



PLANNING COMMISSION MINUTES

Regular Meeting
May 21, 2012 at 7:00 p.m.
City Council Chambers
701 Laurel Street, Menlo Park, CA 94025

CALL TO ORDER – 7:02 p.m.

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

INTRODUCTION OF STAFF – Momoko Ishijima, Planner; Rachel Grossman, Associate Planner; Kyle Perata, Assistant Planner; Thomas Rogers, Associate Planner

A. REPORTS AND ANNOUNCEMENTS

1. Update on Pending Planning Items
 - a. Housing Element – City Council – May 8 and 22, 2012

Planner Rogers said on May 8, 2012, the Council held a General Study Session on the Housing Element of the General Plan. He said at the May 22 meeting, the Council would consider the settlement of litigation against the City to expedite its Housing Element. He said as part of the action that a steering committee would be created to include two Council Members, two Planning Commissioners, and two Housing Commissioners.

- b. Facebook Campus Project – City Council – May 29, 2012

Planner Rogers said the development agreement for the Facebook Campus Project required a second reading on June 5 but the rest of the actions to finalize the project approval would be heard at the City Council's May 29, 2012 meeting.

- c. El Camino Real/Downtown Specific Plan – June 5, 2012

Planner Rogers said the Commission had considered the Specific Plan at its April 30 meeting and their recommendations and the Plan would be considered by the Council at its June 5 meeting for action. He said if the Council approved the Plan the adopting ordinance would have its second reading the following week at the Council's June 12 meeting.

B. PUBLIC COMMENTS

There was none.

C. CONSENT

1. Approval of minutes from the April 30, 2012 Planning Commission meeting

Commissioner Kadvany asked to have the April 30 minutes pulled from the consent agenda. Commissioner Kadvany said he had provided comments by email but wanted confirm on page 2, the last line, that it had been corrected to say “Bressler and Kadvany” rather than “Yu and Kadvany.” Chair Ferrick said that correction had been received.

Commissioner Riggs said on page 18, 2nd paragraph, it said “Commissioner Riggs said he thought that a bulbout would conflict with a bike lane and buffer lane.” He said that was not accurate. He said if a bike lane transfers outside of a parking lane into the right there would be conflict with a change in lanes and that was a safety concern. He suggested stating: “Commissioner Riggs said a bulbout would introduce a conflict with a required change of position for a bicycle in traffic.”

Commissioner Riggs said on page 18, 2nd paragraph that the phrase “was counterintuitive” should be replaced with “was labeled by the authors as counterintuitive.” He said in the following sentence to add after “El Camino:” “thus indicating a reduced weight for added traffic. He said obviously we should question such assertion.”

Commission Action: M/S Riggs/O’Malley to approve the minutes with the following modifications.

- Page 2, last line: Replace “Yu” with “Bressler”
- Page 18, 2nd paragraph, 9th line: Replace “Commissioner Riggs said he thought that a bulbout would conflict with a bike lane and buffer lane.” with “Commissioner Riggs said a bulbout would introduce a conflict with a required change of position for a bicycle in traffic.”
- Page 18, 2nd paragraph, 14th line: Replace “was counterintuitive” with “was labeled by the authors as counterintuitive”
- Page 18, 2nd paragraph, 2nd to last line after “El Camino”: Insert “thus indicated a reduced weight for added traffic. He said obviously we should question such assertion.”
- Page 22, 2nd paragraph, 2nd line: Replace “Shoot Me High and Weinberger” with Shute, Mihaly and Weinberger.”
- Page 22, 2nd paragraph, last line: Replace “complaint” with “issue.”
- Page 23, 5th paragraph, 7th line: Replace “implicitly” with “explicitly.”

- Page 29, 5th paragraph, 2nd line: Replace “built into” with “factored in.”

Motion carried 6-0, with Commissioner Yu absent.

2. Approval of transcripts from the May 7, 2012 Planning Commission meeting

Commission Action: M/S Eiref/Ferrick to approve the transcripts as submitted.

Motion carried 5-0 with Commissioner Riggs abstaining and Commissioner Yu absent.

3. Architectural Control/Robert F. Harris/445 Burgess Drive: Request for approval of Architectural Control for the facade and site improvements of an existing office building in the C-1-A (Administrative and Professional) zoning district.

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

1. Make a finding that the project is categorically exempt under Class 1 (Section 15301, “Existing Facilities”) of the current 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 use permit subject to the following ***standard*** conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Zak Johnson Architects, consisting of three plan sheets, dated received May 10, 2012, and approved by the Planning Commission on May 21, 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.

Motion carried 6-0 with Commissioner Yu absent.

