



## CITY COUNCIL SPECIAL and REGULAR MEETING AGENDA

Tuesday, July 31, 2012  
5:45 p.m.  
701 Laurel Street, Menlo Park, CA 94025  
City Council Chambers

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### 5:45 P.M. CLOSED SESSION (1<sup>st</sup> floor Council Conference Room, City Hall)

**CL1.** Discussion with legal counsel pursuant to Government Code Section 54956.9 regarding existing litigation – 2 cases:

(1) Town of Atherton, et al. v. California High Speed Rail Authority  
*Superior Court of California, County of Sacramento, Case No. 34-2008-80000022 (Atherton 1)*

(2) Town of Atherton, et al. v. California High Speed Rail Authority  
*Superior Court of California, County of Sacramento, Case No. 34-2010-80000679 (Atherton 2)*

### 6:30 P.M. STUDY SESSION

**SS1.** Update from legislative advocate regarding High Speed Rail

### 7:00 P.M. REGULAR SESSION

**ROLL CALL** – Cline, Cohen, Fergusson, Keith, Ohtaki

### PLEDGE OF ALLEGIANCE

### REPORT FROM CLOSED SESSION

### ANNOUNCEMENTS

#### A. PRESENTATIONS AND PROCLAMATIONS

**A1.** Proclamation: July 2012 is Parks Make Life Better® Month

#### B. COMMISSION/COMMITTEE VACANCIES, APPOINTMENTS AND REPORTS

**B1.** Bicycle Commission quarterly report on the status of their 2-year Work Plan

#### C. PUBLIC COMMENT #1 (Limited to 30 minutes)

Under “Public Comment #1”, the public may address the Council on any subject not listed on the agenda and items listed under the Consent Calendar. Each speaker may address the Council once under Public Comment for a limit of three minutes. Please clearly state your name and address or political jurisdiction in which you live. The Council cannot act on items not listed on the agenda and, therefore, the Council cannot respond to non-agenda issues brought up under Public Comment other than to provide general information.

#### D. CONSENT CALENDAR

**D1.** Consider approving a change in the meeting schedule for the Parks and Recreation Commission meeting ([Staff report #12-099](#))

- D2.** Adopt a resolution designating the Community Services Manager as the applicant for the Menlo Children's Center Preschool and School-age License with authorization to act on behalf of the City of Menlo Park (Licensee) ([Staff report #12-100](#))
- D3.** Approve the ownership, operation and maintenance agreement between City/County Association of Governments, the County of San Mateo, and the City of Menlo Park for the San Mateo Smart Corridors Project and authorize the City Manager to execute the ownership, operation, and maintenance agreement ([Staff report #12-101](#))
- D4.** Adopt a resolution accepting dedication of a sidewalk easement and an emergency access easement at 1460 El Camino Real, authorize the City Clerk to sign the parcel map and authorize the City Manager to sign the Subdivision Agreement ([Staff report #12-102](#))
- D5.** Authorize the Public Works Director to accept the work performed by Vance Brown, Inc. for the Arrillaga Family Gymnastics Center Project ([Staff report #12-104](#))
- D6.** Award a contract to Suarez and Munoz Construction, Inc., in the amount of \$187,326.50 for the 2011-2012 Citywide Sidewalk Repair Project and Seminary Oaks Park Pathway Replacement Project, and authorize a total budget of \$274,326.50 for contingencies, testing and inspection ([Staff report #12-105](#))
- D7.** Authorize the Public Works Director to accept the work performed by Golden Bay Construction, Inc. for the Parking Plaza 2 Improvement Project ([Staff report #12-106](#))
- D8.** Adopt a resolution authorizing the City Manager to award the contract and execute the necessary construction agreements for the Safe Routes to Hillview Middle School Project in an amount not to exceed \$70,000 ([Staff report #12-107](#))
- D9.** Approve the design and installation of shared lane markings on Menlo Avenue between El Camino Real and University Drive and on University Drive between Santa Cruz Avenue and Middle Avenue as part of a pilot project ([Staff report #12-108](#))
- D10.** Authorize the City Manager to amend the existing agreement for design services with Carollo Engineers for an additional \$34,983, and \$10,000 for contingency for a total of \$294,983 for the Sharon Heights Pump Station; and authorize an increase in the rental agreement for temporary pumps for an additional \$49,128, and \$41,000 for contingency for a total of \$180,128 ([Staff report #12-111](#))
- D11.** Authorize the Public Works Director to accept the work performed by E.R. Brothers Company, Inc., for the Menlo Park Public Library Lobby Remodel Project ([Staff report #12-110](#))
- D12.** Adopt a resolution authorizing the Director of Public Works to accept the State Transportation Program - Local (STPL) 5273R Federal Grant in the amount of \$385,000 and execute all agreements to implement the 2012 Resurfacing of Federal Aid Routes Project for Sand Hill Road and Marsh Road ([Staff report #12-112](#))
- D13.** Adopt a resolution authorizing the execution of a contract with the State of California Department of Education for reimbursement to the City of up to \$511,646 for child care services at the Belle Haven Development Center for fiscal year 2012-2013 ([Staff report #12-114](#))
- D14.** Extend the term for Housing Commissioner Anne Moser through October 2012 ([Staff report #12-113](#))

