



PLANNING COMMISSION MINUTES

Regular Meeting
July 9, 2012 at 7:00 p.m.
City Council Chambers
701 Laurel Street, Menlo Park, CA 94025

CALL TO ORDER – 7:03 p.m.

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

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

A. REPORTS AND ANNOUNCEMENTS

1. Update on Pending Planning Items
 - a. Housing Element

Planner Rogers said the Housing Element Steering Committee held its first meeting on June 26, noting that Chair Ferrick and Commissioner O'Malley were the Commission members on the Committee. He said the staff report for that meeting was available on the City's website on the project page. He said they will next meet on July 17 with community events beginning in August.

Commissioner Bressler asked how many housing units the City was looking to zone. Planner Rogers said the City has an obligation of somewhat less than 2,000 since the last planning period but he did not have the exact number. Commissioner O'Malley said that the City was getting credit for approximately 1,800 to 1,900 housing units and there was about 950 more needed. Commissioner Bressler asked if that included Facebook. Planner Rogers said the housing allocation was bay area wide and then allocated to different jurisdictions based on attributes. Commissioner Bressler asked if this included the Specific Plan. Planner Rogers said the Specific Plan would be applied, but there would need to be designation of specific sites. Commissioner Bressler asked if the City Council had established policy as to how bound the City was to ABAG's numbers. Planner Rogers said it was more a legal matter than policy statement as the action was part of a settlement agreement for a lawsuit brought against the City. .

Commissioner Yu asked if in-lieu fees were paid whether that decreased the total number of units needed. Planner Rogers said the City has a below market rate (BMR) housing program that applies to developments including commercial developments and some pay in-lieu fees. He said that fund was to be used for the development of

affordable housing. He said the Housing Element was about developing housing and identifying sites for residential development. He said the BMR fund was a means toward specific projects.

Vice Chair Kadvany asked if the Housing Element review addressed features of sites that affect density such as parking requirements, granny units, or setbacks. Planner Rogers said in general it was expected to and that rules for zones such as R-3 would be looked at critically and how those either encourage or discourage residential development.

B. PUBLIC COMMENTS

There was none.

C. CONSENT

Commission Action: M/S Riggs/Bressler to approve the consent calendar.

1. Approval of minutes from the June 11, 2012 Planning Commission meeting
2. **Architectural Control/Peggy Lo for Quadrus Sand Hill, LLC/2400 Sand Hill Road:** Request for architectural control to modify the railing of an existing deck as part of a larger deck repair. The existing solid stucco wall would be replaced with an open cable rail system with wood posts and trim. The subject site is located in the C-1-C (Administrative, Professional, and Research, Restrictive) zoning district.
 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 architectural control request subject to the following **standard** conditions of approval:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Robert Remiker Architect, dated received July 5, 2012, consisting of six plan sheets and approved by the Planning Commission on July 9, 2012, except as modified by the conditions contained herein, subject to review and approval of the Planning Division.
 - b. The applicant shall comply with all West Bay 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.

Motion carried 6-0 for both consent items, with Commissioner Ferrick absent.

D. PUBLIC HEARING

1. **Use Permit/Reynaldo Quintana/1040 Wallea Drive:** Request for a Use Permit for the modification of the first floor, and the construction of a new second story to an existing single-story, nonconforming single-family residence on a substandard lot with regard to lot width in the R-1-S (Single Family Suburban) zoning district. The proposed work would exceed 50 percent of the existing floor area, and is considered equivalent to a new structure. The project would also exceed 50 percent of the replacement value of the existing structure in a 12-month period and requires approval of a use permit by the Planning Commission. As part of the proposed development, one heritage magnolia tree (18 inches) in poor condition in the front of the property would be removed. ***Continued to the meeting of July 23, 2012.***
2. **Use Permit/Farhad Ashrafi/821 University Drive:** Request for a Use Permit to demolish an existing single-story, single-family residence with a basement and to construct a two-story duplex and associated site improvements on a substandard lot with regard to lot width in the R-3 (Apartment) zoning district.

Questions of Staff: Commissioner Kadvany noted the entrances for the duplex were from Roble Avenue and asked if the address would be University Drive or Roble Avenue. Planner Ishijima said the applicant could apply for addresses on Roble Avenue. She said staff had suggested moving the driveway to Roble Avenue from University Drive because of traffic on University Drive and the hazards for cars backing out into that traffic.

Planner Ishijima said two letters of support for the project had been received and distributed to the Commission at the dais.

Commissioner Eiref asked if these units had to be connected to be condominium units. Planner Ishijima said that a condominium map did not require that the units be connected.

Vice Chair Kadvany asked about the number of maximum units. Planner Ishijima said that was two units.

Public Hearing: Mr. Tom Pai, property owner, said the landscaping plan called for nine trees including a planting strip on University Drive to provide shade.

Commissioner O'Malley asked why the two units were connected if that was not needed. Mr. Pai said that the project was designed that way to provide each unit with a two-car garage. He said the design created living spaces that were separated by 24 feet.

