



PLANNING COMMISSION MINUTES

Regular Meeting
December 3, 2012 at 7:00 p.m.
City Council Chambers
701 Laurel Street, Menlo Park, CA 94025

CALL TO ORDER – 7:00 p.m.

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

INTRODUCTION OF STAFF – Momoko Ishijima, Planner; Jean Lin, Associate Planner; Justin Murphy, Development Services Manager, Kyle Perata, Assistant Planner

A. REPORTS AND ANNOUNCEMENTS

A1. Update on Pending Planning Items

- a. 20 Kelly Court – City Council, November 27
- b. Housing Element – December Commission Meetings

Commissioner Kadvany reported on an Allied Arts neighborhood meeting convened by Ms. Perla Ni that he attended. He said the group discussed various topics about a Stanford development project on the east side of El Camino Real. Discussion topics included:

- Traffic concerns about increased cut through traffic on Middle Avenue to University Avenue and through Allied Arts and increased traffic on El Camino Real
- Questions about the proposed mix of uses, the absence of senior housing and the amount of housing proposed.
- Asked if a Traffic Management Plan would be used similar to that used on the Stanford Campus?
- Expressed expectation that the style would be the same style used on the Stanford Campus
- Questioned how the EIR for the El Camino Real Downtown Specific Plan related to this project, and whether the EIR analyzed impacts of medical uses. Questioned how this project would affect the buildout of the rest of the Specific Plan.
- A Palo Alto resident attending the meeting asked about the relationship of this project to a project at 27 University Avenue in Palo Alto proposed by Mr. John Arrillaga.
- Asked about the Planning Commission's role in reviewing the Stanford project.
- Noted that there was very extensive neighborhood outreach in the Belle Haven area for the Facebook project, and asked what would be a comparative for this project?

Development Services Manager Murphy said the role of the Planning Commission in reviewing the project would be quasi-adjudicatory. He cautioned that commissioners should be circumspect and not make statements on the project that could be construed as biased.

Commissioner Bressler said the Planning Commission would conduct architectural review.

Development Services Manager Murphy added that the Planning Commission would make findings for the EIR and conduct architectural review.

Commissioner Bressler stated that the proposed project would amount to 8% of the surface area of the El Camino Real Downtown Specific Plan, 50% of the commercial project of the El Camino Real Downtown Specific Plan, and fell below the bonus level with no negotiations for public benefit.

B. PUBLIC COMMENTS

Ms. Elizabeth Tse, a Cambridge Avenue resident, said her concern with the proposed Stanford project was the impact it would have on the quality of life particularly from increased traffic and in combination with the proposed Palo Alto project. She noted existing traffic cut through Cambridge to Menlo Park City Center and traffic delays. She indicated there were environmental impacts that needed to be considered.

Ms. Adina Levin, Menlo Park, said her comments related to the Arrillaga/Stanford Project. She said she supported the El Camino Real Downtown Specific Plan, transit area development and the Grand Boulevard concept. She said that medical office use was the single greatest traffic generator. She said people take a train to work but when they are sick, they drive. She said this would impact the Allied Arts neighborhood, noting that doctors typically see three patients per hour. She said this project would funnel traffic at Middle Avenue where the community most wanted to improve traffic, noting the pedestrian/bicycle undercrossing concept. She requested additional environmental analysis, traffic analysis, and a traffic demand management plan. She asked that more of the use be housing noting an increase in jobs in the area.

Ms. Lynn Mickleburgh, Allied Arts resident, said she had concerns about the size of the buildings for the Stanford project noting their proximity to the Stanford Park Hotel. She said an increment increase of 5,000 cars on El Camino Real would have impacts. She noted there had been no traffic study done for the Allied Arts and neighborhood areas. She stated that she had concerns about children's safety in light of increased cut through traffic through Allied Arts and impacts to the character of the neighborhood. She asked the Commission to consider the density and attractiveness of the proposed development.

C. CONSENT

C1. Approval of minutes from the October 29, 2012 Planning Commission meeting

Commission Action: M/S Kadvany/Onken to approve the minutes as submitted

Motion carried 7-0.

C2. Approval of minutes from the November 5, 2012 Planning Commission meeting

Commission Action: M/S Riggs/Ferrick to approve the minutes with Commissioner Riggs's corrections that were distributed in advance.