D. PUBLIC HEARING

1. **Use Permit/Gary McClure/984 Creek Drive:** Request for a use permit for interior modifications, construction of a first floor addition and a new second story to a non-conforming single-story residence, which is located on a standard lot in the R-1-U (Single-Family Urban) zoning district. The proposed project would exceed 50% of the existing replacement value in a 12-month period and requires approval of a use permit by the Planning Commission.

Staff Comment: Planner Ishijima said that the applicant had submitted three letters of support in an email form which had been distributed to the Commission. She said a color rendering of the proposed front façade was being distributed to the Commission.

Public Comment: Ms. Ashley Still, property owner, said they planned their addition and remodel so that it would fit with the aesthetics of the neighborhood and to maintain privacy. She said they had shared their plans with all of their neighbors and gotten positive feedback.

Mr. Jim Maliski, project architect, Menlo Park, said he was available if there were any questions.

Chair Ferrick closed the public hearing.

Commission Comment: Commissioner Riggs said he appreciated the efforts to fit the project to the aesthetics of the Allied Arts neighborhood and noted the use of wood shingles. He asked if Mr. Maliksi had thought about changing the materials for the chimney. Mr. Maliksi said he had not noting the property owner wanted shingles. Commissioner Riggs said there was not a symmetrical roof pitch on the cross gable and asked if that was related to head height or the addition of windows. Mr. Maliksi said if the 45 degree angle roof was used throughout the structure it would be very high and not proportionate. He said they used dormers with the slope to create character.

Chair Ferrick said there was an existing six-foot three-inch side setback nonconformity and asked if there was an effort to bring that into conformance. Mr. Maliksi said they had not as there was a desire to preserve the size of the existing rooms.

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

1. Make a finding that the project is categorically exempt under Class 3 (Section 15303, "New Construction or Conversion of Small Structures") of the current CEQA guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the use permit subject to the following **standard** conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by J. Maliksi & Associates, consisting of 11 plan sheets, dated received May 3, 2012, and approved by the Planning Commission on May 21, 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. 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 6-0 with Commissioner Yu absent.

- 2. **Use Permit, Variance/Whitney Peterson/947 Lee Drive:** Request for a use permit to determine the Floor Area Limit (FAL) for a lot with less than 5,000 square feet of developable area, and for the construction of a two-story, single-family residence on a substandard lot in the R-1-U (Single-Family Urban) zoning district. In addition, a request for a variance for construction of first and second story encroachments 10-feet into the required 20-foot rear yard setback. As part of the proposed development, one heritage Monterey pine tree (58-inch diameter) in poor condition, at the right side of the property would be removed.

Staff Comment: Planner Grossman said on page one, it was indicated that the floor area limit would be 2,691 square feet but it should read 2,586 square feet noting that 2,586 square feet was accurate throughout the rest of the report and the figure upon which calculations were made. She said additional reports and copies of the applicants' submittals were available at the table in the rear of the room, and color renderings had been provided to the Commissioners.

Ms. Whitney Peterson, property owner, said her family has been in the home building business for many years and that she and her family would live in the proposed home at 947 Lee Drive. She said they agreed with the staff recommendation. She said Lee Drive was a cul de sac bounded by University and Valparaiso Avenues and Johnson Street. She said over half of the homes in the area around the cul de sac were two-story homes. She said the existing home was one of two remaining original homes on Lee Drive and was in poor condition. She said the lot was different from most of the surrounding lots as it was a triangular pie-shape because of the curved radius at the cul de sac. She said as 131 square feet of driveway easement was not being included in the lot square footage, the lot was less than 5,000 square feet. She said they were requesting a use permit to determine the floor area limit (FAL). She said they believed that 2,586 square feet was appropriate as it was less percentagewise of FAL than if the lot was considered 5,000 square feet. She said they were also requesting a second story, which was appropriate for the area. She said they were requesting a rear setback variance because of the shape of their lot. She showed potential designs they had developed that would not need a variance request. She said those would create an

unusually shaped building that would not fit with the neighborhood. She said they have tried to work with their neighbors and had shared their plans with them. She said they had not gotten any responses until the public hearing notice for the planning commission's review of their use permit and variance request was published. She said they postponed that hearing so they could work with the neighbors. She said they did a complete revision of the proposed plans and significantly changed the project in response to neighbors concerns. She said eight major changes had been made as a result. She said they met with the neighbors to consider the revised plans and heard that the changes did not matter and that they should limit their home to 1,200 square feet and put the rest of square footage in a basement. She said they did not think that was reasonable, and were looking for Commission support of the project.

Ms. Anna McHargue, Menlo Park, said her lot was immediately adjacent to the project site and was also triangular shaped. She said her home was 800 square feet. She said she has lived at the property for 32 years and enjoyed the peace and quiet of the neighborhood. She said the size of the home proposed next to her lot would forfeit much of her privacy. She said she was concerned with increased traffic because of the number of bedrooms proposed.

