



PLANNING COMMISSION MINUTES

**Regular Meeting
June 11, 2012 at 7:00 p.m.
City Council Chambers
701 Laurel Street, Menlo Park, CA 94025**

CALL TO ORDER – 7:01 p.m.

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

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

A. REPORTS AND ANNOUNCEMENTS

1. Update on Pending Planning Items
 - a. Facebook Campus Project – City Council – May 29 and June 5, 2012

Planner Rogers said the City Council approved the Facebook Campus Project on May 29 and the second reading of the Ordinance for the development agreement occurred at the Council's June 5, 2012 meeting.

- b. El Camino Real/Downtown Specific Plan – June 5 and 12, 2012

Planner Rogers said the City Council adopted the El Camino Real/Downtown Specific Plan and associated actions at its June 5, 2012 meeting. He said there was a consent calendar item on the Council's June 12 agenda for the second reading of the associated ordinance.

- c. Housing Element

Planner Rogers said the Steering Committee for the Housing Element would include Chair Ferrick and Commissioner O'Malley. He said the Committee's first meeting would occur toward the end of the month.

B. PUBLIC COMMENTS

There were none.

C. CONSENT

1. Approval of minutes from the April 16, 2012 Planning Commission meeting*

*This item was considered out of agenda sequence being item 2 on the consent calendar and not item 1.

Chair Ferrick said staff had presented the Commission with some suggested modifications to the minutes for the meeting of June 16, 2012. Commissioner Riggs said he agreed with the modifications suggested by staff but had a question on page 31 of the minutes related to the Willow Road commercial project. He said after discussions on the limitations on non-medical office use, he thought the Commission had wanted to loosen the restriction on personal services. He said that now however there was no restriction on personal services or non-medical office use. Planner Rogers said he would have to consult the action letter or the Commission could direct staff to review the recording for the meeting if there was any question. Commissioner Riggs said he recalled that the applicant was allowed to keep the current uses and that the uses could be exchanged among the tenant spaces. Planner Rogers said staff would need to review. Chair Ferrick asked if the minutes should be tabled. Planner Rogers suggested the Commission could approve what was presented subject to staff's review of the specificity of the blanket use permit for the Willow Road project and potential updating of the minutes.

Commissioner O'Malley said he had corrections to the June 16 minutes on page 9 in the second paragraph, first sentence beginning "Commissioner O'Malley...", that "serviced" should be corrected to "service." He said in the same paragraph, next to last sentence, that "conservations" should read "conversations."

Chair Ferrick asked if the Commission wanted to approve the minutes with the note for staff to verify the project-specific conditions for the Willow Road project. There was consensus.

Commissioner Riggs moved to approve the minutes with direction to staff to confirm the project-specific conditions for the Willow Road Project. Commissioner O'Malley seconded the motion.

Commissioner Eiref said he recalled that the Commission had recommended action different from what was recommended by staff. He said he clearly remembered that they did not want the applicant to have a blanket permit. Planner Rogers said the minutes preparer did not have staff's summarized actions. He said the Planner who worked on the project prior to an extended leave had completed the file. He said it was a matter of accessing what the planner had prepared.

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

- Page 9, 2nd paragraph, 1st line: Replace “service” with “serviced”
- Page 9, 2nd paragraph, 13th line: Replace “conservations” with “conversations”
- Page 12, number 4, under “a,” 1st line: Replace “The substandard lot width,...” with “The substandard lot width, the unique parallelogram shape of the lot, the Menlo Park Fire District access requirements,...”
- Page 12, number 4, under “a:” Delete “The geometry of the lot creates a hardship as well.”
- Page 14, number 6, “a:” Replace “Applicant will work with staff and provide immediate adjacent and contiguous neighbors with proposed color palette for review and input for staff’s review and approval.” With “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.”
- Page 14, number 6, under “b:” Delete “Should requirements for the width of driveways be reduced in the future, the applicant/owner shall be allowed to convert the difference to landscaping.” With “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 subjected to review and approval of the Planning Division.”
- Page 15, under Commission Action: Replace “as recommended in the staff report” with “with the following modifications”
- Page 16, add condition number 5 as follows:
 - 5. *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.*
- Page 32, number 4: Delete conditions a, b & c: “a. The site is subject to a blanket use permit, allowing retail, restaurant, personal service and non medical office as permitted uses. All other uses would be subject to review and approval of a use permit. The maximum number of tenants spaces in the building is limited to six.; b. All restaurant use shall not exceed a combined

maximum gross floor area of 4,700 square feet.; c. All personal service or non medical uses, or a combination of these uses, shall not exceed 2,000 square feet of gross floor area.” and replace it with condition “a” as follows:

