



PLANNING COMMISSION MINUTES

December 6, 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; Kyle Perata, Planning Technician; Thomas Rogers, Associate Planner

A. REPORTS AND ANNOUNCEMENTS

1. Update on Pending Planning Items.

A. One-year Review of Gross Floor Area – November 16, 2010

Planner Chow said the City Council considered the one-year review of the Gross Floor Area (GFA) definition at their November 16, 2010 meeting. She said they supported revisiting the GFA definition in a one-year time frame and wanted to specifically look at items they had asked staff originally to look at regarding exclusions and the definition and notification process. She said additionally they also supported items the Commission had asked staff to look at including staircases, elevators and trash enclosures. She said in the near term the Planning Commission would need to discuss the scope of work for the parking structure study, which came out of a Planning Commission discussion. She said this discussion would most likely be agendaized for the first Commission meeting in January and the Commission would be asked to make a determination if the work should be accomplished by staff or through other resources.

B. Willow Business Area and M-2 Zoning District Area – November 16, 2010

Planner Chow said the City Council considered the Willow Business Area and M-2 Zoning District Area at their November 16, 2010 meeting. She said they considered the modification of the fee schedule to allow for expedited over-the-counter plan check service for industrial and commercial buildings in the M-2 and an appropriation of redevelopment non-housing reserve funds for an environmental consultant to help prepare the environmental documents or the zone ordinance amendment to allow modifications for the hazmat process.

C. Council action on revisions to 1460 El Camino Real – meeting date to be determined

Planner Chow said the Commission had reviewed the 1460 El Camino Real project (Beltramo's mixed-use project) at their October 4, 2010 meeting and had recommended to the Council that the PDP permit be extended and the BMR agreement modified. She said it was expected the Council would consider this item at their first meeting in January.

D. Application for Planning Commissioner due December 8, 2010

Planner Chow said the deadline for applications to fill Commissioner Keith's seat was December 8, 2010 with the goal of filling the vacancy by the first meeting in January.

B. PUBLIC COMMENTS

There were none.

C. CONSENT

1. Approval of minutes from the November 1, 2010 Planning Commission meeting.

Commissioners Keith, Kadvany and O'Malley had a number of corrections.

Commission Action: Unanimous consent to approve the minutes with the following modifications:

- Page 6, last paragraph, 8th line: Replace “previous” with “previously” (Kadvany)
- Page 6, last paragraph, 9th line: Delete “tri-colored” after the word “delivered” (Kadvany)
- Page 7, 3rd full paragraph, 9th line: Replace “cut” with “but” (Keith)
- Page 8, 1st full paragraph, 3rd line: Insert “about” between “asked” and “what” (Kadvany)
- Page 11, 6th paragraph, 1st line: Replace “useful. He said they had heard about” with “useful, including” (Kadvany)
- Page 11, 7th paragraph, 10 line: Replace “starts” with “start” (O'Malley)
- Page 12, 3rd paragraph, 3rd line: Replace “folks” with “Menlo Park residents” (Kadvany)
- Page 13, 1st paragraph, 4th line: Replace “would” with “should” (Keith)
- Page 13, 3rd paragraph, 5th line: Delete “would be” (Kadvany)
- Page 13, 3rd paragraph, 5th & 6th line: Replace “area would be” with “decisions would be refining and possibly creating” (Kadvany)
- Page 13, 3rd paragraph, last line: Replace “effective” with “useful” (Kadvany)
- Page 13, last paragraph, 3rd line: Insert “about” between “concerned” and “starting”
- Page 13, last paragraph, 4th line: Insert “2” after “January” (Keith)
- Page 13, last paragraph, 5th & 6th line: Delete “He said silence and no action would have impacts.” (Keith)
- Page 14, 6th paragraph, 2nd line: Insert “in contrast” between “Downtown” and “involved” (Kadvany)
- Page 14, 6th paragraph, 3rd line: Replace “Downtown was not crisply summarized and that was leading to a vacuum and...” with “Downtown Vision was not crisply summarized, and that that was leading to a vacuum, and...” (Kadvany)
- Page 14, 7th paragraph, 4th line: Insert “presentation” between “an” and “in.” (O'Malley)
- Page 15, 1st paragraph, 9th line: Replace “Plan which he thought was promoting process that would...” with “Plan, which he thought would further encourage the Council's silence...” (Kadvany)
- Page 15, 1st paragraph, 1st line: Replace “Chair O'Malley asked regarding the discussion on how best to present concepts to the public and using visual aids to do so” with “Regarding the discussion on how best to present concepts to the public, and using visual aids to do so, Chair O'Malley asked whether Commissioners were suggesting getting this done before the first meeting.” (O'Malley)
- Page 15, last paragraph, last line: Replace “90 seconds on each area” with “a brief period of time” (Kadvany)

