



PLANNING COMMISSION MINUTES

March 21, 2011

6:00 p.m.

Administration Building – Study Session
City Council Conference Room -1st Floor
701 Laurel Street, Menlo Park, CA 94025

and

7:00 p.m.

City Council Chambers – Regular Meeting
701 Laurel Street, Menlo Park, CA 94025

Teleconference with participation by Commissioner Kadvany from:
139 E. 94th Street
New York, NY 10128
(Posted March 16, 2011)

CALL TO ORDER – 6:05 p.m.

ROLL CALL – Bressler (Chair), Eiref, Ferrick (Vice Chair), Kadvany (participated via telephone conference at 7:04 p.m.), O'Malley, Riggs, Yu

INTRODUCTION OF STAFF – Deanna Chow, Senior Planner; Bill McClure, City Attorney; Kyle Perata, Planning Technician

A. STUDY SESSION

1. **Study Session on a Planning Commissioner's Role in the Context of Communication with Prospective and Existing Applicants, and other Planning Commissioners**

City Attorney McClure made a short presentation on what type of communications a Planning Commissioner could have with prospective and existing applicants and other Planning Commissioners. He said a specific plan or zoning ordinance amendment were examples of legislative projects. He said for such projects as there was no due process that Commissioners had much more latitude to communicate with applicants, opponents, the general public and even with other Commissioners as long as the communications complied with the Brown Act. He said Commissioners could advocate on either side of the issue publicly regarding a legislative act. He said with quasi-adjudicatory or quasi-judicial acts, such as a use permit, variance or architectural control application, the Planning Commission was the judge or decision maker and as such was being asked to apply City ordinance and or state law or both, follow due process requirements and act in an impartial and fair basis. He said equally there had to be the appearance of fairness or a challenge could be made that there was bias. He said for that

reason, commissioners need to be careful with their communications outside of the public hearing process. He said that a commissioner can have communications outside of a public meeting and receive information, for instance from an applicant, but it was important to bring that information back to the full Commission in a public meeting. He said if commissioners were receiving information outside of the meeting or what was in the agenda packet, and if the commissioner used that information to evaluate the decision, it was very important for those extra judicial communications to get into the record. He said that information was important to share with the other commissioners and allow others the opportunity to comment on that information. He said that sometimes applicants contact commissioners for assistance, their impression, or guidance on what the applicant might or might not be able to do. He said it was very important that a commissioner be very careful to not give the impression or appearance of favoritism toward that applicant if there was a quasi-judicial action. He said commissioners might provide general information or factual information only.

Chair Bressler asked how to respond when a person calls a commission for advice about an application. City Attorney McClure said the first response would be to direct the person to staff as staff serves in an advisory capacity to the Commission. He said that factual information might be shared but one had to be careful to be actually and in appearance fair and impartial. He also clarified communication constraints for legislative actions particular to Brown Act, noting that it applies to everything in government.

Commissioner Yu asked what to do if a person blurted out what another commissioner had said to them about their project. City Attorney McClure suggested that commissioners contact staff when they had a question or concern about the appropriateness of a communication. He said potentially Brown Act violation communications were more easily handled before action was taken.

The special meeting adjourned at 6:57 p.m.

The regular meeting commenced at 7:04 p.m.

B. REPORTS AND ANNOUNCEMENTS

1. Update on Pending Planning Items

A. Planning Commissioner Application – Due April 1, 2011

Planner Chow said there was an upcoming Planning Commission vacancy due to the upcoming expiration of Chair Bressler's term and that the applications were due April 1, 2011. She said the intent was for the City Council to make a decision at their April 5, 2011 meeting. Chair Bressler noted that he has applied for reappointment.

B. El Camino Real/Downtown Specific Plan

Planner Chow said that Commissioner Riggs had a conversation with the Community Services Director, who was not able to attend this evening's meeting. She said staff was working on the draft EIR, which was expected to be released in April.

