



PLANNING COMMISSION MINUTES

August 23, 2010

7:00 p.m.

City Council Chambers

701 Laurel Street, Menlo Park, CA 94025

CALL TO ORDER – 7:01 p.m.

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

INTRODUCTION OF STAFF – Deanna Chow, Senior Planner; Megan Fisher, Associate Planner; Justin Murphy, Development Services Manager; Kyle Perata, Planning Technician; Thomas Rogers, Associate Planner

A. PUBLIC COMMENTS

There were none.

B. CONSENT

There were no items on the consent calendar.

Chair O'Malley said that some of the Commissioners had indicated a desire to postpone the "Review of the Gross Floor Area Zoning Ordinance Amendment for the City of Menlo Park" primarily because it was expected that another item on the agenda would have lengthy public comment and discussion.

It was the consensus of the Commission to defer the item to the meeting of August 30, 2010.

C. REGULAR BUSINESS #1

Commissioner Riggs said he would recuse himself from consideration of 418 Willow Road due to a potential conflict of interest.

Commissioner Ferrick questioned if she needed to recuse herself as she had done business with the applicant and also lived in Suburban Park. Planner Chow said Commissioner Ferrick had to decide if she could be impartial in consideration of the matter despite her past relationship with the applicant and whether there was any direct financial gain for Commissioner Ferrick from the project. Commissioner Ferrick said

that she could stay and consider the item objectively and there was no financial gain to her because of this item.

1. **Review of Substantial Conformance/418 Willow Road**: Review of an existing commercial building for substantial conformance with the City's architectural control approval. ***Deferred from the meeting of July 26, 2010.***

Commissioner Eiref asked if any other neighbors had commented on the project. Planner Fisher said that one neighbor and one former Commissioner had commented on the project.

Public Comment: Ms. Nancy Chillag, applicant, said they painted the building the colors indicated in the approved application but it was not a good color scheme and they had received negative comments about it. She said they then tried four other colors on the building. She said the current building color had received very favorable comments from neighbors and other business owners in the area.

Commission Comment: Commissioner Bressler said that he did not see anything objectionable about the different color. Commissioner Ferrick said that the applicant had tried in good faith to use the approved colors but it was less than satisfactory. Commissioner Kadvany said the color scheme was not typical of Menlo Park but the new colors were cute. He said he would like to hear about the landscaping. Ms. Chillag said there would be extensive landscaping and the sidewalk currently blue would be tiled after the colors of the building were approved.

Commissioner Keith moved to make the finding that the proposed changes to the exterior of the building were in substantial conformance with the City's previous architectural control approval. She noted that the building was tucked away from the street. Commissioner Bressler seconded the motion.

Chair O'Malley said he had been dissatisfied with the original project application because of the color scheme and architectural design and had voted against the project. He said he did not like the project architecture.

Commission Action: M/S Keith/Bressler to find the proposed changes to the exterior of the building in substantial conformance with the City's previous architectural control approval.

Motion carried 5-1 with Commissioner O'Malley opposed and Commissioner Riggs recused.

D. PUBLIC HEARING

1. Use Permit Extension/Sayeh and Philippe Morali/1076 Santa Cruz Avenue:
Request for an extension to a use permit granted by the Planning Commission in 2008 and extended administratively in 2009 to construct a new two-story, single-family residence on a substandard lot with regard to lot width in the R-E (Residential Estate) zoning district.

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

Questions of Staff: Commissioner Kadvany asked if there had been similar requests to extend use permits over the past year and a half because of the economic downturn. Planner Rogers said there had been some but those had not been quantified.

Public Comment: Mr. Philippe Morali, owner, said he was available to answer questions.

Chair O'Malley said he would ask for public comments and then ask the applicant to answer questions from the Commission. There being no public comment, he closed the public hearing.

Commission Comment: Commissioner Keith asked Mr. Morali if the new date would allow sufficient time to complete the project. Mr. Morali said he anticipated it would be noting that the economy was a variable.

Commissioner Eiref asked if the property owner lived at the subject property. Mr. Morali said that he lived in San Carlos and the subject property was being rented.

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 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 extension subject to the following **standard** conditions:

- a. Development of the project shall be substantially in conformance with the plans prepared by David W. Terpening Architect AIA Inc., consisting of 24 plan sheets, dated received July 31, 2008, originally approved by the Planning Commission on August 11, 2008, and extended on August 23, 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.
4. Approve the use permit extension subject to the following ***project-specific*** conditions:
 - a. The use permit shall expire on August 27, 2011, unless extended by the Planning Commission. The use permit is not eligible for an administrative permit extension.

- b. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a revised arborist report and new heritage tree removal applications, subject to review and approval of the Planning Division and City Arborist.

Motion carried 7-0.

2. **Use Permit/Brooke Heckert/1340 Arbor Road:** Request for a use permit to relocate and expand an existing single-family residence on a substandard lot in the R-E (Residential Estate) zoning district. The relocation and expansion of the existing structure is considered to be equivalent to a new structure. As part of the proposed project, the applicant requests to remove two heritage size trees.

Staff Comment: Planner Chow said additional correspondence had been received since the publication of the staff report from neighbors Kathryn and John Rakow who expressed their support for the project.

Questions of Staff: Chair O'Malley asked about the one-story element 20-foot from the property line referred to on page 4. Planner Chow indicated B-3 of the site plan showed the new three-car garage, which was the one-story element.

Commissioner Ferrick asked if the lighting for the garage would be directed away from the adjacent property. Planner Chow said the applicants were sensitive to the impacts on the adjacent property in the selection and proposed installation of lights for the garage.

Public Comment: Mr. Jude Kirik, Pacific Peninsula Architecture, Menlo Park, said he was the project architect. He said the property owners Ms. Brooke Heckert and Mr. Michael Linz were present. He said that the parcel was over two acres but it was considered a substandard lot because of the lot width at Arbor Road. He said the existing home had substandard side setbacks less than 30-feet. He said the goal was to relocate the residence and use the lot to better advantage for solar access and to improve the side setbacks. He said many of the accessory buildings were in disrepair and would be torn down. He said the residence would be relocated onto a new foundation and improvements would be made to the mudroom and kitchen. He said they would add a three-car garage. He said the house was located where it was because of a grove of redwood trees. He said with the relocation of the house they would try to nestle the house as close as possible to the redwood tree grove. He said the only windows looking at the northeast property line were bathroom windows and those would be 90 feet from the property line of the adjacent neighbor. He said the rest of the northeast side was screened by the redwoods. He said there was a possibility that the front part of the lot might but be subdivided as a separate parcel in the future.

