



PLANNING COMMISSION MINUTES

Regular Meeting
April 16, 2012 at 7:00 p.m.
City Council Chambers
701 Laurel Street, Menlo Park, CA 94025

CALL TO ORDER – 7:00 p.m.

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

INTRODUCTION OF STAFF – Deanna Chow, Senior Planner; Momoko Ishijima, Planner; Jean Lin, Associate Planner; Kyle Perata, Assistant Planner; Thomas Rogers, Associate Planner

A. REPORTS AND ANNOUNCEMENTS

1. Update on Pending Planning Items

A. Facebook Campus Project

- a. Review of Development Agreement Term Sheet - April 17, 2012 City Council Meeting**

Planner Rogers said the City Council would review the terms of the development agreement for the Facebook Campus Project at their April 17 meeting.

- b. Final Environmental Impact Report (EIR) and Fiscal Impact Analysis (FIA)**

Planner Rogers said on Monday, May 23, 2012 the Final Environmental Impact Report and Fiscal Impact Analysis would be released for the Facebook Campus Project.

- c. Review Schedule**

Planner Rogers said the Planning Commission would review the Facebook Campus Project at their May 7, 2012 meeting and make recommendations to the City Council.

B. El Camino Real Downtown Specific Plan
a. Final Specific Plan and EIR

Planner Rogers said the Final Specific Plan would be published April 19 concurrently with the EIR.

b. Review Schedule

Planner Rogers said the Planning Commission would hold a special meeting on April 30 to review the Final Specific Plan and EIR and make recommendations to the City Council.

B. PUBLIC COMMENTS

There were none.

C. CONSENT

Commissioner Riggs said he had some recommended changes to the transcripts of the March 19 Planning Commission meeting. Chair Ferrick said Commissioner Riggs was suggesting that on page 71, line 5 should read “within that statement would not want to get hit by....” and on page 42, lines 17 and 18, the last five words could be deleted without missing the point.

Commissioner Kadvany suggested on page 39, line 12, when quoting “our hourly rate” to delete “our.”

1. Approval of transcripts from the March 19, 2012 Planning Commission meeting.

Commission Action: M/S Riggs/O'Malley to approve the March 19, 2012 meeting transcript with suggested modifications.

- page 71, line 5 should read “within that statement would not want to get hit by....”
- page 42, lines 17 and 18, delete the last five words of the sentence.
- page 39, line 12, delete “our” from “our hourly rate”

Motion carried 7-0

D. PUBLIC HEARING

1. Use Permit/Bess Wiersema/518 Pope Street: Request for a use permit for interior remodeling and a second story addition to an existing single-story, nonconforming single-family residence located on a substandard lot with regard to lot width and lot area in the R-1-U (Single Family Urban Residential) zoning district. The proposed work would exceed 50 percent of the existing structure's

replacement value in a 12-month period, exceed 50 percent of the existing floor area, and is considered equivalent to a new structure.

Staff Comments: Planner Ishijima said staff had received letters of support from the neighbors that day.

Public Comment: Ms. Bess Wiersema-Hillard, Studio 3 Design, said the lot was nonconforming and the existing garage was tight against the setback on a narrow lot. She said the proposed plan would keep the front façade, expand the kitchen, and maintain the footprint of the existing nonconforming garage. She said the addition was a master bedroom suite, office and third bedroom toward the back of the property with a covered porch. She said the front entry porch would be maintained and enhanced to be in the Tudor style to blend with other homes in the area. She said the heightened roof pitch allowed for usable attic space and that would be for a recreation room. She said the finish with be smooth stucco, hand troweled, and new clad windows that looked like traditional windows would be installed throughout the structure.

Chair Ferrick closed the public hearing.

Commission Comment: Commissioner Yu said she was familiar with the house and thought the proposal was in keeping with the neighborhood and attractive. She moved to approve as recommended in the staff report. Commissioner Riggs seconded the motion. He asked if the applicant would want the option to add skylights to the attic space. Ms. Wiersema-Hillard said that they did not.

Commission Action: M/S Yu/Riggs to approve 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 Studio 3 Design, consisting of 12 plan sheets, dated received April 10, 2012, and approved by the Planning Commission on April 16, 2012, except as modified by the conditions contained herein, subject to review and approval by 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 by 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. Prior Simultaneous with the submittal of a complete building permit application, the applicant shall submit plans indicating that the applicant shall remove and replace any damaged and significantly worn sections of frontage improvements. The plans shall be submitted for the review and approval of the Engineering Division.
- f. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a Grading and Drainage Plan for review and approval of the Engineering Division. The Grading and Drainage Plan shall be approved prior to issuance of a grading, demolition or building permit.
- g. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance. Prior to the building permit issuance, the applicant shall implement the tree protection plan and technique recommendations in the Arborist Report for all applicable heritage trees.

Motion carried 7-0.

2. **Use Permit/Larry Kahle/1445 Santa Cruz Avenue:** Request for a use permit for a second-story addition to an existing single-story, nonconforming single-family residence located on a substandard lot with regard to lot width in the R-1-S (Single-Family Suburban) residential zoning district. The proposed work would exceed 50 percent of the existing floor area, and is considered equivalent to a new structure. The existing nonconforming residence will be brought into conformance as part of the proposed work.

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

Chair Ferrick noted for the record that she knows the applicant Mr. Kahle.

Public Comment: Mr. Larry Kahle, project architect, introduced the property owner. Mr. Scott Scherer, property owner, said he and his family had moved in July 2011 to Menlo Park from San Francisco. He said they liked the architecture of the home and the oak tree in the front yard. He said this was a two-bedroom, one bathroom home, and they intended to keep the existing architecture with their proposed second story addition.

Chair Ferrick closed the public hearing.

Commission Comment: Commissioner O'Malley said the existing home was very unique and pretty, and he liked what was being proposed. He moved to approve as recommended in the staff report. Commissioner Kadvany seconded the motion.

Commission Action: M/S O'Malley/Kadvany to approve 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 Metropolis Architecture consisting of six plan sheets, dated received April 5, 2012, and approved by the Planning Commission on April 16, 2012, 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 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. Prior to the building permit issuance, the applicant shall implement the tree protection plan and technique recommendations in the Arborist Report for all applicable heritage trees.

Motion carried 7-0.

Chair Ferrick noted the next two items, 731 and 735 Bay Road would be discussed together and voted on separately.