Ms. Joyce Dickerson, Menlo Park, said she lived two doors down from this lot. She said she believed in real estate development and improving the quality of housing in her neighborhood but believed it needed to be responsibly done by maintaining and improving the quality of the neighborhood and the quality of life enjoyed by the residents. She said she bought her home on Lee Drive because she liked the small houses and the small lots. She said the project plan was oversized for the neighborhood and the lot it would be on, noting this was the smallest lot in the cul de sac. She said the existing building coverage was 19% and the plan was proposing 33% building coverage which was the highest building to land ratio in the cul de sac area and recommended it be kept to 25%. She showed a chart of all of the floor area limits of the homes in the neighborhood. She said the project was proposing 53% and recommended 33% noting that would be one of the highest percentages but still a reasonable sized house. She said building a home as large as proposed would destroy the value of the other homes on the cul de sac and the quality of life.

Ms. Susan Taylor, Lee Drive, said the project was too large for the neighborhood. She said the lot was unusually shaped and would support some variance but on a smaller scale. She said she and her husband had been clear in their objection to the size of the proposed project but they would support a 1,500 square foot home.

Mr. Sam Wolff, Lee Drive, said he had time donated by Mr. Bob Taggart. He presented slides contributed by neighbors Leland and Laura Wong, who were Lee Drive property owners but who could not attend tonight's meeting as they live out of town. He said that the residents of Lee Drive chose to live there because of the character and scale of the neighborhood. He said the proposed development was out of scale with what neighbors have invested in. He said this project would compromise the nature of the

community. He said Mr. Wong was concerned that the proposed out of scale structure would drastically change the garden like setting of the neighborhood. He said this street was close to Menlo Park's downtown but situated in a leafy setting with tree canopy. He said the size of the proposed home was out of proportion with other homes and lots which currently enjoyed adequate separation and a park like setting with trees and wide canopies. He noted that the homes and lots on Versailles and Chateau were quite a bit different and were rectangular lots and landscaped with shorter trees and less canopy. He said this project would compromise property values and the quality of life. He said the scale of the project was incongruous with other homes in the neighborhood.

Mr. Greg Klingsporn of Mitchell Herzog and Klingsporn said he was representing the applicants. He said there were comments about the scale and size of the project. He said the only variance being requested was in the rear of the property. He said the project would increase the existing side and front setbacks. He said the project was three feet below the height maximum allowed by the zoning and was within the daylight plane. He said size was both a matter of opinion and what was allowed under the zoning ordinance. He said this was a 5,000 square foot lot that was typically allowed a 2,800 square foot floor area limit but in this case there was a 131 square foot triangular driveway access easement excluded from the total size of the lot. He said the City's zoning ordinance Section 16.58.020 said the Planning Commission has the discretion to exclude that easement area from the lot size, which was what Planning staff had done. He said however it was the Commission's discretion. He asked to what extent this easement impaired the property, noting that it could be landscaped or used for anything that did not impair the access. He noted too that the easement was entirely located in the setback. He said the presence of this easement should have no effect on what could be built as it did not impact the project. He said he thought the Commission could easily find this to be a 5,000 square foot lot that was entitled to build a 2,800 square foot home. He said the FAL was less than 2,600 square feet for this application. He said looking at the development potential of all the properties in the neighborhood that adopting an FAL of 30 percent for this lot would do far more to damage the project.

Mr. Curtis Peterson said he was the applicant's father. He said they had started the project over 10 months ago and had worked with Planning staff to develop what was possible on this lot. He said they were told that this was a 5,000 square foot lot and normally would have a FAL of 2,800 square feet but that was reduced because of a 131 square foot easement. He said what they were proposing was more than 200 square feet less than 2,800 square feet. He said other than the neighbors' concern about the proposed size of the home, which they thought was unreasonable, they had addressed all other concerns.

Ms. Judy Citron, Menlo Park, said there were comments made the project would cause an increase in traffic congestion. She said there would be two inhabitants of the residence. She said the number of bedrooms did not equate to drivers. She said also that there was concern with the tree canopy in the area and that this project would look like that at Versailles and Chateau. She said that development was built in 70s and 80s

and there had been just a few oak trees there. She said the Petersons had done incredible landscaping with this development proposal. She said the Petersons built projects with wonderful landscaping. She said she would feel privileged to live next to a home built by the Petersons. She said she supported the project proposal.

Mr. Sloan Citron, Menlo Park, said the neighbors made good points about their neighborhood but young families like Ms. Peterson's and his own adult children needed opportunities to find places to own in Menlo Park. He said he was here to support the project and to support the ability of young families to live in Menlo Park.