Action to approve with modifications was unanimous.

D. PUBLIC HEARING

1. **Use Permit/Mark Johnson/2027 Menalto Avenue:** Request for a use permit to demolish an existing single-story, single-family residence and construct a new two-story, single-family residence on a substandard lot with regard to lot width and lot area in the R-1-U (Single-Family Urban) zoning district. ***Continued from the meeting of October 18, 2010.***

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

Public Comment: Chair O'Malley ascertained there was no public comment and closed the public hearing.

Commission Comment: Riggs moved to approve as recommended noting that the key change to the design was to push the house back onto the lot so the parking was no longer directly in front of the entry door. Commissioner Ferrick seconded the motion.

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 subject to the following **standard** conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Habitat Design Architecture, consisting of seven plan sheets, dated received November 17, 2010 and approved by the Planning Commission on December 6, 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.

Motion carried 7-0.

2. **Use Permit and Variances/Chris Kummerer/626 Central Avenue:** Request for a use permit to determine the Floor Area Limit (FAL) of a lot with less than 5,000 square feet of area, associated with the construction of a second-story addition to an existing two-story, single-family residence in the R-1-U (Single-Family Urban) zoning district. In addition, a request for variances for the addition to encroach approximately one foot, two inches into the five-foot, left side setback and approximately 10 inches into the five-foot, right side setback, in line with the existing nonconforming first-floor walls, as well as variances for architectural features to intrude greater than 18 inches into the required side setbacks, associated with eaves on the second-story addition. As part of the proposed development, two heritage stone pines (25-inch and 37-inch diameter) in fair condition at the left side of the property would be removed.

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

Questions of Staff: Commissioner Keith asked about the meaning of “tentatively” on page 6 of the staff report in the section that reads: “Under FEMA and City guidelines, the proposed expansion is tentatively not considered new construction or a substantial improvement, and as such, neither the existing residence nor the addition would be required to meet FEMA floodproofing regulations.” Planner Rogers said the applicants had done due diligence on the valuation, which however was a valuation determined by FEMA and handled through the Public Works Department.

Commissioner Kadvany asked whether the two stone pines proposed for removal posed an imminent threat to the structure due to suspected limb failure. Planner Rogers said the trees were not an immediate risk but likely enough to be a concern in the future and were a constraint on the development of the project.

Public Comment: Mr. Chris Kummerer, architect, Menlo Park, thanked staff for their concise report. He said his clients wanted to accommodate their expanding family through this modest addition proposal. He said design constraints were the extremely narrow width of the lot, which subtracting the side setbacks was only 17 feet, and the stone pine trees. He said the existing structure was built over setbacks on the right and left and was in the flood zone as established by FEMA. He said the proposed design for the addition was to create a bungalow style looking structure with a steep roof in front, small windows on the side, a second story setback and second floor walls aligned with the first floor walls. He said they were pleased with the design and neighbors’ support.