- D15.** Accept the minutes from the Council meetings of May 22, May 29, and June 12, 2012 ([Attachment](#))

**E. PUBLIC HEARING**

- E1.** Consider a request for a Use Permit, Architectural Control, Tentative Subdivision Map, Below Market Rate Housing Agreement, Application of State Density Bonus Law, and Environmental Impact Report to construct 26 residential units on a 1.23-acre site located at 612 Partridge Avenue, 603 - 607 College Avenue, and 321 - 389 El Camino Real (Collectively known as 389 El Camino Real)([Staff report #12-121](#))
- E2.** Consider a request for a General Plan map amendment, rezoning, Tentative Subdivision Map, and Mitigated Negative Declaration for the 3.9-acre site located at 50 Terminal Avenue and 1467 Chilco Street([Staff report #12-120](#))
- E3.** Introduce an Ordinance adopting San Mateo County's prohibition on the use of polystyrene based disposable food service ware by food vendors ordinance by adding chapter 7.14 to Title 7 of the Menlo Park Municipal Code ([Staff report #12-109](#))

**F. REGULAR BUSINESS**

- F1.** Consider second reading and adoption of an Ordinance to amend Menlo Park Municipal Code Section 3.16.030 to increase the Transient Occupancy Tax rate from 10% to 12% effective January 1, 2013, and adopt a resolution of the City Council calling and giving notice of a Municipal Election to be held November 6, 2012 for the submission to the voters of the ordinance to amend the Municipal Code to increase the Transient Occupancy Tax rate; direct the City Attorney to prepare an impartial analysis and direct the City Attorney and City Clerk to prepare necessary documents to place the measure on the ballot; set the dates for filing written arguments and authorize designated members of the City Council to submit and sign an argument in favor of the proposition; and request the Board of Supervisors to consolidate the Municipal Election to be held with the General Election on November 6, 2012 ([Staff report #12-117](#))
- F2.** Approve the composition and charter of the Specific Plan Parking Management Advisory Task Force ([Staff report #12-122](#))
- F3.** Select the voting delegate for the Annual League of California Cities conference ([Attachment](#))
- F4.** Provide direction to the Voting Delegate regarding the League of California Cities resolutions to be voted on at the annual conference ([Staff report #12-118](#))
- F5.** Consider state and federal legislative items, including decisions to support or oppose any such legislation, and items listed under Written Communication or Information Item – None

**G. CITY MANAGER'S REPORT – None**

**H. WRITTEN COMMUNICATION – None**

**I. INFORMATIONAL ITEMS**

- I1.** Draft Environmental Impact Report for Single Use Carryout Bag Ordinance released - public comment due By August 6, 2012 ([Staff report #12-103](#))
- I2.** Quarterly Financial Review of General Fund Operations as of June 30, 2012 ([Staff report #12-116](#))

- I3. Review of the City's Investment Portfolio as of June 30, 2012 ([Staff report #12-119](#))
- I4. Quarterly update on Council goals and deliverables ([Staff report #12-115](#))

**J. COUNCILMEMBER REPORTS**

**K. PUBLIC COMMENT #2 (Limited to 30 minutes)**

Under "Public Comment #2", the public if unable to address the Council on non-agenda items during Public Comment #1, may do so at this time. Each person is limited to three minutes. Please clearly state your name and address or jurisdiction in which you live.

**L. ADJOURNMENT**

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At every Regular Meeting of the City Council, in addition to the Public Comment period where the public shall have the right to address the City Council on the Consent Calendar and any matters of public interest not listed on the agenda, members of the public have the right to directly address the City Council on any item listed on the agenda at a time designated by the Mayor, either before or during the Council's consideration of the item.

At every Special Meeting of the City Council, members of the public have the right to directly address the City Council on any item listed on the agenda at a time designated by the Mayor, either before or during consideration of the item.

Any writing that is distributed to a majority of the City Council by any person in connection with an agenda item is a public record (subject to any exemption under the Public Records Act) and is available for inspection at the Office of the City Clerk, Menlo Park City Hall, 701 Laurel Street, Menlo Park, CA 94025 during regular business hours. Members of the public may send communications to members of the City Council via the City Council's e-mail address at [city.council@menlopark.org](mailto:city.council@menlopark.org). These communications are public records and can be viewed by anyone by clicking on the following link: <http://ccin.menlopark.org>

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Live and archived video stream of Council meetings can be accessed at:  
[http://menlopark.granicus.com/ViewPublisher.php?view\\_id=2](http://menlopark.granicus.com/ViewPublisher.php?view_id=2)

Persons with disabilities, who require auxiliary aids or services in attending or participating in City Council meetings, may call the City Clerk's Office at (650) 330-6620.