- 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

Then conditions are renumbered d to b; e to c; f to d; g to e; h to f; i to j and j to h.

Motion carried 7-0.

2. **Sign Review/TJ Bianchi/4040 Campbell Avenue:** Request for sign review to add a fifth tenant to an existing freestanding monument sign. The proposed fifth tenant would occupy less than 25 percent of the building.

Commissioner Riggs to approve as recommended in the staff report. Commissioner Eiref seconded the motion.

Commissioner Kadvany said he thought the sign looked cluttered with names of businesses in different fonts and logos that were not balanced with each other. Chair Ferrick said this type of sign was pretty common in corporate business areas and was directional. Commissioner Kadvany said the logos made it hard to read the text as presented. Chair Ferrick asked staff to comment on why the Commission was reviewing this type of sign.

Planner Perata said the City’s Sign Design Guidelines state that the monument signs should be limited to tenants that occupy 25 percent of a building so that would equate to four tenants on the sign, and the applicant was requesting a fifth tenant to be added to the sign.

Mr. T.J. Bianci said they owned the property and were Menlo Park residents. He said they had brought the newest company from San Mateo Business Park to the City. He said the company would like signage as soon as possible. He said the company was having trouble with customers, clients and vendors not knowing where they are located. He said each name stands out which was the purpose of a monument sign and that this sign was one of the nicest monument signs in that area. He said he could put one of the tenant’s names on the building but he thought that would look more cluttered.

Commissioner Kadvany said two other companies had much more presence because of their logos and suggested the logos could be lined up better. He said he would not want signage on the building. Mr. Bianci said that they had been working to bring tenants into their building and those occupancies did not happen at the same time, which meant signage went up at different intervals.

Commissioner Riggs said this building was probably the nicest looking one on the street, was landscaped and had a good looking monument sign allowing each business' signage to feature their own logo and font.

Commissioner Yu said the sign was attractive. Commissioner Bressler said he agreed. Commissioner O'Malley said he had no problem with the signage.

Commission Action: M/S Riggs/Eiref to approve the sign request 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 a finding that the sign is appropriate and compatible with the businesses and signage in the general area, and is consistent with the Design Guidelines for Signs.
3. Approve the sign subject to the following **standard** conditions:
 - a. Development of the project shall be substantially in conformance with the plans provided by the applicant, consisting of six plan sheets, dated received May 29, 2012, and approved by the Planning Commission on June 11, 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.

Motion carried 7-0.

D. PUBLIC HEARING

1. **Use Permit/Ronald and Ellis Bigelow/785 Evergreen Street:** Request for a use permit to demolish an existing single-story, single-family residence and construct a new two-story, single-family residence on a substandard lot with regard to lot width in the R-1-S (Single-Family Suburban) zoning district. In addition, a request for excavation in the right side setback, associated with access to a basement.

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

Public Comment: Mr. Ron Bigelow said he and his wife were pleased to present their project to the Commission. He said they had moved here from Texas recently and were retiring. He said they were proposing to build an environmentally sustainable home and chose Menlo Park for a number of reasons. He said their broad design goals were to have an energy friendly and efficient home, to capitalize on large existing trees that surround the house, to complement the existing homes on the block, and create a home where they could live for the next 20 to 30 years of their lives.