Commissioner Kadvany asked if the two stone pines had grown into the fence or whether the fence had been cut out around the trees. Mr. Kummerer said the fence had been built around the trees. Commissioner Kadvany asked if the tree roots had invaded the new foundation and where that was in relation to the previous foundation. Mr. Kummerer said there was an original foundation, an addition was added later in the back and on the second floor, and both the original and later generation foundations were functional.

Commissioner Riggs asked about a statement on page 5 of the staff report that indicated the expanded residence would comply with the daylight plane. He said the east and west elevations indicated that the daylight plane would be less than before with the proposed house. Mr. Kummerer said the roof of the proposed design would fit within the daylight plane, but they were asking for a variance to intrude into the setback which also intruded into the daylight plane. Commissioner Riggs said the angle of the daylight plane was determined by the plate height. Mr. Kummerer said if they chose a roof pitch on the eight foot plate height that would not impact light and air for neighbors.

Commissioner Keith said the applicants were looking for flexibility in the design and materials to keep under the FEMA trigger for substantial construction. Mr. Kummerer said they were not asking anything of Planning but would have discussions with Public Works. He said the proposal was under the 50 percent number. He said they had not gotten their construction documents to the stage to determine construction cost. Commissioner Keith asked about the use of cedar shingles. Mr. Kummerer said they would use cedar shingles on the new addition and if possible ideally on the whole second floor.

Chair O'Malley closed the public hearing.

Commission Comment: Commissioner Riggs said this was a handsome and attractive design that would enhance the neighborhood. He said he could not see how to grant the variance finding that it was necessary for the preservation and enjoyment of substantial property rights possessed by other conforming properties. He said there were reasons for minimum five foot side setbacks and those needed to be adhered to. He said if one property owner was allowed to intrude into the setbacks by six inches so should others.

Commissioner Bressler said encroachment into the setbacks was not increasing. He said the daylight plane was an issue. He said key issues to consider would be impact to neighbors and setting precedence. He said the project was doing neither.

Commissioner Ferrick said she could make the findings for the variance request related to the preservation and enjoyment of substantial property rights as there was existing encroachment into the setbacks and the changes would not have additional impacts on neighbors.

Chair O'Malley said he shared Commissioner Riggs' concerns but this project would result in a more attractive home for the neighborhood.

Commissioner Bressler moved to approve as recommended in the staff report. Commissioner Ferrick seconded the motion. She said it was very unusual to have such a narrow lot and there were not enough of those around town to set precedence. Commissioner Keith said the motion should include making the findings for the variance request and approving the use permit, which was acknowledged.

Commissioner Kadvany said large trees were on other lots in Menlo Park and decisions regarding their removal if needed to build an entirely new second story was one thing but this property did not need the tree removal to build as the second story was already existing. He expressed a concern that some people know how to use variance rules and make a case to have the variance rules interpreted flexibility enough to do larger projects.

Commissioner Eiref said he agreed with Commissioner Riggs about his concern related to the finding for the preservation of the enjoyment of substantial property rights. He said after visiting the site he believed the design proposal would make the home very attractive. He said also the surrounding neighbors were supportive. He asked Commissioner Riggs if he knew any way to make the project fit better. Commissioner Riggs said there could not be two new bedrooms unless they were 8-foot by 10-foot. He said if it was his project he would only add one bedroom with the result would be three bedrooms and four bathrooms, and that is why there were no substantial property rights to be preserved. He said there was an encroachment of six-inches and eight-inches on the two sides. He said while he regretted the loss of the pines he felt they were presenting a danger to the house as they were so close to the house there was no room to walk between them and the house and could easily take off a gutter if there was high wind. He said the tree issue and setback issue were completely unrelated.