Motion carried 7-0

D. PUBLIC HEARING

D1. Use Permit/Javier Alvarez/207 Hedge Road: Request for a use permit approval to modify the first floor and construct a second-floor addition to an existing single-story, nonconforming single-family residence on a substandard lot with regard to lot width and lot size in the R-1-U (Single-Family Urban) zoning district. The proposed work would exceed 50 percent of the existing floor area, and is considered equivalent to a new structure. An initial version of the proposal was reviewed by the Planning Commission at the meeting of October 29, 2012, and was continued with direction for redesign. The proposal has since been revised, with changes to elements such as the removal of the nonconforming wall, offsetting the second floor from the first floor, reducing window sizes on the second floor, and adding landscaping.

Staff Comment: Planner Ishijima said that the applicant has made the nonconforming wall conforming and addressed massing concerns raised by the Commission when the project was previously considered.

Public Comment: Mr. Tim Petersen, project architect, said the revised project proposal responded to the Commission's direction for revision. He said the project was revised to remove the nonconforming wall, address the vertical massing and adjust the second story window sill heights. He provided a three-dimensional perspective of the change to the vertical massing and described the decreases to room sizes and increases in second story setbacks. He said they located window sill heights based on feedback from two adjacent neighbors. He said there were no trees requested for removal but a neighbor was concerned about the health of the dogwood tree. He said they had discussed bringing the tree back to health or if necessary to replace. He noted that the neighbor supported the planting of trees to provide screening. He said they had submitted a project description letter discussing the tree plantings for privacy.

Chair Ferrick closed the public hearing.

Commission Comment: Chair Ferrick said she was very pleased with the applicant's responsiveness to the Commission's concerns and willingness to work with the neighbors. Commissioner Riggs said he felt similarly and noted he appreciated the three-dimensional perspective. He said the project was now easy to approve. He moved to make the findings and approve the use permit request as recommended in the staff report. Commissioner Onken seconded the motion.

Commission Action: M/S Riggs/Onken to make the findings and approve the use permit request 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 Tim Petersen Architect, consisting of 10 plan sheets, dated received November 8, 2012, and approved by the Planning Commission on December 3, 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.
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 landscape plan with proposed trees for privacy screening along the right property line.

Motion carried 7-0.

D2. Use Permit/Grant Riggs/1015 San Mateo Drive: Request for a use permit for interior remodel and the construction of a first and second floor addition to an existing two-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 existing replacement value in a 12-month period and requires approval of a use permit by the Planning Commission.

Staff Comment: Planner Ishijima said correspondence was received from the neighbor to the left of the subject property requesting landscape screening.

Public Comment: Mr. Grant Riggs, applicant, said the project was a ranch-style home. He noted there were seven heritage trees on the lot and they had designed the project to preserve them.

Chair Ferrick closed the public hearing.

Commission Comment: Commissioner Onken said the orientation of the home onto San Mateo Drive meant that there was a slight imposition to the neighbor on Fulton Place, who had written the letter. He said the heritage trees limited the design and the proposed design seemed wedded to the existing structure, which he found limiting.

Chair Ferrick said she thought the proposed design was very thoughtfully done. She said the lot was an unusual shape noting it cornered a cul de sac. She agreed with providing landscape screening for the neighbors on Fulton Place as a condition of approval.

Commissioner Riggs said how the project treated the San Mateo Drive elevation supported that street presence. He said given where the garage was placed he did not see that it conflicted with Fulton Place and that it was as far away as physically possible from 8 Fulton Place. He said he was particularly pleased with the forms being used as they were well centered and anchored. He noted also the quality of the materials. He asked what was suggested for the landscape screening on the right side. Chair Ferrick noted the tree in the right corner was close to the garage.

Mr. Riggs said they looked at putting the project on an L-shape but that would have meant the tree removal. He said they decided to keep the existing garage site and as long as the foundation remained uninterrupted eight feet to the tree and where they were excavating that the tree was expected to be protected noting they would use preservation and protection measures and would have an arborist on site.

Commissioner Onken said regarding the Craftsman-style charm noted by Commissioner Riggs that the plate height was just two feet short of the bridge height. He said there was encroachment on the nonconforming rear lot and the project was about as big as it could get.