Ms. Carol Taggart, Menlo Park, said she had owned an 800 square foot home on Lee Drive and remodeled it and added only a deck and landscaping. She said that was an 800 square foot home. She said after marriage the home was too small so they moved to a home on Valparaiso Avenue. She said the homes on Valparaiso Avenue should not be considered in comparison with Lee Drive homes. She said the new proposed home should be on the same scale as the existing homes.

Ms. Mary Watson, Menlo Park, said she has lived on Lee Drive since 1981 and seen multiple remodels that stayed within the character of the homes in the neighborhood. She said families have lived there without increasing the size of their homes. She said everyone was in support of replacing the existing home at the project site but wanted the new home to be in character with Lee Drive homes.

Mr. Addison (Buzz) Olian, Menlo Park, said he has rented a home on Lee Drive for a number of years so he could be close to his son's school. He said the proposed home was like a Wal-Mart coming into the downtown area. He asked the Commission to consider what the consequences would be in approving the home as presented. He said if the home was whittled down a bit it would work great.

Mr. Tim Kerns, Menlo Park, said his uncle owned property on Lee Drive. He said he himself was a real estate broker. He said his uncle was strongly against the opposition to this proposed development because of his investment. He said there would be a huge monetary difference between a home such as that proposed by the applicant and one built under an ordinance limiting homes to 1,200 square feet.

Mr. Jim Copeland, Menlo Park, said as property owners that he believes in property rights to build as allowed under standards. He said he supported the project.

Chair Ferrick closed the public hearing.

Commission Comment: Referring to comments by Mr. Kerns, Commissioner Kadvany said the project site was not a 6,000 square foot lot and there was no consideration of an ordinance to limit building to 1,200 square feet.

Commissioner Riggs said the issue with a triangular lots on a cul de sac was that there was more width and square footage at the rear of the lot and that a 20-foot rear setback would create a decrease in the buildable zone. Planner Grossman said another restraint was the increased front yard setback because of the cul de sac that required the house to be set back further into the rear yard decreasing the amount of buildable square footage. Commissioner Riggs said with other cul de sac projects the Commission has seen the circular space at the front and the width at the back have always been factors in those lots development. Planner Grossman said that was accurate.

Commissioner Bressler said one of the conditions to approve a variance was that the situation would not apply to neighbors and not set precedence. He said the argument to support that finding was that this lot has a unique shape. He said that the next door neighbor's lot was exactly the same shape and size with the only difference being the driveway perhaps. He said he could not make this finding. He said one person talked about property rights and another about how much these lots were worth. He said if the finding was made for the variance then the property value for one property owner would be increased at the expense of the neighbors' property values.

Chair Ferrick agreed that it was complicated. She said the Commission might restrict the property rights for this parcel which was close to the 5,000 square foot threshold but neighbors on this street who have 5,000 square foot lots would have the right to build on their lots under the City's zoning ordinance. Commissioner Bressler said there were also requests for variances.

Commissioner O'Malley said if this project was approved that would begin a cycle in which the small homes would all be replaced and probably within a 10 year period. He said he was not sure the value of the existing homes would decrease if this project was built and thought it would actually increase over time as a result.

Commissioner Eiref said in his two years on the Commission he did not think he had seen a lot like this. He said however that the purchasers must have been aware of the lot restraints. He said there were comments about the rights of property owners to build, which he personally believed in, but in this instance a variance was being requested and there was a qualitative judgment to be made.

Commissioner Kadvany said it was a very unusual lot and historically the cul de sac was created with lots on which small homes could be built and for which a small home was intended. He said there was a large amount of space on the first floor for a living room and family room. He said that in many homes living rooms were now dead space. He said he also noticed that the bathroom on the first floor seemed quite a distance from the kitchen and living room. He said to him it looked like a "developer's" house noting the painted stucco finishes which he thought would make the structure look heavy and bulky. He said there was not a clear design choice such as a Carmel

cottage or English countryside home. He said the design and size were interacting to affect reaction to the project.

Commissioner Riggs said this project has drawn much observation and there was clearly a neighborhood character that had not yet been broken. He said he completely agreed with Commissioner O'Malley that if this home was built the other properties would change as well in the future. He said the proposed builder design which was seen more typically on streets such as Cotton or Arbor Streets was not his favorite design but the City did not have design guidelines. He said owners of pie shaped lots proposed for development typically asked for relief from rear setback requirements but that requirement was established by zoning ordinance. He said if it should be changed then it should be by City action to amend the zoning ordinance. He said as a Commission they were asked to protect neighborhood character. He said that was difficult when the underlying ordinance did not support them to do that. He said he could not make the findings for the variance request and he was hesitant to discretionally approve a project whose size was proportionately different from existing lots.