Chair Bressler said he thought the Commission was going to discuss the parking study as presented by Commissioner Kadvan. Planner Chow said that Planner Rogers would work with

Commission Kadvany on a parking study separate from the El Camino Real/Downtown Specific plan and that would be on a future agenda.

Commissioner Riggs said there was additional work on the EIR and staff was making certain that the EIR met all requirements. He said the draft EIR was hoped to be released in early April with a 45-day noticing. He said that the Commission could consider the EIR during that 45-day period. He said at the conclusion of the 45 days it was hoped that other Commissions would weigh in on the EIR. He said it was not exactly confirmed but it had been indicated that the Council wanted to wait until August to consider the draft EIR.

C. PUBLIC COMMENTS

There were none.

D. CONSENT

Commission Action: Unanimous consent to approve the consent calendar with modifications to the minutes for the February 7, 2011 Planning Commission meeting that were submitted by email prior to the meeting.

1. **Architectural Control/Dan Thompson/1711 Stone Pine Lane:** Request for architectural control for exterior modifications to the front façade of an existing building within the R-3 (Apartment) zoning district.
 1. 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.
 2. Adopt the following findings, as per Section 16.68.020 of the Zoning Ordinance, pertaining to architectural control approval:
 - a. The general appearance of the structure is in keeping with the character of the neighborhood.
 - b. The development will not be detrimental to the harmonious and orderly growth of the City.
 - c. The development will not impair the desirability of investment or occupation in the neighborhood.
 - d. The development provides adequate parking as required in all applicable City Ordinances and has made adequate provisions for access to such parking.
 3. Approve the architectural control request subject to the following **standard** conditions of approval:

- a. Development of the project shall be substantially in conformance with the plans prepared by Dan Thompson, Inc., consisting of five plan sheets, dated received by the Planning Division on March 7, 2011, and approved by the Planning Commission on March 21, 2011, except as modified by the conditions contained herein, subject to review and approval by the Planning Division.
- b. Prior to building permit issuance, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, San Mateo County Health Department, and utility company's 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. Landscaping shall properly screen all utility equipment that is installed outside of a building and cannot be placed underground. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.

2. Approval of minutes from the February 7, 2011 Planning Commission meeting

- Page 5, 5th paragraph, 4th line: Insert "purpose" between "the" and "of"
- Page 5, 3rd paragraph from bottom, 4th line: Replace "technical issues from whether something was possible." with "technical issues about parking from whether changes were desirable."
- Page 6, 2nd paragraph, 5th line: Replace "whether something was feasible not that they wanted it." with "whether changes were feasible not that they wanted them."

Motion carried 7-0.

E. PUBLIC HEARING

1. **Use Permit/Pacific Biosciences/1010 Hamilton Court:** Request for a use permit for indoor use and inside and outside storage of hazardous materials for the research and development of single molecule, real time (SMRT) chips and reagents for use in association with genome sequencing in the M-2 (General Industrial) zoning district.

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

Public Comment: Mr. Ben Gohn, Pacific Biosciences, said the company builds DNA sequencing equipment. He said the company was founded in 2000 at Cornell University and was relocated in 2004 to the Menlo Business Park on Adams Drive. He said their business had grown and was growing, and they were now planning to consolidate all of their activities in the AMB Business Park.

Chair Bressler closed the public hearing.

Commission Comment: Commissioner Eiref said other than moving to another location there did not seem to be anything different being requested. Commissioner Ferrick said she is a friend and neighbor of one of the company's employees.

Commission Action: M/S Eiref/O'Malley 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 DGA, Planning, Architecture, and Interiors, consisting of eight plan sheets, dated received March 14, 2011, and approved by the Planning Commission on March 21, 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 7-0.

F. COMMISSION BUSINESS

There was none.

ADJOURNMENT

The meeting adjourned at 7:21 p.m.

Staff Liaison: Deanna Chow, Senior Planner

Recording Secretary: Brenda Bennett

Approved by Planning Commission on May 2, 2011