Commissioner Kadvany said for better or worse there were many large homes on San Mateo Drive. He said it was important that if a large home was being built that it be built well. He said he was supportive of the materials proposed for use. He said he did not think Craftsman-style included double garages in the front of the house. He said he was pleased however with the separate doors and trellis work around it as well as the proposed landscaping.

Commissioner Eiref said he thought it was a handsome design if not exactly Craftsman. He said there were a variety of large home designs in the neighborhood.

Commission Action: M/S Eiref/Kadvany to make the findings and approve the request for a use permit 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 Jason Bell, consisting of 16 plan sheets, dated received November 21, 2012, and approved by the Planning Commission on December 3, 2012, except as modified by the conditions contained herein, subject to review and approval by the Planning Division.
 - b. Prior to building permit issuance, the applicants shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicants shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
 - d. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval by the Planning, Engineering and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
 - e. Simultaneous with the submittal of a complete building permit application, the applicant shall submit plans indicating that the applicant shall remove and replace any damaged and significantly worn sections of frontage improvements. The plans shall be submitted for the review and approval of the Engineering Division.
 - f. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a Grading and Drainage Plan for review and approval of the Engineering Division. The Grading and Drainage Plan shall be approved prior to issuance of a grading, demolition or building permit.
 - g. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance.

4. Approve the use permit subject to the following **project-specific** conditions:
 - a. Simultaneous with the submittal of a grading and drainage plan, the applicant shall submit an arborist report reviewing the construction details of the asphalt driveway and providing recommendations for tree protection to ensure the longevity of the heritage oak tree #1.

Motion carried 5-2 with Commissioners Bressler and Onken voting in dissent.

D3. Use Permit/Yiran Wu/1140 Middle 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-S (Single Family Suburban) zoning district. As part of the project, the following four heritage trees are proposed for removal: 23.1-inch diameter at breast height (DBH) Port Oxford cedar in poor condition located in the front yard, 43.9-inch DBH Italian stone pine in fair condition located in the right side yard, 48.6-inch DBH Italian stone pine in fair condition located in the rear yard, and 17.2-inch DBH privet in poor condition located in the left side yard.

Commissioner Eiref recused himself noting his son attends the school on the neighboring property and he had personal opinions on the project. He left the Chambers.

Staff Comment: Planner Lin said staff had no additional comments or additions to the staff report.

Questions of Staff: Commissioner Kadvany asked if under the previous plan whether the two Pine trees now proposed for removal had been proposed for removal then. Planner Lin said trees numbered 14 and 28 were proposed for removal under the previous use permit, which had never been implemented.

Public Comment: Ms. Jing Quan, project architect, said to the left of the project was a single-family home and to the right a church. She said because of that they were increasing the front setback from 20 to 26 feet for the proposed two-story home. She said there was also additional setback on the second story from the first floor to provide more natural light to the neighbor's home. She said they were using Craftsman style. She said the overall height was within the maximum allowed and the majority of the height was less than 26 feet high.

Ms. Debra Fong, Santa Clara, said that she was the Director of the pre-school, New Beginnings, next door that was on the Church property. She said the construction impacts to her young students was concerning noting noise and dust, traffic and parking, and in particular the removal of the two trees, which she hoped could be removed outside of school hours. She said the windows on the left side would look down on the area where the children ride bicycles.

Mr. Fred Schneider, Santa Clara, said he was President of the pre-school. He said he was very concerned for the student's safety during the construction. He said when the trees were removed, 51 children would need to be relocated, and they were working on a plan for that. He said the trees slated for removal had large limbs hanging over their site. He said there needed to be communication between the construction people and the school on an ongoing basis. He said their concerns were the tree removals, and pollution or dust. He said there were children and teachers at the school who have asthma. He asked if some physical barrier could be

constructed to protect the school occupants from both the noise and dust. He said parking would be an issue as construction trucks would tend to park on Middle Avenue. He said he would like Middle Avenue to be kept open for parent drop off, noting 87 children were dropped off in the morning.

Mr. Ben Eiref, Menlo Park, said his son attends New Beginnings, and there were roughly 80 children in the twos, threes, fours, and fives class. He said the removal of one tree would have to occur when school was not in session as it was almost entirely on the school property side. He recommended construction of a really tall fence or something similar to protect the children from noise and dust. He suggested a walkaround for coordination between the construction and the school. He requested that a screen including landscaping be constructed between the school site and the project once it was completed.