3. **Use Permit and Variances/Ian Carney/731 Bay Road:** Request for a use permit to demolish a 12-room boarding house and to construct two single-family dwelling units and associated site improvements in the R-3 (Apartment) zoning district. In addition, a use permit request to build roof decks (balconies) at the 10-foot side setback for buildings instead of the 20-foot side setback for balconies. Request for a variance to reduce the distance between the main buildings on the subject lot and those on the adjacent left side property from 20 feet to 14 feet, 11 inches. The project would share a common driveway with the proposed development at 735 Bay Road. As part of this proposal, three heritage trees of heaven, in fair condition, with diameters between 15 and 22 inches that are located towards the center of the property are proposed to be removed.

Staff Comment: Planner Perata said staff had distributed colors and materials boards to the dais.

Questions of Staff: Commissioner Kadvany said there was a 24-foot minimum turning radius being required. Planner Perata said the 24-foot minimum was the outside of the curve established by the Transportation Division as a template and was a national standard. Commissioner Kadvany asked if it was part of City code or mandated. Planner Perata said it was not established by the Planning Commission or City Council.

Public Comment: Mr. Stan Nielsen, project architect, said he was representing the applicant. He said the turning template was provided to them by the Traffic Division. He said an R-1-U District abuts the project sites and these sites were the only remaining R-3 District in this area. He said the last use for the property was a short-term residential hotel. He said neighbors were happy that the site would be upgraded. He said there were zoning constraints. He said they wanted in the R-3 zone to replicate as much as possible the development in the R-1 zone. He said rather than building a typical apartment building they were proposing to build four single-family residences located around an auto court. He said rather than a balcony they chose a six foot wall for privacy. He said none of the proposed garages would be visible from the street. He said lot was small and shaped as a parallelogram. He said in establishing access for fire and emergency services they found there was very little space for development. He said there was very little landscaped area to use for outdoor entertainment areas. He said that was why they moved the patios to the roof. He said also on the roof would be solar collection for domestic hot water and electricity. He said there were apartment buildings, a hotel and single-family residences surrounding these sites and they wanted the project to be a transition within that context. He said exterior materials proposed were typical to the residential character using stucco and cedar shingles. He said using a flat roof recalled a type of 1920s building in this area. He said for the single family residences they designed for the acute and obtuse angles on the site to have the living

areas and a story and a half in volume. He said for all of their regular spaces that have to be rectilinear such as bathroom, garages and kitchens they gave those that shape. He said they wanted to provide a living experience similar to work live lofts as found in San Jose and San Francisco. He said they also wanted to be good neighbors and create something compatible with the neighborhood, and have socially responsible power generation on the site. He said there was one issue with staff's approved color and that those were too dark. He said their preference was a color scheme that matched the newly renovated homes and buildings in the area.

Commissioner Eiref said the driveway was very wide and seemed to push the structures to the side. Mr. Nielsen said they were required to have the wide driveway by the Fire Captain. Commissioner Eiref asked if the driveway could be narrower how the space would be used. Mr. Nielsen said he would landscape it but the main thing was they have the turning radius they needed to accommodate and bring the width to 20 feet which was why they used pavers.

Commissioner Kadvany asked if they could accommodate a smaller turning radius. Mr. Nielsen said the standards were aimed to get 90 percent of all automobile types and automobiles were getting smaller so a smaller turning radius would work, but the template allowed for a car to make a complete turn out. Mr. Nielsen said they would be happy to have a smaller driveway but the Fire District was requiring the wider driveway.

Commissioner Yu asked about the color discussion. Mr. Nielsen said staff was concerned that the Commission would throw out the red and yellow colors proposed in the design. Mr. Nielsen said the proposed colors for the site were bold but because they would use color impregnated stucco they were also subdued.

Commissioner Riggs said there were Black walnut trees in the rear of the property and it was implied that the largest one would be saved. Mr. Nielsen said that was correct. Commissioner Riggs asked if it was their preference to have single-species hedge and grouped toward the back of the property. Mr. Nielsen said that was the landscape designer's design.

Chair Ferrick called for public comment on 731 and 735 Bay Road. There being none, Chair Ferrick closed the public hearing.

Commission Comment: Commissioner Riggs said staff had indicated that it was not just the width of the driveway that pushed the need for a variance and asked for clarification. Planner Perata said the variance was for the required distance between two buildings on two adjacent lots with the requirement being 20 feet. He said the left side adjacent parcel's building was less than five feet away. He said to meet the required separation of 20 feet between main dwelling units would mean a conflict with the parking and driveway access design guidelines standards so units were being forced to minimum 10-foot setback and would encroach slightly more than five feet into the 20-foot setback. Commissioner Riggs asked if the turning radius were less or 20-foot rather than 24 feet whether there were other conflicts. Planner Perata said there was the 20 foot

separation between buildings for both sides as these were two separate legal lots. Commissioner Riggs said that it was theoretically possible for the 20 foot separation between buildings to be maintained. Planner Perata said that was correct.

Commissioner Bressler asked if this project would reduce the net housing and if so by how much. Planner Rogers said that when going through a housing element process it was possible to take credit for net new housing that was developed during the intervening planning periods. He said for this parcel if it resulted in a net increase the City would be able to count it in terms of planning for this period. He said this parcel allowed for short term residential and he was not sure if that would be counted as 12 units or just 1 unit. He said there was only one kitchen and to the extent that it was considered one unit they could have a net increase of three units for housing element during this planning period. He said that would have to be verified.

Commissioner Riggs said the state law findings to make a variance were quite strict. He said the first finding was that the hardship was unique to this property and a variance was needed for the development of the property. He said if the scope was smaller a project could be built without variances however. He said the fact that an R-3 lot adjoined an R-1 lot was not exceptional and he would estimate there were about 12 lots having a similar situation. He said that he would like the turning radius reconsidered and that a planning revision could prevent the need for variance.

Commissioner Eiref said he thought within the last year there had been a wide driveway requirement for a small development and the Commission had gone for a narrower driveway. He asked if there was a technical solution so that no variance was needed. Commissioner Kadvany said he thought the project had been on Hoover Street and that the Commission's recommendation was overturned. Planner Perata said that was 1234 Hoover Street and the applicant had resubmitted plans to the Fire District and was told 20-foot width for the driveway was the minimum requirement.

Chair Ferrick said she could make the finding that a hardship peculiar to the property and not created by any act of the owner exists. She said the owner would actually like to bring the building in to create the needed separation but was not being allowed to and had no control over that. Commissioner O'Malley said he would agree with that reasoning. Commissioner Riggs said he would like to agree but the argument could be made that there could be three residential units turned parallel and the determination to put four separate buildings was the problem. He said the same setback regulations applied to everyone.

Chair Ferrick said the City was trying to maintain and grow housing units. She said this was an opportunity to get four units on two lots.

