



PLANNING COMMISSION MINUTES

January 24, 2011

7:00 p.m.

City Council Chambers

701 Laurel Street, Menlo Park, CA 94025

CALL TO ORDER – 7:00 p.m.

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

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

A. REPORTS AND ANNOUNCEMENTS

1. Update on Pending Planning Items.

A. City Council action on revisions to 1460 El Camino Real – January 11, 2011

Planner Chow said the City Council voted unanimously 4-0, with Council Member Cohen recused, to approve the applicant's request to extend the Planned Development Permit through August 1, 2012 and for the proposed modifications to the Below Market Rate Housing Agreement. She said the applicant was also directed to work with the residential neighbor to select trees for screening.

B. City Council Determination on Tree Removal at 240 University Drive – January 25, 2011

Planner Chow said a neighbor of 240 University Drive appealed the heritage tree removal permit, which appeal went to the Environmental Quality Commission. That commission upheld the appeal, which meant construction could not proceed. The applicant/property appealed that decision to the City Council. In October, the Council directed staff to have a third party peer review of the project by an external architect team to determine if there were reasonable design alternatives other than what the applicant had proposed. She said that report would be presented to the City Council on January 25, 2011 for their decision on the heritage tree removal.

C. Planning Commissioner Appointment

Planner Chow said the Council would make an appointment to the Planning Commission from the applicants, who had been interviewed.

Chair Bressler asked if the 240 University Drive project would come back before the Planning Commission. Planner Chow said it would depend upon what the Council's direction was. She said if it was a one-story design directed by Council that proposal might not have to come before the Commission, but a different two-story design from what was previously approved by the Planning Commission would need to.

B. PUBLIC COMMENTS

There was none.

C. CONSENT

Commissioner Riggs apologized to staff that he had not emailed a modification for page 5, 1st full paragraph, last line, to replace “gensap” with “generator set.”

1. Approval of minutes from the December 13, 2010 Planning Commission meeting.

COMMISSION ACTION: Unanimous consent to approve the minutes with the following modifications:

- Page 5, 1st full paragraph, last line: Replace “gensap” with “generator set.” (Riggs)
- Page 7, 6th paragraph, 4th line: Replace “rec In-lieu funds” with “recreation in-lieu funds” (correction sent by email)
- Page 12, 4th paragraph, 4th bullet: Replace “Campus has over a million square foot of buildings” with “Campus has over one million square feet of buildings.” (correction by email)

D. PUBLIC HEARING

1. **Use Permit Revision/William Park and Jung Choi/600 Cotton Street:** Request for a revision to a use permit granted in 1999 for the construction of a two-story, single-family residence on a substandard lot with regard to lot width and lot area in the R-E (Residential Estate) zoning district. The use permit revision is for an addition to the first floor and basement of the residence, an addition to an existing accessory building, and approval of an expansion to an existing detached garage. The applicant is also proposing to remove a heritage-size cedar tree located in the front, right corner of the site that is 25.6 inches in diameter and potentially hazardous. ***Deferred from the meeting of January 10, 2011.***

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

Questions of Staff: Commissioner O'Malley asked if there was a process in place that would prevent what occurred with this project related to the changes to the garage that had not been allowed under the original use permit. Planner Chow said the additions to the garage had been permitted through the building permit process. She said they now have in place an electronic tracking system, which was a better system.

Public Comment: Ms. Jung Choi and Mr. Bill Park, applicants and the property owners, introduced themselves to the Commission. Ms. Choi said they bought this home in February 2010 and were proposing largely interior changes to make the home more usable for them. She said the exterior changes they were proposing were to extend the basement the full footprint of the house. She said the spa room was an open footprint with two walls, which they would wall off to make an exercise room. She said they had spoken with their 10 neighbors and had nine letters of support.

Commissioner Kadvany asked about the cedar tree in the front yard. Ms. Choi said they had not planned to remove it, but as they went through the planning process, the City Arborist had

noted the tree's deterioration and asked if they wanted to replace it. She said they had the arborist who had worked with the original project look at the tree as well, and that person had indicated that the tree was diseased inside and there was nothing that could be done to save it.