Chair Ferrick closed the public hearing.

Commission Comment: Commissioner Onken asked why the trees were being removed. Ms. Quan said tree number 28 was located between the property and the school, was badly shaped and put a lot of pressure on tree number 29, an Oak tree. She said the arborist highly recommended removal of tree 28 as that would provide more growing room for the Oak tree. She said tree number 14 was very close to the existing house already, so much so that the insurance company did not want to issue insurance because the tree was too close to the house.

Commissioner Kadvany asked if the windows were simulated divided lights with grids. Ms. Quan said the windows would be wood simulated divided lights with exterior applied grids.

Commissioner O'Malley asked how many meetings the applicant had held with the school regarding the tree removal. Ms. Quan said the previous project had a support letter from the church. She said since their project was the same as the previous one approved that there had been no additional communication. She said she visited the site today and it seemed most parents used Arbor Road to pick up their children. She said they could work with the contractor to limit parking to only a portion of Middle Avenue and could coordinate with the school on a weekend or holiday or break time to remove the trees. Commissioner O'Malley said he would expect them to work with the church and school for the children's safety. He said the City has ordinances governing noise and dust during construction, and there would be a construction management plan. He said he took seriously concerns about the children, and suggested if it is possible to incorporate solutions into the approval process. Ms. Quan said that one solution would be to meet regularly with the school to review the construction schedule and activities.

Commissioner Bressler asked how long it would take to demolish existing structure. Ms. Quan said it would take one or two days. She suggested that it could be set up on Friday and occur on Saturday. She said the trees would need to be a separate removal and perhaps could occur one weekend before the demolition.

Chair Ferrick said she agreed but thought there were ordinances precluding work on Saturdays. Development Services Manager Murphy said the noise ordinance precluded construction on weekends. He said the best solution was one that could be worked out during regular working hours. He said however if it is proven that a weekend would be best, there was an exemption process that could be applied for but which was outside of the use permit process. Chair Ferrick said perhaps a school holiday would work. She asked if a taller construction fence with

netting could be used. Ms. Quan said they could talk with the contractor to put a higher fence with mesh fabric noting that generally construction fence was around six feet in height. She said there was also a row of mature trees between the properties that would also help. Chair Ferrick said she liked the design and the additional setback distances.

Commissioner Riggs said the plans were admirable and the materials good, but he found some of the massing a bit awkward. He said the main thing that bothered him was the chimney. Ms. Quan said the chimney was for decoration and explained her experience which led to the thought that a lower chimney would be less impact to the neighbor. She said however she could increase the height.

Commissioner Riggs said they might consider conditions for coordination with the school for the demolition and tree removal process.

Commissioner Onken said regarding the recommendations being made that they needed to see an eight- to 12-foot high fence with mesh dust vents along the property line. He said they should share the information from the arborist with the church/school and coordinate activities. He said he did not think the project was massed terribly well but it met the requirements. He suggested drawings to show the fence.

Chair Ferrick said that conditions could be added under the approval if the project was approved. Commissioner Riggs said that he appreciated Commissioner Onken's suggestion and it would be good to have certain conditions on drawings. Chair Ferrick said that she thought it unnecessary for a resubmittal to the Commission. There was consensus to have staff review and approve the revised drawings for the construction fencing.

Commissioner Riggs moved to approve as recommended in the staff report with modifications to the chimney to be revised to be at least 30-inches higher than the second floor plate height or greater; a condition 4.a to require coordination with New Beginnings regarding construction hours, noise and dust control, and safety, and suggestion of weekly meetings (or as reviewed and approved by staff), for the removal of the trees when school was not in session; and a condition 4.b for drawings for dust protection construction fencing to be reviewed and approved by staff prior to building permit issuance.

Commissioner Kadvany asked about parking and whether protection of a school drop-off area should be included in the suggested condition 4.a. Commissioner Riggs said that Middle Avenue was a public street and while it was important that parents were able to drop off their children, they should not create unnecessary burdens for the contractors.

Commissioner O'Malley seconded Commissioner Riggs' motion.