Mr. Ernst Meissner said he was the next door neighbor to the east of the subject property. He said he supported the project but had a concern about the proposed use of a well for irrigation as that would need a large sized pump. He said the well could be enclosed with a shed and sound insulation. He said he had no concern about the bathroom windows and no concern about noise from the air conditioning unit because of where it would be located. He said he hoped the buffer of trees would remain.

Ms. Brook Heckert, property owner, thanked the Commission for their consideration of the project.

Ms. Kathy Newman, neighbor, said she was also concerned about the well and pump noise and thought Mr. Meissner's suggestion to mitigate the noise was a good one. She thanked the applicants for the consideration shown in their garage lighting choices.

Commission Comment: Commissioner Ferrick asked why the large home was being relocated and not being deconstructed. Mr. Kirik said the house dated from the 1950's and the foundation was partially good and partially old, but the framing was good. He said there had been substantial work on the house previously and it was worth saving.

Commissioner Keith asked about the neighbors' concerns about the well. Mr. Kirik said they would enclose the well and meet the noise standard for the City.

Commissioner Ferrick said there would be an increase in the amount of paved surface and asked if any of that was permeable. Mr. Kirik said there was a drainage plan that included the use of a bubble up system to capture runoff. He said with the project they would be removing a considerable amount of paving and he thought the net change would be close to what was already there or less.

Commissioner Riggs suggested that the City noise ordinance not be the standard for the well pump enclosure but better. Mr. Kirik said he would see that the enclosure exceeded the standard.

Chair O'Malley asked about the window wells to the basement and how those would be made safe. Mr. Kirik said there was a guard rail system on two of them and a grate over the front window well.

Commission Action: M/S Ferrick/Keith 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 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 Pacific Peninsula Architecture, Inc., consisting of 21 plan sheets, dated received August 11, 2009, and approved by the Planning Commission on August 23, 2010, except as modified by the conditions contained herein.
 - 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. 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. 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 Revision/ Ryan Manuel/887 Oak Grove Avenue:** Request for a use permit revision to expand an existing private recreational use to the adjacent suite on the ground floor of an existing building in the C-3 (Central Commercial) zoning district. The proposed request also includes massage therapy as part of the set of services.

Staff Comment: Planning Technician Perata said staff had no additional comments.

Public Comment: Mr. Ryan Manuel said he and Mr. Eric Hayward were co-owners of Three Pillars, a business that specializes in personal training.

Chair O'Malley closed the public hearing.

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

Commissioner Kadvany asked about the parking condition. Planning Technician Perata said the building was built before 1986 but if it had been built in 1990 they would have needed to provide parking for the additional Floor Area Ratio above 100 percent. He said currently the parking was accommodated by the parking plazas.

Commissioner O'Malley asked about catalogue sales and sales tax revenue. Mr. Manuel said that the catalogue was something they were looking at and that currently they provided research on products in which clients indicate interest. Commissioner Riggs asked if staff was aware there was no retail component of the business. Planning Technician Perata said that the staff report indicated there was a potential to add retail but not that there was currently retail.

Mr. Manuel said they planned to do retail eventually and while their space was not that big, they were providing space in the expansion for some merchandise and special interest items for purchase.

Commissioner Eiref said the area had a lot of other health-related businesses. Chair O'Malley noted that the building had been vacant some time. He asked if the massage technicians would be part of the staff. Mr. Manuel said that they would contract the massage staff. Chair O'Malley asked about licenses. Mr. Manuel said that their massage contractors would be fully compliant. Commissioner Keith asked if their clients shopped downtown. Mr. Manuel said that many of their clients shop at local grocery and eateries and coffee businesses.

Commission Action: M/S Ferrick/Keith 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 subject to the following *standard* conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Kornberg Associates Architects, consisting of 4 plan

sheets, dated received August 3, 2010, and approved by the Planning Commission on August 23, 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 use permit subject to the following ***ongoing, project-specific*** condition:
- a. All massage therapists shall hold a valid permit from the Menlo Park Police Department, per the requirements of Municipal Code Section 5.28.060, or shall hold a valid massage certificate from the California Massage Therapy Council.

Motion carried 7-0.

Chair O'Malley restated that the review of the City's gross floor area ordinance had been continued to the next meeting.

4. **Use Permit, Architectural Control and Sign Review/Beverages & More, Inc./700 El Camino Real:** Request for a use permit for the off-site sale of beer, wine and distilled spirits and for on-site wine tasting associated with a retail liquor and specialty market located in an existing building in the PD (Planned Development) zoning district. In addition, architectural control request for exterior modifications to the building and sign review of the proposed signage and awning for containing the color red. As part of the review, the Planning Commission will need to determine whether the sale of alcohol at this location serves a public convenience or necessity, in accordance with the requirements of the State Department of Alcoholic Beverage Control (ABC).

Staff Comment: Planner Chow said that staff had an update on the number of pieces of correspondence received related to the project. She said communications received in card format were about 1,200, but the number of names represented on the cards was approximately 1,550. She said about 97 percent of those correspondents were opposed to the proposed project and 74 percent of those opposed were Menlo Park

residents. She said they also received 40 additional email correspondences (42 names), of which approximately 74 percent were in support of the project and 87 percent of those in support were Menlo Park residents. She said duplicate names had been cleaned up in the figures she was presenting the Commission this evening.

Commissioner Eiref asked if Deelish was closed. Planner Chow said it was. Commissioner Eiref asked if staff had reviewed the calculations provided by Beltramo's related to sales tax. Planner Chow said staff had and those calculations assumed 70 percent of the sales tax would be diverted from existing businesses with 30 percent being new sales tax revenue from BevMo. She said staff discussed the calculations with the Finance Department. She said there seemed to be an error in the specific calculation related to sales tax revenue. She said considering 9.25 percent sales tax on an estimated \$1.8 million in sales was approximately \$166,200 and that the City would receive a full 1 percent amount of the sales tax revenue and not 10 percent of the 9.25 percent sales tax such that the City's revenue would be closer to \$18,000 of additional sales tax rather than \$16,500 estimated by Beltramo's. She said the amount of revenue would place the applicant in the in the top 75 percent of sales tax generators in the City.