Commissioner Eiref said he saw four letters of recommendation. Ms. Choi said she submitted nine letters. Commissioner Eiref asked if the immediate adjacent neighbors supported the project. Ms. Choi said that those neighbors had signed off on the project.

Chair Bressler closed the public hearing.

Commission Comment: Commissioner O'Malley moved to approve the project as recommended in the staff report. Commissioner Ferrick seconded the motion.

Commissioner Riggs said at some point the City had an issue with the use of copper on a chimney cap. Planner Chow said the City had no prohibition on the use of copper. Commissioner Riggs said although the home which was built 10 years ago had nice massing, there were some features such as the windows which needed upgrading. He asked for an expansion of the arborist's comments as that was not stated in the staff report. He asked if the Commission would support confirming the health of the tree before moving the tree removal forward and to get specific findings that the tree was too diseased to be saved. Commissioner O'Malley said that was acceptable to him as the maker of the motion. Commissioner Ferrick accepted the friendly amendment as well.

Ms Choi said it was the City Arborist who had indicated the tree needed removal. Commissioner Riggs said he would accept Mr. Fuji's finding once that was confirmed.

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

1. Make a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current CEQA Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the use permit subject to the following **standard** conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Jim Maliksi & Associates, consisting of 20 plan sheets, dated November 11, 2010, and approved by the Planning Commission on January 24, 2011, 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.
4. Approve the use permit subject to the following ***project-specific*** condition:
- a. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a site plan showing the proposed planting location and species of the required heritage replacement tree. The minimum planting size shall be 15 gallons. The plan shall be subject to review and approval by the Planning Division prior to building permit issuance.
 - b. Simultaneous with the submittal of a complete building permit application, the applicant shall provide a tree report by the project arborist with additional details regarding the basement and lightwell construction methods, an evaluation of the resulting impacts on tree #12, and specific protection measures and construction procedures that would maintain the health of the tree, which may include reducing the amount of excavation, subject to review and approval by the Planning Division and City Arborist. The tree protection measures shall be installed prior to building permit issuance, subject to review and approval by the Building Division and the City Arborist. A project arborist shall be retained for the construction period.
 - c. ***Simultaneous with the submittal of a complete building permit application, the applicant shall provide an updated arborist report that includes additional details about the existing condition of tree #30 (deodar cedar) as identified in the Mayne Tree Expert Company, Inc. report dated September 13, 2010. The updated report is subject to review by the Planning Division and City Arborist prior to issuance of a heritage tree permit.***

Motion carried 6-0.

2. **Use Permit/Anatole Zelkin/1923-1929 Menalto Avenue:** Request for a use permit to operate a retail flower shop in an existing commercial building on a property that is substandard with regard to parking in the C-2 (Neighborhood Shopping) zoning district.

Staff Comment: Planner Rogers said that on page 2 of the staff report in the top of table which listed neighboring tenants that the yoga studio was shown as vacant. He said the City now has a business application for a dance studio in that space. He said the Commission should consider the space as vacant or with a similar use in its decision on this use permit request. He said if the use proved to be different from what was permitted, there would be a separate use permit review.

Public Comment: Mr. Anatole Zelkin, property owner, expressed frustration with the use permit process. He said he had requested a blanket use permit but had been told this could not occur without the support of neighboring businesses. He said the neighboring businesses have had nothing but compliments for the tenants and the use of the property. He said when he brings tenants forward to get use permits that he advises them to visit with the neighboring businesses. He noted that he had applied for a use permit in 2008 for a yoga studio and had not gotten approval by 2010. He said the yoga studio had a month by month lease and had already grown and needed larger space. He said the business owners coming to him were young, ambitious and artistic. He said he would like to request a temporary use permit that would allow businesses to come in and operate as they applied for a use permit. He asked the Commission to approve the use permit application.

Commissioner Kadvany asked if the space would need additional refrigeration and plumbing installed to support a floral shop. Mr. Zelkin said the tenants would have a cool room with an air conditioning unit but would not require special refrigeration.