Commissioner Bressler asked Commissioner Riggs what he thought about the proposed architecture. Commissioner Riggs said that he thought the project design was wonderful and only had a very small reservation about the 28-foot walls.

Commissioner Kadvany said he liked the buildings too and thought having less hardscape would be better for the neighborhood. He said regulations were distorting the development processes related to wide motor court areas. He said that there had been discussions with the Fire District and staff about changing this requirement for fire access but there had been no progress.

Commissioner O'Malley asked what other areas beside Menlo Park were serviced by the Fire District. Planner Rogers said the Fire District also served portions of East Palo Alto, Atherton, and unincorporated San Mateo County. Commissioner O'Malley asked if they were consistent in their requirements for the other areas. Planner Rogers said he believed they were. Commissioner O'Malley asked if the Fire District was following state requirements. Planner Rogers said staff understood that the Fire District was applying other state and federal fire safety codes. Commissioner O'Malley asked if the Council had agreed with the District on the requirements. Planner Rogers said it was not whether they were agreeing or disagreeing but the Fire District has the legal right to apply the fire code. Commissioner O'Malley asked if the City has talked to the District about this requirement. Planner Rogers said that through Commissioners Riggs and Kadvany there had been some staff discussion with Fire District. Commissioner O'Malley asked if those conversations had the backing of Council. Planner Rogers said that was not a policy determination that had been made by Council.

Commissioner O'Malley said he liked the project and he could make all of the findings for a variance as they were dealing with all the requirements of two zoning districts and that of the Fire District and because of that were unable to move the buildings closer together to meet code.

Chair Ferrick said she was feeling similarly and referred to the fourth finding: "That the conditions upon which the requested variance is based would not be applicable, generally, to other property within the same zoning classification." She said Commissioner Riggs had indicated he thought that it would apply to other properties but the staff report noted that because of the narrowness of the property and existence of a reduced setback on the left adjacent side was a problem particularly unique to this property.

Commissioner Yu said she could appreciate the project improving the neighborhood, creating a bold project and providing more housing units in Menlo Park but she thought the architecture was too boxy and big and she did not like the colors as proposed.

Chair Ferrick said on Crane Street there was a townhome project that had red, yellow and blue that was approved and was pleasing. Planner Rogers said that was located on Live Oak and Crane and staff's support for the color there was because it was close to the downtown. He said this project was located in a residential area, but noted it was a subjective matter.

Commissioner Yu said she thought the yellow on the color board was very attractive and asked Commissioner Riggs if the color impregnated stucco would be a more

subdued color. Commissioner Riggs said he had just completed a commercial project with a bolder yellow than proposed for this project. He said he thought the bolder colors would work for this project but his concern was whether the project had been noticed to the neighbors with reference to muted colors. Planner Perata said the word muted was not used. Commissioner Riggs said he was open to different colors if the neighbors were open to it. He said he could tentatively approve with a condition to allow neighbors to review. Chair Ferrick said she could support that. Commissioner Yu said she could support that option of handling the color.

Commissioner Eiref said he wanted to talk about the first finding which was that there was a hardship peculiar to the property and not created by any act of the owner. He asked if Commissioner O'Malley was referring to the Fire District's requirement for a wider driveway. Commissioner O'Malley said it was the combination of the Fire District requirement and the two zoning areas together. He said also because the Planning Commission was generally opposed to the wider driveway requirement of the Fire District.

Commissioner Eiref said there were numerous flag lots throughout the City and asked if each of those technically needed to have a 20-foot wide driveway noting that many did not have them. Planner Perata said it depended upon the number of lots that needed the panhandle access. Commissioner Eiref said there were usually three homes on those lots. Planner Rogers said they did not have the subdivision requirements with them as this project was not a subdivision. He said these were likely non conforming subdivisions created before the zoning requirement was adopted. He said typically 10 foot wide driveways were only allowed for up to two units. He said there were other nuances with flag lots in that often the home to the rear uses the flag driveway and the home in the front has direct access. Commissioner Eiref asked if the proposal was to combine two lots together. Planner Perata said the proposal would maintain the two separate lots and the units themselves would be mapped as condominiums. He said there would be two separate condominium associations for these two properties.

Commissioner Kadvany made a motion to make the findings including the comments on the geometry of the lots and the Fire District's driveway width requirement. He said the architect had indicated if they could have a narrower driveway they would use the space for landscaping. He suggested adding that if it was changed in the future to allow for narrower driveways that the owner could expand landscaping onto it. Chair Ferrick clarified that Commissioner Kadvany was moving to make the findings and approve the request for the variance. Commissioner Kadvany said he also wanted to find a way to include a statement about future changes. Planner Rogers said if he would like to add a condition of approval stating that the applicant shall have flexibility in the future should the City and Fire District standards change to allow a reduction of the width of the driveway to the appropriate new standard. He said that the Commission could not really make a formal statement about driveway width as the Commission had not agendized parking, driveway and Fire District standards but noted individual Commissioners could make comments.

Commissioner Bressler said he did not think there was a hardship, that the project was inappropriately zoned, and he could not make the findings as proposed.

Chair Ferrick asked whether permeable pavers with vegetation would still constitute driveway. Planner Perata said in his discussions with Transportation that Grasscrete was acceptable by the City for driveways but that would need to be confirmed with the Fire District as well in particular related to the weight of a fire truck.

Commissioner O'Malley seconded Commissioner Kadvany's motion. Commissioner Kadvany said his motion included making the findings and granting the variance request, approving the use permit for 731 Bay Road with the modifications to give the applicant flexibility with the color palette by meeting with immediate adjacent and contiguous neighbors for their consideration subject to Planning staff approval, and to provide an option that should driveway width standards be reduced in the future that this project could use the applicable driveway space as landscaping.

Commissioner Riggs said he recalled he had previously acquiesced on the variance request for another project in that there had been injury caused by government regulation. He said he could make the fourth finding based on the staff report that this adjacency was relatively unique.

Planner Rogers said that Commissioner Kadvany's original motion had included Commissioner O'Malley's observations about the geometry of the shape of the lot; he said staff had mainly discussed the width of the lot. He said regarding Fire District requirements staff had talked about the turning radius. He asked if those things should be included in the motion. Commissioner Kadvany agreed. Planner Rogers said that neighbor notice requirements with this type of proposed condition was to have a change in colors subject to review and input of the neighbors and have the final signoff be the Planning Division staff.

Commissioner Riggs said he was concerned with only having neighbor input but wondered if they should require three of four neighbors being supportive. Planner Rogers said that tying specific numbers to that review could have unseen consequences. Commissioner Yu suggested that staff make a determination whether there was consensus of neighbor support.