Commissioner Kadvany asked about the statement on page 2 that the subject site was located in an area of undue concentration. Planner Chow said this was a term from the Business and Professions Code and in this instance, the undue concentration referred to the ratio of off sales licenses to the population in the census tract of the subject site exceeds the ratio of off-sale licenses to population in the county; and that the subject site is located within a crime reporting district that has 20 percent more reported crimes than the average from all districts in the city. She said this was not a city code but one used throughout the state. Commissioner Kadvany asked if exclamation points were included in the company name. Planner Chow said they were but she had left them out in the writing so their use would not be misconstrued in a sentence.

Public Comment: Mr. Jeff Sealy, Vice President of Real Estate and Development for BevMo, said they had asked for a use permit four years ago for a site on Santa Cruz Avenue and had received strong feedback that their store needed to be on El Camino Real. He said they were back before the Commission to request a use permit for the former Chili's site on El Camino Real. He said the site had ample parking and they would not make substantial changes to the building. He said that BevMo would provide a unique retail offering in Menlo Park. He said they were an award winning retail that specialized in providing a superior selection, great service and everyday value. He said they offered 3,000 wines from around the world and carried all of the California wines. He said that they offered hard to find spirits and craft beers. He said Mr. Wilferd Wong tasted, rated and wrote product descriptions for each of the wines. He said that they have customer service staff and wine experts on the floor. He said they hold wine tastings and provide a money back guarantee. He said their Club BevMo provides for additional savings for the members. He said they were neither liquor nor a convenience store and did not sell cigarettes, fortified wines, malt liquors, lottery tickets, or adult magazines. He said there were no pay phones on site, the store would close at 9 p.m.,

and no under the age of 21 was allowed in the store unless accompanied by an adult. He said their store would employ 12 to 15 people, fill a vacant retail site on El Camino Real and bring new sales tax revenue.

Mr. David Wollenberg said he represented the Menlo Station Shopping Center and urged approval of the use permit. He said the former tenants had been gone for over a year. He said BevMo was a responsible retailer and would be with other multi-chain businesses in the center such as Staples, Big Five and Lenscrafter and was located on El Camino Real with other commercial properties and chain stores such as Safeway and Starbucks so the use was compatible. He said BevMo's reputation with the State Alcohol Licensing Board was excellent. He said they have company policies to prevent problems typically associated with liquor stores. He said they do not sell cigarette products or Lotto tickets and they close at a reasonable hour at night so they do not pose any threat to the health, welfare or safety of the residents of Menlo Park. He said that in addition to filling a vacancy along El Camino Real, BevMo would provide 12 to 15 new jobs and bring new sales tax dollars to Menlo Park.

Commissioner Kadvany asked why Chili's had left and how long they had been at the site. Mr. Wollenberg said Chili's had been at the site for 25 years and he thought the business and their menu did not keep up with the trend toward healthier eating. Commissioner Eiref asked about other kinds of businesses that had been considered for the site. Mr. Wollenberg said they had canvassed every chain restaurant in the United States and every other restaurant in the Bay Area as the building had a kitchen. He said they only had two interested parties, neither of whom was an experienced operator or had credit. He said that there were a couple of other retailers who had shown interest but had not made it to the finish line. Commissioner Eiref said this shopping center was criticized because its storefronts faced the parking lot and not El Camino Real and asked what they had done to make the center more inviting. Mr. Wollenberg said that the Hetch Hetchy runs down the center of the property and the signage had been placed as conditioned by the use permit for the site when the project was originally approved with the larger signs on the parking lot side rather than El Camino Real. Commissioner Eiref said perhaps the City had a role in making the Center as it was but it seemed like many people did not even know what was in the Center. Mr. Wollenberg said the people in the Center merchandise independently and have to bring their own customers – that the uses did not feed each other.

Mr. Joy Turnipseed, Ad Art, said she was present on behalf of BevMo. She said BevMo's typical clientele were 35 to 64 years old with a median income of \$75,000 and were mainly college educated. She urged support of the project.

Mr. Charles Prekalb, Atherton, said both Draeger's and Beltramo's have full time employees with benefits. He said there is a BevMo in Redwood City and Mountain View. He said the area did not need another store that sold alcohol. He urged denial of the project.

Ms. Barbara Rososco, Menlo Park, said she moved to Menlo Park because it has a small town unique flavor. She said adding more chain stores would change the character of the city quickly. She said the pool of consumers for Menlo Park businesses were only so much. She said another liquor store would impact existing businesses that had provided generous support to the community for generations. She said there was already a Safeway across the street. She asked how the BevMo stores in Redwood City and Mountain View supported the community. She requested denial of the project.

Mr. Steven Cohen said he was speaking for Margaret and Dan Beltramo of the fourth generation family-owned Beltramo Inc. and himself. He said one of the findings for the use permit was whether its approval would be detrimental to the general welfare of the City. He said that of the 1,592 cards received 1516 were from Menlo Park residents and that over 95 percent of those cards opposed the issuance of a use permit for BevMo. He said that the Specific Plan process had indicated support of limiting competition with local existing independent retailers and to promote other independent retailers that would complement existing businesses. He said that BevMo would impact existing businesses. He said chain stores would take a significant share of business from existing similar businesses. He said that the other chain stores in this shopping center did not compete with other local businesses. He said sales at local liquor specialty shops were 10 to 15 percent because of the current economy and that if BevMo took another 10 to 15 percent of those stores' sales they might not survive. He said that established locally owned and operated businesses invested more locally than chain stores would and tend to give 68 percent back into the local community versus the 40 percent that chain stores give back to the communities. He said over the years that Beltramo's had supported many different organizations in the community. He said there were already significant places to buy wine in Menlo Park and that 78 percent of BevMo sales would be revenue diverted from these other local businesses. He said the approval of a use permit for BevMo would be more of a detriment than a benefit to the City.

Commissioner Eiref asked how the almost two year closure of Safeway had impacted Draeger's and Beltramo's business and whether their sales had increased as a result. (Commissioner Eiref recalled after the meeting that Safeway had not closed during its reconstruction.) Mr. Cohen said he did not have information regarding that.

Mr. James Bacon, Menlo Park, said the City was a unique place with a wide varied small town appeal and asked why they should lose that character. He said Beltramos' was an icon internationally for wine that had been built on the legacy of product and competitive prices and service. He said it was an attraction for the City and that the number of licensed liquor outlets in Menlo Park was more than enough. He said they needed new retail services to augment the existing businesses in Menlo Park. He urged denial of the permit.