Chair Ferrick said the project improved the front setback from an existing 17 foot to the required 25.5 feet, the rear setback from an existing 7.6 feet to 10 feet, the left side setback from an existing 2.7 feet to 6.5 feet, and the right side setback from an existing 8 feet to 24.3 feet. She said the project in many ways improved the setback conditions. She noted her home was 1,100 square feet and she has a family so she understands "small" living, but it troubled her to think she could be told she did not have the right to improve her property. She said the neighborhood supported the variance request and while she did not think the architectural design proposed was the best fit with the neighborhood she was troubled that there was not room for change noting the difference of architectural styles in Suburban Park where she lives.

Commissioner Eiref said he questioned giving a variance for a large house on an oddly shaped lot. He said additional thought had to go into the design for this property.

Commissioner Kadvany referred to a project on Morey Drive that was a two-story on a street of all one-story homes. He said in that instance the applicant had integrated the design into the neighborhood. He said this project had to integrate the design into the neighborhood and be a paradigm for future transitions in development in this area. He said that there had to be acceptance that there would be change on this street and thought the neighborhood should define what that would look like.

Commissioner Riggs suggested that the neighborhood consider doing a zoning overlay. He said in this instance the Commission was seeing this project because the lot was less than 5,000 square feet and there was a variance being requested.

Planner Grossman said almost all of the lots on Lee Drive would need to have a use permit review because of the substandard nature of the lots. She said this project

needed a use permit because it was a substandard lot and because it needed an FAL determination in addition to the variance request for the rear setback.

Commissioner Riggs moved to deny the variance request as he could not make the findings for a variance. Commissioner Bressler seconded the motion.

Planner Grossman said the Commission could deny the variance request because of not making one finding but there were findings to be made for the denial of a use permit. She said the Commission should consider why the project would 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 why it would be detrimental to property and improvements in the neighborhood or general welfare of the City.

Commissioner Riggs said he did not find the hardship of the building lot to be peculiar to the property and that a variance was not needed for the applicant to enjoy substantial property rights. He said the variance would be detrimental to this established neighborhood noting that the variance would be applicable to the adjacent lot as well.

Planner Grossman said in addition to variance denial findings it appeared that Commissioner Riggs found the use permit request would be detrimental to the welfare of the neighborhood because it would conflict with the size and scale of the existing development. Commissioner Riggs said he wanted to add “an unusually consistent character of the neighborhood.” Commissioner Bressler accepted the modification of the motion.

Commissioner Kadvany said property values might increase with this project but he thought what was most important was people’s objective perception of the project. He said he thought it was detrimental to the welfare of the neighborhood.

Planner Grossman said that to deny the use permit there had to be a negative finding and that she had good notes specific to welfare. She said for the variance it was required only to not be able to make one of the four findings.

Chair Ferrick said she objected to how welfare was being defined as neighbors were choosing to make a two-story home in their neighborhood detrimental to their welfare. She said if welfare was defined as the amount they would earn on future property values that was different as property values would raise with quality development in the neighborhood.

Commissioner Riggs said the Commission’s action on this below 5,000 square foot lot did not set a precedent on lots between 5,000 and 7,000 square foot lot. He said he thought this design would be a negative for the neighborhood. He said that Commissioner Kadvany was challenging the applicant to create a design that would work for the neighbors.

Commissioner Kadvany said there had been suggestions that the applicant build a 1,200 square foot residence with a basement but also an email supporting a 1,800 square foot residence. He said it was the design, size and context of the project that made it either objectionable or acceptable.

Chair Ferrick asked if they could not make findings for the variance now whether they would be able to make it for a different proposal. Planner Grossman said if the Commission might want to provide an opportunity for a variance request in the future that they might want to focus denial on finding 3.c regarding air and light and retract statements about this not being an irregularly shaped lot. She said that up to 2,300 square foot could be built on the lot without a request for a variance and asked if that was what the Commission wanted or whether they wanted to allow for a redesign for a smaller home with variances.

Commissioner Eiref said he thought a variance for this lot was completely appropriate. He said he would encourage creative conversation between the applicants and neighbors to come up with a design that would work for this neighborhood.

Commissioner Riggs said he thought it was self-evident that the first finding for the variance could not be made noting the adjacent parcel was a mirror lot. Planner Rogers said the finding about non-applicability generally refers to other properties in the same zoning classification and was a different statement than there was one other lot this could be applicable to. He said staff found this lot unique out of the lots in the R-1-U zone.

Planner Grossman said that based upon Commission discussion, it seemed that they could deny the variance based upon not being able to make required variance finding 3.c.