Commission Action: M/S Kadvany/O'Malley to make the findings to approve the variance request and approve the use permit request with the following modifications:

1. Adopt a finding that the project is categorically exempt under Class 3 (Section 15303, "New Construction or Conversion of Small Structures") of the current State 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. 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.
4. Make the following findings as per Section 16.82.340 of the Zoning Ordinance pertaining to the granting of variances:
 - a. The substandard lot width, the unique parallelogram shape of the lot, the Menlo Park Fire District access requirements, and the turning radius required by the Parking Stalls and Driveway Design Guidelines create a constraint to the design potential for the redevelopment of two residential units on the site with the required number and size of parking stalls without approval of the requested variances. The reduced setback on the adjacent parcel due to different zoning district regulations also creates a further constraint to the potential width of the units, which are already limited by the narrowness of the lot and the required side setbacks.
 - b. The proposed variances are necessary for the construction of two units with a site layout that is consistent with the overall neighborhood pattern, and therefore, the preservation and enjoyment of substantial property rights possessed by other conforming properties in the same vicinity, and the variance would not constitute a special privilege of the recipient not enjoyed by neighbors.

- c. Except for the requested variances, the construction of the two units will conform to all other requirements of the Zoning Ordinance. Granting of the variances will not be materially detrimental to the public health, safety, or welfare, and will not impair an adequate supply of light and air to adjacent property since the structures will conform to the required setbacks, provide adequate on-site parking, and meet the floor area ratio, building coverage, height, and landscaping requirements per the R-3 zoning district.
 - d. The conditions upon which the requested variance is based would not be applicable, generally, to other properties within the same zoning classification since the variance is based on the dimensions of the lot, the reduced side setback requirement for buildings on the adjacent property, and other site specific constraints.
5. Approve the use permit and architectural control requests subject to the following **standard** conditions:
- a. Development of the project shall be substantially in conformance with the plans prepared by Nielsen Architects, consisting of 19 plan sheets, dated received April 9, 2012 and approved by the Planning Commission on April 16, 2012, except as modified by the conditions contained herein.
 - 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. Landscaping shall properly screen all utility equipment that is installed outside of a building and that 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.
 - 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.
 - h. Prior to building permit issuance, the applicant shall submit proposed landscape and irrigation documentation as required by Chapter 12.44 (Water-Efficient Landscaping) of the City of Menlo Park Municipal Code. If required, the applicant shall submit all parts of the landscape project application as listed in section 12.44.040 of the City of Menlo Park Municipal Code. This plan shall be subject to review and approval by the Planning and Engineering Divisions. The landscaping shall be installed and inspected prior to final inspection of the building.
- 6. Approve the use permit and architectural control requests subject to the following project-specific conditions:**
- a. ***If the City of Menlo Park revises its parking Stalls and Driveway Design Guidelines in the future, the applicant may revise the driveway dimensions accordingly, subject to review and approval of the Planning Division.***
 - b. ***Simultaneous with the submittal of a complete building permit application, the applicant may revise the approved colors of the development. Any color revisions shall be made with the input of the contiguous neighbors, and shall be subject to review and approval of the Planning Division.***

Motion carried 5-2 with Commissioners Bressler and Yu opposed.

- 4. **Use Permit/Ian Carney/735 Bay Road:** Request for a use permit to construct two single-family dwelling units and associated site improvements in the R-3 (Apartment) zoning district. The project would share a common driveway with the proposed development at 731 Bay Road. As part of this proposal, two heritage size black walnut trees, located in the back right corner of the property, are proposed to be removed.

Commission Action: M/S Riggs/Ferrick to make the findings and approve the use permit and architectural control with the following modifications.

- 1. Adopt a finding that the project is categorically exempt under Class 3 (Section 15303, "New Construction or Conversion of Small Structures") of the current State 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. 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.
4. Approve the use permit and architectural control requests subject to the following **standard** conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Nielsen Architects, consisting of 19 plan sheets, dated received April 9, 2012 and approved by the Planning Commission on April 16, 2012, except as modified by the conditions contained herein.
 - 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. Landscaping shall properly screen all utility equipment that is installed outside of a building and that 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.

- 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.
 - h. Prior to building permit issuance, the applicant shall submit proposed landscape and irrigation documentation as required by Chapter 12.44 (Water-Efficient Landscaping) of the City of Menlo Park Municipal Code. If required, the applicant shall submit all parts of the landscape project application as listed in section 12.44.040 of the City of Menlo Park Municipal Code. This plan shall be subject to review and approval by the Planning and Engineering Divisions. The landscaping shall be installed and inspected prior to final inspection of the building.
5. Approve the use permit and architecture control requests subject to the following project-specific conditions:
- a. If the City of Menlo Park revises its Parking Stalls and Driveway Design Guidelines in the future, the applicant may revise the driveway dimensions accordingly, subject to review and approval of the Planning Division.
 - b. Simultaneous with the submittal of a complete building permit application, the applicant may revise the approved colors of the development. Any color revisions shall be made with the input of the contiguous neighbors, and shall be subject to review and approval of the Planning Division.

Motion carried 5-2 with Commissioners Bressler and Yu opposed.

Commissioner Kadvany noted that in discussion with the Fire District staff that there was other code in other areas requiring sprinklers that alleviated the need for wider driveways.

5. Use Permit, Architectural Control, and Environmental Review/Al Landi/1220

Crane Street: Request for a use permit and architectural control to construct front and rear additions to an existing church building on a parcel in the H (Historic) zoning district. The front addition would preserve the existing facade, which would be detached from the existing building and then reattached to the addition, in order to preserve the church's character-defining features. A Mitigated Negative Declaration has been prepared, which analyzes the project's potential impacts with regard to cultural resources (in particular, historic resources) and other environmental topics.

Staff Comment: Planner Rogers said staff had nothing to add to the written report.

Public Comment: Mr. Joe Sabel, project architect, said they had been working closely with staff and the Historic Preservation Committee in the development of the design for an addition.

Mr. Al Landi, General Contractor, said the front entry was only three feet wide and not adequate and that a side door would be expanded to double doors. He said the Fire District had approved the project and they would run 4-inch water line for a sprinkler system. He said the objective was to keep the original façade. He said they would cut the front of the building and build addition and then reattach the façade.

Chair Ferrick closed the public hearing.

Commission Comment: Commissioner Riggs said this was a charming building and he thought the plan to stretch the new construction and reuse the existing façade was a great idea. He moved to make the findings and approve the use permit and architectural control. Commissioner Bressler seconded the motion and complimented the architect on the façade relocation plan and how well the plan was drawn. Commissioner O'Malley said he agreed wholeheartedly.

Commission Action: M/S Riggs/Bressler to make the findings and approve the architectural control and use permit as recommended in the staff report.