Mr. Lewis Butler, San Francisco, project architect, said that the property owner had not indicated the great efforts he and his wife had made to reach out to the neighbors, and noted that they had had a positive effect. He said related to the massing of the house that they had prepared three iterations and decided on a design that had a cluster of rooms but that were held together with one roof. He said the site sits at the end of Holly Avenue and there was a long view of this home coming down Holly Avenue. He said they wanted a facade that had presence but was demure and background at the same time. He said they hid the garage door behind wooden slats. He said regarding LEED that they would need two to three more points to get LEED platinum.

Commissioner Kadvany asked about the breezeway structures.

Mr. Butler said the lot was narrow and they did not want a house that made the lot narrower. He said they wanted the width of the lot to be appreciated in the middle of the lot with a cross axis to have a full appreciation of the width in the middle.

Mr. Rob Haskell, Menlo Park, said he lived next door to the project property. He said he supported the project and thought it would be a great addition to the neighborhood.

Chair Ferrick closed the public hearing.

Commission Comment: Commissioner Riggs said the planning was excellent, the massing and style would work well on Evergreen Street, and there was very good neighborhood outreach. Commissioner Riggs said he could support the project.

Commissioner Kadvany said he seconded Commissioner Riggs' motion. He said he appreciated the attention to the vista coming down Holly Avenue, diminishing the massing of a double garage, the balancing, and the design. Commissioner Eiref said the design was exciting. Chair Ferrick said it was great to hear about the LEED rating and that this would be a handsome house.

Commission Action: M/S Riggs/Kadvany 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 Butler Armsden, consisting of 15 plan sheets, dated received May 23, 2012, and approved by the Planning Commission on June 11, 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 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 the issuance of grading, demolition or building permits.

- 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/John Garagozzo/530 Central Avenue:** Request for a use permit to demolish an existing single-story, single-family residence and construct a new two-story, single-family residence on a substandard lot with regard to lot width in the R-1-U (Single-Family Urban) zoning district. The residence's off-street parking requirement would be met by a single-car attached garage (accessed from Central Avenue) and an uncovered parking space (accessed from the rear alley). As part of the proposed development, one heritage oak tree (15-inch diameter) in fair condition, at the left side of the property would be removed, and one heritage camphor tree (32-inch diameter) in fair condition on the property line with 115 Walnut Street, would be pruned.

Staff Comment: Planner Ishijima said staff had no additions to the report.

Questions of Staff: Commissioner O'Malley asked if pruning a tree needed Commission approval. Planner Ishijima said extensive or 25% pruning of heritage trees required a Heritage Tree Removal Permit.

Public Comment: Mr. John Garagozzo said he was the applicant and property owner. He said the project was the removal of a 1,200 square foot two bedroom and one and quarter bath home with a detached 400 square foot garage, removal of a heritage tree and pruning of a heritage tree, and was located in the Willows in the FEMA flood map area. He said the lot was 7,000 square feet approximately 50 by 140 square feet with a recently improved alley. He said the project was a two-story 2,400 square feet, four bedroom, three and a half bath single family residence with a single attached garage and a separate uncovered parking space accessed by the alley. He said the house was an updated bungalow with an exterior wall of smooth stucco and horizontal boards with a front and rear porch, and a balcony from the master bedroom. He said the proposed width of the home was two feet narrower than the existing home and established side setbacks at eight-feet, three-inches. He said he had reached out to the immediate and extended neighbors for their comments and opinions, and left plans and his contact information.

Chair Ferrick closed the public hearing.

Commissioner Eiref questioned the use of translucent glass for the garage door noting that was typically used with more modern architecture. He asked if the applicant had considered using non-reflective glass. Mr. Garagozzo said the garage door met FEMA

guidelines to use building materials near the flood zone that would not decay. Commissioner Eiref said that this type of garage door using translucent glass could create a glare for drivers and noted that these work on more modern looking buildings. Mr. Garagozzo said he would use a satin edge glass. Commissioner Eiref asked about the windows on the right side as that was next to a single-story home, and if there was an impact on privacy. Mr. Garagozzo said the largest window was in the stairwell landing. He said the next door neighbor's house had a parapet roof and there was a thirteen-foot three-inch separation between this proposed structure and that home. He said the view would be of the neighbor's roof. Commissioner Eiref said he was also thinking about the privacy for the new home. Mr. Garagozzo said the windows in the bedroom and bathroom on the second floor could perhaps be smaller. He said there was a dominant window over the garage. He said the stairwell window was the focal point window and provided interest and utility to the design. Commissioner Eiref said he was glad the applicant had done outreach with the neighbors and asked what kind of response he had gotten. Mr. Garagozzo said the neighbor to the right was supportive of the project. He said the neighbors to the left were in transition and were marketing their home. He said he had spoken with neighbors down the street but they had limited interest.