# ADMINISTRATIVE SERVICES DEPARTMENT

Council Meeting Date: July 31, 2012  
Staff Report #: 12-099

Agenda Item #: D-1

**CONSENT CALENDAR:** Consider approving a change in the meeting schedule for the Parks and Recreation Commission meeting

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## RECOMMENDATION

The Parks and Recreation Commission recommends approval of the Parks and Recreation Commission changing their meetings to the fourth Wednesday of each month.

## BACKGROUND

The Parks and Recreation Commission has had difficulty obtaining a quorum at their monthly meeting, which is the third Wednesday of each month; the meeting date was on the Commission's June 20 agenda for discussion.

## ANALYSIS

During the discussion by the Commission, it was determined that the Commissioners had difficulty attending on the third Wednesday due to conflicts. The Commission, in a 4-0 vote, approved changing the meeting to the fourth Wednesday to better accommodate schedules.

Pursuant to City Council Policy CC-01-0004, section F4 states "Monthly regular meetings shall have a fixed date and time established by the Commission/Committee. Changes to the established regular dates and times are subject to the approval of the City Council. An exception to this rule would include any changes necessitated to fill a temporary need in order for the Commission/Committee to conduct its meeting in a most efficient and effective way as long as proper and adequate notification is provided to the Council and made available to the public."

## IMPACT ON CITY RESOURCES

None

## **POLICY ISSUES**

Approving the change is consistent with Council Policy CC-01-0004, it establishes the policies, procedures, roles and responsibilities for the City's appointed Commissions and committees.

## **ENVIRONMENTAL REVIEW**

The proposed action does not require environmental review.

Signature on file  
Margaret S. Roberts, MMC  
City Clerk

**PUBLIC NOTICE:** Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

**ATTACHMENTS:** None



# COMMUNITY SERVICES DEPARTMENT

Council Meeting Date: July 31, 2012  
Staff Report #: 12-100

Agenda Item #: D-2

**CONSENT:** Adopt a Resolution Designating the Community Services Manager as the Applicant for the Menlo Children's Center Preschool and School-Age License With Authorization to Act on Behalf of the City of Menlo Park (Licensee)

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## RECOMMENDATION

Staff recommends that the City Council adopt a resolution designating the Community Services Manager as the Applicant for the Menlo Children's Center Preschool and School-Age license with authorization to act in behalf of the City of Menlo Park (licensee).

## BACKGROUND

The Menlo Children's Center is licensed by the California Department of Social Services and has been for approximately 23 years. As a licensee, the City of Menlo Park ensures compliance with all applicable laws and regulations. The regulations that govern the licensing of child care centers are contained in the California Code of Regulations.

The application for a child care center license identifies the applicant and facility for licensure. The applicant is an individual, chief executive officer of a corporation, or general partner. The primary responsibility of the Applicant is to act on behalf of the City in the overall management of the child care facility and provide basic services in order to obtain and or maintain the child care license. The Community Services Manager has been identified as the Applicant for the City of Menlo Park for the purpose of updating and signing reports and license changes. License changes and approvals are required anytime there is a change in personnel, facility and operation of the program.

## ANALYSIS

The individual designated as the Applicant on the Preschool and School-Age license for the Menlo Children's Center has retired and is no longer with the City of Menlo Park. The license and records must be updated and submitted to the licensing board according to Title 22 Regulations. In order to certify the approval of the Governing Board and to authorize designated personnel to act on behalf of the licensee (City of Menlo Park) a resolution must be adopted. The Governing Board for Menlo Children's Center is the City Council.

**IMPACT ON CITY RESOURCES**

There are no fees associated with the proposed recommendation.

**POLICY ISSUES**

The recommendation does not represent any change to existing City policy, but updates our records to accurately reflect the responsible person.

**ENVIRONMENTAL REVIEW**

Approval of the contract is not deemed a project under the California Environmental Quality Act.

Signature on File  
Katrina Whiteaker  
Community Services Manager

Signature on File  
Cherise Brandell  
Director of Community Services

**PUBLIC NOTICE:** Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

**ATTACHMENTS**

- A. Resolution Authorizing the Community Services Manager as the Menlo Children’s Center Preschool and Afterschool License Applicant

**RESOLUTION NO. XXX**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK  
DESIGNATING THE COMMUNITY SERVICES MANAGER AS THE  
APPLICANT FOR THE MENLO CHILDREN'S CENTER PRESCHOOL AND  
SCHOOL-AGE LICENSE WITH AUTHORIZATION TO ACT IN BEHALF OF  
THE CITY OF MENLO PARK (LICENSEE)**

WHEREAS, the Menlo Children's Center is licensed by the California Department of Social Services and has been for approximately 23 years; and

WHEREAS, the Community Services Manager has been identified as the Applicant for the City of Menlo Park for the purpose of updating and signing reports and license changes; and

WHEREAS, license changes and approvals are required anytime there is a change in personnel, facility and operation of the program; and

WHEREAS, The individual designated as the Applicant on the Preschool and School-Age license for the Menlo Children's Center has retired and is no longer with the City of Menlo Park; and

WHEREAS, the license and records must be updated and submitted to the licensing board according to Title 22 Regulations.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Menlo Park designates the Community Services Manager as the Applicant for the Menlo Children's Center Preschool and School-Age license with Authorization to sign transactions for the City Council.