Commission Action: M/S Riggs/O'Malley moved to approve with the following modifications:

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 WEC and Associates, consisting of 13 plan sheets, dated November 15, 2012, and approved by the Planning Commission on December 3, 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 and the tree protection plan included in the arborist report prepared by Kielty Arborist Services, dated revised on November 14, 2012.

4. **Approve the use permit subject to the following project-specific conditions:**
- a. ***The applicant shall minimize construction-related disturbance through coordination with New Beginnings pre-school located at 1100 Middle Avenue, with the goal of minimizing disruptions to the operation of the pre-school and ensuring the safety of its students and staff. The timing of the removal of the Italian stone pine in the right side yard (tree #28), construction hours, and demolition and construction activities shall be coordinated through regular (i.e., weekly, bi-weekly) meetings prior to and throughout the construction process.***
 - b. ***Simultaneous with the submittal of a complete building permit application, the applicant shall submit revised plans showing a temporary dust barrier above the existing fence along the right side property line shared with the adjacent pre-school/church property, subject to review and approval by the Planning Division. The dust barrier shall be designed to minimize dust emissions into the adjacent pre-school, and shall remain in place for the full duration of the demolition and construction process.***
 - c. ***Simultaneous with the submittal of a complete building permit application, the applicant shall submit revised plans showing an increase in the height of the chimney to at least 30 inches taller than the proposed second floor plate height, with the goal of achieving greater balance in the proportions and massing of the proposed residence. This revision is subject to review and approval by the Planning Division.***

Motion carried 6-0 with Commissioner Eiref recused.

D4. Use Permit/Toby Long/455 Yale Road: 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 depth and lot size in the R-1-U (Single Family Urban) zoning district. As part of the project, the following three heritage trees are proposed for removal: 27-inch diameter at breast height (DBH) liquidambar in poor condition located in the corner side (Yale Road) yard, 18.5-inch DBH tulip poplar tree in poor condition located in the rear yard, and 18.7-inch DBH tulip poplar tree in poor condition located in the interior side yard.

Staff Comment: Planner Lin clarified on page 2 of the staff report, under Proposal, that it should state that this was a substandard lot in regard to lot depth and size rather than lot width and size. She said on page 2, under Project Description, first paragraph, last sentence should read that "the subject site is a substandard lot with regard to lot area and length and a use permit is required for a two-story residence."

Questions of Staff: Commissioner Kadvany asked if there would be a wheelchair curb cut at the corner. Planner Lin said that was correct. Commissioner Kadvany asked if the Commission had a choice of color rather than the bright yellow typically used. Development Services Manager Murphy said the suggestion could be made but the color choice was not under the Planning Commission's purview.

Commissioner Kadvany then noted, prompted by Staff, that his property was close to the 500-foot radius of the subject property and he needed to recuse himself.

Commissioner Riggs asked if there was a school within 200-feet of the project site. Development Services Manager Murphy said he thought it was more than 200-feet away. Commissioner Riggs noted that the Public Works Director had acquiesced to not require the yellow padding if the location was not within a certain distance of a school. He said that in this case the Commission would do well to encourage Engineering to use a different color.

Public Comment: Mr. Toby Long, project architect, said the property was unique in that it was very square in shape and a corner lot. He said the property, built in 1946, was in disrepair and vacant for the last five to six years. He said the structure was irreparable as far as they could tell. He said he has worked in the Bay area for the last 15 years actively promoting innovative green construction. He said there was a magnificent redwood on the north corner on the adjacent property. He said they would like to paint the ADA ramp whatever color was desired. He said they wanted to keep the garage where it was facing Middle Avenue. He said they have met with the neighbors and received unanimous positive feedback. He said the project would be constructed offsite in a schedule concurrent with the foundation work. He said overall construction would take two to three months.

Commissioner Onken said the 3-D version seemed to show that the porch was twice as long as the front elevation. Mr. Long provided another visual showing the relationship of the porch to the front elevation.

Chair Ferrick closed the public hearing.

Commission Comment: Chair Ferrick said she was excited to see this project and had heard of prefab construction, and was impressed with one such home she visited.

Commissioner Onken said he was supportive of the proposal but wanted to encourage careful deconstruction.