Mr. David Hicks, co-owner of Twigs and Petals, said related to any concern about parking that floral businesses make money through online business orders and phone orders primarily and walk-in business was the least of the business. He said their business was mainly a delivery service for which they had a parking space in back and they would not use the spaces in the front.

Ms. Kathleen Daley said she owned Café Zoe, which was located next door to Twigs and Petals. She said she was thrilled with the new business. She said they were creating a group of independent businesses whose owners want to make the City proud and make the corner of Menalto and Gilbert Avenues a success. She said she supported the granting of the use permit.

Chair Bressler closed the public hearing.

Commission Comment: Commissioner Ferrick moved to approve the use permit as recommended in the staff report. Commissioner Riggs seconded the motion. Commissioner Ferrick said the use of a flower shop would not create a parking problem for the reasons articulated by the applicant. Commissioner Eiref said he was amazed at the diversity of businesses at this center and there seemed to be adequate parking. Commissioner O'Malley said the business owners had every reason to be proud of their center and he agreed that the parking seemed adequate.

Chair Bressler said the applicant wanted to have a review of the approval process. He asked how they might discuss that in the future. Planner Rogers said any discussion of review processes for this or other sites would require noticing and placement on an agenda.

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

1. Make a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current 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 the applicant, consisting of five plan sheets, dated received January 3, 2011, and approved by the Planning Commission on January 24, 2011, except as modified by the conditions contained herein, subject to review and approval of the Planning Division.
4. Approve the use permit subject to the following **project-specific** conditions:
 - a. All tenants are responsible for daily pick up of trash and refuse in the immediate vicinity of the subject property, including the portion of the alley directly behind the property.
 - b. The yoga studio shall have a maximum class size of 18 students, and classes shall be separated by a minimum interval of 15 minutes in order to allow departing patrons to free up car and bicycle parking spaces for arriving patrons.
 - c. The café use shall have the following unique conditions:
 - i. Service at the café shall be limited to non-alcoholic beverages and food items including but not limited to baked goods and sandwiches, but excluding cooked meals. Beverages shall include, but not be limited to, coffee and espresso drinks.
 - ii. The café shall primarily operate as a sit down establishment as opposed to a fast food outlet that focuses on take out business.
 - iii. The café shall be limited to a maximum of 28 seats for customers, including eight outdoor seats (four in front, four in rear).
 - iv. The hours of operation for the café shall be limited to between 7:00 A.M. and 8:00 P.M., Sunday through Thursday, and between 7:00 A.M. and 9:00 P.M. on Friday.
 - v. Live music is permitted on Friday evenings and Sunday afternoons. Performances shall take place indoors.

Motion carried 6-0.

Chair Bressler asked if he could appropriately ask the members if they would like to agendize a discussion on the review process for this site. Planner Rogers said that would be appropriate without any discussion on the topic and after the meeting the Chair might meet with staff. Chair Bressler asked if Commissioners were interested in discussing this topic at another time. He said there seemed to be sufficient interest. Planner Roger said he would meet with the Chair after the meeting to identify the future agenda item more specifically.

3. **Use Permit Revision/Verizon Wireless/2884 Sand Hill Road:** Request for a use permit revision to extend the time limit for an existing wireless facility on a rooftop of an existing building in the C-1-C (Administrative, Professional, and Research, Restrictive) zoning district.

Staff Comment: Planning Technician Perata said staff had distributed coverage maps for the Commission's review.

Public Comment: Ms. Charlene James, Verizon Wireless, said this was the base site for other sites. She said that they supported staff's recommendation that no time limit be placed on the use permit noting that they update their system sites to use the most current technology.

Chair Bressler closed the public hearing.

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

Commissioner Ferrick asked if this was approved without a time limit what would trigger a review. Planning Perata said if they added more sites or panel antennas that were larger or taller staff would review whether it needed to come before the Commission. He said basically as long as the equipment stayed in the same location and there was no increase the term would not expire. Commissioner Bressler asked what would happen if they produced more power. Planner Chow suggested the applicant answer that question.