Katrina Whiteaker  
Name

Community Services Manager  
Title

I, Margaret S. Roberts, City Clerk of Menlo Park, do hereby certify that the above and foregoing Council Resolution was duly and regularly passed and adopted at a meeting by said Council on the thirty-first day of July, 2012, by the following votes:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this thirty-first day of July, 2012.

Margaret S. Roberts, MMC  
City Clerk

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# PUBLIC WORKS DEPARTMENT

Council Meeting Date: July 31, 2012

Staff Report #: 12-101

Agenda Item #: D-3

**CONSENT CALENDAR:** Approve the Ownership, Operation and Maintenance Agreement between City/County Association of Governments, the County of San Mateo, and the City of Menlo Park for the San Mateo Smart Corridors Project and Authorize the City Manager to Execute the Ownership, Operation and Maintenance Agreement

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## RECOMMENDATION

Staff recommends that the City Council approve the Ownership, Operation and Maintenance Agreement between City/County Association of Governments (C/CAG), the County of San Mateo, and the City of Menlo Park for the San Mateo Smart Corridors Project, and authorize the City Manager to execute the Ownership, Operation and Maintenance Agreement.

## BACKGROUND

The Smart Corridors Project in San Mateo County is a multi-agency coordination project that links traffic signals on designated arterial routes, along the US 101 corridor. The objective of the project is to provide alternative routes that can be utilized during a traffic incident that results in a closure of US 101. By linking the traffic signals and installing new communication systems, the Smart Corridor Project will allow quick response and improved traffic flow through the region. The Smart Corridors Project enables the Project stakeholders to implement traffic management strategies through deployment of Intelligent Transportation Systems (ITS) elements along State routes and major arterials. Throughout the County in other cities, the project will include SR 82 (El Camino Real) between I-380 and the Santa Clara County Line, Bayfront Expressway (SR 84), and multiple perpendicular arterials between these routes in this section. In Menlo Park, El Camino Real (SR 82), Willow Road (SH 114), Bayfront Expressway (SR 84), Marsh Road, and Middlefield Road are identified as routes to be included as smart corridors in San Mateo County.

In addition to the City, other nearby jurisdictions implementing Smart Corridors equipment include: The cities/towns of East Palo Alto, Atherton, Redwood City, San Carlos, Belmont, San Mateo, Burlingame, Millbrae, and San Bruno. These jurisdictions will enter into separate agreements with C/CAG for the maintenance and operations of Smart Corridors specific equipment located within their respective jurisdictional boundaries.

## ANALYSIS

The proposed Agreement (Attachment A) is intended to identify the overall commitment and responsibilities regarding ownership, operation, and maintenance of Smart Corridors unique equipment located within the City's right-of-way during day-to-day operations and during major traffic incidents, as applicable.

C/CAG will be maintaining the new smart corridors equipment within the City's right-of-way, the County will be administering the construction contract, and the City will maintain day-to-day operations of the traffic signals. During a major traffic incident on the freeway, Caltrans would control the traffic signals until the incident has been removed from the freeway.

The City of Menlo Park has been coordinating with C/CAG regarding the planning of the Smart Corridors Project since 2008. The City has supported the efforts by C/CAG in developing the Project and has worked cooperatively in its development. During the planning of the project, it was understood that future agreements would be executed which address details related to the maintenance, ownership, and operations of the infrastructure installed by C/CAG. The Smart Corridors Project is intended to implement Intelligent Transportation Systems (ITS) improvements on designated critical transportation corridors to allow centralized control of traffic signals, trailblazer signs (signs that direct the motoring public to the location of major transportation facilities), and changeable message signs, and other devices to manage traffic effectively during major traffic accidents.

Caltrans District 4 will have full access to Smart Corridors equipment throughout the Project limits, but is not a signatory to this agreement. As a result, Caltrans will enter into a separate agreement with C/CAG for the maintenance and operations of the Smart Corridors. Caltrans will maintain the Smart Corridors equipment within their right-of-way and C/CAG will maintain the Smart Corridors equipment within local jurisdictions right-of-way. Likewise, the County will enter into a separate agreement with C/CAG with regard to the construction of portions of the Smart Corridors Project on local arterials (the "C/CAG-County Agreement") since the County will be administering the construction contract.