Mr. Clark Kepler, Menlo Park, said he was a local business owner. He asked the Commission to deny the use permit because of the long term detriment to the welfare of the City from a chain store.

Ms. Patricia Doody, Menlo Park and Redwood City, Peninsula Windows Fashion Gallery, said that independent business people brought uniqueness to the City and the dollars earned by them went back into the community. She said if the community did not hold onto the uniqueness and treasure the people who brought unique services to the community they would be lost. She asked the Commission to deny the permit.

Ms. Janet Benson, Menlo Park, said BevMo would have a big impact on the local stores. She said she was also concerned about traffic on El Camino Real if BevMo's use permit was approved.

Mr. Nick Sharma, Willow Market, Willow and Middlefield, said his store was a small full-service grocery store with wine and craft beers. He said the character and identity of Menlo Park was threatened by large chain stores that were faceless and had little credibility in the community. He said if they were not able to compete with BevMo, they would have to close their market. He said he opposed BevMo in Menlo Park because they were the Walmart of wine and spirits.

Ms. Maureen Hogan, Menlo Park, said she was opposed to BevMo's application. She said she decided to attend because her card had been returned by the USPS.

Ms. Diana Hayward, Menlo Park, asked what need BevMo would serve. She said she already can find liquor and spirits easily in Menlo Park as well as other products offered by BevMo such as caviar, cheese and glassware. She said she did not want Menlo Park to look like Redwood City and was opposed to the project.

Mr. Dan Beltramo, Jr., Menlo Park, said he was the fourth generation of the Beltramo family owned business in Menlo Park. He said he believed in free market and competition. He said markets were created to serve people. He said the City was competing with other communities and that the market should encourage retail and development to create distinguished businesses in Menlo Park. He said with laissez-faire the residents might wake up one day to find their community was not what was desired. He said compromises like approving BevMo would start a gradual deterioration of the uniqueness of Menlo Park.

Mr. Jeff Hewett, Menlo Park, said he was against the BevMo application because of the influx of big-box retailers. He said he shopped in Menlo Park to support local merchants. He said that BevMo was owned by private equity and he had heard BevMo workers in Oakland were protesting because their hours were reduced so benefits did not have to be paid.

Mr. Richard Draeger, Draeger's Supermarket, said they were supporters of family and locally owned businesses. He said the enormity of the business loss of the auto dealers had inspired the City to seek change that would sustain and support the uniqueness of Menlo Park. He said the visioning study focused on attracting complementary businesses that would support existing businesses to maintain the village character unique to Menlo Park. He said that "big box" stores eroded the distinct difference of the City. He said corporate retail sets lower prices to drive out the local competition and after those businesses fail they reset prices at a higher price. He said the use permit process allowed the City to supervise businesses such as liquor stores, massage parlors, and gun shops so they did not proliferate.

Mr. Michael Starr, resident and business owner in Menlo Park, said it would not have been a good idea to have BevMo in the downtown area, but he supported BevMo in the shopping center. He said there should be a diversity of goods and services in Menlo Park. He said that BevMo would not put local businesses out of business and would not destroy the character of Menlo Park.

Mr. Matt Morey, Menlo Park, said having a BevMo in this site would not put the other businesses out of business. He said Draeger's and Beltramo's offered unique offerings and BevMo would offer things other people want.

Mr. Bill Wahler, Menlo Park, said he would like to see a local business at the shopping center that would offer something Menlo Park City currently did not offer.

Ms. Manuela Turner, Menlo Park, said Menlo Park was very unique on the peninsula and if all of the big stores came into Menlo Park, they would destroy that uniqueness. She said the City needed to protect its tradition and the welfare of the community.

Mr. Craig Largent, Menlo Park, said that "big box" retailers did not fit with the Specific Plan. He said his parents had been teetotalers so he had really appreciated the customer service and education he received from Beltramo's staff. He said he was against BevMo because the thought their "buy one bottle and get the second bottle for a penny" was a come on and that the price of the first bottle of wine had been doubled.

Mr. Michael Lyons, District Manager for BevMo, said one of his company's strategies was to empower store managers to work with the communities and to provide support of such organizations as the Boys and Girls Clubs, the American Cancer Society, and local churches and organizations. He said he was formerly the Vice President of Operations for BevMo and throughout his 15 years in that position had seen BevMo stores opened near other specialty liquor businesses and they never had put those other stores out of business rather they created an impetus for those businesses to improve their stores. He said BevMo was a responsible retailer and their stores were well-lit and clean. He said the store managers get involved in the community.

Chair O'Malley closed the public hearing.

Commission Comments: Commissioner Riggs said that there were a number of findings and he held different positions on individual findings. He asked what the process would be. Chair O'Malley said it had been suggested that they consider the findings first and then take the remaining items.

Commissioner Bressler said that the staff report indicated the store was open until 10 p.m. but Mr. Sealy had indicated it closed at 9 p.m. Mr. Sealy said that generally the stores closed at 9 p.m. except through the holiday season in November and December when it closed at 10 p.m.

Commissioner Eiref asked how many BevMo stores there were. Mr. Sealy said there were 94 stores in California and 10 in Arizona. Commissioner Eiref asked if he agreed that 70 percent of BevMo's business would come from other stores in the area. Mr. Sealy said he did not. He said their typical trade area went a certain distance and they were looking at serving Menlo Park, Atherton, and Palo Alto and increasing interest in wine and its purchase with this proposed store.

Commissioner Keith asked how many of the 12 to 15 employees would be full time. Mr. Sealy said 40 percent of the employees would be full time and 60 percent would be part time. Commissioner Keith said that the existing BevMo stores have \$1,000,000 in sales from Menlo Park residents and asked how that was tracked. Mr. Sealy said it was club code information. Commissioner Keith said that it had been emphasized how much local businesses contributed to the community. Mr. Sealy said that corporate stores are charitable on a different level noting a fundraising event for the Boys and Girls Clubs. Commissioner Keith asked how many places sell alcohol in Danville. Mr. Sealy said that he did not know exactly but there was a BevMo, a Safeway and a Draeger's. He said their store would be 8,900 square feet and was not really a "big box" store.

