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City of Menlo Park  
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701 Laurel Street  
Menlo Park, CA 94025

**2013-133568**

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County of San Mateo

Mark Church

Assessor-County Clerk-Recorder



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CONDITIONAL DEVELOPMENT PERMIT  
1 AND 20 KELLY COURT, MENLO PARK, CA 94025

# CONDITIONAL DEVELOPMENT PERMIT

## 1 and 20 Kelly Court ("20 Kelly Court")

### 1. GENERAL INFORMATION:

- 1.1 Applicant: Jason Chang for C S Bio, Inc.
- 1.2 Property Owner: Chang Heng Wei Trust
- 1.3 Nature of Project: Conditional Development Permit for the demolition of the existing building located at 1 Kelly Court and partial demolition of the building located at 20 Kelly Court. The project site currently includes two legal parcels, which would be merged as part of the proposed project. The project site contains two buildings with a total gross floor area of approximately 35,703 square feet. The project would result in the demolition of approximately 23,976 square feet of gross floor area, and the construction of 25,701 square feet of gross floor area, for a total gross floor area of 37,428 square feet, which is a net increase of approximately 1,725 square feet of gross floor area. The CDP allows the development to exceed the maximum height limit of 35 feet, and establishes the required parking, allowed signage, required setbacks, and incorporate the outside storage of nonhazardous materials and equipment within a service yard. The Hetch Hetchy right-of-way to the rear of the property, a separate parcel, would be utilized for required parking spaces, which would partially be contained in landscape reserve. The proposed project would also include an increase in the quantities of hazardous materials from the previously approved use permit due to the increase in production activities, associated with the development and manufacturing of instruments for the biotech industry. All hazardous materials, with the exception of diesel fuel for a proposed emergency generator, would be stored within the building, or in a fire-rated chemical storage container. As part of this proposal, a heritage size Italian stone pine (31-inch diameter), in fair condition is proposed to be removed.
- 1.4 Property Location (Project site): 20 Kelly Court and 1 Kelly Court
- 1.5 Assessor's Parcel Numbers: The Project site currently contains two legal parcels (1 and 20 Kelly Court), which would be merged as part of the project. The current parcels contain the following APNs: 055-421-130 (1 Kelly Court) and 055-433-130 (20 Kelly Court).
- 1.6 Area of Property: 68,228 square feet (1.57 acres)
- 1.7 Zoning: M-2 (X) (General Industrial, Conditional Development)

- 1.8 Previous entitlements: The Conditional Development Permit for 20 Kelly Court supersedes the previously granted use permit and architectural approvals for the individual parcels.

## 2. DEVELOPMENT STANDARDS:

- 2.1 Floor Area Ratio (FAR) shall not exceed **55 percent** of the project site.
- 2.2 Building coverage shall not exceed **50 percent** of the project site.
- 2.3 Building setbacks shall be in accordance with the approved plans.
- 2.4 Building height shall not exceed **47 feet** for the front stair tower, **44 feet** for the main entry tower, **45 feet, six inches** for the viewing deck, and **42 feet** for the rear stair tower. All heights shall be measured from the average level of the highest and lowest point of the existing grade of that portion of the lot covered by the structure (height excludes elevator equipment rooms, ventilating and air conditioning equipment).
- 2.5 The on-site circulation and parking spaces shall consist of 92 parking spaces using the City's use-based guidelines, a portion of which are located in a tandem formation. If the City is notified of a parking issue at the site, the applicant would be required to convert the tandem spaces to fully accessible spaces by adding a drive aisle on the SFPUC parcel. The additional landscape reserve spaces may be converted if the City is notified of a parking issue at the site, or if the applicant requests to convert the landscape reserve spaces to parking, in accordance with the approved plans. The City Planning and Engineering Divisions will review and take action on the proposed landscape reserve conversion, as well as the conversion of the tandem parking spaces to fully accessible spaces.

If at some time in the future the applicant loses the lease for the surface rights for the Hetch Hetchy right-of-way (ROW), the applicant is required to lease an equivalent number of parking spaces off-site for the benefit of its employees, revise the land use breakdown and/or reduce the floor area of the building such that the number of on-site parking spaces complies with the City's use-based parking guidelines, or a combination thereof.

In addition, if in the future the building is no longer occupied by a single tenant, the property owner shall convert the tandem parking spaces to fully accessible spaces and if deemed necessary, convert the additional landscape reserve to parking, in accordance with the approved plans. The City Planning and Engineering Divisions will review and take action on the proposed modifications to the on-site parking.