1. Make the following findings relative to the environmental review of the proposal and adopt the Mitigated Negative Declaration:
 - a. A Mitigated Negative Declaration has been prepared and circulated for public review in accordance with current State California Environmental Quality Act Guidelines;
 - b. The Planning Commission has considered the Mitigated Negative Declaration prepared for the proposal and any comments received during the public review period; and
 - c. Based on the Initial Study prepared for the Mitigated Negative Declaration and any comments received on the document, there is no substantial

evidence that the proposed project will have a significant effect on the environment.

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. 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.
4. Approve the use permit and architectural control subject to the following **standard** conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Aero 11 Design, consisting of seven plan sheets, dated received April 11, 2012, and approved by the Planning Commission on April 16, 2012, 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.

Motion carried 7-0.

6. **Use Permit Revision, Architectural Control and Environmental Review/German American International School/275 Elliott Drive:** Request for a use permit revision and architectural control to allow 1) an increase in student enrollment from 300 students per day to 315 students per day (a net increase of 15 students per day) and 2) facility improvements including a new playground, lunch area with canopy shade structure, lockers, outdoor storage sheds, and revisions to the building color scheme (window trim) for property located in the P-F (Public Facilities) zoning district. A Mitigated Negative Declaration has been prepared to review the potential environmental impacts of the proposed project.

Staff Comment: Planner Chow said there were four additional pieces of correspondence from three different members of the public that had been distributed to the Commission at the dais for their review. She said the first two items were from Ms. Carey Farrell, Elliott Drive, who raised concerns about an increase in traffic due to the proposed increase in enrollment and the impact to the quality of life. Ms. Farrell suggested that opening the gates at the end of the parking lot adjacent to Oak Court could alleviate traffic on Elliott Drive. She said the applicant was now proposing to reduce the desired increase of 30 students to 15 students in response to the traffic impact study prepared for the project. She said with an increase of 15 students, the traffic study had indicated no significant impacts to traffic and parking demand would be adequately accommodated onsite. She said vehicular access was studied from Elliott Drive as it has been historically operated and as was proposed to remain. She said the next two pieces of correspondence were emails that followed up two letters contained in the staff report. One letter, from Kathy, indicated the German American International School should follow Menlo Park School District's rules for colors as they are leasing land from the school district. She said the second letter from Mr. Dirk Moyer related to the relocation of the sheds from his shared property line and that resolved his concerns. She said the color board showing the yellow trim and aquatic blue awning was being distributed as well as the color of the portable structures and pictures of the proposed play equipment.

Commissioner Yu said she thought that this school was requesting an increase in students every year and asked whether there should be a cap to enrollment. Planner Chow said last summer the School had applied to extend their use permit for five years and to have the portable units remain which accommodated their original increase from 200 to 300 students. Commissioner Yu asked if they had previously requested an extension in school hours. Planner Chow said she thought that this had been made by one of the school's sublessors.

Ms. Laura Vaughn said she was representing the School and was a parent and member of the Board serving on the Facilities committee. She introduced Mr. John Kessler, President of the Board. She said the school was a small independent international school and that they would like to increase enrollment from 300 to 315 students. She said the last time they had asked for an increase in enrollment had been seven years

ago and they had requested to increase from 200 to 300 students. She said the project involved moving sheds and adding a play structure with a canopy and retrospectively permitting an installed lunch area with lockers and a canopy for the middle school students, and for the color scheme on the building. She said they have been working on changes for past year. She said they accepted staff's recommendations. She noted that they did not want to create traffic impacts for neighbors and had a strong carpool program.

Commissioner Yu asked if Ms. Vaughn had numbers to compare with before and after the carpool program. Ms. Vaughn said they have always encouraged carpools but last March she and parents sat out in the parking area for a week when it rained and counted the number of cars and the number of students in each car, the number of cars using the dropoff lane they had added and those actually parking. She said they were surprised at how little carpooling there was. She said they worked with staff and the traffic study sponsor, and over the summer created a plan, which required vehicles to have placards indicating carpool, single family, staff or preschoolers. She said school started August 24 and by October they asked all parents to get placards. She said the incentive for carpooling was a placard that allowed preferential parking in the front. She said they now have about 119 families out 205 families carpooling. She said carpooling meant there was an eliminated trip and did not apply to one family with three or more children.

Ms. Kathleen Daly said she owns Café Zoe in the Menalto Corners. She said on behalf of all the business owners there she wanted to acknowledge that the German American School parent community was a huge support to the businesses there. She said if there was anything they could do to help with the traffic they would. She said as a Board member of another private school in the area she knew that an additional 15 students made a difference in tuition for a school.

Ms. Barbara Fakkema, Menlo Park, said her home on O'Connor Street was heavily impact by the school activities and that these seemed to go from early morning to evening seven days per week. She said it was like living next to a public park. She said during recess and lunches the noise from the school was almost unbearable. She asked if the lunch area and playground areas being added would move those activities to the center of the school site and away from adjacent neighbors or whether the improvements were to accommodate additional enrollment. She said adding only 15 students did not justify the expense. She said if the improvements were to reduce the noise to neighbors by relocating them to the middle and away from her fence, she would support. She said otherwise she opposed the school structures and the student population size. She requested the Commission get an explicit explanation on the record from GIS leadership on the particular point of their commitment to affect a relocation of noise as condition for adoption of the revised permit. She said GIS sufficiently has 300 students but the numbers for the two subleases also had to be counted noting that the Palo Alto French Education Association operated from 4 to 6 p.m. on Tuesday and Thursdays, and the German American School in Palo Alto that does Saturday school and four week summer camp from 9 a.m. to 2 p.m. She said that

none of the entities using the school took responsibility for the noise. She said the school needed to work with their sublease groups and address the problem of constant noise for neighbors. She said the hours during summer would be extended for the school to have summer camp from 1 to 6 p.m. She said there was also Little League and AYSO use of the site in the evening and on Saturday and Sunday. She said the school was at the end of a cul de sac centered in a residential area. She said originally they had welcomed the school as it was small, focused on academics and had minimum impact on the quality of life. She said however the school has steadily moved toward 300 student enrollment and competed internationally. She said while the neighbors on Elliott Street rightfully focused on the impact of traffic on the quality of their lives, those on the O'Connor side had to handle the noise. She said Principal Peter Metzger has been helpful for the most part in reaching out to the neighbors but he was leaving. She said boards, students, and principals come and go but neighbors stayed and want their quality of life maintained.

Chair Ferrick closed the public hearing.

