. Mr. McDowell said they were funded locally with venture capital.

Commissioner Eiref asked if the City would even be aware of work with viruses unless there was a use permit. Planning Technician Perata said that typically viruses were not the purview of the City or Commission but this use came before the Commission because of a previous use permit and condition of approval.

Commissioner Kadvany asked for context of similar activities elsewhere. Mr. McDowell said that they would train people specifically on virus uses. He said the Institute in Zurich where their work first started was comfortable using first year grad students to work in these labs. He said the specific details for standard operating procedures and best laboratory practices were developed in Zurich and were more rigorous than local companies such as Roche and Gilead. Commissioner Kadvany said the Commission was being asked to make a finding on something for which there was no context. Mr. Stefan Moese said that the company was developed under the umbrella of the university in Zurich and all processes and procedures were reviewed by that university. He said the same rules still apply to the company.

Commissioner Bressler said he would like to get a copy of their standard operating procedures (SOPs) for future reference of the City. Mr. McDowell said that was acceptable. Commissioner Kadvany asked if the conditions of risks could be validated by a local expert such as Stanford University. Mr. McDowell said that there was no official authority to certify but there were CDC guidelines. Chair O'Malley said he

appreciated them making their SOPs available to the City and explaining their work in detail.

Chair O'Malley closed the public hearing.

Commission Comment: Commissioner Riggs moved to approve as recommended in the staff report. Commissioner Ferrick seconded the motion.

Commissioner Bressler said he would like to see their SOPs but he did not know if it should be part of the conditions. Commissioner Riggs said he would not make it a condition. He said he appreciated the applicant's willingness to provide the information. He said the concern of the Commission was warranted but it was made evident that there would not be work beyond BSL2.

Commissioner Kadvany said that while he did not doubt the applicant's veracity he thought it behooved the City to have reference and context for the handling of hazardous materials with which the Commission was not familiar.

Commissioner Keith said she appreciated that Commissioner Bressler had asked with the approval of the prior use permit that it come back should they begin storing and using viruses. She thought that should be part of the normal process in the future.

Commissioner Eiref asked if the laboratory started using higher level viruses whether a use permit revision would come to the Commission. Planner Chow said that the Commission previously required a revision to the use permit if the applicant were to begin handling viruses. She said that typically if the use and storage of hazardous materials was below a triggering threshold, the Commission would not see an application for a use permit. Recognized by the Chair, Mr. McDowell said if for any reason they wanted to use BSL 3 viruses that they would have to make physical changes to the building such as anti-chambers and gowning rooms which he suspected would trigger a revision to the use permit or a new permit.

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

1. Make a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current CEQA Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.

3. Approve the use permit subject to the following **standard** conditions:
- a. Development of the project shall be substantially in conformance with the plans provided by Dennis Kobza & Associates, consisting of seven plan sheets, dated received June 8, 2010, and approved by the Planning Commission on June 14, 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 6-1 with Commissioner Kadvany opposed.

#### **D. COMMISSION BUSINESS**

1. Update on pending planning items.

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

Planner Chow said work was continuing on the Draft Environmental Impact Report, which would come to the Commission for review when completed.

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

Planner Chow said the City Council received information and public comment on the project on May 25, 2010. She said the Council was scheduled to take action on the project on June 15 with a second reading on June 22.

C. Appeal of Use Permit for 277A Willow Road

Planner Chow said this appeal was heard on May 18 and continued to July for continuing discussions between the neighbor and applicant.

Commissioner Bressler asked that a copy of the Standard Operating Procedures be forwarded to him and a copy be kept in the project file for future reference.

**E. REPORTS AND ANNOUNCEMENTS**

There were none.

**ADJOURNMENT**

Meeting adjourned at 9:26 p.m.

Staff Liaison: Deanna Chow, Senior Planner

Recording Secretary: Brenda Bennett

Approved by the Planning Commission on July 12, 2010