Commissioner Riggs said the Commission had approved two-story homes with a five foot setback. He said hardship for providing a nearly 2,600 square foot home was not established. Planner Grossman said the hardship finding for the variance was tied to the lot itself. Commissioner Riggs said the hardship was what the applicant wanted to build and the lot. Planner Grossman said the residence could be built without a variance but finding 3.a was indicating that this was an irregularly shaped lot and as such unique to this property. Commissioner Riggs said this was not a variance request to encroach by 18-inches but by 10 feet. Planner Grossman said finding 3.a was about the irregularity of the lot and that it was particular to this property and not because of something generated by the property owners.

Commissioner Eiref said the hardship was that the applicants were not being allowed to build what they wanted to on this lot and largely that was because of the shape of the lot but it was also specifically tied to the development proposal. He said the applicant could bring back a different proposal.

Planner Rogers said if the Commission's desire was to deny the applicant's request to build the proposed house for certain reasons then it was not necessary to review every variance finding. He suggested focusing on variance finding 3.c relative to air and light that was similar to the use permit findings and allowing for the variance findings for 3.a, b, and d as written in the staff report as that would allow for more opportunity on the design that could come back before the Commission.

Chair Ferrick asked if Commissioner Riggs was willing to retract his motion. Commissioner Riggs said he was willing to withdraw his motion and make a new motion based on the second finding related to the general welfare issue of the use permit and 3.c for the variance, and not being able to make the determination that this was not detrimental to the neighborhood for reasons previously stated. Chair Ferrick said that the denial of the use permit was based upon the second finding for the use permit and not the variance request. Commissioner Bressler as the maker of the second to Commissioner Riggs' original motion accepted withdrawal of that motion and seconded the motion to deny the use permit and also deny the variance based on not being able to make finding 3.c.

Referring to an overhead slide shown by a Lee Drive resident, Commissioner Kadvany said the "commons" in this instance was the shared neighborhood and was the definition of welfare here which he did not think should be limited to economic value. He said the Commission should be very comfortable with its decision and that it was justified.

Commission Action: M/S Riggs/Bressler to deny the item based upon the following findings:

1. Make a finding that the project is categorically exempt under Class 3 (Section 15303, "New Construction or Conversion of Small Structures") of the current CEQA Guidelines.
2. ***Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use would be detrimental to the health, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and would be detrimental to property and improvements in the neighborhood or the general welfare of the City because the proposed residence would have a floor area ratio of approximately 53 percent, which is significantly higher than the floor area ratio of existing development fronting on Lee Drive; would feature an architectural style and materials that would be inconsistent with other residences fronting on Lee Drive and which would amplify the perceived bulk of the structure; and would therefore not be consistent with the scale and character of the existing development in the neighborhood and would be detrimental***

to the unique and special character of the existing neighborhood.

3. ***Make the following findings as per Section 16.82.340 of the Zoning Ordinance pertaining to the granting of variances:***
 - i. ***There is a hardship attributed to the project site due to the irregular lot shape and substandard width, depth and area of the lot, which limits the potential for construction of rooms of typical sizes and dimensions, and is particular to the property and not created by any act of the owner.***
 - ii. ***The variance is necessary for the preservation and enjoyment of substantial property rights possessed by other conforming property in the vicinity, in particular with the ability to develop a residence that is not an irregular triangular shape. The variance would not constitute a grant of special privilege, because it would not allow the applicant to construct floor area that would not already be permissible on the site, but would instead allow this floor area to be constructed in a more usable and efficient fashion.***
 - iii. ***Because the variance would be based on the unique conditions of an unusually shaped, substandard sized lot located on a curve of a radius of less than 100 feet (which results in the requirement for an increased front yard setback), construction of a two-story residence that is encroaching into the required rear setback would not be applicable, generally, to other properties within the same zoning classification.***
4. ***Make the following finding as per Section 16.82.340 of the Zoning Ordinance pertaining to the denial of variances:***
 - i. ***The granting of the variance would be materially detrimental to the welfare of the existing development in the neighborhood because the proposed residence would have a floor area ratio of approximately 53 percent, which is significantly higher than the floor area ratio of existing development fronting on Lee Drive; would feature an architectural style and materials that would be inconsistent with other residences fronting on Lee Drive and which would amplify the perceived bulk of the structure; and would therefore not be consistent with the scale and character of the existing development in the neighborhood and would be detrimental to the to the unique and special character of the existing neighborhood.***
5. ***Based upon the findings, deny the use permit and variance.***

Motion to deny carried 5-1 with Commissioner Ferrick in opposition and Commissioner Yu absent.

3. **Use Permit Revision/Kevin Bowyer for Sprint/300 Constitution Drive:**

Request for a modification to an existing wireless telecommunications facility located on the roof of an existing building in the M-2 (General Industrial) zoning district. Three existing panel antennas, enclosed within a radome located on a tripod would be replaced with new equivalent antennas, and an additional radome containing three panel antennas would be located on the roof of the building.