Commissioner Riggs asked if he knew how many club members lived in Menlo Park. Mr. Sealy said that in the Atherton, Menlo Park, Palo Alto area they have 1,600 club members. Commissioner Riggs said that their wine tasting had been described as a "happy hour." Mr. Sealy said that the \$2.00 fee was a nominal fee required by the Alcohol Licensing Board and that tastes of wine were offered but there was no seating. Chair O'Malley said that a statement made indicated local merchants generated greater local business than chain retailers. Mr. Sealy said their 12 to 15 employees would use local businesses and banks. He said as a retailer they have distributors who come to the store who also would use services in the City. He said the issue of competition had never come up for them in other locales.

Commissioner Riggs asked if the Redwood City store business would be impacted. Mr. Sealy said initially there would be a reduction in sales for that store and the Mountain View one but eventually business would increase at all sites.

Commissioner Bressler said he had shopped at both BevMo's and Beltramo's. He said that the price difference was not much lower at BevMo than at Beltramo's and the selection was not as good as Beltramo's. He said the employees at the Redwood City store seemed to come from a certain demographic and the customer service was not as good as that at Beltramo's.

Commissioner Riggs said a BevMo two or three miles closer would not change his shopping habits. He said he did not see BevMo as a competition to Beltramo's but more as a competition to Costco and Safeway, which did not cause him worry.

Commissioner Keith said that it was obvious that the public did not want the BevMo in Menlo Park. She said she could not make the findings numbered 3 nor numbered 4.

Commissioner Eiref said it was resoundingly clear that many loved the local family businesses. He said he went to the Redwood City BevMo and found the staff to be friendly. He emailed 10 people informally in his neighborhood about whether they supported or did not support the use permit and why. He said the vote was split about equally. He said the owner of this shopping center had not maintained the center vibrantly. He said the Specific Plan recognized there would be a mix of businesses in Menlo Park. He said BevMo would have their work cut out competing with local businesses. He said he was leaning toward approving the use permit application.

Commissioner Kadvany said the Planning Commission had a history of supporting local businesses as much as it could. He said in the economic downturn that BevMo would bring new employment into the City. He said similar to Burlingame there was a quaint downtown and then the El Camino Real corridor with impressive buildings like Kepler's and Café Barrone, funky buildings and a strip mall with vacancies. He said the site was perfectly appropriate for a store such as BevMo and there was no detriment to the public's welfare.

Commissioner Ferrick said she had moved to the area about 10 years prior and was concerned to see the auto dealerships start to close down. She liked the priority on nurturing local businesses but was concerned about the vacancies in the retail sites. She said with each of the small choices that were made was the opportunity to make choices that would build on the City's uniqueness. She said she often over the years has needed to get sponsors for different events and found that the chain stores do not really respond and that it was the local business owners she could count on as sponsors. She said this small shopping center was about half vacant so it was obvious that something was not being done correctly. She said she hoped the property owner would bring some business that was unique and diverse to complement downtown businesses. She said an increase of \$18,000 of sales tax revenue was not convincing enough to approve the project.

Commissioner Riggs said the Planning Commission needed to make a decision as to whether the use was suitable for the location. He said the building would not attract the

type of tenant they would like in Menlo Park. He said however the property manager had a tenant who was willing to take about half of the vacant space at the site. He said that allowing BevMo at this site was not setting a precedent considering the peculiarity of the existing building and what had previously been there.

Commissioner Bressler said the Commission had limited discretion and the only way to force buildings to be nonviable and remodeled was to hold strong standards on what went into them.

Commissioner Eiref said BevMo was not a “big box” store and they would have their work cut out to compete with local businesses. He said the business would add choice for the community and probably would attract a younger clientele. He said it was hard to find businesses that would be successful on El Camino Real particularly on a site that faced away from El Camino Real.

Commissioner Keith said they were being asked to find that BevMo was a public convenience or necessity. She asked if staff could define public convenience or necessity. Planner Chow said it was from the Business and Professions Code. She said that the Commissioners had the opportunity to determine what public convenience or necessity meant for Menlo Park such as was another store needed, greater selection or better pricing, or a different location.

Commissioner Kadvany said it was the 1,600 clients from Menlo Park who shop at BevMo for whom it would be a convenience to have a local store. Commissioner Ferrick said if BevMo had a certain niche that was not served by a local retailer than it was not inconvenient for someone to drive three miles to the existing BevMo store in Redwood City.

Chair O'Malley said that the argument about not keeping the village character did not stand as the location was away from the downtown area, there were existing chain stores in that shopping center, and there were vacancies along Santa Cruz Avenue. He said there was some substance to Beltramo's arguments but some of it had been overstated. He said the real issue he saw was a fear that business would be taken away from local merchants. He said that was a possibility, but he had great confidence in the local merchants, and did not think BevMo would have that much impact on those businesses. He said his concern was with vacant buildings.

Commissioner Kadvany asked how they might proceed on voting on the use permit. Recognized by the Chair, Planner Chow said there were several items under consideration. She said the Commission might want to consider the findings and use permit first and then the architectural control and sign review.

Commission Action: The Planning Commission took the following actions regarding the item as recommended in the staff report, with exceptions as noted below (the order of the actions reflect the order in the staff report):

1. M/S Keith/Riggs to adopt a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current California Environmental Quality Act (CEQA) Guidelines

Motion carried 7-0.

Commissioner Eiref asked if it was possible to approve a use permit with an expiration date. Chair O'Malley indicated that it was. He said that Commissioner Eiref could address that when they got to that part of the approval. He asked whether they could not make finding number 2 at this time but consider number 3 and number 4. Planner Chow said the Commission could consider the other findings first and noted that the Commission had not had much discussion yet on the architectural control. Chair O'Malley asked for a motion on finding number 3.

Commissioner Keith moved that the finding under number 3 could not be made. Commissioner Ferrick seconded the motion.

Planner Chow said that there had to be specifics when a finding was denied. Commissioner Keith said she could not make the finding that the project would 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 would not be detrimental to property and improvements in the neighborhood or the general welfare of the city as the proposed project would be located within an existing shopping center that contains several brand name retailers. She said it could not be made as they were talking about the risk of driving local retailers out of business. She said this related to the general welfare as they had heard from the public and business owners that there was concern that BevMo would put them out of business as BevMo could lower prices and then when local businesses went under raise prices. She said should that happen the City would lose the tax revenue of businesses that had been in the community for many, many years.