Ms. James said the FCC requires approval of antennas and that more powerful antenna could not exceed the band width or else the FCC would sanction them and order them to power down.

Commissioner Ferrick said she had wanted assurance of public safety before authorizing an open permit. Chair Bressler said that the expense for the applicant to go through use permit review was negligible compared to the lease amount they pay for use of sites. He said however he did not think it was necessary to require them to have use permit review.

Commissioner O'Malley asked about other similar use permits that had no time limit. Planning Technician Perata said that a recent one was an approval of an AT&T use permit with no time limit by the Planning Commission on March 22, 2010. He said he recalled another application on Sand Hill Road that had been approved with no time limit.

Commission Action: M/S Riggs/Eiref 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 MSA Architecture and Planning, Inc., dated January 4, 2011 consisting of eight plan sheets and approved by the Planning Commission on January 24, 2011 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.

Motion carried 6-0.

4. **Use Permit Revision/Ellen Ackerman for MTR/1235 Hamilton Court:** Request for a revision to an existing use permit for indoor storage and use of hazardous materials for the manufacturing of membrane materials and processes at an existing building located in the M-2 (General Industrial) zoning district. MTR conducts Research and Development (R&D) at other sites within the AMB Willow Park complex.

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

Public Comment: Mr. Craig Wildebuck, Manufacturing Manager for Membrane Technology and Research, said they had a use permit approved in 1998 and have been at the site since then. He said they have moved from manufacturing and research to almost all manufacturing. He said the use permit revision request was to mainly allow for a greater quantity of turnover of hazardous wastes than what was currently allowed under the existing use permit. Commissioner Kadvany asked about the level of hazardous wastes and what was representative. Mr. Wildebuck said that the level of hazardous waste generation was the same level for two years prior and it was down slightly this year. Commissioner O'Malley said they stored solvent greater than five gallon containers but not ethanol. Mr. Wildebuck said except for some adhesives they did not use containers greater than five gallons as that size was a convenient size for them to use. Chair Bressler ask if the company generates sales tax for the City of Menlo Park. Mr. Wildebuck said their product sells globally and very little was sold locally and in California. He said they contribute sales tax revenue in that they purchase goods and supplies locally.

Chair Bressler closed the public hearing.

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

1. Make a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current CEQA Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the use permit subject to the following **standard** conditions:
 - a. Development of the project shall be substantially in conformance with the plans provided by Dennis Kobza & Associates, consisting of six plan sheets, dated received December 29, 2010, and approved by the Planning Commission on January 24, 2011 except as modified by the conditions contained herein, subject to review and approval of the Planning Division.
 - b. Prior to building permit issuance, the applicant shall comply with all sanitary district, Menlo Park Fire Protection District, and utility companies regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
 - d. If there is an increase in the quantity of hazardous materials on the project site, a change in the location of the storage of the hazardous materials, or the use of additional hazardous materials after this use permit is granted, the applicant shall apply for a revision to the use permit.
 - e. Any citation or notification of violation by the Menlo Park Fire Protection District, San Mateo County Environmental Health Department, West Bay Sanitary District, Menlo Park Building Division or other agency having responsibility to assure public health and safety for the use of hazardous materials will be grounds for considering revocation of the use permit.
 - f. If the business discontinues operations at the premises, the use permit for hazardous materials shall expire unless a new business submits a new hazardous materials business plan to the Planning Division for review by the applicable agencies to determine whether the new hazardous materials business plan is in substantial compliance with the use permit.

Motion carried 6-0.

Chair Bressler said his understanding was that the City anticipates and enjoys sales tax revenue from the industrial zone. He asked whether this facility generated sales tax. Planning

Technician Perata said that he could not answer that and suggested the Finance Department could.

E. REGULAR BUSINESS

1. Review of Planning Commission's Transmittal Memorandum to the City Manager on the Draft 2012-2016 Capital Improvement Program

Planner Chow said staff had prepared a draft memorandum to distribute on behalf of the Planning Commission to the City Manager's Office on the Draft 2012-2016 Capital Improvement Program.