Commissioner Riggs said this was an exciting project and he was looking forward to it. He said he was sorry to see the Liquidambar tree go but it was necessary noting the raised roots. He asked if the roof would be stained light redwood or painted peach. Mr. Long said it would be stained with a wood looking pine stain that was not knotty and would match the stained wood ceiling under the front porch. Commissioner Riggs said the choice of materials was terrific. He moved to make the findings and approve the use permit. Chair Ferrick seconded the motion. She asked what type of paving they would use for the driveway. Mr. Long said he expected they would use loose interlocking concrete pavers that would create a pervious driveway with low maintenance.

Commission Action: M/S Riggs/Ferrick to make the findings and approve the use permit 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 Toby Long Design, consisting of 16 plan sheets, dated November 14, 2012, and approved by the Planning Commission on December 3, 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 install 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 and the tree protection plan included in the arborist report prepared by The Shady Tree Company, dated November 3, 2012.

Motion carried 6-0 with Commissioner Kadvany recused.

D5. Use Permit/Steve Loeffler for the REATA Company/2200 Sand Hill Road: Request for a use permit for the storage and use of hazardous materials (diesel fuel) for an emergency generator, associated with a venture capitalist company. The proposed generator would be

located at the rear of the property, along Sharon Park Drive in the C-1-X (Administrative and Professional, Restrictive, Conditional Development) zoning district.

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

Public Comment: Mr. Russ Barry, Senior Vice President of Madison Realty Services, said his company represented the property ownership for the site. He said this was a landlord lease obligation to provide a backup generator for their primary tenant, Light Speed, in this building. He said the tenant would be responsible for maintaining and operating the generator.

Mr. Steve Loeffler, Rosendin Electric, said they looked at several locations. He said they considered the landscaped area in the front but it was over a Hetch-Hetchy easement. He said another site meant displacing parking spaces. He said another site was too narrow, which was why they selected the site they did in the back adjacent to the existing trash enclosure.

Mr. Barry said they would also build a wall around the closure and plant landscape screening.

Commissioner Eiref asked why they were proposing a diesel generator when there were alternatives such as fuel cells. Mr. Barry said this was what the tenant wanted as part of the lease negotiation. Commissioner Eiref asked why the site could not be moved further from the neighboring apartment complex. Planner Perata said the only other possible location would be closer to the Sharon Park Shopping Center. Mr. Loeffler said the area of the trash enclosure was the deepest part of that swath of landscaping. He said closer to the shopping center that the planting area shortens and it would be actually closer to the street than where it was proposed. Mr. Barry said they proposed to continue what was mature hedge along Sharon Park Drive around the enclosure and if permissible also plant an Oak tree for screening.

Chair Ferrick asked how often there had been power outages requiring a generator. Mr. Barry said there were power outages experienced by the tenant every four to six months several years back which was what prompted the tenant to request a backup generator. He said more recently over the last few years there had been no power outages but the request was for a failsafe system.

Commissioner Riggs said his only concern was the neighbors' concern about hearing the generator. He said the testing would be once a month, on Wednesday, at noon, which he did not think was excessive. He asked if this backup generator would be used at night should there be a power outage. Mr. Loeffler said it would if needed.

Commissioner Kadvany asked for a noise comparison of the generator within the enclosure. Mr. Loeffler said it was similar to a shower or dishwasher running. Commissioner Kadvany asked if there would be other generators at the site for other tenants. Mr. Barry said this was specifically for the company Light Speed. Commissioner Kadvany asked if it could be used by other tenants. Mr. Barry indicated that it would not.

Mr. Dennis Monoham, neighbor, said he liked the discussion of fuel cells and decibels. He said the other question was air quality and whether it was better to use biodiesel fuel.

Ms. Jean Baronas, neighbor, said the project location near Sharon Road was very close to the sidewalk. She requested the Commission look at the sidewalk where this would be located. She said she does not drive a vehicle and walks, and did not want to breathe the particulates

produced by this equipment. She said there was residual that then mixed with carbon dioxide from vehicle emissions. She said she requested a localized health impact report, but staff said it was not applicable. She said it was not required for a diesel generator but it was applicable. She said 65 years old and older was a protected population. She said they should consider biodiesel and fuel cells or hosting their computers on an offsite server.

Mr. Paul Studmeister, Menlo Park, said his only concern was the siting of the generator and a concern with noise, as it would be close to his residential property. He thought the generator could be moved to the east side of the property near another commercial property or nearer to Sand Hill Road. He said the building also has a courtyard which was another possible location for the generator.

