



PLANNING COMMISSION MINUTES

**Regular Meeting
December 9, 2013 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 (Vice Chair), Ferrick, Kadvany (Chair), Onken (arrived 7:04 p.m.), Riggs (absent), Strehl

INTRODUCTION OF STAFF – Thomas Rogers, Senior Planner; Kyle Perata, Associate Planner

A. REPORTS AND ANNOUNCEMENTS

A1. Update on Pending Planning Items

- a. El Camino Real/Downtown Specific Plan Initial Review - City Council – November 19, 2013

Senior Planner Rogers said the City Council reviewed the El Camino Real/Downtown Specific Plan on November 19 including the Planning Commission's recommendations. He said the Council accepted some of the recommendations, deferred others, and routed some into the Capital Improvement Program process. He said the Council added one item that the Commission had not discussed for the El Camino Real zoning districts. He said the Council wanted an absolute limit on the amount of square footage of medical office for a project, such that no medical office project would be greater than 33,333 square feet. He said the Commission would review and make recommendations on the formal revisions proposed for the Plan with Council taking the final action on the Plan.

- b. Draft Housing Element Update Review – City Council - December 10, 2013

Senior Planner Rogers said the Planning Commission's recommendations on the Draft Housing Element Update had been forwarded to the City Council. The City Council would conduct its review on December 10, 2013.

- c. General Plan Update Overview – City Council – December 17, 2013

Senior Planner Rogers noted the Council for the General Plan Update Overview item on its December 17 agenda would help define the process for the update.

Chair Kadvany noted Commissioner Onken's arrival.

Commissioner Bressler asked if a medical office project at 1900 El Camino Real would have Planning Commission review. Senior Planner Rogers said there were some pending building permit actions and potentially following that some business license and use permit actions, but at this time staff had not fully determined if the proposed uses were permitted.

B. PUBLIC COMMENTS

Mr. Don Barnaby, Menlo Park, said he was representing the residents of Spruce Avenue, which was a one block dead-end street that suffered from business traffic and parking overflow. He said the building at the corner had changed ownership and the residents were concerned about expanding medical office use at the site. He said the residents had submitted a petition with 100% participation previously against such an expansion. He said there were only seven parking spaces for the 7,000 square foot building. He said the project should be reviewed by the Planning Commission noting that the Specific Plan for El Camino Real did not fit this building and site.

Mr. Robert Alexander, East Palo Alto, said properties at Menlo Business Park have impacted his property noting flooding and chemicals used and stored at these sites. He said he had submitted a letter regarding problems caused by the properties at Menlo Business Park over the past 30 years.

C. CONSENT

C1. Approval of minutes from the November 4, 2013 Planning Commission meeting

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

Motion carried 6-0 with Commissioner Riggs absent.

C2. Approval of minutes from the November 18, 2013 Planning Commission meeting

Commission Action: M/S Kadvany/Strehl to approve the minutes with the following modification.

- Page 13, last paragraph, 1st line: Delete clause "so the city" after the word "identified."

Motion carried 6-0 with Commissioner Riggs absent.

D. PUBLIC HEARING

D1. Use Permit Revision/Lauren Jonak/470 Santa Rita Avenue: Request for a revision to a previously approved use permit in September 2010, which exceeded 75 percent of the replacement value of the existing nonconforming structure in a 12-month period. The current proposal includes two additions to the rear of the structure, located at the rear-left side and rear-right side of the structure, as well as a partial interior remodel. The subject parcel is located in the R-1-S (Single-Family Suburban) zoning district.

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

Questions of Staff: Commissioner Ferrick asked if the project was before the Commission because of the nonconforming left side setback. Planner Perata said the structure was nonconforming but the Commission's review was triggered by a request to revise a previously approved use permit.

Public Comment: Ms. Lauren Jonak, Ana Williamson Architect, said the project included adding a dining room, bath and closet to the existing home. She said the family wanted a more formal, solarium style dining room opening to the redesigned deck. She said they also wanted to reconfigure the master bedroom to create more usable closet space.

Chair Kadvany said there was a condition of approval to move the front fence and asked where the fence would be relocated. Ms. Jonak said the request was to move the fence out of the public right of way and landscaping would be adjusted to preserve privacy.

Mr. Dave Pizzuti, property owner, said the lower height part of the fence in their opinion was not necessary and they had no issue moving it out of the public right of way.

Mr. Keith Willig, landscape architect, said there was no issue with moving the fence to meet zoning ordinance regulation.

Chair Kadvany confirmed with the applicant that the extension of the driveway was to provide more parking.

Chair Kadvany closed the public hearing.