Commissioner Eiref asked if they had considered having two open parking spaces. Mr. Pai said they had debated that but felt having two covered spaces was preferable.

Vice Chair Kadvany asked about the separation needed between buildings if there were two separate garages. Planner Ishijima said 20 feet was the requirement.

Mr. Farhad Ashrafi, project architect, said initially their design had one unit with access from University Avenue and the other from Roble Avenue. He said that Planning staff determined that they would need to provide access for both units from Roble Avenue which governed how the project was laid out.

Vice Chair Kadvany asked about an alternative approach to the garages. Mr. Ashrafi said they looked at having two one-car garages and an uncovered space for each unit in the area between the two units.

Vice Chair Kadvany asked if the two foot planting strip between the driveways could be extended to the sidewalk. Mr. Ashrafi said that the strip extended 10 feet from the building toward the property line and at the request of Planning they had continued the visual element by having different color or texture pavers to demarcate the separation between the driveways. Vice Chair Kadvany asked if there was a reason from parking or mobility perspective why the front portion could not be planted. Mr. Ashrafi said that having planters to the sidewalk would impede easy access to the garages.

Commissioner Eiref asked if there was an opportunity to separate the homes and not have the 20-foot setback required whether they would they want to have two separate units. Mr. Ashrafi said they had proposed two units but there were other needs and it

was desirable to have space to park cars out of sight. He said it was not really possible to bring the units forward and moving them back toward the rear property line would compromise the outdoor living space.

Vice Chair Kadvany asked about the landscape areas for the two units and whether those were equal. Mr. Ashrafi said the back unit had more outdoor and enclosed space. He said the front unit had fencing in certain areas and heights such that almost the entire corner portion of the front unit was open on Roble and University Drives.

Vice Chair Kadvany closed the public hearing.

Commission Comment: Commissioner Bressler said he thought the project was fine as proposed, and he would not want the units separated which would impact the outdoor living space.

Commissioner Eiref said the view from the front was all garage. He said they recently approved a project at 309 El Camino Real that allowed buildings closer together with an alleyway to get to the properties. Vice Chair Kadvany said that project was being developed under the state density bonus law and that allowed for specified waivers from development regulations.

Commissioner Yu said she agreed with Commission Bressler, and that she understood what the applicant was trying to maximize. She said this was a good solution. She said if she wanted to buy an attractive home, she would want a two car garage. She said she thought the architect and owner had talked through the project and it was very attractive.

Commissioner Kadvany said he was concerned with the double set of double garage doors but having seen the proposed landscaping he felt better about the visual impact. He said the finish and details were very attractive.

Commissioner Riggs said there were attractive elements to the exterior and massing.

Commission Action: M/S Riggs/Yu 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 Farhad Ashrafi, consisting of 16 plan sheets, dated received June 12, 2012, and approved by the Planning Commission on July 9, 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.

- h. Prior to building permit issuance, the applicant shall submit proposed landscape and irrigation documentation as required by Chapter 12.44 (Water-Efficient Landscaping) of the City of Menlo Park Municipal Code. If required, the applicant shall submit all parts of the landscape project application as listed in section 12.44.040 of the City of Menlo Park Municipal Code. This plan shall be subject to review and approval by the Planning and Engineering Divisions. The landscaping shall be installed and inspected prior to final inspection of the building.
- 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 a revised site plan to include nine new trees

Motion carried 6-0 with Commissioner Ferrick absent.

- 3. **Use Permit/Andrew Young/441 El Camino Real:** Request for a use permit for a specialized hair treatment service to occupy an existing tenant space in a commercial building that is nonconforming with regard to parking in the C-4 (General Commercial - Applicable to El Camino Real) zoning district.

Staff Comment: None.

Public Comment: Mr. Andrew Young, architect, introduced the tenant.

Ms. Melissa Palachek, business owner, said she was the founder of “Honeycombers,” a specialized hair treatment service for hair lice. She said she had found a salon in Los Altos that provided this treatment when her children needed it. She said she was very happy with this location in Menlo Park.

Commissioner Bressler asked if she was partnering with the schools. Ms. Palachek said the schools could not recommend particular vendors but there were opportunities for marketing with the local schools.

Vice Chair Kadvany closed the public hearing.

Commission Comment: Commissioner Yu asked how long a session lasted noting that parking was an issue. Ms. Palachek said it generally took one hour but if the hair was really long it might take two hours. She said they estimated they would see five families a day or 10 children a day and would expect to see one to two clients every hour.

Vice Chair Kadvany said he was concerned with parking and asked about drop off. Ms. Palachek said she would like to have the back area be the preferable drop off.

Commissioner O'Malley said this was a good business, and the Commission had previously extensively discussed bicycle racks and parking for other applications.

Commission Action: M/S O'Malley/Yu to approve the use permit 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. 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 Young and Borlik, consisting of eight plan sheets, dated received June 22, 2012, and approved by the Planning Commission on July 9, 2012, except as modified by the conditions contained herein, subject to review and approval of the Planning Division.
 - b. The parking lot shall be restriped prior to the commencement of business operations.