Ten City-maintained signalized intersections within the City of Menlo Park are planned to have ITS equipment installed as part of the Smart Corridors Project. The ten locations are:

1. Willow Road at Durham Street/VA Hospital Entrance
2. Willow Road at Coleman Avenue
3. Willow Road at Gilbert Avenue
4. Willow Road at Middlefield Road
5. Middlefield Road at Ringwood Avenue
6. Middlefield Road at Ravenswood Avenue

7. Marsh Road at Scott Drive
8. Marsh Road at Florence Street/Bohannon Drive
9. Marsh Road at Bay Road
10. Ravenswood Avenue at Laurel Street

The intersections along Bayfront Expressway within the City of Menlo Park that are planned to have ITS equipment installed as part of the Smart Corridors Project include:

1. Bayfront Expressway at Marsh Road
2. Bayfront Expressway at Willow Road

Caltrans will take over the traffic signals in the City during major incidents on US 101 that require a temporary shutdown of the freeway to clean up the incident and rerouting of traffic around the incident. In the near future, a document will be prepared by C/CAG's design consultant between Caltrans and the local agencies to illustrate different scenarios and roles and responsibilities of each agency during an incident.

Other signalized intersections along El Camino Real will be included in the project, including the signals within Menlo Park that have adaptive signal operation.

The project will install several different types of ITS equipment to help drivers and the operators of the signals. The ITS equipment to be installed as part of the Smart Corridor Project include:

- Directional signs (trailblazers and other)
- Fixed or pan-tilt-zoom (PTZ) closed-circuit television cameras (CCTV)
- Communications (conduit, fiber, copper, wireless, software, and associated equipment)
- Arterial changeable message signs (Arterial Dynamic Message Signs – ADMS)
- Vehicle detection systems
- Center-to-center communications between San Mateo County Hub (SMCHub) and District 4 Traffic Management Center (D4TMC)
- Power supply line and equipment

The video images from the CCTV cameras at selected signalized intersections are to be used for the sole purpose of monitoring traffic. Staff has included specific language in the agreement to ensure that the State will not record these video images, nor will they collect any personal information through the system. System detection provides vehicle counts and vehicle speeds for traffic management purposes only.

The fiber optic communications cable would also be routed from the Smart Corridor routes to City Hall. This is a huge benefit for the City since the project will be installing a communications infrastructure of conduit and fiber along most of our major arterials in the City and a central signal system software server communicating from City Hall via the fiber trunkline cable to the Smart Corridor traffic signals. The City will greatly benefit

from the project by being able to remotely monitor the traffic from City Hall and also fine-tune and download signal timing changes at these intersections from City Hall instead of driving to the traffic signal controller cabinet and manually adjusting the timing. The City currently does not have connection to these signals and has staff physically visit each signal to make changes. The City will also have access to video feeds from Caltrans intersections along El Camino Real, Willow Road, and Bayfront Expressway.

The project will also be upgrading the traffic signal controllers along the route to enable centralized communications of all the traffic signals along the Smart Corridor in various cities in the County from the Caltrans Communication Hub in San Mateo and Caltrans District 4 Headquarters in Oakland. As a result of the signal upgrades, the City will have the capability to add adaptive signal timing to these controllers based on these improvements at a significantly reduced cost.

The traffic signals along El Camino within the City of Menlo Park are currently operating with adaptive signal software. Caltrans has required that the current Sydney Coordinated Adaptive Traffic System (SCATS) adaptive system be replaced with the new Kadence adaptive system so Caltrans can remotely communicate to the traffic signals on El Camino and the smart corridor signals on other roadways in the County. The vendor for Kadence will be performing before and after studies of the system, measuring travel time, stops and delay on the main street and cross streets, and have ensured the City staff that their system performs at the same level or better than SCATS adaptive system. Contract language will be included in their contract with Caltrans to ensure adequate performance.

## **IMPACT ON CITY RESOURCES**

There is no impact to City's resources as no City funds are required for implementation, operation and maintenance of the Smart Corridors Project. C/CAG and Caltrans are responsible for costs relating to the implementation, operations and ongoing maintenance of the Smart Corridors Project. There will continue to be a need for staff to coordinate the implementation of the project and coordination with other stakeholders. However, this work is accommodated in the Congestion Management Program Budget. Encroachment permit fees will cover the City's inspection time. There would be increased efficiency for monitoring the traffic signals along the route in non-event situations since staff will be able to monitor the intersections remotely instead of having to travel to each intersection.

## **POLICY ISSUES**

The actions taken by Council under this agenda item are not in conflict with current policies nor will they establish a new City policy. The project is consistent with several General Plan goals, including Goal II-A to maintain a circulation system using the Roadway Classification System that will provide for the safe and efficient movement of people and goods throughout Menlo Park for residential and commercial purposes.