Commission Comment: Commissioner Onken said he was pleased that the fence would be moved out of the public right of way and urged greater visibility at busy corners in Menlo Park. He moved to approve as recommended. Commissioner Ferrick seconded the motion.

Chair Kadvany asked about the paving materials. Mr. Willig said they would use a CalStone product or quarry stone in interlocking pavers of three or four sizes. Commissioner Ferrick asked if they were permeable. Mr. Willig said there were gaps but they had to be placed over a compacted base to meet vehicular weight requirements.

Commissioner Ferrick noted that no trees were impacted by the project and nine new trees would be planted.

Commission Action: M/S Onken/Ferrick 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 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 Ana Williamson Architect, consisting of 15 plan sheets, dated received November 12, 2013, and approved by the Planning Commission on December 9, 2013, except as modified by the conditions contained herein, subject to review and approval of the Planning Division.
 - b. Prior to building permit issuance, the applicants shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
 - c. Prior to building permit issuance, the applicants shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.

- d. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
 - e. 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 complete building permit application, the applicant shall revise the site plan to relocate the fence adjacent to the corner of Middle Avenue and Santa Rita Avenue outside of the public right-of-way. The relocated fence shall conform to the maximum height requirements for corner lots, subject to review and approval of the Planning Division.

Motion carried 6-0 with Commissioner Riggs absent.

D2. Use Permit Revision/Menlo Business Park LLC/1600 Adams Drive: Request for a revision to a use permit, previously approved in April of 2009, to increase the types and quantities of hazardous materials used and stored at the site in the M-2 (General Industrial) zoning district. All hazardous materials would be used and stored within the building. The building provides incubator space for start-ups and emerging small businesses to conduct small scale research and development.

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

Public Comment: Mr. John Tarlton, Menlo Business Park, introduced Ms Ellen Ackerman, environmental safety consultant, and Mr. Ron Kreitemeyer, business manager.

Ms. Ackerman, Green Environment, said the requested revision to the use permit would help make things simpler for their tenants by using the Fire Code allowance and thresholds for hazardous materials rather than having a specific chemical inventory with lower quantities which had been approved as part of the original use permit.

Chair Kadvany asked about the phrase in the staff report “regulatory framework.” Ms. Ackerman said they have developed a City internal mechanism for the dispersal of information about the materials within the building to the City’s Planning and Building Departments, County Environmental Health, West Bay Sanitary District and the Fire District. She said the reporting was required as part of the City’s conditional use permit approval. She said the businesses they were trying to attract wanted to take occupancy right away but currently tenants wait three months for use permit approval before able to begin their research. She said with this proposed change, tenants would remain responsible for obtaining individual permits required by the rules and regulations. Responding to additional questioning from Chair Kadvany, Ms. Ackerman said the chain of responsibility would be the same for these tenants as for any business moving into Menlo Park including obtaining business licenses and determining what rules and regulations apply to them.

Mr. Tarlton said in his experience that Menlo Park was the only city in the area that required a conditional use permit for hazardous materials, and that he did not want prospective tenants to go to Mountain View or Redwood City because of the delay caused by the need for a conditional use permit. He said with this revision the City would be provided with the same information it currently receives through the use permit process. He said it was the Fire District’s job to determine the safety of materials being used and stored. He said they have 47 tenants in Menlo Lab some of whom have only 250 square feet of laboratory. He said that it was too burdensome for each of those tenants to have to apply for a conditional use permit for a minimum of \$4,500 and a wait period of 90 days. Chair Kadvany asked about safety and compliance. Mr. Tarlton said new tenants have to complete a new tenant information packet that includes providing a spreadsheet of their chemical list. He said this information was then fed into Ms. Ackerman’s master spreadsheet and an immediate risk assessment of the new tenant’s chemical inventory, handling and storage was conducted. He said tenants were vetted first by Ms. Ackerman, and then she sends the tenants’ information to the Fire District. He said the Fire District inspects their facilities twice a year and inspects each room against the chemical inventory provided.