Commissioner O'Malley asked how many neighbors the applicant had contacted. Mr. Garagozzo said he contacted about seven neighbors multiple times. Commissioner O'Malley said he was concerned about the neighbor in transition. Mr. Garagozzo said that neighbor was interested in the planned project.

Commissioner Riggs asked if the applicant was advised of the Commission's general concern with second story windows overlooking single-story homes particularly in the R-1-U zone. Planner Rogers said there had been two planners on the project. He said they had not necessarily given the applicant general directives about the side windows. He said staff usually looks at the proposal first to see if there were any particularly large windows with low sill heights on the second story. He said they had not seen anything that warranted concern with what the applicant was proposing for windows on the second story. Commissioner Riggs said the Commission had expressed concern for a number of years with the placement of side windows, noting previous Commissioners. He said to mitigate windows on the second floor they asked for raised sill heights, obscure glass, or landscape screening. Mr. Garagozzo said he would raise the sill heights on the right elevation in the front and rear bedroom, but noted those sills were three feet six inches. Commissioner Riggs said that was fine; he was talking about the stairwell landing window as it provided a panoramic view. Mr. Garagozzo said the camphor tree on the left elevation would be pruned and would have a large canopy. Commissioner Riggs asked if there would be foliage further down the tree at about 14 foot. He said he doubted there would be with the removal of a 15-inch trunk oak tree growing under that tree. He said since screening was on the high side and the sill was on the low side that obscure glass might be an option. Mr. Garagozzo said that one sill had to be low enough for egress. He said he would not want obscure glass in the bedrooms. He said the camphor tree on the left after it was pruned would have a

canopy over the neighbor's property. Commissioner Riggs asked what screening he could provide on the right side for the stairwell window. Mr. Garagozzo said they were asking to remove a heritage tree and suggested that this might be a good location for the planting of a replacement tree.

Commissioner Kadvany said he did not have a concern with the proposed windows on the left elevation. He encouraged landscape screening on the right elevation for the stairwell window.

Chair Ferrick said she thought a tree at the fence line would be sufficient.

Commissioner Riggs moved to approve subject to the addition of a condition for landscaping subject to staff approval for the planting of a vertical evergreen tree in an appropriate size for screening of the left façade. Commissioner Yu seconded the motion.

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

1. Make a finding that the project is categorically exempt under Class 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 R. Bruce Ballentine, consisting of 10 plan sheets, dated received May 24, 2012, and approved by the Planning Commission on June 11, 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 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 the issuance of grading, demolition or building permits.
 - 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.
4. Approve the use permit subject to the following ***project-specific*** conditions:
- a. Simultaneous with the submittal of a complete building permit application, the applicant shall submit an Alley Improvement Plan. The plan shall specify that all damaged areas between 530 Central Avenue and the alley's intersection with Walnut Street will be patched. The plan shall be subject to review and approval of the Planning and Engineering Divisions. Prior to final inspection, the applicant shall conduct the required alley improvements, subject to review and approval of the Planning and Engineering Divisions.
 - b. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a draft Access Alley Maintenance Agreement, subject to review and approval of the Planning Division and City Attorney. Prior to issuance of a building permit, the applicant shall submit documentation of the approved Access Alley Maintenance Agreement's recordation, subject to review and approval of the Planning Division.

- c. Concurrent with submittal of a complete building permit application, the applicant shall submit a revised site plan with the addition of a vertical evergreen tree of appropriate size, with the objective of screening views of the right side of the proposed residence (in particular, the stairwell window) from the residence located at 526 Central Avenue, subject to review and approval of the Planning Division.***

Motion carried 7-0.