Commission Comment: Commissioner Bressler said this was a private school for which there were hearings about their use. He said if it was a public school there would not be any hearing and suggested that it might be in the neighbors' best interest to have the private school remain.

Commissioner Ferrick asked how many of the students live within the boundaries of the Menlo Park School District. Ms. Vaughn said that it was about 10% or 30 students.

Commissioner Kadvany said a question had been raised about the hypothetical future school population. He asked if the maximum number of students would be 315 or if they would want to increase that should they have success with carpooling program and whether they had talked to the neighbors about that.

Mr. John Kessler, Board President, said the property was as to its capacity partially for the facilities permitted on it and the actual availability of parking. He said their perspective was that any substantial expansion of the school would likely occur by the securing of additional property. He said that they have looked at other properties not to replace this site but to expand this site. He said as a private school they have one of the lowest tuition rates and they keep that down by effectively managing their space. He said they would not request 330 student enrollment and that the limitations on the number of trips under the permit was a limitation they would have to live with on a permanent basis at the site and would seek to meet and exceed.

Commissioner Yu asked about the neighbor's comment that her complaints about noise were not handled by any of the entities at this site and how they manage their sublessors. Mr. Kessler said he would make sure that it was understood by staff and administration that the sublessors were their responsibility. He said they work with them on traffic, parking management and enforcement on Elliott Drive. He said they would also work with them to start directing play to the center of the site. He said regarding

Little League and AYSO that they did not have control of the fields after hours and on weekends and that was the landlord's purview.

Ms. Vaughn said their relationship with the sublessors included working relationships with both teachers and students who had attended their school and then went to the other schools. She said there were connections among the organizations and they communicate. She said as the sublessors were not using the site daily then it might take a couple of weeks for change to occur.

Mr. Kessler said regarding the comment about the location of the play that was one of the purposes of the playground component of this application. He said right now there was one main playground area adjacent to homes on O'Connor Street that accommodated all of the students except preschool and kindergarten. He said the new construction would provide more play space for the older kids and it would move the play activity away from the borders of the property and toward the center of the property.

Chair Ferrick said page G0.03 of the plan sheets showed that the play structure was much farther away from the O'Connor neighbors. She said the lands and play structures were public use until sunset because the land was owned by the school district.

Commissioner Bressler asked if the noise ordinance applied to this site. Planner Chow said it applied but there were exceptions and she believed public parks were one of those exemptions because they were expected to have that type of activities. She said noise ordinance exemptions of the municipal code included athletic fields, playgrounds, public parks, and tennis courts were exempt from 7 a.m. to 10 p.m. and this included public school property.

Commissioner Riggs said they had not discussed the paint scheme. He asked if yellow trim was limited to windows and to the entry. Ms. Vaughn said they have a school sign they installed a couple of years prior and thought they should unify buildings with the school sign. She said the sign was blue and yellow, with mainly white background. She said the yellow was muted for the trim and entry. Commissioner Riggs asked if they would repaint. Mr. Kessler said when they repaint in the future they will stick to the more muted colors. Commissioner Riggs asked about the elevated deck near the O'Connor neighbors. Ms. Vaughn said they learned from that and the new playground would be further from those neighbors. She said they were looking for a suitable site for the pirate's ship to move it to. Commissioner Riggs confirmed that the hours were not changing. Ms. Vaughn said they were not.

Commissioner Riggs asked what the potential population of this site might be if it reverted back to public school. Commissioner Ferrick said there were 330 children at Encinal School five years ago, now there were 773, and the next year there would be more than 800 children.

Commissioner Riggs moved to approve architectural control and use permit revision as recommended in the staff report. Chair Ferrick seconded the motion.

Commissioner Kadvany asked what the two blue colors were. Ms. Vaughn said that the one blue was the awning and the other blue was the signage.

Commission Action: M/S Riggs/Ferrick moved to approve the architectural control and use permit revision as recommended in the staff report.

1. Make the following findings relative to the environmental review of the proposal and adopt the Mitigated Negative Declaration:
 - a. A Mitigated Negative Declaration has been prepared and circulated for public review in accordance with current State CEQA Guidelines;
 - b. The Planning Commission has considered the Mitigated Negative Declaration prepared for the proposal and any comments received during the public review period; and
 - c. Based on the Initial Study prepared for the Mitigated Negative Declaration and any comments received on the document, there is no substantial evidence that the proposed project will have a significant effect on the environment.
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. 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.

4. Approve the architectural control and use permit revision subject to the following ***construction-related*** conditions:
- a. Development of the project shall be substantially in conformance with the plans prepared by DES Architects, consisting of five plan sheets, dated received April 11, and approved by the Planning Commission on April 16, 2012 except as modified by the conditions contained herein.
 - 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. Prior to building permit issuance for any of the facilities improvements (e.g., sheds, canopies, playground structure), the applicant shall remove the existing bleachers located between the existing portable classroom and auditorium or submit a complete building permit application that demonstrates the bleachers are code-compliant, subject to the review of the Planning and Building Divisions.
 - f. Prior to building permit issuance for any of the facilities improvements (e.g., sheds, canopies, playground structure), the applicant shall remove the existing play structure located near the eucalyptus trees by the gymnasium portable or submit a complete building permit application for the relocation of the structure to the existing playground area, subject to the review and approval of the Building Division.

5. Approve the architectural control and use permit revision subject to the following **ongoing, project-specific** conditions:

- a. All student instruction and regular school activities shall be allowed to operate within the parameters identified in the table below. Activities held during the hours of operation on a school day are permitted and not considered extra-curricular activities or special events regulated by this permit. Extra-curricular activities related to school are permitted with the goal of ending by 4:00 p.m. Up to a maximum of 25 special events, such as, but not limited to, Back to School Night, Oktoberfest, and New Parent Welcome Breakfast, are permitted throughout the school year with the goal of ending by 10:00 p.m.

	Days of Week	Months of Year	Hours of Operation	Maximum Student Enrollment
<i>German American International School of San Francisco</i>	Monday through Friday	August to June	8:00 a.m. to 3:00 p.m.	315 with portables; 200 without portables
<i>German American School of Palo Alto</i>	Saturdays	September to May	9:00 a.m. to 12:00 p.m.	110
	Monday through Friday	Mid-June to Mid-July	9:00 a.m. to 2:00 p.m.	90
			2:00 p.m. to 6:00 p.m.	20
<i>Palo Alto French Education Association</i>	Tuesdays and Thursdays	September to June	4:00 p.m. to 6:00 p.m.	40

- b. The seven portable buildings shall be removed from the site at the earlier of the termination of the lease or June 30, 2016.
- c. The school and subleases shall adhere to all terms of the *Parking and Traffic Policy German-American International School Year 2007-2008*. The *Parking and Traffic Policy* for each subsequent year shall be substantially similar to the 2007-2008 Policy.