Motion carried 6-0 with Commissioner Ferrick not in attendance.

4. **Use Permit /Mei-Ling Huang for Bright Angel Montessori Academy/695 Bay Road:** Request for a use permit to locate a preschool with up to 6 employees and 48 students in the C-2-A (Neighborhood Shopping District, Restrictive) zoning district that would operate Monday through Friday between the hours of 7:30 a.m. and 6:00 p.m. Monday through Friday between the hours of 7:30 a.m. and 6:00 p.m.

Questions of Staff: Commissioner O'Malley asked about the Stanford New School and whether they were being forced to relocate by the owner. He also asked how they could operate without a business license.

Planner Grossman said she would let the owner answer whether this school was moving to a new location. She said when the application was submitted it was staff's understanding that the property was vacant. She said when staff visited the site and talked with the owner it became known that the Stanford New School had operated for

some period of time without a business license. She said the applicant was not aware that a business license was needed. She said if this application was denied the current tenant would have to be notified that a business license and permitting would be needed.

Commissioner Riggs asked if the Commission could have a review of the traffic impact fee (TIF), why it existed, and how it applied to the project. Planner Grossman said TIF was required when an application changed the use of a site, and was calculated by the Transportation Division using information from a traffic analysis provided by the applicant or by using ITE standards to determine peak hour trips, the basis for the calculation of TIF. Commissioner Riggs said the presumption was this use would impact traffic more than the previous use which would cost the City over the future approximately \$70,000. Planner Grossman said based on ITE rates that looked at trip rates all over the country it might not be applicable to every site. She noted TIF funds transportation improvement projects. Commissioner Riggs asked if the ITE looked at this specific site and not the impact on traffic throughout the City. Planner Grossman said there was no traffic study done for this application. Planner Riggs said if people actually drove less miles to drop off children that was not part of the calculation for the traffic impact fee. Planner Grossman said that was correct and that trip rates based on the ITE were used for the calculation.

Planner Grossman said public comment received that evening had been distributed to the Commission at the dais and was available at the table in the back of the room for the public. She said her report was correct that there was 160 minutes of outdoor play time but indicated a longer period of outdoor play time that was incorrect. She said there would be four 40-minute long outdoor play sessions with 80 minutes in the morning and 80 minutes in the afternoon. She said she confirmed that with the applicant and that would be part of the use permit approval.

Public Comment: Mr. Ken Kornberg, project architect, Menlo Park, said the space was difficult to lease and he applauded Bright Angel Montessori Pre-School for their dedication to make the school a success. He said the project was mostly an interior renovation and that non-bearing walls would be gutted. He said there would be minor exterior improvements including a secure play area. He said the parking lot was reconfigured to its original layout.

Vice Chair Kadvany said a neighbor had written about possible congestion and additional parking on the street. Mr. Kornberg said there was traffic at different times of the day but very little on Bay Road. He said the neighbor's concern was for the period between 7:30 to 8:30 a.m. He said the applicant would stagger the drop off schedule. He said there were almost never any cars parking along Bay Road, which has 10 daytime spaces.

Mr. Gleb Reynlib, Menlo Park, said his concern was increased noise from children playing outside the school. He said his driveway was the closest to the school and he

was concerned that parents would block his driveway with their cars as there was very limited parking. He said he worked at home and need to leave multiple times during the day and could not afford noise and being blocked in by vehicles. He said the impacts would be significant and a disturbance to those living next door. He said there were retirees who also live in the area and not all residents were at work during the day as was claimed. He said Section 16.78.020 of the Zoning Ordinance listed factors for the Commission to consider in approving a use permit and the first one was nuisance or damage from noise. He said a private nuisance was anything that interfered with a person's use and enjoyment of his land. He said this recognizes that a landowner or person in rightful possession of the land has the right to the unimpaired condition of the property and to reasonable comfort and convenience in its occupation which in his case he felt would be severely compromised.

Commissioner Bressler asked where he lived. Mr. Reynlib said his property was on the corner of Hollyburne and Bay Road. Commissioner Bressler asked if he owned the property. Mr. Reynlib said the other speakers present were the owners.

Ms. Brynn Cahill, Menlo Park, said she was a kindergarten teacher at Laurel School, and valued education and good schools, but had concerns with building a preschool at this site. She said one of her main concerns was the noise that comes with a school based on her experience at working at Laurel School. She said this preschool's playground would be directly across from her home and there was no doubt that noise would affect her comfort and enjoyment of her own home. She said also the traffic flow with this use would have a full capacity of 48 families or 48 parents dropping off and picking up. She said 96 times a day she and neighbors would have to hear car doors slamming, parents and children talking and the general noise from cars. She said this would create a huge difference in the noise level as the neighborhood was currently very quiet. She said there were only 14 parking spaces, six of which were for employees. She said eight spaces would be for families with one designated as a handicapped space. She said the school would offer staggered day programs but the number of children in each program could be flexible. She said there could be 30 children dropped off at 8 a.m. and she questioned where the parents would park. She said that this did not seem to be well thought out. She said as a teacher who helped load children in and out of cars she knows how much space is needed to buckle kids in the car safely. She said at her school parents often park cars illegally to have enough room to open the doors wide enough to buckle the children into the car seat. She said they did not want cars parked illegally in their neighborhood. She said in addition to being a traffic and parking concern, this was a safety concern. She said Section 16.080.030 of the Zoning Ordinance stated that the Planning Commission shall determine if the establishment, maintenance, and operation of the use applied for will be detrimental to the health, safety, morals comfort, and genera welfare of the persons residing or working in the neighborhood. She said Section 16.078.020 lists actors the Commission needed to consider when determining to grant a use permit. She said the first was whether there would be damage or nuisance from noise, and the third factor was unusual volume or character of traffic. She said this preschool would be