Commissioner Bressler said he had a concern as there was probably majority support for the project. He said he would like a two-year review of the use permit. He said his impression was that BevMo was not necessarily a benign corporation and if they were going to make prices artificially low that this might impact Beltramo's. He said he would like to have a review of the use permit at two years to allow Beltramo's to come back and if they have evidence that BevMo was using such techniques that there was a way to revoke the use permit.

Commissioner Keith said she was probably in the minority. She said another reason she was not able to make the finding under number 3 related to the general welfare was that part of the Specific Plan for El Camino Real and downtown, building on the vision plans, was to increase the demand for goods and services by increasing the supply of local shoppers and by limiting the size of certain category uses that might compete with

independent business in the downtown and Caltrain station areas. She said she would call for the vote as it most likely would fail. Chair O'Malley confirmed that Commissioners understood the motion.

Motion failed 2-5 with Commissioners Keith and Ferrick supporting and Commissioners Bressler, Eiref, Kadvany, O'Malley, and Riggs opposed.

Commissioner Kadvany moved to make the finding in item number 3 as recommended in the staff report as related to public convenience. Commissioner Riggs asked Commissioner Kadvany to clarify if he was making a motion to make the finding of number 3 or number 4, as number 4 related to public convenience. Commissioner Kadvany moved to make the findings of item 3 as recommended in the staff report as related to the safety and welfare. Commissioner Riggs said he would like to second the motion and pointed out that if the Commission's reservations were about whether or not this use was needed that they should not try to construct something out of number 3 that was not there.

Commissioner Kadvany questioned the possibility of BevMo putting other businesses out of business. He said they had heard from Mr. Lyons that in his experience when BevMo's opened that changed the nature of the competing businesses but did not put them out of business. He said that there was a local datapoint in that K&L Wine Merchants on El Camino Real, which was much closer to Beltramo's than the Redwood City BevMo, was thriving (as was Beltramo's). He said empirically from what they knew and could see, this was consistent with making this finding.

Commissioner Bressler said it would be a mistake to approve this without an opportunity for review in two years. He said to be specific he believed the Beltramo employees' jobs were much more of an asset to the community. He said if something was done to threaten those jobs that was a much bigger deal than creating jobs that were at least 60 percent part-time employment. He said that he also believed that Beltramo's probably owned their building and probably not paying a lease, that they probably paid low property tax and he thought the arguments of the money flowing back to the community from the Beltramo's were even more than what they had read. He said that the lease money for this corporation might flow back into the community but there was no guarantee it would. He said it was about being responsible and he could not make the findings for number 3 that there would be no harm, which was why he wanted an opportunity to review the use permit as everything was based on suppositions. He said he would like to see the use permit again to find out if these suppositions were in fact true.

Commissioner Riggs suggested that staff might comment on item 6 regarding the use permit being a more appropriate place to indicate time limits. Chair O'Malley said that was where they had put time limits on use permits in the past. Planner Chow said that was correct and that would be a condition of approval. She said it was more appropriate to tie it to the conditions of approval rather than the findings. Commissioner

Bressler said he would not vote in favor of making the findings under number 3 unless he knew there was going to be a limit on the use permit to two years. Commissioner Kadvany said from a practical perspective and being neither for or against Commissioner Bressler's suggestion that implementing something like that presupposed identifying an economic condition of predatory pricing was something almost impossible to ascertain. He said they would have dueling experts at the Commission hearing to say what that was. He said they could set a time limit but he did not think they could get that kind of thing through the City's legal process. Commissioner Bressler said he was not asking for specific metrics. He noted however that even with this hearing consideration of the project was messy and there were differing points of view. He said he would not want the decision to be made to approve the use permit which would be for all time but to have a two-year review on the use permit. Commissioner Kadvany said they had heard from applicants that typically they borrow money to open a business and whether it is a bank or the corporation itself they would look at that. He said it was not something that could be applied unilaterally without saying "no" to the project. He said they would have to figure out what that was and maybe it was just a simple time limit. Commissioner Eiref said he was not sure that two years was the right number but asked whether they could just put a time base on everything, on the permit overall. He said basically they wanted to verify that this business would be an asset to the community and not a hindrance to other businesses and drive other businesses out of the area. Chair O'Malley said if they attached a time limit to the use permit that would take care of that. He said he believed that was what staff had recommended.

Development Services Manager Murphy said items of approval numbered 6, 7, and 8 were bundled and if the Commission wanted to add conditions related to the findings then items 6, 7 and 8 would need to be split apart for consideration, which could get complex. He said it was important to make findings for the approval and what the conditions of approval were so they could go through some of the recommended conditions of approval versus what the Planning Commission would want as conditions and to see which ones were truly tied to the use and which ones were tied to the design. He said as they were structured now they were pretty integrated and it might be problematic trying to split those apart but staff could attempt to assist the Commission in that process. He said the question at this point was whether the Commission as a whole could be comfortable making the use permit finding in the absence of the specific conditions of approval.

Commissioner Keith said that there were probably four Commissioners who could make the finding and suggested they move forward. Commissioner Kadvany called for the vote.

3. M/S Kadvany/Riggs to 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 as the proposed project would be located within an existing shopping center that contains several brand name retailers, provides convenient access from a major thoroughfare, ample on-site parking, and is not located near schools or adjacent to residences.

Motion carried 4-3 with Commissioners Bressler, Ferrick and Keith opposed.

Chair O'Malley asked if there was a motion on item number 4. Commissioner Eiref moved to make the finding. Commissioner Kadvany seconded the motion.

Commissioner Ferrick said this item was really the one that helped her not make findings. She said she could agree that this could not just go based on what she wanted which was everything to be independent and could agree there was a healthy mix of chain, specialty retail, some larger companies and independent single location stores. She said she could not make finding numbered 4 which stated that the proposed project would serve a public convenience or necessity because the proposed use focuses primarily on a variety of specialty wine, craft beers and distilled spirits where a broad selection and service on these products is the main focus, and the census tract in which this business is located does not contain a similar type store. Commissioner Ferrick said that this was not true. She said not only was Safeway across the street, Beltramo's was down the street as well as Trader's Joe, Draeger's and Willow Market. She said that she could not make the finding.