- d. The Community Development Director shall review any complaints received by the City regarding operation of the German American International School or its lessees. The Community Development Director and his/her designee shall work with the School and the neighbors to try to resolve such complaints, when possible. The Community Development Director shall have the discretion to bring complaints to the Planning Commission for review.
- e. The fire road shall be used for emergency vehicle access only and shall remain free and clear of obstructions at all times.
- f. GAIS must comply with the following traffic mitigation measures in order to maintain a maximum daily enrollment of 315 students. Non-compliance would result in review of the use permit.
 - GAIS shall continue to implement the carpool program and monitor its progress. GAIS shall ensure that the maximum number of vehicular trips shall not exceed 920 trips per day.
 - Traffic Monitoring: GAIS shall monitor traffic counts at the site's entrance on Elliott Drive on a 24-hour basis with an hourly breakdown of traffic volumes. The data from the traffic counts shall be conducted on a three consecutive day period, excluding holiday periods, in October and April of each school year, and shall be submitted to the City of Menlo Park Transportation Division in a report for review and approval.
 - To the greatest extent possible, GAIS shall continue to promote and encourage families to carpool to school.

Motion carried 7-0.

- 7. **Use Permit/820-888 Willow Road/SMA Management, LLC:** Request for a blanket use permit for retail, restaurant, personal service and non-medical office uses. The site is nonconforming with regard to parking, and requires review and approval of a use permit for changes of use. The blanket use permit would provide flexibility in allowing tenants of the proposed use categories to locate at the property without obtaining individual use permits when there is a future change of use. In addition, the applicant is requesting outdoor seating, which is also subject to approval of a use permit. The subject site is located in the C-4 (General Commercial – Other than El Camino Real) zoning district.

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

Public Comment: Mr. Gino Massoud, applicant, said they found out because of an unrecorded agreement for parking between Baneth Pharmacy and the previous owners of this property that the four use permits were out of conformance and staff had suggested a blanket use permit so they would not have to do four individual use permit processes. He said his family also owned 812 Willow Road and that parking could be combined on both properties.

Commissioner Kadvany asked who policed the area for tidiness. Mr. Massoud said they were working with the tenants some of whom have been there over 40 years and changing leases to give property owners more rights to bring the site to a higher standard.

Commissioner Yu said he had mentioned Subway sandwiches and asked what else they were envisioning. Mr. Massoud said they were not looking for new tenants as there were existing tenants but the small market had gone bankrupt which allowed them to accept the Subway opportunity.

Commissioner Eiref said the area looked very vibrant. He said Subways were very busy and with high lunch traffic. He asked if there was concern about parking. Mr. Massoud said they had created 20-minute parking spaces closest to Subway and Tutti-Frutti and also parking was available in the El Rancho parking lot.

Commissioner Kadvany said one of the letters expressed concerns about employee parking on the streets around the sites. Mr. Massoud said the area, particularly Durham was narrow, and he had talked with the owner of El Rancho to not park the delivery trucks on the street and that employees as much as possible should park on site. He said employees for Tony's Pizza and Tutti-Frutti for the most part walked to work. He said he could support painting curbs red in the area.

Ms. Kathleen Daly, Menalto Corners, said she was concerned with blanket use noting that was not an option others in the area had been given. She said that in the future she would expect there would be high power chains in the strip.

Mr. E. Gary Smith, Menlo Park, said he owned Menalto Cleaners and that he was a 31-year resident of O'Connor Street. He said he uses Marschal's Barber Shoppe every Monday at 10 a.m. and that he shops at Baneth Pharmacy. He said he was not against growth but his concern was with a blanket use permit. He said he previously owned 1929 Menalto from 1988 to 1994 and he had to apply for a use permit there in 1988 and then in 1994 at 1921 Menalto. He said he thought it would be unfair to others who have businesses and bad form for the Commission to allow blanket use permit in an area that would grow quickly. He said Menalto was having growth problems because of parking. He recommended not granting a blanket use permit.

Ms. Penelope Huang, Menlo Park, said she supported the project and the applicant had done much to revitalize the area. She said the blanket permit had restrictions on the uses. She said neighbors love Tutti-Frutti and would find that traffic to Subway would be

kids walking there. She said that they had added bicycle racks and this project would add to a vibrancy to allow kids to walk and bike to this site. She said she would support red curbs on Durham Street.

Chair Ferrick closed the public hearing.

Commission Comment: Commissioner Bressler said the applicant wanted to be able to bring tenants in quickly and have certainty but he was concerned what they would do if there were problems.

Commissioner Yu said she was pleased that the area was being upgraded but was concerned with a big chain like Subway moving into the area. She said she liked the proposal for the outdoor area and Tutti-Frutti. She asked why they were giving flexibility to someone who bought multi-lots rather than one lot.

Recognized by the Chair, Mr. Massoud said the blanket use permit recommended by staff would not allow for all uses but would basically swap out uses that were there. He said it was not something he wanted and tenants there were good tenants and have followings. He said because of the nonconformity of the use permits for the existing four uses staff had suggested that rather than do four use permit processes to do a blanket permit. He said the restrictions on the blanket permit were not there to grow the shopping center or to give flexibility for the property owner to do whatever he wanted to do. He said the property that Subway wanted have been available for 11 months. He said while they would prefer a local business there were financial decisions that had to be made as well.

Planner Chow said regarding the blanket use permit that there was some flexibility in that uses could be swapped out so that those would not necessarily have to go into the same location. She said there were caps on the amount of square footages for types of uses.

Commissioner Riggs asked about the location of the bike racks on the property. Mr. Massoud said there was one close to Chester Street and another would be closer to the outdoor seating. He said the other one would be on the Willow Road side and they were working with staff on the location. Commissioner Riggs asked if the bicycle racks were covered. Mr. Massoud said they were not. Commissioner Riggs said the staff report indicated that the bike racks would hold a minimum of four bicycles and it was indicated the bike rack would hold up to four bicycles. Mr. Massoud said there was a four foot clearance on each side of the bike rack and that could be expanded.

Commissioner Riggs said there was a meter box at El Rancho that was used as a bulletin board and asked if that could be cleaned up. Mr. Massoud said they asked the gardeners to tear things down every week, and they were struggling with how to deal with it. Commissioner Riggs suggested putting up a corkboard for use. Commissioner Riggs also asked about keeping employees' cars, radios playing, and other party annoyances from the loading zone area at 820 Willow Road. Mr. Massoud said that would become part of the lease that this was a loading zone only with five minute parking

limit. He said he has talked to every tenant about this and while they did not like the change they heard it.