## **ENVIRONMENTAL REVIEW**

This project is exempt from CEQA requirements as it is a Transportation System Management (TSM) project which involves maintaining and improving existing facilities and infrastructures.

Signature on file  
Atul Patel  
Senior Transportation Engineer

Signature on file  
Charles Taylor  
Public Works Director

**PUBLIC NOTICE:** Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

### **ATTACHMENTS:**

A. Ownership, Operation and Maintenance Agreement

**OWNERSHIP, OPERATION and MAINTENANCE AGREEMENT**  
**Between**  
**CITY/COUNTY ASSOCIATION OF GOVERNMENTS OF SAN MATEO COUNTY (C/CAG)**  
**And**  
**THE COUNTY OF SAN MATEO**  
**And**  
**CITY OF MENLO PARK**  
**For the**  
**SAN MATEO COUNTY SMART CORRIDORS**

This Agreement by and between the City/ County Association of Governments of San Mateo County, hereinafter referred to as “C/CAG”, the County of San Mateo, acting by and through its Department of Public Works, hereinafter referred to as “County”, and the City of Menlo Park, hereinafter referred to as “CITY,” is for the purpose of outlining and defining the roles, responsibilities, terms, and conditions for the ownership, operation, and maintenance of equipment and components that are incorporated and integrated into the San Mateo County Smart Corridors Project, hereinafter referred to as “Smart Corridors”, “Smart Corridors Project” or “the Project”.

**RECITALS**

- A. C/CAG and CITY have agreed to work cooperatively to develop and implement the Smart Corridors Project.
- B. This Agreement is intended to identify the overall commitment and responsibilities regarding ownership, operations, and maintenance of the Smart Corridors unique equipment located within the CITY right-of-way during day-to-day operations and during major traffic incidents, as applicable.
- C. The Smart Corridors Project is located along predefined designated arterial routes, parallel and perpendicular to the US 101, including and not limited to SR 82 (El Camino Real) between I-380 and Santa Clara County Line
- D. The Smart Corridors Project enables the Project stakeholders to implement traffic management strategies through the deployment of Intelligent Transportation System (ITS) elements along state routes and major local streets.
- E. In addition to CITY, other project stakeholders with access to selective Smart Corridors specific equipment currently include the City of East Palo Alto, City of Menlo Park, Town of Atherton, City of Redwood City, City of San Carlos, City of Belmont, City of San Mateo, City of Burlingame, City of Millbrae and City of San Bruno. These stakeholders, who are not signatories to this Agreement, will enter into separate agreements with C/CAG for the maintenance and operation of Smart Corridors specific equipment located within their respective jurisdictional boundaries.



- F. Caltrans District 4, who will have full access to Smart Corridors equipment throughout the Project limits, who is not a signatory to this Agreement, will enter into a separate agreement with C/CAG for the maintenance and operations of the Smart Corridors.
- G. The County will enter into a separate agreement with C/CAG with regard to the construction of portions of the Smart Corridors Project on local arterials (the “C/CAG-County Agreement”).

## **AGREEMENT**

The parties hereto agree as follows:

The new Intelligent Transportation System (ITS) elements to be installed for the Smart Corridors Project, referred to as “New” equipment, include the following equipment and components:

- Directional signs (trailblazers and other)
- Fixed or pan-tilt-zoom (PTZ) closed-circuit television cameras (CCTV)
- Communications (conduit, fiber, copper, wireless, software, and associated equipment)
- Arterial changeable message signs (Arterial Dynamic Message Signs – ADMS)
- Vehicle detection systems \*
- Center-to-center communications between San Mateo County Hub (SMCHub) and District 4 Traffic Management Center (D4TMC)
- Power supply line and equipment

\*The video images from the CCTV cameras at selected signalized intersections are to be used for the sole purpose of monitoring traffic. The State will not record these video images. The State will not collect any personal information. System detectors provide vehicle counts and vehicle speeds for traffic management purposes only.

The following elements, located within CITY right-of-way, are considered existing CITY owned equipment that is being upgraded to meet the operational needs of the Smart Corridors, referred to as “Upgraded” equipment:

- Traffic signal controllers, cabinets, signal interconnect equipment, and signal operating software systems

C/CAG agrees to seek and secure the necessary funding required for maintaining the Smart Corridors “New” equipment located within CITY’s right-of-way.

When a major incident occurs on the US 101 such that capacity is severely reduced, Caltrans will take over operations and control of the Smart Corridor traffic signals and ITS equipment. This duration will be referred to as “during major traffic incidents” in this Agreement. Normal operations, without incidents, will be referred to as “during daily operations” in this Agreement.

“Exhibit A” includes a summary of the Smart Corridors equipment and devices and general agreement as to ownership, maintenance and operations responsibilities.

Caltrans will advertise, award, and administer the construction contract for portions of the Smart Corridor Project located on State right of way. Pursuant to the C/CAG-County Agreement, the County will advertise, award, and administer the construction contract for portions of the Smart Corridors Project located on local arterials.