Commission Action: M/S Bressler/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. Make the following findings as per Section 16.82.340 of the Zoning Ordinance pertaining to the granting of variances:
 - a. The hardship is based upon the unusually narrow lot width which limits the potential for rooms of typical sizes, the placement of the existing ground-floor walls and second-floor landing within the setback, and the locations of the existing trees which effectively preclude ground-floor additions, and is particular to the property and not created by any act of the owner.
 - b. The variance is necessary for the preservation and enjoyment of substantial property rights possessed by other conforming property in the vicinity, in particular with the ability to achieve a floor area ratio generally equivalent to properties of greater than 5,000 square feet in size. The variance will not increase the maximum allowed FAL or change the existing building coverage, and therefore will not constitute a special privilege.

- c. The addition would be located well away from the adjacent properties on the north, and the potential for impacts to the property on the south would be limited by the sun orientation and the placement of the adjacent residence away from the shared property line. The second story will be well within the required daylight planes, and the overall height of the residence would be located well below the 28-foot maximum. As a result, the proposal will not be materially detrimental to the public health, safety, or welfare, and will not impair an adequate supply of light and air to the adjacent properties.
 - d. Because the variance would be based on the unique conditions of an unusually narrow lot width, the placement of the existing ground-floor walls and second-floor landing within the setback, and the locations of existing trees which effectively preclude ground-floor additions, it would not be applicable, generally, to other property within the same zoning classification.
4. Approve the use permit and variances subject to the following **standard** conditions:
- a. Development of the project shall be substantially in conformance with the plans prepared by Chris Kummerer Architect, consisting of seven plan sheets, dated received November 22, 2010, and approved by the Planning Commission on December 6, 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. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance.
5. Approve the use permit and variances subject to the following **project-specific** condition:
- a. Simultaneous with the submittal of a complete building permit application, the applicant shall finalize the second-floor siding, subject to review and approval of the Planning Division for integration and aesthetic consistency.

Motion carried 5-1 with Commissioner Riggs opposed and Commissioner Kadvany abstaining.

Commissioner Kadvany said he wanted to make it clear that the vote expressed an informed value judgment about planning for this property that went far beyond the variance rules and the community should be informed that the variance rules were not being applied at all strictly.

Commissioner Keith said the Commission had considered other properties smaller than this one in the Willows and had approved even more variances for one project. She said all variance requests were considered case by case.

3. **Use Permit/Andrew Young/441 El Camino Real:** Use permit request to allow a specialty pharmacy that focuses on customized, compounded prescription medications for unique patient needs to occupy an existing tenant space in a commercial building that is nonconforming with regard to parking in the C-4 (General Commercial - Applicable to El Camino Real) zoning district.

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

Questions of Staff: Commissioner Riggs confirmed with Planner Fisher that there were no significant façade revisions. Commissioner Eiref said the parking was to the rear but that was not obvious from El Camino Real. He asked about signage. Planner Fisher said there was not signage but was a possibility. Commissioner Kadvany asked if the parking was just for this business or also for Menlo Velo. Planner Fisher said all seven parking spaces were shared by the businesses. Chair O'Malley asked if the customized compounded prescription medications included marijuana. Planner Fisher said it did not. Chair O'Malley asked if physicians in California were able to prescribe marijuana whether this business could provide. Planner Fisher said they would not be able to do that. Commissioner Kadvany asked if parking would be impacted. Planner Fisher said that there would be two to three employees only and many prescription orders were sent by fax and email. She thought there would be less parking demand as each prescription would take about an hour to prepare so there would be no waiting.

Public Comment: Ms. Shirley Corbari, applicant, said they would produce 50 prescription the first month. She said most prescriptions would be mailed and she did not expect much drop-in parking. She said their hours would be 10 a.m. to 6 p.m., Monday through Friday. Commissioner Bressler asked if 50 prescriptions would be enough to sustain the business. Ms. Corbari said they expected to fill 10 prescriptions per day by the end of the year, which was enough to make a profit.

Commissioner Keith asked about other similar businesses. Ms. Corbari said there were similar businesses in Palo Alto, Los Altos, San Jose and San Francisco. Responding to Commissioner Keith, Ms. Corbari said she chose Menlo Park because the rent rate was decent.