Commissioner Riggs said he thought Subway would be a good business model for this location as it was more of a takeout than sit down place to eat and did not have that many employees. He said there would have to be a method to control employee parking and asked if the employee parking plan at Safeway would be applicable. Planner Chow said that had been an informal arrangement.

Commissioner Riggs said he was concerned with allowing up to 2,000 square feet of office use and asked the rationale. Planner Chow said they used the personal services and office under the same category. She said currently there was no office and there was the barber shop and cleaners that occupied slightly less than 2,000 square feet. Commissioner Riggs said he separated personal services and office uses because personal services were part of a shopping center and he was concerned with the vibrancy. Planner Chow said staff also thought that office was not the best use for vibrancy but when there was parking concerns that office use tended to have lower parking ratios.

Commissioner Eiref said that the blanket use permit seemed a misnomer and that it was more of a selected distributed use permit. He said this seemed to encumber the owner more than anything.

Mr. Massoud said when Subway applied for a use permit and this old property was researched agreements were found that made the existing use permits nonconforming. He said it was suggested they apply for a blanket use permit. He said he wanted neighborhood serving businesses. He said they were requesting swapping one restaurant for another restaurant.

Commissioner Eiref said he would like to enable Mr. Massoud to have some flexibility but also for the City have some control as this area was the gateway to the City. He said the City has kept a personal feel to the area.

Commissioner Bressler said he thought the biggest issue was the current cost of this property. He said the applicant would have to renovate to make this property much nicer to make it financially viable. He said he thought the City should not grant a blanket use permit and keep some control as there was an inherent conflict between getting enough business here to be viable and dealing with the parking. Mr. Massoud said the parking issue would continue. He said they considered redeveloping the shopping center but that would not work out economically. He said they would not be making major improvements to attract national chains and wanted to keep the charm of the center.

Chair Ferrick said as a Commissioner she liked to see what was going on and what use permits were being applied for. She asked if this was approved whether there would be notice. Planner Chow said if this use permit was approved as written there would not be notification of changes in tenants if they fell within certain parameters of square footage

and use. She said if there was a different use there would be a use permit review. Chair Ferrick asked if there was a way to grant the four use permits for those businesses needing them but to have a blanket permit. Planner Chow said that could be done. She noted the other uses that were not subject to use permits were existing nonconforming uses that could remain, and be subject to use permit review if in the future a new type of use was wanted.

Commissioner Riggs said the Chair was concerned that the staff's recommendation had restrictions on the business owner. Chair Ferrick said that was Commissioner Eiref's concern but she was more concerned with the other business owners' concerns about granting a blanket use permit. Commissioner Riggs said this was only granting the property owner the ability to swap out spaces as long as the uses did not exceed caps. He said he thought Menalto Corners would like that. Planner Chow said there were other areas they had used blanket use permits with restrictions. She said it gave the ability to swap out uses on the site and would provide some flexibility and predictability.

Responding to Commissioner Bressler, Planner Chow said the Commission seemed to like the shared parking agreement, and bicycle racks. She suggested looking at the use chart on attachment C-1 noting the uses needing to be permitted were Jonathan's Fish, Tony's Pizza, and the vacant use for Subway. She said the other two were legal nonconforming uses that could remain as personal uses.

Commissioner Eiref moved to approve the existing uses at the properties and the Subway use permit and everything under item 4 except for a, b, c. Planner Chow reviewed the proposed changes. Commissioner Bressler seconded the motion.

Chair Ferrick said Ms. Huang wanted it in the record that 850 Willow Road "Subway" was being permitted by this motion action.

Commissioner Riggs said he would not ask for a condition for covered bicycle parking but he would encourage it.

Commission Action: M/S Eiref/Bressler to approve the existing uses at the subject properties and a new restaurant use for the Subway tenant at 850 Willow Road.

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 David J. Elliott & Associates, consisting of four plan sheets, dated received April 10, 2012, and approved by the Planning Commission on April 16, 2012 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 following uses have been approved for the following tenant spaces:
 - a. 820 Willow Road – restaurant
 - b. 824 Willow Road – personal service
 - c. 828 Willow Road – personal service
 - d. 840 Willow Road – restaurant
 - e. 850 Willow Road – restaurant
 - f. 888 Willow Road – restaurant
 - b. A maximum of four outdoor dining tables and associated seating is permitted to be located near the tenant spaces of 850 and 888 Willow Road on private property, so long as an accessible pathway is provided, and shall be shared amongst all tenants in the building. No alcohol may be served or consumed in this area.
 - c. Prior to building permit issuance of 850 Willow Road or within 15 days of the effective date of this use permit, whichever comes first, the applicant shall submit an encroachment permit for the parking located in the public right-of-way in front of 820-888 Willow Road, subject to the review and approval of the Engineering Division.
 - d. Within 15 days of the effective date of this use permit, the applicant shall submit the parking deed restriction between 820-888 Willow Road and 812 Willow Road for the benefit of 820-888 Willow Road for review and approval by the City Attorney, Planning and Engineering Divisions. Proof of recordation of the document shall be submitted to the City prior to building permit issuance for 850 Willow Road or within 45 days of the effective date of this permit, whichever comes first.

- e. The parking deed restriction cannot be changed without notice to the City. If there are any changes to the deed restriction, the blanket use permit would be subject to review and possible revocation.
- f. Within 15 days of the effective date of this permit, the applicant shall submit details of a restriping plan to create conforming parking stalls at 812 Willow Road and code-compliant accessible parking spaces for the benefit of both 820-888 Willow Road and 812 Willow Road, and the location and details for two bicycle racks (that holds a minimum of four bicycles each) at 812 Willow Road and 820-888 Willow Road, subject to review and approval of the Transportation, Building and Planning Divisions. The restriping of the parking lot and bicycle racks shall be installed per the approved plan within 30 days of approval of the plan.
- g. The property owner shall work with all existing and future tenants to ensure that litter and trash is properly stored in appropriate containers and that all garbage containers in the service area behind the building at 820-888 Willow Road are properly secured at night.
- h. Within 30 days of the effective date of this permit, the applicant shall submit a signage plan for the rear of the building that indicates no parking (except for deliveries) or loitering, and that all engines must be turned off during deliveries, subject to review and approval of the Planning Division. The signage shall be installed per the approved plan within 30 days of the approved plan.

Motion carried 7-0.

E. COMMISSION BUSINESS

There was none.

ADJOURNMENT

The meeting adjourned at 10:34 p.m.

Staff Liaison: Deanna Chow, Senior Planner

Recording Secretary: Brenda Bennett

Approved by Planning Commission on June 11, 2012