Commissioner Riggs said regarding the addition of commercial streamlining to the proposed CIP for C-3 and C4 zoning districts that the application on Menalto Avenue in the C-2 zoning district was similar to what occurred in the C-3 and C-4 zoning districts in that tenants express a desire to lease property but cannot move in for three to four months just for the use permit process time. He suggested this proposed project might need to be clarified more.

Commissioner Kadvany suggested that the C-2 zoning district could be included or that the project be revised to review all commercial districts. Commissioner Eiref said he would like to discuss comparison benchmarks relating to the commercial use permit process to look at the City's process relative to other communities' processes. Chair Bressler asked if Commissioner Eiref wanted that project called out in the memo. Commissioner Eiref said he would like to add it. Commissioner Riggs said that the benchmark should be against municipalities other than Redwood City or Palo Alto.

Chair Bressler said that item 1 would add C-2 zoning district and benchmarking against other communities relative to commercial use permit process. Commissioner O'Malley suggested rewriting number 1 to add benchmarking with other communities for all commercial districts.

Commissioner Kadvany asked under number 3, related to the Below Market Rate Guidelines, if it needed to be indicated that the Housing Commission would review those. Planner Chow said for all of the projects the Commission was proposing adding that these would need to be fleshed out later. She said for the Below Market Rate Guidelines that the Planning Commission would consider those with the input of the Housing Commission as part of the process.

The Commission discussed how the comments should be worded and what districts the commercial streamlining should include. Commissioner Riggs said that the intent of the streamlining was to support business development and specifically tenants for existing buildings, and not to include new construction, which would include the C-2, C-3, and C-4 zoning districts. Commissioner Eiref said that the City should focus its attention on businesses that provide revenue. Commissioner Kadvany suggested use permit streamlining as opposed to commercial streamlining. Chair Bressler said that was preferable and less contentious.

Commissioner Riggs said he would like to confirm that the structures of these tasks proposed for addition would involve the Planning Commission. Planner Chow said the memo would be transmitted to the City Manager's Office for review. She said if directed to do so staff would develop budgets, project description and scope of work. Commissioner Riggs asked if the development of the budgets and project description would involve the Commission. Planner Chow said she did not think that would occur. She said the memo was only for internal review and what was being asked in this memo was a request that when projects were more fleshed

out that they come back before the Planning Commission. Chair Bressler noted the length of time the Commission had considered the definition of floor area limit and suggested it might be more effective to have the Planning Commission shape such projects. Commissioner Riggs said if the memo led to a different interpretation of the Commission's intent that this effort would not be successful. Commissioner Eiref asked when the Council would review the CIP projects. Planner Chow said the Council's study session this week was probably on the on the broader budget and they would review the CIP sometime between now and April to allow the Council's committee to review all of the different commissions' input. She said they would then look at what role the Commission would play in the identified projects. Commissioner Eiref said the Commission wanted these projects considered as part of the next CIP and asked if they could send emails to the Council. Chair Bressler said the Commission could identify one of the Commissioners to represent the Commission before the Council. Commissioner Kadvany asked if Commissioner Riggs would be willing to do that. Commissioner Riggs agreed and there was consensus of approval for him to represent the Commission before the Council.

Commissioner Riggs suggested that item 4 be rewritten "to establish a structure for coordination of code administration with adjacent agencies on design items."

Commission Action: Unanimous consensus to modify language in the draft memorandum:

- Add C-2 zoning district as part of the proposed permit streamlining efforts and to do comparative benchmarking with other municipalities in the Bay Area;
- note that the Housing Commission should provide input as part of modifications to the Below Market Rate (BMR) Housing Guidelines; and
- to clarify that the City should establish a structure for coordination of code administration with adjacent jurisdictions.

F. COMMISSION BUSINESS

There was none.

ADJOURNMENT

The meeting adjourned at 8:39 p.m.

Commission Liaison: Deanna Chow, Senior Planner

Recording Secretary: Brenda Bennett

Approved by Planning Commission on February 28, 2011