Staff Comment: Assistant Planner Perata said coverage maps and color photo simulations had been provided to the Commission.

Public Comment: Mr. Kevin Bowyer, applicant, said he was available for questions.

Chair Ferrick closed the public hearing.

Commission Action: M/S Riggs/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 necessary findings, pursuant to section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of the proposed use, and will not be detrimental to property and improvements in the neighborhood or general welfare of the City. *(Due to the Federal Communications Commission (FCC) preemption over local law regarding concerns over health where the proposed facility meets FCC requirements, staff has eliminated the standard finding for "health" with respect to the subject use permit.)*
3. Approve the use permit subject to the following **standard** conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Pacific Telecom Services, LLC dated received May 11, 2012, consisting of eleven plan sheets and approved by the Planning Commission on May 21, 2012 except as modified by the conditions contained herein.
 - b. Prior to building permit issuance, the applicant shall comply with all County, State, and Federal regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division that are directly applicable to the new construction.

- d. If the antennas or any portion of the antennas and associated mechanical equipment discontinue operation at the site, the antennas and associated equipment shall be removed from the site within 30 days.

Motion carried 6-0 with Commissioner Yu absent.

4. **Use Permit/Circuit Therapeutics, Inc./1430 O'Brien Dr, Suite F**: Request for a use permit for the storage and use of hazardous materials for the research and development of new techniques for neuroscience research, within an existing building in the M-2 (General Industrial) zoning district. All hazardous materials would be used and stored within the building.

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

Questions of Staff: Commissioner Kadvany asked if there was a guide to the acronyms used in the inventory. Planner Perata asked if that was the hazardous materials business plan or the chemicals inventory. Commissioner Kadvany said it was the inventory and referred to D4. Commissioner Bressler said E1 listed those chemicals and abbreviations. Planner Perata suggested asking the applicant that question.

Public Comment: Mr. John Tarleton, Menlo Business Park, said Dr. Mitra of Circuit Therapeutics, Ms. Subheena Kahn, Manager of Lab Operations, and Ms. Laurie Carvill, the Environmental Health and Safety consultant were available. He said they were pleased to bring another exciting bio-tech company to Menlo Park.

Dr. Angawal Mitra, Senior Scientist at Circuit Therapeutics, said they were a small bio-tech startup company doing research in neuroscience using a technology that evolved at Stanford University.

Commissioner Kadvany asked about the acronyms in the materials inventory such as FL and FS. Ms. Laurie Carvill, Environmental Health and Safety consultant, said page E1 described most of the acronyms, noting FL was flammable liquid and FS was flammable solid. Commissioner Kadvany asked about the carcinogen they were testing. Dr. Mitra said they were not testing a carcinogen but the chemical they were using was carcinogenic at higher limits and had to be handled a certain way.

Chair Ferrick closed the public hearing.

Commission Comment: Commissioner Riggs said the Commission has reviewed a number of these type of applications but this was the first time that SFPUC had asked to be added to the required notifications in case of emergency. He asked what staff's position was. Planner Perata said staff had added it as a condition and that it did not seem to be a burden to add the SFPUC's contact person. He said that the SFPUC has regularly been noticed by the City on these applications. Commissioner Riggs asked if staff evaluated these requests as to priority. Planner Perata said the list was relatively

short and having one additional number should not hamper the operators in making all the contacts. Commissioner Riggs said this was new and he was concerned that this might be an opening for incremental increases to contact requirements.

Mr. Tarlton said that he and the tenant did not object to contacting SFPUC but all of his tenants were aware that a phone call to him was the first one made after a 911 call. He said it was understandable that SFPUC would want to be notified but he did not know what they would do with that information as in an earthquake situation there would be much greater considerations than a small amount of solvent spilled on the floor at Circuit Therapeutics.

Commissioner Riggs moved to make the findings and approve the use permit. He said that he did not represent himself as a chemical engineer and that he reads such applications with varying degrees of interest. He said as a Planning Commissioner he looks to see that the Fire District and three other public agencies have reviewed and found the application acceptable. Chair Ferrick seconded the motion and noted she relied also on experts who have previously reviewed the application.

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

1. Make a finding that the project is categorically exempt under Class 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 DES, consisting of 11 plan sheets, dated received May 7, 2012, and approved by the Planning Commission on May 21, 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.
 - 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.
4. Approve the use permit subject to the following ***project specific*** conditions:
- a. Prior to commencement of operations at the site, the applicant shall revise the "Emergency Response/Contingency Plan" portion of the Hazardous Materials Business Plan (HMBP) to include the San Francisco Public Utilities Commission's Millbrae dispatch center within the notification list, subject to review and approval of the Planning Division.

Motion carried 6-0 with Commissioner Yu absent.