Commission Action: Commissioner Bressler asked if the generator running would produce more pollution than a truck. Mr. Loeffler said he did not know specifically but they were working with very strict EPA guidelines. Commissioner Bressler said he had not received any specific evidence [as to health concerns].

Commissioner Kadvany said the letter from the applicant indicated that the closest residence was 150 feet away from the proposed generator location. Mr. Barry confirmed that was correct. Commissioner Kadvany said electricity was needed to connect with an offsite server.

Commissioner Eiref said he was fine with commercial buildings having diesel generators but the proposed location was the worst choice as it was too close to the residential area.

Mr. Barry said there were certain segments of the property where they could not locate the generator. He said there was a Hetch-Hetchy easement that runs down the front of the property on which there could be no structures. He said although not required they were planning to construct a CMU wall around the generator next to the existing trash enclosure which was the location having the greatest distance from the residential area.

Chair Ferrick asked if the generator was compatible with bio-diesel. Mr. Loeffler said it would use regular diesel fuel.

Commissioner Riggs said the difference between diesel and bio-diesel was small. He said the running of the generator was not intended and in Menlo Park Honda generators run if there was a power outage and that was not regulated. He asked why the generator could not be located on the south end of Sand Hill Road. Mr. Barry said there was a 200-foot frontage shared with the Bank of America, a large driveway and the Hetch Hetchy easement that only left a narrow area. Commissioner Riggs said his only concern was the acoustics should the generator need to run. He said that a blocked wall would not attenuate the sound. He said for generator enclosures he has worked on that a full analysis of sound and its attenuation had been done.

Mr. Barry said the approval conditions had a condition 4.a that read "Simultaneous with the submittal of a complete building permit application, the applicant shall submit a noise study analyzing the project, which shall be conducted by a licensed acoustical engineer. If the proposed generator is not in compliance with the Noise Ordinance, additional sound attenuation measures would be required, per the recommendations of the acoustical engineer."

Commissioner Riggs said that the City's requirement was a maximum 50 decibels at the property line, but that was the sound of a jet going overhead. He said there was additional

acoustic insulation that could be used. He asked if the Commission would want abatement greater than what met the Noise Ordinance requirements.

Commissioner Eiref asked if the 126 gallons of fuel was enough for a day or two of operation. Mr. Loeffler said it was sufficient for 48 hours of operation. Commissioner Eiref asked how the quality of the fuel was maintained and if it was burned off every year. Mr. Loeffler said they would evaluate the quality of the fuel and if it needed replacement, it would be siphoned off and removed. Commissioner Eiref confirmed that the generator would not just be run 48 hours every year to burn off the fuel. He asked if there was a way to evaluate and get feedback from the neighbors upon the use of the generator and provide a way to address any concerns. He said there seemed to be other options for the location of the generator and that displacing a few parking spaces was supportable.

Chair Ferrick said she did not think the enclosure would be visually impactful noting that it could be screened better than a trash enclosure. She noted the sound of the dumpster being picked up and emptied and thought that would be noisier.

Commissioner Kadvany asked if anything could be designed within the enclosure to enable additional baffling or other noise attenuation in the future. Mr. Barry said the wall was a CMU, eight-inch brick wall and he thought additional noise attenuation could be applied.

Commissioner Kadvany asked if the generator would remain should the tenant vacate in the future. Chair Ferrick said it was indicated that the hazardous materials permits were with the tenant. Planner Perata said the use permit would not be tied to this particular tenant and a future tenant could use the generator without a new use permit but they might need to reapply for the hazardous materials permit. He said the only hazardous material was the diesel fuel and as long as there was no increase in diesel fuel, the new tenant could resubmit the inventory to acquire a hazardous materials permit.

Commissioner Kadvany noted that they had approved a generator for a wine storage facility on Willow Road and its location in the front of the property although they had not considered that desirable. He said the City should have a policy on where and how diesel generators could be installed.

Commissioner O'Malley said he found it hard to believe that there were thousands of these types of generators around the country that made noise equivalent to a jet engine when they start up and run. He said he has been around many facilities with generators and usually there was no constant frequency of use and usually it was limited to testing episodes. He said the issue with this request was noise and unless he could actually hear the generator turn on he did not know how much noise it would make. He said he thought an enclosure would cause noise to diminish that would continue to diminish further from the enclosure.