detrimental to her comfort and general welfare based on the increased and unusual noise level, increased amount of people, parking and traffic issues that would come with more traffic.

Ms. Peggy Cahill, property owner, said she was unsure of the traffic pattern for the preschool noting that at 7:30 a.m. there were people backing out of driveways going to work and employees at the VA Hospital arriving.

Mr. Jack Cahill, property owner, said the concern was with the quality of noise. He said currently the noise was white noise from the tires on the road and the occasional tire screech and horn blowing. He said there would be children screaming and they were concerned with impact to their property and their use of their property. He said the value and enjoyment of their property would decrease. He asked that the Commission deny the use permit noting that the property was not zoned appropriately. He said if they had known there would have been a school here that they would not have bought the property.

Ms. Heather Hopkins said she was in support of the project. She said she had been trying to locate a preschool in downtown Menlo Park for months. She said the proposed site was very suited to a preschool. She said there were not enough preschool and childcare opportunities in Menlo Park and this site was one of the only commercial locations suitable for preschool noting that the state requires a minimum amount of space per child for play room. She said the cost of opening a preschool was exorbitant noting the \$780,000 TIF. She said that through her research on permit applications for preschools all over California, she had found studies that found noise by children playing at preschools was well within that allowed under the noise ordinance.

Ms. Lucy Candelaria said she worked for a preschool, and had a similar situation in which a neighbor had an issue with noise as expressed by one of the other speakers. She said there was outdoor play at certain times of the day and not all day long. She said the neighbors constructed a sound wall and had become really good friends of the preschool. She said she was sure the applicant and neighbor could find a solution together as children need preschools. She said the noise level with younger children was not as high as with older children. She said the neighbor who was a teacher was dealing with hundreds of children and at a preschool there might be just 24 children all under five years. She said she has worked with the applicant and knows she would be a good neighbor.

Vice Chair Kadvany closed the public hearing.

Commission Comment: Commissioner Bressler confirmed with staff that the TIF was a one-time fee.

Commissioner Yu asked about the size of the parking spaces and if those were standard size. Planner Grossman said the stalls were 8 1/2 feet wide and 19 feet deep

to create a safe walkway. She said there was also added landscape and the applicant and staff had worked to make this area very usable and functional.

Commissioner Riggs said there was a reference that this site had been a 7-11 and noted it was a C-2A zone. Planner Grossman said there was no information in the file that it had been a 7-11 nor was it clear what had been there previously. She said in this zoning district operation hours were limited from 8 a.m. to 8 p.m. Commissioner Riggs noted that it could be a neighborhood store if not a 7-11.

Commissioner Eiref asked if it was hard to find a site for preschools in Menlo Park. Planner Grossman said Ms. Hopkins had tried for months to find an appropriate site for a childcare center. She said she had learned a lot from Ms. Hopkins regarding the regulations and constraints.

Vice Chair Kadvany asked about recent preschools established in Menlo Park. Planner Rogers said the last he remembered was Casa de Bambini, 1215 O'Brien Drive, that had a convoluted history as it was first denied by Commission and then approved by the City Council. He said there was then litigation and the school had just recently started operating.

Commissioner Yu said a speaker had indicated that three preschools had tried to locate in Menlo Park but failed and asked if that was because of regulations or lack of locations. Planner Rogers said there was one counter inquiry he was aware of but there was no follow up. Commissioner Yu said people generally do not want to live by a preschool and asked if there were studies to validate the desirability of a location. Planner Grossman said the only study she was aware of related to childcare centers and preschools was the noise study brought to her attention by Ms. Hopkins. She said whether people wanted to live or not next to a preschool was subjective.

Commissioner Bressler said he was familiar with the project area and it was very accessible. He said the play area was adjacent to the speakers' property. He said he supported the application given what they had heard about how hard it was to find a suitable site for a preschool. He said his children went to preschool and he did not remember them being particularly loud. He said he lived behind apartments and sometimes there was noise from the occupants in the evenings. He said the preschool would be a quiet neighbor after hours.

Commissioner Riggs said there was a challenge when a non-residential use was introduced into a residential use area such as an R-1-U district that has small lots. He said he did not see a traffic issue that was beyond expectations within a commercial zone. He said the site had been a C-2A zone for some time if prior to the speakers having purchased their home. He said the idea of a schoolyard brought the image of noise but there was a difference between a preschool and middle school levels of noise. He said preschools have to go somewhere noting some time before he had discussed with Ms. Hopkins her quest for a site. He said he did not think the M-2 zone was

appropriate for preschools. He said the only downside appeared to be the impact expected by the Cahill family but he supported the project.