Chair O'Malley closed the public hearing.

Commission Comment: Commissioner Riggs said he was pleased to see the building and proposal compliance. He moved to make the findings and grant the use permit. Commissioner Keith seconded the motion.

Commission Action: M/S Riggs/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** condition:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Young and Borlik, consisting of nine plan sheets, dated received November 21, 2010, and approved by the Planning Commission on December 6, 2010, except as modified by the conditions contained herein, subject to review and approval of the Planning Division.

Motion carried 7-0.

4. **Use Permit Revision/Magnussen Phelan LLC/401 Burgess Drive:** Request for a use permit revision to allow additional medical office uses at an existing building that is nonconforming with regard to parking and located in the C-1-A (Administrative and Professional) zoning district. The applicant also requests to add 67 square feet of gross floor area and requests to provide 34 parking spaces based upon 1 space per 333 square feet of general office use and 1 space per 222 square feet of medical office space where the zoning district requirement is 1 space per 200 square feet of gross floor area. The existing approval from 2002 is a blanket use permit for all non-medical office uses and for medical office for a portion of the building.

Staff Comment: Planner Chow said staff had received an additional email expressing support from the business at 431 Burgess Drive and it had been distributed to the Commission.

Questions of Staff: Commissioner Kadvany noted the informal parking study that was done for the project and asked if anyone had looked at evening or weekend parking. Planner Chow said applicant had done a parking study and found that most of the businesses had weekday hours. She asked if he wanted adjacent uses to have the ability to park at those lots in the evening or on the weekends. Commissioner Kadvany said he wondered if people used that parking lot informally. Commissioner Bressler said there was not a particular parking problem in that area.

Dr. Darren Phelan, Menlo Park resident and property owner, said that staff and he had worked together to develop a project that would benefit the City and the tenants.

Commissioner Keith said she was familiar with the property and had never seen a parking problem.

Commissioner Eiref asked if the applicant was content with the number of doctors allowed. Dr. Phelan said that they wanted to have a volume that would not create a parking problem. He said he would like the seven staff members to be clarified as full-time equivalent. He said he would love approval without conditions.

Commissioner Kadvany asked about Burgess Pediatrics. Dr. Phelan said when he and his father-in-law acquired the property it was found that Burgess Pediatrics had been operating without a use permit since 2007.

Chair O'Malley closed the public hearing.

Commission Comment: Commissioner Keith moved to approve as recommended in the staff report. Commissioner Riggs asked if that included the modification related to the number of employees (full-time equivalent). Commissioner Keith said she would include that in her motion. Commissioner Riggs asked staff if that modification was acceptable. Planner Chow said that was fine. Commissioner Riggs seconded the motion. Commissioner Eiref asked about the doctor/patient load. Planner Chow said that this model had worked previously with the other medical offices at this site without impacting parking and staff felt the used now and only about 10-12 cars parked at any one time, and the lot was bigger than that. Chair O'Malley said that parking for medical offices has been an issue in the City.

Dr. Phelan said concierge medicine which focused on quality care and not quantity care. He suggested the approval could indicate that doctor/patient load would conform to existing similar concierge medical offices and direct pay practices and that would limit the number of patients per hour and still meet the goals. Mr. Magnussen said his office would have two other staff that was often at his other offices and the rest would be doctors.

Commissioner Bressler said the project was in a residential neighborhood and the applicant had gone out of his way to work with neighbors. He said any metric was only applied if there was a problem. He said they should keep what was in the staff report. Commissioner Ferrick said the applicant had been sensitive in this area. She said there was potential medical office growth in the future and she would not want something lenient in the approval now as future uses might have much more impact.

Commissioner Kadvany said that there was problem with the theft of bicycles when bike racks were along the street.