Chair Ferrick asked why 50 decibels at 20 feet was set as the maximum in the Noise Ordinance. Development Services Manager Murphy said the Noise Ordinance was developed in the late '90s and was an implementation of the Noise Element in the General Plan that identified noise levels generally acceptable to the community. He said the Ordinance was driven by readings from residential property lines and there were exceptions. He said that 50 DBs at the property line was the standard for night time hours. Chair Ferrick asked how far from the rear property line this generator would be. Planner Perata said the generator was located 55 feet from the lease line of 2200 Sand Hill Road to Sharon Green. He said the enclosure would be 53 feet

from Sharon Green. Chair Ferrick confirmed there was an additional 100 feet to the nearest residence. She said she was not a noise expert but did not think from her experience that the sound would be an issue. She said she also did not want to drive away a good tenant. She said based on the preponderance of evidence that she would support the project.

Commissioner Onken asked if the noise could be tested at a height level noting the upper floors of the nearest residential two-story apartment building.

Chair Ferrick moved to approve with the project specific condition to conduct noise analysis including at height of the two-story apartment building in Sharon Green. Commissioner Kadvany seconded the motion. He said in the case of a power outage that extra noise was acceptable noting there was no day to day impact. He said he thought the City should have a policy on generators. Chair Ferrick said if there were more applications like this that she would recommend the City within the General Plan update include policy as to noise attenuation or abatement when extra machinery was added to exterior of buildings. Commissioner Kadvany said also to provide site specific contexts that could be applied.

Commission Action: M/S Ferrick/Kadvany to approve the use permit request with the following modifications.

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 abr engineers, consisting of five plan sheets, dated received November 26, 2012, and approved by the Planning Commission on December 3, 2012 except as modified by the conditions contained herein, subject to review and approval of the Planning Division.
 - b. Prior to building permit issuance, the applicant shall comply with all sanitary district, Menlo Park Fire Protection District, and utility companies regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
 - d. If there is an increase in the quantity of hazardous materials on the project site, a change in the location of the storage of the hazardous materials, or the use of additional hazardous materials after this use permit is granted, the applicant shall apply for a revision to the use permit.

- e. Any citation or notification of violation by the Menlo Park Fire Protection District, San Mateo County Environmental Health Department, West Bay Sanitary District, Menlo Park Building Division or other agency having responsibility to assure public health and safety for the use of hazardous materials will be grounds for considering revocation of the use permit.
 - f. If the business discontinues operations at the premises, the use permit for hazardous materials shall expire unless a new business submits a new hazardous materials business plan to the Planning Division for review by the applicable agencies to determine whether the new hazardous materials business plan is in substantial compliance with the use permit.
4. Approve the use permit subject to the following **project specific** conditions:
- a. Simultaneous with the submittal of a complete building permit application, the applicant shall submit a noise study analyzing the project ***including measuring noise at a height comparable to the neighboring two-story apartment building***, which shall be conducted by a licensed acoustical engineer. If the proposed generator is not in compliance with the Noise Ordinance, additional sound attenuation measures would be required, per the recommendations of the acoustical engineer.

Motion carried 5-0 with Commissioners Eiref and O'Malley abstaining.

D6. Development Agreement Annual Review/Bohannon Development Company/101-155 Constitution Drive and 100-190 Independence Drive (Menlo Gateway Project): Annual review of the property owner's good faith compliance with the terms of the Development Agreement for the Menlo Gateway (Bohannon Hotel & Office) project.

Chair Ferrick noted this review was continued to the meeting of December 17, 2012.

E. REGULAR BUSINESS

There was none.

F. COMMISSION BUSINESS

There was none on the agenda. Chair Ferrick recognized Commissioner Bressler.

Commissioner Bressler said the Commission had spent more time on the noise impact of the proposed generator in the preceding item than they had on public benefit for the El Camino Specific Plan, and that concerned him.

ADJOURNMENT

The meeting adjourned at 9:35 p.m.

Staff Liaison: Justin Murphy, Development Services Manager

Recording Secretary: Brenda Bennett

Approved by the Planning Commission on January 28, 2013