During the term of the C/CAG-County Agreement the County will own the Smart Corridor equipment added or constructed pursuant to that agreement (the “Newly Constructed Equipment”). As stated below, the County will relinquish all interest it might have in any and of all Newly Constructed Equipment and Smart Corridors equipment to CITY, and other cities, respectively, upon completion of construction. Upon completion of construction and said transfer of interest, County shall have no further obligations, rights or interests in the Newly Constructed Equipment.

### **Ownership**

1. CITY shall continue to own the traffic signal system located within CITY right-of-way, which were “Upgraded” by the Smart Corridor Project.
2. Upon termination of the C/CAG-County Agreement, CITY shall own and accept from the County and/or C/CAG, ownership and all of C/CAG’s and County’s interest in the “New” Smart Corridors equipment, including all Newly Constructed Equipment and which includes directional signs, CCTV cameras, communications (conduit, fiber, equipment), and vehicle detection system, and the electrical costs located within CITY right-of-way.

### **Operations**

1. CITY shall continue to operate the Smart Corridor “upgraded” City-owned traffic signal controllers, traffic signals, and operational software system located within City right-of-way at CITY’s expense, during daily operations.
2. CITY shall have the rights to view full system CCTV camera images, during both daily operations and during incidents. During daily operations cities and Caltrans may control PTZ(s) with priority given to the owning jurisdiction. A framework to establish priority, rules, and defaults will be developed in a separate agreement with Caltrans.
3. CITY shall have access to view full system vehicle detection data, during both daily operations and during incidents. Control of the vehicle detection system will remain with Caltrans.
4. CITY shall have the opportunity of shared control of the directional signs during daily operations under a separate agreement with Caltrans.

5. CITY shall relinquish all control of signals, control of all PTZ cameras, and control of directional signs to Caltrans during incidents. If Caltrans is unable to assume control of these systems due to technical reasons control will remain with the CITY.

## **Maintenance**

1. CITY shall maintain the Smart Corridor upgraded CITY-owned traffic signal controllers, traffic signals, signal interconnect equipment, and operational software system located within CITY's right-of-way at CITY's expense.
2. CITY shall assume the associated electrical costs of the Smart Corridor devices located within CITY's right-of-way.
3. Except for communication lines, C/CAG shall maintain the "New" Smart Corridor equipment, including directional signs, CCTV cameras, and vehicle detection system and the ADMS signs located within CITY's right-of-way to the extent that funding is available. Except for communication lines, CITY will not be held responsible for maintenance of this "New" equipment.
4. C/CAG will not pay for graffiti removal on smart corridor equipment. CITY shall be responsible for graffiti removal on devices located within CITY's right-of-way.
5. C/CAG agrees to obtain a maintenance contractor that specializes in ITS equipment. C/CAG or its maintenance contractor will obtain an encroachment permit from the CITY for work within the CITY's right-of-way.
6. C/CAG or its assignee, shall serve as lead agency to administer the maintenance service contract or to oversee administration of the maintenance service contract for its Smart Corridor maintenance responsibility.
7. If CITY is aware of smart corridor equipment damage caused by a third party, CITY will notify and assist C/CAG in pursuing a claim against the offending party.
8. Maintenance activities of the Smart Corridor equipment shall include but are not limited to the following tasks: adopt a performance-based approach, establish a proactive annual maintenance program, perform regular maintenance, repairs, and replacements; assure equipment is functioning properly.

Maintenance programs established for the Smart Corridor equipment shall in no way be a standard of maintenance higher than that required by law.

9. Maintenance service shall be scheduled on an annual basis.
10. For fiber conduits that do not interconnect signals, the City is responsible to protect the communication lines by marking the location of these lines on construction plans and by marking the locations in the field during construction. The City will be responsible to repair any damage to the communication lines caused by City Staff and contractors

working for the City. The City is also required to include the following language in any encroachment permits granted to any third party working in the City's right of way.

*“Fiber optic communication lines are present in the City right of way. It is the responsibility of the contractor to protect the integrity of those communication lines during construction. The contractor will be liable for all damages to the communication lines. Through the application and granting of the encroachment permit, the City/ County Association of Governments (C/CAG) is specifically authorized to pursue any claims against the contractor for the cost to repair any damage caused to the fiber optic communication lines.”*

11. For all fiber conduits not covered by Paragraph 10 above, the City is responsible to protect the communications lines by marking the location of these lines on construction plans and by marking the locations in the field during construction. The City will be responsible to repair any damage to the communication lines caused by City staff, contractors working for the City, or any third party working under an encroachment permit issued by the City.
12. For communication line damage caused by construction activities not under permit, as owner, the City will maintain this facility in a similar manner to that of other City owned utilities. C/CAG will be responsible for repair and maintenance of any malfunction of the communication lines not related to construction and maintenance activities.