2.6 All rooftop equipment shall be fully screened and integrated into the design of the building. Roof-top equipment shall comply with noise requirements of the Municipal Code.

**3. USES:**

3.1 The development consists of one building totaling 37,428 square feet of office, R&D, manufacturing, and assembly uses. The maximum square footages of individual land uses within the building shall be based on the following table (uses listed by intensity, with most intense use listed first):

<b>Proposed Land Use Breakdown (20 Kelly Court)</b>	
Office	18,365 square feet
R&D	4,624 square feet
Manufacturing	12,097 square feet
Warehousing	2,342 square feet
<b>Total</b>	<b>37,428 square feet</b>

The building may deviate from the above table, provided that more intense land uses are replaced by less intense uses.

3.2 Outdoor storage: Storage of nonhazardous materials and equipment is limited to the visually screened loading dock at the rear of the building. This area shall also contain the emergency generator and a fire rated hazardous materials cabinet.

3.3 Hazardous Materials: Hazardous materials are permitted to be stored and used at the site, provided that hazardous materials are stored in accordance with the California Fire Code and control areas are constructed in accordance with the California Building Code. 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.

3.3.1.1 When chemical quantities exceed the reportable limits as defined by the California Health and Safety Code, the tenant shall provide a Hazardous Materials Business Plan (HMBP), or equivalent document to the San Mateo County Environmental Health Division and the Sanitary District.

3.3.1.2 If the tenant modifies the types and/or quantities of chemicals used and stored at the site, the tenant shall obtain a revised Fire Permit from the Menlo Park Fire District.

3.3.1.3 The quantities and types of hazardous materials stored at the site shall only be permitted for a single tenant. If the building is

subdivided into multiple suites, each individual tenant will need to apply for a suite specific use permit for the storage and use of hazardous materials through the Menlo Park Planning Division.

- 3.3.1.4 The Emergency Response and Contingency Plan, contained within the Hazardous Materials Business Plan (HMBP) shall include contact information for the Mid-Peninsula High School, Job Train, and Casa Dei Bambini, and the applicant shall notify each entity in the event of an emergency/incident.

#### 4. SIGNS:

- 4.1 The main tenant signage shall be constructed in accordance with the approved plans. The maximum height of the proposed letters shall be **3 feet, five inches**. The main tenant signage shall be limited to **130 square feet**, which would generally correspond with the 37 feet, one inch by three feet, five inch dimensions of the currently proposed sign identified in the project plans. The entry sign would still be required to contain individual letters, of approximately the same height and design as the C S Bio sign and shall be located on top of the front canopy. Additional signage may be permitted in accordance with the Zoning Ordinance signage requirements and the Sign and Awning Design Guidelines up to a total maximum of **150 square feet**.

#### 5. RECORDATION:

- 5.1 Concurrent with the submittal of a complete building permit application, the applicant shall record the Conditional Development Permit with the County of San Mateo County.
- 5.2 The Conditional Development Permit shall be in force on the effective date of the Development Agreement.

#### 6. MODIFICATIONS:

- 6.1 Modifications to the approved project plans may be considered according to the following:
- 6.1.1 Substantially Consistent Modifications, which include any changes to or modifications of any portion of the Project which C S Bio, Inc. and/or Owner make or propose to make to the Project, provided such changes or modifications are in substantial compliance with and/or substantially consistent with the approved plans and the Project Approvals, as determined by the Community Development Director (in his/her reasonable discretion).
- 6.1.2 Minor modifications, which do not affect permitted uses, density or intensity of use, restrictions and requirements relating to subsequent discretionary actions, conditions or covenants limiting or restricting the

use of the Property or similar materials changes, based on the determination that the proposed modification(s) is consistent with other building and design elements of the approved Conditional Development Permit, and will not have an adverse impact on the character and aesthetics of the Property. The Planning Commission shall be notified of approved minor modifications, and a member of the Commission may request within 14 days of receipt of the notice that the item(s) be reviewed by the Planning Commission.

6.1.3 Major modifications (such as significant changes to the exterior appearance of the building, parking layout, or additional gross floor area), to the approved plans, as determined by the Community Development Director, may be allowed, subject to review and approval by the Planning Commission. The Planning Commission's action shall be based on the determination that the proposed modification is compatible with other building and design elements or onsite/offsite improvements of the approved Conditional Development Permit and will not have an adverse impact on safety and/or the character and aesthetics of the site.