Commissioner Ferrick asked about storage and disposal. Ms. Ackerman said inspections were made of the tenants’ spaces to insure they were not doing things like dumping chemicals down the drain. She said all the sinks were labeled as a reminder to not put chemicals into the sewer. She said they look at tenants’ chemical list before

they move in to insure there were no concerns. She said if there were chemicals needing extra safeguards, they ask the tenants to provide their Standard Operating Procedures (SOP) for handling them. She said a facility manager in the building works directly with the tenants and has oversight as to what the tenants were doing. She said if a tenant asked for a physical change for their space, for example a brace for a gas cylinder, they confirm whether that material was part of the tenants' approved chemical inventory. She said if it was not, the tenants must go through the process of getting the chemical and material approved before getting the infrastructure to support it. She said they have a limit on the size of the waste containers with five gallons being the largest size allowed. She said the County required secondary containment for all chemical and hazardous material storage. She said the tenants may contract with a disposal company to haul waste but small waste generator tenants may participate in the County's small waste generator program. Commissioner Ferrick asked if any of the disposal sites for the contract haulers were in the Menlo Park or East Palo Alto area. Ms. Ackerman said there were no licensed hazard materials disposal sites in this area. She confirmed for Commissioner Ferrick that all of the hazardous materials were disposed off site and noted paperwork had to be maintained showing the hazardous wastes manifest including the number of containers, their weight and what was contained in them. She said if a tenant used the County disposal program, they would get a receipt including the number and size of containers, and what was contained in them.

Commissioner Onken asked whether the ventilation systems were adequate noting there seemed to be a movable menu of hazardous materials within the building. Mr. Ron Kreitemeyer, Facility Manager, said the buildings were modern with air systems that were replaced in the last five years and they were required to provide exhaust systems to mitigate fumes. He noted that the building was completely sprinklered.

Commissioner Eiref questioned the number of tenants. Mr. Kreitemeyer said the 47 tenants were in the combined sites of the project site and another site, which they called Menlo Lab. Commissioner Eiref asked why they were not seeking the maximum inventory for the other sites. Mr. Tarlton said they have been in discussions with the Planning Department on and off for 15 years as to how to modify the City's regulatory processes to attract and get the type of tenants the City has indicated it wanted. He said one outcome would be for them to apply for a Fire Code limit for every building but the problem with that was not all the buildings were Menlo Lab with small tenants' spaces that were rented on a month to month basis. He said for Menlo Lab his company was acting as the parent company for all of the tenants. He said it might not necessarily be appropriate for his company to take on that kind of liability for a company such as Johnson & Johnson.

Commissioner Bressler said that it was not feasible for either the Fire District or the City to oversee operations at all times in these buildings and it came down to trust in the applicant and the regulating processes. He asked about storm water runoff management and whether this building contributed to flooding conditions. Mr. Tarlton

said that it was not the cause of flooding in the area and being at the end of a watershed the sites receive runoff but did not generate runoff. He said the vast majority of the runoff was from the residences upstream which have over time become increasingly paved resulting in less permeable surface. He said that he lived in Palo Alto and served on the Storm Drain Commission in that city. He said there they developed a program to provide a financial incentive to an applicant for the installation of permeable pavement. He said he thought there needed to be larger conversation about storm water management. He said they did not have a flooding problem but were affected by flood zone regulation changes related to regional levees and that it was not doable to raise concrete buildings repeatedly to meet those changes.

Chair Kadvany asked about the 1982 Dumbarton Distribution Center report mentioned by Mr. Alexander. Mr. Tarlton said that was the original proposed name for the business park. He said Planning has an extensive file on the project that was approved in the M1 zoning district. He said there was an EIR and three years of public hearings. He said the project was approved as a light industrial use permit in 1983.

Mr. Robert Alexander, East Palo Alto, expressed concerns with the flooding caused by the business park buildings that were built higher above the ground than other buildings in the area. He said also a pond that collected water had been filled with concrete worsening flooding. He said the buildings in the business park would sink in the case of an earthquake noting the soil below them. He said an emergency plan for the project business park had not been addressed. He questioned who was regulating the tenants and who the regulator was. He said the EIR for the original project had not included hazardous materials use and storage. He said he was concerned about these things and that these were matters of regional importance.

Chair Kadvany closed the public hearing.

Commission Comment: Commissioner Eiref asked if the applicant had hosted open houses for neighbors. Mr. Tarlton said they tried hard to be good neighbors and had active programs with the neighbor schools. He said they held an open house for a conditional use permit at 1490 O'Brien, which was attended by Planning staff, their staff and one resident. Mr. Kreitemeyer said they had another open house which no resident had attended. Mr. Tarlton said he had never received any prior correspondence from Mr. Alexander but he would get in touch with him to address his concerns.

Commissioner Ferrick said she had asked about chemical transport as that was a concern for residents and noted that was done by licensed haulers and taken away from the neighborhoods. She asked about the EIR for the original project. Planner Perata said in reviewing the project file and then a subsequent re-review of the file in response to Mr. Alexander's letter there was nothing in the file related to limiting uses or hazardous materials. Commissioner Ferrick said it seemed the City required a more arduous process for chemical use and storage than other cities in the area. Senior Planner Rogers said the City had not done a detailed comparison of what other cities do

with applications for hazardous materials use and storage. He said the City had indicated this was something to be addressed through the pending General Plan update process to review M2 regulations and hazmat requirements to see if the City was being competitive in attracting the kind of businesses it wanted.