Commissioner Eiref said the site was very accessible and at a good location close to main roads. He said he sympathized with the neighbors. He said he had some concern with parking but did not find that outweighed the benefit of the project, noting that other preschools were located in residential areas.

Commissioner Yu said one speaker had commented about potential impact on property value but she believed just being in Menlo Park was desirable. She said she was home for quite some time on maternity leave and had been concerned about the proximity of a school and expected noise. She said it became white noise and she came to enjoy it. She said the brand of Menlo Park and owning property here was most desirable noting its proximity to Facebook.

Commissioner O'Malley said the playground has a fence around it, and asked if it was open chain link or a sound barrier. Planner Grossman said it was a wooden fence with trellis and would provide some noise attenuation. Commissioner O'Malley asked if a different fence could be used that would be more noise attenuating. Planner Grossman said that was something to consider.

Mr. Kornberg said they could make a more solid fence and improve the sound attenuation. He said the most noise in the area was from Hwy. 101 and that drowned out most other noise.

Commissioner O'Malley said the City had a need for a school like this and yet the neighbor had legitimate concerns.

Commissioner Eiref said if there were holes in the fence that he thought noise would travel.

Commissioner Yu said if the more ornate fence as proposed was not used she hoped there would be more landscaping to soften the wall of the fence.

Commissioner Bressler suggested instituting a review period rather than telling the applicant what to do now about the potential of noise disturbance. He said he would be surprised if the noise proved to be an issue but suggested providing the opportunity for neighbors to give input once the school was in operation for a year or two.

Commissioner Kadvany said the fence was an attractive solution now and recommending not closing it. He said he lived across from an elementary school for a couple years and worked from home. He said there was noise but it did become white noise. He said parking or blocking driveways should not happen anywhere in Menlo Park. He said if it did happen the resident should get the license plate and report it to the school. He said if there was overflow parking on the streets that was something

Menlo Park dealt with all the time when commercial uses were next to residential areas. He suggested the solution was communication and in that instance was to ask parents to cooperate with parking in specific places. He said a TIF of \$70,000 for a preschool seemed punitive, and asked if the Commission had any scope to alter that or comment upon it. Planner Grossman said staff had been working on the TIF with the applicant and Transportation Division, but that was something that was required per Council direction. She said they have looked at different ITE manuals and trip studies and the amount had been reduced by \$30,000 looking at studies that were more similar to this use. She said the applicant had the opportunity to have a traffic study done specific to this site for the City to use to calculate the fee. She said they chose not to proceed with that at this time because of the uncertainty and the desire to move ahead quickly.

Commissioner Bressler said the magnitude of this fee for this project as compared to much larger projects was striking.

Commissioner Riggs asked staff to confirm that previously the fee had been \$100,000. Planner Grossman said that when they first received the fee from the Transportation Division, it was approximately \$98,000. She said planning staff worked with transportation staff to find studies more consistent with this application and through that brought the fee down to \$70,000. Commissioner Riggs said he hoped Commissioners and others would speak to the Council members about this.

Commissioner Riggs moved to make the findings and approve the use permit. Commissioner O'Malley seconded the motion.

Commissioner Yu asked about Commissioner Bressler's idea to do a review. Commissioner Bressler said he was thinking of a review such as was used for the German American School use permit. Commissioner O'Malley said he was concerned that the applicant would have to pay \$70,000 and then have uncertainty about its future operations.

Vice Chair Kadvany said that a preschool was one of the best commercial uses to have next to a residential neighborhood and that communication and problem solving with the neighbors was essential. He said he did not think the speakers' property value would be decreased by its proximity to this project and if anything would be increased by the perception of safety, hominess and children.

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

1. Make a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current California Environmental Quality Act (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 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 Kornberg Associates Architects, consisting of seven plan sheets, dated received June 26, 2012, and approved by the Planning Commission on July 9, 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 use permit subject to the follow *project specific* conditions
 - a. Prior to building permit issuance, the applicant shall pay the Transportation Impact Fee per the direction of the Transportation Division in compliance with Chapter 13.26 of the Municipal Code. The current estimated transportation impact fee is \$70,342.19, although the final fee shall be the fee in effect at the time of payment. The Transportation Impact Fee escalates annually on July 1.

Motion carried 6-0 with Commissioner Ferrick absent.

5. **Use Permit/Steven Otellini for Nativity School/1252 Laurel Street:** Request for a use permit to demolish an existing convent building and for the location of a proposed future classroom wing, which would be located in the general location of the existing convent facility. The classroom wing would be constructed in a second phase, which would require architectural control review by Planning

Commission for the structure. Demolition of two existing portable classroom buildings would take place in the third phase of the project. The project would not modify the existing student limit for the site. As part of the proposal, three heritage trees in the vicinity of the future classroom wing are proposed to be removed.