6.2 Revisions to the Project which involve relaxation of the development standards identified in Section 2, material changes to the uses identified in Section 3, exceedance of the signage maximum square footages identified in Section 4, or modifications to the conditions of approval identified in Section 8 (other than changes deemed to be Substantially Consistent Modifications, pursuant to Section 6.1.1 that can be authorized by the City Manager), constitute Conditional Development Permit amendments that require public hearings by the Planning Commission and City Council. Such revisions may also require modifications to the plans and/or Development Agreement. Any application for amendment shall be made by the property owner and/or applicant, in writing, to the Planning Commission. The Planning Commission shall then forward its recommendation to the City Council for revision(s) to the Conditional Development Permit.

## **7. PROJECT SPECIFIC CONDITIONS - GENERAL:**

7.1 Indemnity by Owner: The Owner shall indemnify, defend and hold harmless City, and its elective and appointive boards, commissions, officers, agents, contractors and employees (collectively, "City Indemnified Parties") from any and all claims, causes of action, damages, costs or expenses (including reasonable attorneys' fees) arising out of or in connection with, or caused on account of, the development and occupancy of the Project, any Approval with respect thereto, or claims for injury or death to persons, or damage to property, as a result of the operations of Owner or its employees, agents, contractors, representatives or tenants with respect to the Project (collectively, "Claims"); provided, however, that Owner shall have no liability under this Section 7.1 for Claims arising from the gross negligence or willful misconduct of any City

Indemnified Party, or for Claims arising from, or alleged to arise from, the repair or maintenance by the City of any improvements that have been offered for dedication by Owner and accepted by the City.

- 7.2 Indemnity By C S Bio, Inc: C S Bio, Inc. shall indemnify, defend and hold harmless the City Indemnified Parties from any and all claims, causes of action, damages, costs or expenses (including reasonable attorneys' fees) arising out of or in connection with, or caused on account of, the development and occupancy of the Project, any Approval with respect thereto, or claims for injury or death to persons, or damage to property, as a result of the operations of C S Bio or its employees, agents, contractors, representatives or landlords with respect to the Project (collectively, "Claims"); provided, however, that C S Bio shall have no liability under this Section 7.2 for Claims arising from the gross negligence or willful misconduct of any City Indemnified Party, or for Claims arising from, or alleged to arise from, the repair or maintenance by the City of any improvements that have been offered for dedication by Owner and accepted by the City. As to C S Bio, the provisions of this Section 7.2 shall only apply to Claims arising from events which occurred in whole or in part before the later of C S Bio's vacating of the Property and the expiration or earlier termination of the Lease. Should C S Bio no longer be the tenant, the terms of this Section 7.2 shall apply to any new tenant for all Claims arising during the new tenant's tenancy.
- 7.3 Project Plans: Development of the Project shall be substantially in conformance with the following plans submitted by DES Architects and Engineers dated received by the Planning Division on October 31, 2012, consisting of 34 plan sheets, recommended for approval to the City Council by the Planning Commission on November 5, 2012, and approved by the City Council on November 27, 2012, except as modified by the conditions contained herein and in accordance with Section 6 (modifications) of this document.
- 7.4 Requirements of External Agencies: Prior to building permit issuance, the applicants shall comply with all Sanitary District, Menlo Park Fire Protection District, Recology, and utility companies' regulations that are directly applicable to the project.
- 7.5 Requirements of Internal Departments: Prior to building permit issuance, the applicants shall comply with all requirements of the Building Division, Engineering Division, and Transportation Group that are directly applicable to the project.
- 7.6 Demolition and Recycling: 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.

- 7.7 Construction Safety and Erosion Control Plan: 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.
- 7.8 Heritage Trees: 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.
- 7.9 Truck Route Plan: 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.
- 7.10 Utilities: Concurrent with the submittal of a complete building permit application, 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. The utility plans shall also show backflow and Double Check Detector Assembly (DCDA) devices.
- 7.11 Grading and Drainage Plan: Concurrent with the submittal of a complete building permit application, the applicant shall submit a Grading and Drainage Plan for review and approval by the Engineering Division. The Grading and Drainage Plan shall be prepared based on the City's Grading and Drainage Plan Guidelines and Checklist and the Project Applicant Checklist for the National Pollution Discharge Elimination System (NPDES) Permit Requirements. The erosion and sediment control plans shall be attached to the Grading and Drainage plans and may be similar to the erosion control plan provided for the demolition permit. The Grading and Drainage Plan shall be approved prior to or concurrent with the issuance of a building permit.
- 7.12 Geotechnical Report: Concurrent with the submittal of a complete building permit application, a design-level geotechnical investigation report shall be submitted the Building Division for review and confirmation that the proposed development fully complies with the California Building Code. The report shall



determine the project site's surface geotechnical conditions and address potential seismic hazards. The report shall identify building techniques appropriate to minimize seismic damage.