E. REGULAR BUSINESS

1. **Architectural Control Revision/SRI International/333 Ravenswood Avenue:**
Request for a revision to expand a previously approved carbon dioxide (CO2) capture structure and construct associated site improvements in the C-1-X (Administrative and Professional, Restrictive - Conditional Development) zoning district. The structure is 36 feet, eight inches tall, which is below the maximum permitted height allowed by the conditional development permit for the site. The structure is located next to the interior side of Building S, at the southeastern portion of the site. The expansion of the structure would involve a lateral extension of approximately 9 feet, but the maximum height would not be increased. The associated improvements would include a connection to equipment at the existing cogeneration plant (Building U), which is located nearby. The structure was originally approved by the Planning Commission in

June of 2010, with a one year time limit. The applicant received approval of an extension in July of 2011, which allowed the structure to remain in operation through June 30, 2012. As part of the expansion of the structure and associated site improvements, the applicant is requesting to remove the time limit from the approval.

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

Public Comment: Mr. Michael Wright, Director of Facilities, said he was available for questions. He said the request related to an expansion of their technology into a new area of application related to sequestration of CO₂ of small and medium sized cogeneration and utility facilities.

Commissioner Kadvany said there was a proposal for ducting to attenuate the noise from the flu but he could not tell from the graphic where the nominal residential area was. He asked if the analysis addressed their location. Mr. Wright said he met with the property owner on Kent Place who had expressed concerns with added noise. He said residents on Waverley Place and Kent Place have SRI, USGS, and the City's corporation yard as neighbors. He said the location of this project would have several buildings between it and residences and there was no particular noise from the project. He said he was confident that this would not create any additional noise.

Chair Ferrick closed the public hearing.

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

1. Make a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current 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 subject to the following **standard** conditions:

- a. Development of the project shall be substantially in conformance with the plans prepared by SRI International, consisting of eight plan sheets, dated received April 18, 2012, and approved by the Planning Commission on May 21, 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.
4. Approve the architectural control subject to the following ***project-specific*** conditions:
- a. Simultaneous with the submittal of a complete building permit application, the applicant shall incorporate all mitigation measures identified in the acoustical analysis, prepared by Mei Wu Acoustics, dated February 19, 2012.

Motion carried 6-0 with Commissioner Yu absent.

- 2. **City Council Policy Amendment/City of Menlo Park:** Consideration of an Amendment to the Public Noticing Policy for Development Permit Applications in order to provide alternate means for noticing the public of development projects in a cost effective and efficient manner.

Staff Comment: Planner Rogers said the City currently sends two notices whenever an application for Planning Commission development review comes forward. He said the first was a notice of application submittal that occurs within seven days with copies of selected plan views to neighbors within 300 foot of the project site. He said the proposed change to this notice was the requirement that hard copies be mailed with the notice. He said there was a change in the USPS branch location making it harder for the City to deliver the mailing as well as the cost of paper and postage to consider but also the proposed change recognizes the advances in technology and quality of web scanning since adoption of the noticing policy in 2005. He said the proposed change would be the mailing of a card notifying neighbors within 300 feet with a link if they wanted to see the plans.

Commissioner O'Malley said information now provided would not be provided and he understood saving time and money. He said there were some people who do not have computers and the card should direct people to sites where they could use computers for free. Planner Rogers said that was a good idea. He said also the notification card listed the planner's phone number if the public needed additional information and copies of plans would be mailed as currently provided upon request.

Commissioner Riggs asked for confirmation that the card was a 5 x 7 inch card and was sent only about application and was not the public meeting notice. Planner Rogers said that was accurate. Commissioner Riggs asked if there would be a map on the card. Planner Rogers said that might squeeze out space for needed text.

Commissioner O'Malley said there was mention of saving paper. He said for every Commission meeting he reads about one pound of paper. He said there were many things the City could do to be paperless. Planner Rogers said the City was considering the potential for paperless technology. He noted that paper plans would still be needed.

Chair Ferrick said she wanted to insure that it was obvious to call the planner if there were questions as a long URL could be mistyped. Planner Rogers said currently the plans have a cover sheet that lists the contact planner as well as requested dates to submit by. He said all of that information would be on the card and would not have to be obtained by going to the URL.

Summary of Commission comments:

- Provide information about public internet access sites, such as the library, for those who may not have home internet access;
- Mail hard copies of project plans on request;
- Ensure projects are described clearly and accurately, and planner contact information is prominently displayed; and
- Make overall paper reduction and technology upgrades (Commission packets, Council Chambers).

F. COMMISSION BUSINESS

There was none.

ADJOURNMENT

The meeting adjourned at 9:45 p.m.

Staff Liaison: Thomas Rogers, Associate Planner

Recording Secretary: Brenda Bennett

Approved by the Planning Commission on June 25, 2012