Questions of Staff: Commissioner Riggs asked if the Division was aware of any issues with the cleanup for the annual carnival. Planner Perata said there was a complaint in 2003 and it was remedied at that time.

Planner Perata said there was an error in the bullet for Phase 1 indicating that Phase 1 also included the removal of two heritage trees and noted that should read three rather than two heritage trees.

Vice Chair Kadvany said the maximum number of students noted from 2008 was 315 which was very similar to that for the German American School. He asked if student enrollment was calculated by the number of classrooms. Planner Perata said he thought it was based on classroom size but suggested having the applicant answer.

Public Comment: Monsignor Steven Otellini, pastor for Nativity School, said this project was based on a Master Plan from eight years prior that looked at the needs of the school and the gradual implementation of that plan. He presented a brief history of the school and its facilities noting in 2008 that they demolished the kindergarten and Ford Hall and constructed the new multi-purpose room, the Sobrato Pavilion and kindergarten. He said there were two pods of modular buildings remaining that they would like to replace. He said the plan was to demolish the convent that would provide the site for a new wing to the school that would replace two modular pods. He said they did not foresee any significant increase in the student population doing this. He said they currently have 292 students. He said they would replace a two-story rather bland building with a more modern structure and other site improvements that he thought the Commission would consider a nice addition for the neighborhood itself.

Mr. Bill Gutsell, project architect, said Phase 1 would demolish the existing convent or 7,200 square feet. He said in Phase 2 they would complete the design and come back to the Commission for architectural control. He said they would then demolish a small storage shed and construct the new building. He said in Phase 3 that the existing extended care, computer building, library and science buildings, and aging portables would also be demolished. He said total demolition would be 12,458 feet. He said the rebuild would be 12,148 square feet for a net decrease of 306 square feet. He said the new building height would be 18 foot.

Vice Chair Kadvany asked if in the period after demolition and before construction whether the site would be surrounded with chain link. Mr. Gutsell said they intended to keep the landscaping at the front and would hydroseed the demolition site. He said a great amount of the area would be screened.

Mr. William Grindley, Atherton, said his was the only residential property that backed up to the school. He noted he was a member of the Atherton Planning Commission. He said the Nativity School had been good neighbors and they had found a way to get along for 40 years. He said there had been volleyballs on his property and cars that blocked his driveway but problems that were all solvable. He said when the school began planning they shared their plans with him and addressed both his concerns. He said the Sobrato Pavilion and new kindergarten were good additions to the neighborhood and enhanced his property value. He said there would be construction trucks and later carpenters but they were good neighbors and would find a good neighbor solution.

Vice Chair Kadvany closed the public hearing.

Commission Comment: Commissioner Yu said she applauded Mr. Grindley for being open minded and working well with neighbors.

Commissioner Riggs asked who was served by the extended care buildings. Monsignor Otellini said it was students whose parents pick them up later than the end of the school day.

Commissioner Riggs said that there was no condition that the building permit be obtained within two years after the demolition and asked whether the requirement to hydroseed was sufficient. Planner Rogers said a demolition permit was discretionary as part of a larger project but a demolition application without a project was ministerial and had to be issued unless there was specific cause to deny. He said in some cases and in mostly highly visible commercial areas where projects have required overall discretionary review including historic resource review that was where demolition permits not issued as the demolition would have a blighting effect or there would be the loss of a historic resource. He said with this project staff did not have any independent concerns with a scenario where the convent was demolished and the future building permit would not go forward.

Commissioner Riggs asked following demolition what type of hydroseed would be used and if it would be irrigated. Mr. Gutsell said that the Engineering Division had not yet stated what hydroseed was wanted but noted if irrigation was needed they could provide it. Commissioner Riggs asked if they would prepare a proposal. Mr. Gutsell said they would work with Engineering Division.

Commissioner Riggs moved to make the findings and approve the demolition permit subject to clarification as to what the treatment of the vacant area would be. He said it was equivalent to a landscape plan subject to staff review and approval.

Monsignor Otellini said that they had discussed this with parents and intended to leave the landscaping on Laurel Street so there would not be a view of the vacant area and

there would be a cyclone fence. Commissioner Riggs said the goal was to not have an unattractive site. Commissioner O'Malley questioned why a cyclone fence was needed if the area was to be planted. Mr. Gutgsell said the area would be rough graded and hydroseeding used to hold the area together but would not be a playing area.

Commissioner Eiref seconded the motion made previously by Commissioner Riggs.

Commissioner Bressler said the engineering direction was pretty clear and questioned the need for any modification. Commissioner Riggs said that engineering had suggested hydroseeding and he was just making that a condition.

Commission Action: M/S Riggs/Eiref to approve the item with the following modification.

1. Make a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current CEQA Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the use permit subject **standard** conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Keller and Daseking Architects, consisting of 11 plan sheets, dated received July 3, 2012, as approved by the Planning Commission on July 9, 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 applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Group that are directly applicable to the project.
 - d. Prior to demolition permit and building permit issuance, the applicant shall comply with the requirements of Chapter 12.48 (Salvaging and Recycling of Construction and Demolition Debris) of the City of Menlo Park Municipal Code, and is subject to review and approval by the Engineering and Building Divisions.