Commissioner Keith said she would reiterate that she could not make this finding and quoted from page 5 of the staff report: *The proposed subject site is located within an area of undue concentration, as defined per Business and Professions Code Section 23958. In this case, undue concentration means two things: 1) that the ratio of off-sale retail licenses to population in the census tract (of the subject site) exceeds the ratio of off-sale licenses to population in the county; and 2) the subject site is located within a crime reporting district that has a 20 percent greater number of reported crimes than the average reported crimes from all reporting districts within the jurisdiction.* She said she could not make the finding that BevMo was a public convenience or necessity.

Commissioner Kadvany said he wanted to make clear that he was not making the finding because he wanted a BevMo but because he believed there was not a similar type store in the area. He said if a person has agoraphobia, meaning a fear of large open spaces, that person would not want to shop at Safeway. He said the prices at Safeway also were not that good. He said Trader Joe's offered some discounted wine and sprits but had a poor selection of beers. He said at Draeger's the prices were higher. He said his neighbors who are BevMo members would say there was nothing else like BevMo in Menlo Park.

Commissioner Riggs said he had struggled with this finding and it was only earlier this evening that he found he could make the finding for public convenience. He said Commissioner Kadvany made enough of a persuasive comment towards that but it was also based on some of the comments made earlier this evening. He said it might not be a meaningful convenience if you were already in the car or it might not be a particular convenience for him living in Lorelei Manor but it was clearly a convenience for those who were BevMo customers and apparently there were about 1,600 BevMo customers in Menlo Park, who presently were driving to Redwood City. He said the Commission does not approve uses because there was a dire need for them but only because they serve a purpose. He said being practical as he was about this application that if there was any chance at all that BevMo would injure Beltramo's, he would not support it, but he believed in the competitive environment of Menlo Park that the challenge would be on BevMo to succeed. Chair O'Malley said he did not see BevMo as unfair competition to Beltramo's or Draeger's.

4. M/S Eiref/Kadvany to make a finding that the proposed project would serve a Public Convenience or Necessity because the proposed use focuses primarily on a variety of specialty wine, craft beers and distilled spirits where a broad selection and service on these products is the main focus, and the census tract in which this business is located does not contain a similar type store.

Motion carried 5-2 with Commissioners Ferrick and Keith opposed.

Planner Chow suggested that the Commission consider item 2, then 5, which would continue the findings, and then consider 6, 7 and 8.

Chair O'Malley said it was now 10:30 p.m. and asked if the Commission were willing to stay past 11:30 p.m. The Commission consensus was affirmative.

The Commission returned to finding number 2.

Commissioner Riggs moved to adopt findings as stated in item 2 related to architectural control. Commissioner Kadvany seconded the motion.

Commissioner Ferrick said she could make the architectural findings. She said if the business went into the center it might stimulate new life in the other vacant areas. Commissioner Keith asked how many spaces BevMo would use. Planner Chow said it would take the Chili's, Togo's and part of the Sound Perfection spaces.

(Finding number 2 was considered after consideration of items numbered 1, 3 and 4.)

2. M/S Riggs/Kadvany to adopt findings, 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 and existing commercial center.
- 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.

Motion carried 7-0.

Regarding signage, Commissioner Kadvany agreed with staff that he did not like the sign to be internally illuminated.

Recognized by the Chair, Ms. Sharon Turnipseed, Ad Art, said that the building sign would virtually be invisible because of the large trees. She said they could use an aluminum faced sign with opaque background with white push out. Commissioner Kadvany confirmed that the red background would not be seen at night. Ms. Turnipseed said that would reduce the amount of the red to less than 25 percent of the entire sign. Commissioner Ferrick asked if there was a darker red they could use. Ms. Turnipseed said that the red was the corporate logo. Mr. Sealy said if the Commission was comfortable with the Staples red that would be satisfactory for them. Ms. Turnipseed provided a color and materials sample. Commissioner Kadvany said they should get away from the bright primary colors. Those colors would make the building garish and would not improve the appearance of the building.

Commissioner Keith said the monument sign appeared to be seven feet high and seven feet wide. Planner Chow said that the stand was two feet, and the sign was five feet high and seven feet wide. She said it was consistent with the Chili's sign.

After some discussion, Chair O'Malley suggested that they could make a finding but conditioned on using a color allowed in the guidelines. He said in response to Planner Chow that the use of the color red used by the 76 station would be permissible. Mr. Sealy said he was willing to work with staff on a satisfactory red. Commissioner Kadvany said that was fine and should be in the conditions.

Commissioner Kadvany moved to make finding number 5; Chair O'Malley seconded the motion.

Commissioner Riggs said that the finding was being made because Mr. Sealy had agreed to modify the color of red to be more similar to the red of the 76 station and Staples' signs. Commissioner Ferrick said the color red made the sign inconsistent with the Design Guidelines. Planner Chow said in the Design Guidelines were factors related to the signage and that allowed the Commission discretion on colors.

5. M/S Kadvany/O'Malley to make a finding that the sign is appropriate and compatible with the use as a retail tenant in a multi-tenant building along the El Camino Real corridor and is consistent with the Design Guidelines for Signs.

Motion carried 4-3 with Commissioners Bressler, Ferrick and Keith opposed.

Commissioner Eiref asked when the land owned by Stanford came up for renewal. Development Services Manager Murphy said there were several parcels one of which was up in 2012 and other in 2013. Chair O'Malley asked about the proposed lease for BevMo. Mr. Sealy said that the lease option was for 10 years with two five-year renewals. Commissioner Eiref said he thought there should be a date when the use permit was reviewed. Commissioner Kadvany said he did not think BevMo was a risk to Beltramo's and was concerned that BevMo was being accused of predatory pricing without cause. Commissioner Bressler said he thought the use permit should be reviewed in two years. Commissioner Eiref said he thought a use permit review in three years would allow for the Specific Plan to be completed and time for the economy to recover. Commissioner Riggs said he thought the property manager would be lucky to lease the other 9,000 square feet in the next five years.

Commissioner Ferrick said she had a concern with a time limit as it would be difficult to pull something from the use permit at that point although a required review would incentivize a company to better behavior but often that was tied to the lease and those leases were usually shorter than 10 years.

Commissioner Bressler said there should be a condition to have the use permit come back to the Commission in three years. Planner Chow said this condition would be more appropriate under item 7.

6. M/S Kadvany/Riggs to approve the use permit, architectural control and sign review subject to the standard conditions.
 - a. Development of the project shall be substantially in conformance with the plans prepared by Hayashida Architects, consisting of three plan sheets, dated received August 9, 2010 and plans by AdArt, consisting of five plan sheets, dated received August 9, 2010, and approved by the Planning Commission on August 23, 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.