Commissioner Ferrick said this process enabled businesses to connect with concerned citizens. She asked how the regulator as asked by Mr. Alexander would be defined. Planner Perata said the use permit was the City's zoning ordinance requirement for this type of land use within the buildings but the actual chemicals and safeguards were regulated by the Fire District and if applicable by the County. He said the sanitary district and the building department were also notified. Commissioner Ferrick suggested that it might be helpful to provide the information on the contact persons for those agencies to Mr. Alexander.

Commissioner Onken said the startup business model was unique to the Bay area and was now being used in the biotech business. He said he was concerned that this was a new model and a different consideration than a normal lab situation noting the creative free for all environments of startup tech companies. He said if they were going to see more of the biotech startup companies then discussions with Fire District might be warranted and perhaps a different type of use permit needed to be developed. He said that he would support this application however.

Commissioner Bressler noted the speaker had questioned whether the Commissioners would want a business park like this in their neighborhood. He said that his neighborhood has SRI, which had the worst chemical disaster, a hydrogen explosion, in the history of Menlo Park. He said he would prefer to live next to a business like this. He noted his involvement with the Planning Commission stemmed from a desire to prevent things being done such as Mr. Alexander described of having concrete poured into a pond for whatever profit reason. He said however that had occurred 30 years ago and there was nothing to be done now.

Commissioner Strehl moved to approve as recommended in the staff report. Commissioner Ferrick seconded the motion. She said she would not describe Menlo Lab as a creative free for all, and asked about individual tenants and shared materials. Mr. Kreitemeyer said each tenant had a separate lab space and these two buildings were better monitored than any biomedical startup he had worked in over the last 15 years. He said he had asked tenants that did not follow rules to move and they would not lease to tenants if they had concerns about the prospective tenant following the rules.

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

1. Make a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current CEQA Guidelines.

2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the use permit subject to the following **standard** conditions:
 - a. Development of the project shall be substantially in conformance with the plans provided by DES, consisting of six plan sheets, dated received November 21, 2013, and approved by the Planning Commission on November 14, 2011 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. 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.
4. Approve the use permit subject to the following **project-specific** conditions:
 - a. The aggregate total quantity of hazardous materials used and stored, per control area, within the building shall not exceed the quantities listed in Table 2703.1.1(1) of the 2010 California Fire Code and subsequent updated codes, including the amounts allowed per footnotes d (sprinklers) and e (cabinets) of the table.

- b. The property owner shall provide a quarterly update of the current Hazardous Materials Inventory Statement (HMIS) for the entire building and any changes to specific tenants consistent with the requirements of the California Fire Code (CFC) to the Menlo Park Planning and Building Divisions, the Fire District, the West Bay Sanitary District, and the San Mateo County Environmental Health Division. The quarterly update shall be submitted within 15 days of the close of each quarter and the quarters shall begin on the January 1st of each year. The submittal shall include a narrative of the changes in quantities and types of materials, and operations for each business at the facility.
- c. When chemical quantities exceed the reportable limits as defined by the California Fire Code, each tenant shall provide a Hazardous Materials Management Plan (HMMP), standard form or short form, or equivalent document to the Menlo Park Fire District and the Sanitary District.
- d. When chemical quantities exceed the reportable limits as defined by the California Health and Safety Code, each tenant shall provide a Hazardous Materials Business Plan (HMBP), or equivalent document the San Mateo County Environmental Health Division and the Sanitary District.
- e. The Fire District shall provide a copy of the annual inspection report for the facility to the Menlo Park Building and Planning Divisions, the West Bay Sanitary District, and the San Mateo County Environmental Health Division. The property owner shall provide a copy of their response to any deficiencies identified in the inspection report to all applicable agencies.

Motion carried 6-0 with Commissioner Riggs absent.

E. REGULAR BUSINESS

E1. Review of Draft 2014 Planning Commission Meeting Dates (Revised)

Senior Planner Rogers said the calendar had revised April dates because of conflicts with Passover and school breaks noted by the Commission when they reviewed the original schedule at its last meeting. He said they also looked at March and May to adjust dates to allow two weeks between meetings.

Commission Action: The Planning Commission reviewed and accepted the revised proposed 2014 meeting schedule.

F. COMMISSION BUSINESS

There was none.

ADJOURNMENT

The meeting adjourned at 8:49 p.m.

Staff Liaison: Thomas Rogers, Senior Planner

Recording Secretary: Brenda Bennett

Approved by the Planning Commission on January 13, 2014