- e. Prior to demolition permit issuance, the applicant shall submit a plan for 1) construction safety fences around the periphery of the construction area, 2) dust control, 3) erosion and sedimentation control, 4) tree protection fencing, and 5) construction vehicle parking. The plans shall be subject to review and approval by the Building and Engineering Divisions prior to issuance of a demolition permit. The fences and erosion and sedimentation control measures shall be installed according to the approved plan prior to commencing demolition.
 - f. Prior to demolition permit issuance, the applicant shall submit a heritage tree preservation plan, detailing the location of and methods for all tree protection measures, as described in the arborist report. The project arborist shall submit a letter confirming adequate installation of the tree protection measures. The project sponsor shall retain an arborist throughout the term of the project, and the project arborist shall submit periodic inspection reports to the Building Division. The heritage tree preservation plan shall be subject to review and approval by the Planning Division.
 - g. Prior to demolition permit issuance, the applicant shall submit a truck route plan and permit to be reviewed and approved by the Transportation Senior Engineer.
4. Approve the use permit subject to the following ***project-specific*** conditions:
- a. The applicant shall submit a complete architectural control application for the proposed classroom building, and associated landscaping improvements within two years of the use permit approval. If the applicant is unable to submit a complete application, the applicant may apply for an administrative extension of the use permit for one additional year, subject to review and approval of the Community Development Director.
 - b. The applicant shall submit a complete architectural control application within two years of approval of the use permit, allowing the applicant to credit the demolished square footage of the building footprint towards the new construction square footage for purposes of hydrology calculations involving impervious/previous areas and subsequent grading and drainage requirements. If a complete architectural control application is not submitted within two years of the use permit approval, this condition is null and void and no credit will be given for the existing structure.
 - c. Simultaneous with the submittal of a complete architectural control application, the applicant shall submit a heritage tree replacement plan identifying the locations, size, and number of heritage tree replacements subject to review and approval of the Planning Division and City Arborist.

d. Simultaneous with the submittal of a complete demolition permit, the applicant shall provide an erosion control plan identifying erosion control measures, such as hydro seed, within the disturbed area, subject to review and approval of the Planning and Engineering Divisions.

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

a. The maximum allowable enrolled student population on site shall be 315 students.

b. All student instruction and regular school activities shall continue to be limited to the hours between 7:45 a.m. and 3:15 p.m. on Mondays through Fridays. The following school activities are allowed to occur outside of these hours and days:

- Before and after school extended care (7:00 a.m. drop-off; 5:45 p.m. pick-up)
- Volleyball practice (September – November)
- Basketball practice (December – February)
- Volleyball games (four Saturdays and/or Sundays during September through November)
- Basketball games (four Saturdays and/or Sundays during January through February)
- Summer Camp (June through August, typically an average of 80 children/day from 7:00 a.m. to 5:00 p.m.)
- Back to School Dinner (once per year)
- Back to School Night (once per year)
- Italian Catholic Federation dinners (four to six per year)
- Annual Christmas tree lot
- Up to five additional one-time special time events each year, which shall end by 10:00 p.m.

c. The applicant shall continue to communicate in writing the circulation plan for pick-up and drop-off to parents. The applicant shall require that drop-off and pick-up of passengers occur only in the designated loading and unloading zones, as specified on the plans dated received September 6, 2006. Compliance with this item shall be to the satisfaction of the Transportation Division.

- d. The applicant shall modify or remove the gates at the driveway entrance and exit to the site if the Transportation Division determines that the operation and/or location of the gate affects the traffic operation of Laurel Street. The modification or removal of the gates is subject to review and approval by the Planning Division and the Transportation Division.
6. Approve the use permit revision subject to the following ***project-specific*** conditions related to the annual Carnival:
 - a. Development of the Spring Carnival shall be substantially in conformance with the site plan prepared by Keller and Daseking Architects, consisting of 1 sheet (DD-2.4), dated received September 6, 2006, and approved by the Planning Commission on September 11, 2006, except as modified by the conditions contained herein.
 - b. All applicable City Codes, Building Division, Fire District, and Police Department requirements shall be complied with.
 - c. Cleanup will be the responsibility of the applicant.
 - d. If any problems arise in the future, they will be brought to the attention to the Community Development Director. The Planning Commission may attach conditions to the Use Permit at a later date, and the Use Permit is subject to revocation if there is a failure to adhere to the conditions.
 - e. The applicant shall notify the Community Development Department and Police Department of specific dates each year, at least a month prior to holding the event.
 - f. The Spring Carnival occurs annually during the last weekend of school typically in June. The hours of operation for the annual Carnival shall be limited to the following hours:
 - Friday, 5:00 p.m. to 11:00 p.m.
 - Saturday, noon to 11:00 p.m.
 - Sunday, noon to 7:00 p.m.
 - g. Vendors and equipment may arrive as early as Monday before the Friday start date of the Carnival.
 - h. The ride vendors will cease patron activities at 7:00 p.m., and breakdown operations must cease at, or before, 10:00 p.m. the Sunday night of the carnival. Remaining breakdown shall be allowed to continue on Monday beginning at 8:00 a.m.