Motion carried 4-3 with Commissioners Bressler, Ferrick and Keith opposed.

Commissioner Riggs moved to approve the use permit, architectural control and sign review subject to the project-specific conditions to include a "b" related to a review of the use permit in three years. Commissioner Bressler seconded the motion.

Ms. Turnipseed asked for clarification of condition "a;" she asked if interior illumination would be allowed with an opaque background. Planner Chow said that staff felt the external lighting was preferable. Commissioner Kadwany conferred with Ms. Turnipseed and said he would trust the staff's judgment on the sign. Planner Chow said it was primarily for consistency with the Design Guidelines and that this would be a softer glow than what Ms. Turnipseed suggested. She said the ACE Hardware was similar to what Ms. Turpinseen was suggesting. Commissioner Riggs said that staff had been working on signage downtown and along El Camino Real for consistency. Commissioner Ferrick said as the City moved toward getting El Camino Real redeveloped that there should be standards in place.

- 7. M/S Riggs/Bressler to approve the use permit, architectural control and sign review subject to the project-specific conditions, with the following modifications.
 - a. Simultaneous with a complete building permit application submittal for the signage, the applicant shall submit revised plans for exterior uplighting if illumination of the monument sign is desired, subject to the review and approval of the Planning Division. No internal illumination shall be allowed for the proposed monument sign.
 - b. The use permit is subject to Planning Commission review in three years from the date of approval.**
 - c. Simultaneous with a complete building permit application submittal, the plans shall be revised to show a reduction in the**

use of the black film on the storefront windows facing the parking lot. The film shall be used only on the two right-most windows. (This item added after initial vote on item number 7.)

Motion carried 6-0, with Commissioner Keith abstaining.

Commissioner Keith said that the store hours should be set at 9 a.m. to 9 p.m. Commissioner Riggs suggested that the store be allowed to stay open until 10 p.m. during the holiday months of November and December. Commissioner Ferrick asked what the closing hours were for Staples and Big Five during the holidays which she thought was 9 p.m. She said that the later the hour the greater the possibility that liquor was being purchased for immediate consumption. Commissioner Eiref noted that Safeway is open 24 hours.

Commissioner Bressler moved to approve the use permit, architectural control and sign review subject to the ongoing, project-specific conditions and to limit store hours to 9 p.m. except to 10 p.m. during the months of November and December. Commissioner Kadvany seconded the motion.

8. M/S Bressler/Kadvany to approve the use permit, architectural control and sign review subject to the ongoing, project-specific conditions, with the following modification
 - a. The store hours of operation shall be limited to 9:00 a.m. to ~~10 p.m.~~ ***9:00 p.m., except during the months of November and December when the store may be open until 10:00 p.m., 7 days a week.***
 - b. The proposed wine tasting is limited to the following days and times, and six additional specific days as identified below:
 - Friday evenings from 4 p.m. to 7 p.m.;
 - Saturdays from 12 p.m. to 3 p.m.;
 - Grand Opening weekend (Friday through Sunday) from 9 a.m. to 7 p.m.; and
 - Specific holidays between 12 p.m. and 7 p.m.
 - a. Valentine's Day
 - b. St. Patrick's Day
 - c. Cinco de Mayo
 - d. Halloween
 - e. Day before Thanksgiving
 - f. New Year's Eve

- c. Routine cart retrieval from the parking lot throughout the day shall be maintained by employees in an effort to keep orderly operations at the site. In addition, either employees or a private service provider shall be responsible for ongoing cart retrieval from properties within the surrounding area.

Motion carried 5-0 with Commissioners Ferrick and Keith abstaining.

Commissioner Riggs asked if a further modification might be made to the architectural control as the staff report had indicated that there might be a reduction of the black filming of the store windows. He said it would be a specific condition. He said the alternative might be a permanent display case about 18-inches deep and five feet wide that would effectively black out the windows. Mr. Sealy confirmed this was along the back of the store and they would like people to see inside the store from El Camino Real. He said if staff only wanted two windows filmed to block the site of the baler they would do that. Commissioner Riggs said they perhaps could do a permanent display. Commissioner Riggs suggested a 7.c that would substitute display rather than black filming of the windows. Commissioner Ferrick said she liked having display on the El Camino Real side but thought that it would be difficult to create a display behind the baler and it might not get changed out frequently. Planner Chow said the applicant was blackening out the window in the west section and that would be the side of the building along the driveway. Mr. Don Inaba, Hayashida Architects, said on the north elevation there were a series of windows extending to column line 2 and it seemed logical to do black out all those windows. Mr. Sealy said the blackout as propose would continue to the display area, but they could stop the tinting so it only blocked the baler room. Commissioner Riggs said that would be acceptable with consultation through staff.

Commissioner Riggs moved to add to the previously approved item 7, a condition "c" related to lessening the amount of blackout on the windows facing the parking lot to two windows. Chair O'Malley seconded the motion.

The motion carried 7-0.

E. REGULAR BUSINESS #2

1. **Review of Gross Floor Area Zoning Ordinance Amendment/City of Menlo Park:** Review, comment and possible recommendations regarding the one-year review of Zoning Ordinance amendment relative to the clarification of gross floor area.

Item deferred until the meeting of August 30, 2010.

F. COMMISSION BUSINESS

1. Update on pending planning items.

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

Chair O'Malley asked if the Commission would support the addition of special meetings to discuss the Specific Plan. There was Commission consensus. Chair O'Malley asked Commissioners Bressler and Riggs if they wanted to continue on the Commission subcommittee related to the Specific Plan. Commissioners Bressler and Riggs indicated their agreement. Chair O'Malley said that one other Commissioner could serve on the subcommittee to work with staff on the specifics of those special meetings. Commissioner Ferrick said she was interested in serving on the subcommittee. Commissioner Kadvany said he was interested in providing input as a Planning Commissioner on the Specific Plan but he was not sure through what vehicle. After discussion about the Planning Commission's role in considering the Specific Plan, Chair O'Malley appointed Commissioner Ferrick to the Specific Plan subcommittee.

G. REPORTS AND ANNOUNCEMENTS

There were none.

ADJOURNMENT

The meeting adjourned at 11:47 p.m.

Commission Liaison: Deanna Chow, Senior Planner

Recording Secretary: Brenda Bennett

Approved by Planning Commission on October 18, 2010