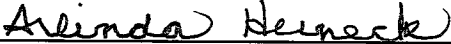
- 7.13 Stormwater: Prior to building permit issuance, the applicant shall enter into and record a "Stormwater Treatment Measures Operations and Maintenance (O&M) Agreement" with the City subject to review and approval by the Engineering Division. With the executed agreement, the property owner is responsible for the operation and maintenance of stormwater treatment measures for the project. The agreement shall run with the land and shall be recorded by the applicant with the San Mateo County Recorder's Office.
- 7.14 Landscape Parking Reserve: If the applicant seeks to convert all or a portion of the identified landscape parking reserve to parking, a complete grading and drainage plan shall be submitted illustrating that there will be no net increase in impervious area and/or stormwater runoff on the Property, to the satisfaction of the Public Works Director. In addition, if lighting is proposed as part of the conversion of the landscape parking reserve, a complete lighting plan shall be submitted that illustrates no net increase in light spillover to adjacent properties, to the satisfaction of the Community Development Director.

## **8. PROJECT SPECIFIC CONDITIONS**


- 8.1 Below Market Rate Housing Agreement: Prior to or concurrent with the submittal of a complete building permit application, the applicant shall execute the Below Market Rate (BMR) Housing Agreement. Prior to building permit issuance, the applicant shall pay the in lieu fee of approximately \$74,497.02 in accordance with the BMR Housing Agreement (as of July 1, 2012). The BMR Housing Agreement shall be subject to review and approval of the Planning Division. The BMR fee rate is subject to change annually on July 1 and the final fee will be calculated at the time of fee payment.
- 8.2 Traffic Impact Fee: Prior to building permit issuance, the applicant shall pay a Traffic Impact Fee (TIF) based on the rates for the mix of uses within the building, for a total estimated TIF of \$33,771.29, subject to the Municipal Code Section 13.26. The fee rate is subject to change annually on July 1 and the final calculation will be based upon the rate at the time of fee payment. The TIF rate is adjusted each year based on the ENR Construction Cost Index percentage change for San Francisco.
- 8.3 Flood Waters: Concurrent with the submittal of a complete building permit application, the applicant shall submit a study identifying how flood waters will be directed around the structure to ensure that the project will have no adverse impact to the potential flooding on other parcels, subject to review and approval of the Planning and Engineering Divisions. The mapped direction of potential flood waters would be from O'Brien Drive. (Mapped source of floods is San Francisquito Creek water traveling from under Hwy 101.)

- 8.4 O'Brien Ditch Erosion Control: Concurrent with the submittal of a complete building permit application, the applicant shall submit specific construction details and materials to be used for the slope protection of the O'Brien ditch, subject to review and approval of the Planning and Engineering Divisions.
- 8.5 O'Brien Ditch Permitting Requirements: Prior to building permit issuance, the applicant shall be required to obtain all necessary permits through the Regional Water Quality Board for work within the O'Brien ditch, subject to review and approval of the Planning and Engineering Divisions.

Recommended for Approval by the  
Menlo Park Planning Commission on  
November 5, 2012

  
\_\_\_\_\_  
Arlinda Heineck, Community Development Director

Approved by the  
Menlo Park City Council  
December 11, 2012

  
\_\_\_\_\_  
Alex D. McIntyre, City Manager

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

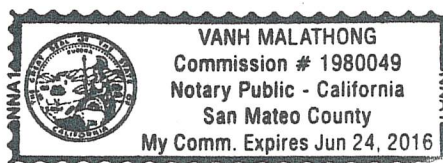
STATE OF CALIFORNIA                    )  
  ) SS.  
COUNTY OF SAN MATEO                )

On September 10, 2013 before me, Vanh Malathong, Notary Public, personally appeared Alexander Daniel McIntyre, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Vanh Malathong*  
Signature of Notary Public



STATE OF CALIFORNIA                    )  
  ) SS.  
COUNTY OF SAN MATEO                )

On September 10, 2013 before me, Vanh Malathong, Notary Public, personally appeared Arlinda Ann Heineck, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Vanh Malathong*  
Signature of Notary Public