- i. The public address system shall not be directed towards the adjacent residences for sound transmittal. Announcements using the public address system shall cease at, or before, 10:00 p.m. on Friday and Saturday nights of the annual Carnival, but activities can occur until 11:00 p.m. In an emergency situation or if requested by the Menlo Park Police Department, the public address system may be used on a case-by-case basis.
- j. The applicant shall provide trash patrol at least once each day during the Carnival. The clean-up effort shall occur around the perimeter of the site and should extend down Pine Street to Ravenswood Avenue and along Laurel Street to Ravenswood Avenue.
- k. Per Planning Commission approval on April 4, 2000, the annual Carnival is allowed to exceed the Noise Ordinance limits. Unless otherwise permitted, the Annual Carnival is the only event that is allowed to exceed the Noise Ordinance limits.

Motion carried 6-0 with Commissioner Ferrick not in attendance.

- 5. **Use Permit Revision/Tom Papa/4025 Bohannon Drive:** Request for a revision to a use permit, previously approved in June 2009, to convert an existing one-story construction management office building in the M-2 (General Industrial) zoning district to a general office building, where the subject parcel is nonconforming with regard to parking. As part of the project approximately 1,957 square feet of warehouse/storage space would be converted to office space and the parcel would be brought into conformance with the Zoning Ordinance parking requirements for the M-2 zoning district. The parking would be partially provided in landscape reserve. In addition, the applicant is requesting approval of a Below Market Rate Housing (BMR) Agreement for this project.

Public Comment: Mr. Tom Papa, representing the applicant, introduced Mr. Bill Moore, new business officer at the site. He said that Nova Construction had remodeled this site but had not cured the parking. He said they wanted to add parking so they could use the entire building.

Vice Chair Kadvany closed the public hearing.

Commission Comment: Commissioner Bressler asked how much parking the applicant needed. Mr. Bill Moore, President/CEO, said they had 30 employees and there were 44 spaces. He said there was also a warehouse that was not permissible as office space, which they wanted to change to use as general lab space. He said parking was just adequate at this time but they would need more in the future.

Commissioner Bressler said five areas of landscape reserve were being proposed as parking and other paving for spaces but suggested that the landscape reserve be kept

until needed. He said there was a complaint by a neighbor about street parking and people walking through his property to get to this site.

Mr. Moore said they had spoken with the neighbor and that was an issue that person had perceived two tenants prior. Commissioner Bressler asked if they needed those five spaces. Mr. Moore said at this time they did not, and with a flexible work environment they could work with their employees but they wanted to get an unrestricted use permit for the building.

Commissioner Bressler said the purpose of landscape reserve was that it could be removed without a permit. Planner Perata said a staff review was needed. He said on page G2 it noted that there were an existing 24 paved spaces and 22 spaces in landscape reserve. He said the applicant was proposing to pave part of the parking lot for 44 paved spaces and keep five in landscape reserve, which would be at the front left side of the drive aisle.

Commission Action: M/S Bressler/Yu to approve as recommended in the staff report.

1. Make findings 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 Below Market Rate Housing In Lieu Fee Agreement.
4. Approve the use permit and architectural control subject to the following **standard** conditions:
 - a. Development of the project shall be substantially in conformance with the plans prepared by Tom Papa, consisting of eight plan sheets, dated received July 5, 2012 and approved by the Planning Commission on June 1, 2009, 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, Allied Waste, 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 comply with the requirements of Chapter 12.48 (Salvaging and Recycling of Construction and Demolition Debris) of the City of Menlo Park Municipal Code, and is subject to review and approval by the Engineering and Building Divisions.
- e. Prior to building permit issuance, the project sponsor shall submit a heritage tree preservation plan, detailing the location of and methods for all tree protection measures, as described in the arborist report. The project arborist shall submit a letter confirming adequate installation of the tree protection measures. The project sponsor shall retain an arborist throughout the term of the project, and the project arborist shall submit periodic inspection reports to the Building Division. The heritage tree preservation plan shall be subject to review and approval by the Planning Division.
- f. 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, dimensions, and colors of all meters, transformers, junction boxes, relay boxes, and other equipment boxes.
- g. The applicant shall apply for a separate Sign Permit for signage at the site, subject to review and approval of the Planning and Building Divisions.
- h. Prior to building permit issuance, the project sponsor shall execute and pay the in BMR lieu fee of approximately \$12,702 in accordance with the approved BMR Housing Agreement. The BMR fee shall be calculated at the time the fees are paid, subject to the current rates in existence at the time of payment.

Motion carried 6-0 with Commissioner Ferrick absent.

E. COMMISSION BUSINESS

There was none.

ADJOURNMENT

The meeting adjourned at 9:41 p.m.

Staff Liaison: Thomas Rogers, Senior Planner

Recording Secretary: Brenda Bennett

Approved by the Planning Commission on August 6, 2012