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

1. Make a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current CEQA Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the use permit subject to the following **standard** conditions:
 - a. Development of the project shall be substantially in conformance with the plans provided by Design Tech, consisting of six plan sheets, dated received November 29, 2010, and approved by the Planning Commission on December 6, 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.
4. Approve the use permit subject to the following **project-specific** conditions:
- a. The site is subject to a blanket use permit, allowing all permitted uses in the C-1-A (Administrative and Professional) zoning district except for medical and dental offices as noted in condition b below. The maximum number of suites in the building is limited to four.
 - b. All medical and/or dental office uses within the building shall be limited to a combined maximum of:
 - 6,712 square feet,
 - nine doctors,
 - seven **full-time equivalent** staff members, and
 - a patient load of one patient per hour, per doctor.
- Any future medical and/or dental office may locate in the building only if the characteristics of the future use combined with any existing medical practice are substantially the same as the approved use. Changes to the number of doctors, staff members or patients per hour shall be subject to use permit review and approval by the Planning Commission. Prior to issuance of any business license for medical and/or dental use at the site, the applicant shall submit a comprehensive inventory of tenants, staffing and patient load for compliance with the use permit.
- c. Prior to occupancy of Suite D, the applicant shall submit the details of the bicycle rack and location, subject to the review and approval of the Planning and Transportation Divisions, and shall install the rack per the plan.
 - d. The applicant shall maintain a transit information rack for each of the tenant suites or regularly provide updated and access to the information to encourage and promote alternative means of transportation to and from the subject site.

Motion carried 7-0.

5. **Use Permit/Clearwire/1340 Willow Road:** Request for a use permit to install three wireless telecommunications antennas, RRUs, and microwaves, and an associated equipment cabinet in a stealth box on the roof of Mid-Peninsula High School in the M-2 (General Industrial) zoning district.

Staff Comment: Planning Technician Perata said the Commission was receiving the most recent photographs of the proposed revised plan at the dais.

Public Comment: Ms. Michelle Weller, Clearwire, introduced herself, and said the staff report was comprehensive.

Commissioner Keith asked about condition 4.a and if a 10-year expiration was satisfactory. Ms. Weller said they were fine with that condition. Commissioner Keith asked if they had done a similar project. Ms. Weller said there were quite a few in Oakland. Commissioner Keith asked how much the school received for hosting this equipment. Ms. Weller said she did not do the leasing for this project but typically it was \$1,000 to \$1,500 a month.

Chair O'Malley closed the public hearing.

Commission Action: M/S Riggs/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 State California Environmental Quality Act (CEQA) Guidelines.
2. Make necessary findings, pursuant to 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 safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of the proposed use, and will not be detrimental to property and improvements in the neighborhood or general welfare of the City. *(Due to the Federal Communications Commission (FCC) preemption over local law regarding concerns over health where the proposed facility meets FCC requirements, staff has eliminated the standard finding for "health" with respect to the subject use permit.)*
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 Streamline Engineering and Design, Inc., dated November 16, 2010 consisting of eight plan sheets and approved by the Planning Commission on December 6, 2010 except as modified by the conditions contained herein and the recommended mitigation measures described in the RF report.
 - b. Prior to building permit issuance, the applicant shall comply with all County, State, and Federal 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 that are directly applicable to the new construction.
4. Approve the use permit subject to the following **project specific** conditions:
 - a. This use permit shall expire at the end of ten (10) years from the date of building permit issuance unless extended by the Planning Commission. If the applicant desires to extend the use permit, the applicant shall explore and implement, to the extent feasible, the available technology to reduce the size and/or visibility of the antenna.

Motion carried 7-0.

E. COMMISSION BUSINESS

There was none.

ADJOURNMENT

The meeting adjourned at 8:40 p.m.

Staff Liaison: Deanna Chow, Senior Planner

Recording Secretary: Brenda Bennett

Approved by Planning Commission on January 10, 2011