- 3. Use Permit/NVS Technologies/1505 Adams Drive:** Request for a use permit for the storage and use of hazardous materials for the research and development and potential future production of medical diagnostic products, 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 additions to the written report.

Public Comment: Mr. Ron Krietemeyer, Vice President of Construction for Tarlton Properties, said NVS Technologies was an exciting medical device startup. Ms. Cheryl Cathey, CEO, NVS Technologies, said the company had been in existence for two years and that they were very happy to be in Menlo Park. She said they were developing a device to determine if a pathogen was bacteria or viral that included the development of instrumentation software and reagents.

Chair Ferrick closed the public hearing.

Commissioner Riggs said this was an exciting type of medical device and moved to approve the item as recommended in the staff report. Commissioner O'Malley seconded the motion and noted the reagents and hazardous materials quantities were relatively small and non-concerning.

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 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 five plan sheets, dated received May 31, 2012, and approved by the Planning Commission on June 11, 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.

Motion carried 7-0.

4. **Use Permit/Intersect ENT/1555 Adams Drive:** Request for a use permit for the storage and use of hazardous materials for the research and development and production of medical technologies for use in treating ear, nose, and throat patients, 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 updates.

Public Comment: Mr. Ron Krietemeyer, Vice President of Construction for Tarlton Properties, introduced Mr. Rich Kaufman, Chief Operating Officer, and Mr. Dan Castro, Director of Manufacturing and Operations, for Intersect ENT.

Mr. Castro said Intersect ENT was a medical device developer and manufacturer in the ENT space and had developed one product currently approved for sale in the U.S. He said the move from Palo Alto to Menlo Park would allow them to expand their operation.

Chair Ferrick closed the public hearing.

Commission Comment: Commissioner O'Malley said the quantities of reagents listed were fairly small and asked if they were adequate to handle the company's projected growth or whether they would need to seek approval later for larger quantities. Mr. Castro said they thought it was enough as the device was very small and used a small quantity of reagent.

Commissioner Yu asked about the tax base for the City from such a business as this. Planner Perata said that it depended upon the product. Planner Rogers said the state also may make some products exempt from sales tax entirely. He said within a company if there was sales tax it depended upon where the product was sold from as it might be produced in one place and then shipped somewhere else for sale. He said for this company staff had conservatively recommended to consider the tax base as zero based on the City's previous experience with other similar companies.

Commissioner O'Malley moved to approve as recommended in the staff report. Chair Ferrick seconded the motion.

Commission Action: M/S O'Malley/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 five plan sheets, dated received May 30, 2012, and approved by the Planning Commission on June 11, 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.

Motion carried 7-0.

5. **Use Permit Revision/Neil Winterbottom for TauTona/4040 Campbell**

Avenue: Request for a revision to a use permit, previously approved in September of 2010, to modify the types and quantities of hazardous materials used and stored at the site. The subject property is located in the M-2 (General Industrial) zoning district, and the hazardous materials are used in association with the research and development (R&D) and small scale production of medical devices. All hazardous materials would be used and stored within the building.

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

Public Comment: Mr. Neil Winterbottom said TauTona was about to move into an FDA approved clinical study and as part of that would need to manufacture enough of the devices for the study. He said this application was sufficient for the company's activities as far as could be ascertained. He said the company has no intent to manufacture from this location. Ms. Ann Somers, Director of Quality at TauTona, said they were focused on plastic surgery and aesthetics and were currently working on a type of dermal filler.

Chair Ferrick closed the public hearing.

Commission Action: M/S Bressler/Yu 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 Davidson and Seals, consisting of six plan sheets, dated received May 29, 2012, and approved by the Planning Commission on June 11, 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.

Motion carried 7-0.

E. REGULAR BUSINESS

There was none.

F. COMMISSION BUSINESS

There was none.

ADJOURNMENT

The meeting adjourned at 8:30 p.m.

Staff Liaison: Thomas Rogers, Associate Planner

Recording Secretary: Brenda Bennett

Approved by the Planning Commission on July 9, 2012