### **Funding for Maintenance Activities**

1. C/CAG will secure the necessary funding required for maintaining the Smart Corridors “New” equipment located within CITY's right-of-way.

This agreement shall be effective as of January 1, 2012 and continue until 2060, unless sooner terminated, or otherwise extended, by the agreement of the parties.

This agreement may be modified only in writing and by mutual consent of both Agencies.

**Hold Harmless/ Indemnity**

CITY shall indemnify and save harmless C/CAG and County, their agents, officers, and employees from all claims, suits or actions to the extent caused by the negligence, error, acts or omissions of CITY, its agents, officers or employees related to or resulting from performance, or non-performance under this Agreement.

C/CAG shall indemnify and save harmless CITY and County, their agents, officers, and employees from all claims, suits or actions to the extent caused by the negligence, error, acts or omissions of C/CAG, its agents, officers or employees related to or resulting from performance, or non-performance under this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date set forth above

AGREED AND EXECUTED BY:

**CITY OF MENLO PARK**

**CITY/COUNTY ASSOCIATION OF GOVERNMENTS OF SAN MATEO COUNTY**

By: \_\_\_\_\_  
Name, Title

By: \_\_\_\_\_  
Bob Grassilli, C/CAG Chair

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Counsel for City of Menlo Park

By: \_\_\_\_\_  
Counsel for C/CAG

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**COUNTY OF SAN MATEO DEPARTMENT OF PUBLIC WORKS**

By: \_\_\_\_\_  
James C. Porter,  
County of San Mateo Director of Public Works

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Counsel for County of San Mateo

Date: \_\_\_\_\_

EXHIBIT A

Agency: Menlo Park

SMART CORRIDORS EQUIPMENT						OPERATIONS <sup>1</sup>			MAINTENANCE <sup>9</sup>	
Description	Location	Ownership <sup>3</sup>	Qty	Unit	Daily	Incident	Financial Responsibility	% Split <sup>8</sup>		
Signals <sup>7</sup>	State ROW	Caltrans	21	EA	Existing Agreements	Caltrans	Existing Agreements	Existing Agreements		
	City	City	10	EA	Existing Agreements	Caltrans	Existing Agreements	Existing Agreements		
Fixed/PTZ CCTV Cameras	State ROW	Caltrans	16	EA	Caltrans	Caltrans	Caltrans	100%		
	City	City	10	EA	Caltrans/City <sup>11</sup>	Caltrans <sup>4</sup>	C/CAG	100%		
Directional Signs	State ROW	Caltrans	13	EA	Caltrans	Caltrans	Caltrans	100%		
	City	City	2	EA	Caltrans <sup>5</sup>	Caltrans	C/CAG	100%		
ADMS	State ROW	Caltrans	1	EA	Caltrans <sup>10</sup>	Caltrans	Caltrans	100%		
	State ROW	Caltrans	4	EA	Caltrans	Caltrans	Caltrans	100%		
Vehicle Detection System	City	City	3	EA	Caltrans <sup>6</sup>	Caltrans <sup>6</sup>	C/CAG	100%		
	State ROW	Caltrans	33,500	LF	n/a	n/a	Caltrans	100%		
Communications Infrastructure <sup>2</sup>	City	City	15,430	LF	n/a	n/a	City <sup>13</sup>	100%		
	State ROW	Caltrans	1	LS	n/a	n/a	Caltrans	100%		
Communications Equipment <sup>12</sup>	City	City	1	LS	n/a	n/a	C/CAG <sup>13</sup>	100%		

Revised 12/19/2011

Notes:

- 1) Assume operational cost is the responsibility of agency operating equipment during day-to-day and incidents
- 2) Includes conduit, fiber, twisted wire copper, pull boxes, splice enclosures, etc.
- 3) Each city owns equipment located within each respective city limits
- 4) Allow City to view CCTV images, but not control PTZ
- 5) Caltrans administers operation. Caltrans and City jointly develop operation plan to be determined in future agreements.
- 6) The Smart Corridor System manages VDS at all times. All agencies shall have access to data.
- 7) Includes signals, poles, controllers, controller modules, conduits, software, power, signal cabinets, etc (Smart Corridor Routes Only)
- 8) Amend existing maintenance agreements between Caltrans and City as necessary
- 9) Preferred Option: Combine funds from all agencies and fund one maintenance contract
- 10) City may request Caltrans to display messages to be determined in future agreements
- 11) Shared operation with priority and operating rules to be determined in future agreements.
- 12) Includes network switches, routers, modems, wireless AP, antennas, cabinets etc.
- 13) Maintenance responsibility of existing communications equipment shall remain with the City.





## PUBLIC WORKS DEPARTMENT

Council Meeting Date: July 31, 2012  
Staff Report #: 12-102

Agenda Item #: D-4

**CONSENT CALENDAR: Adopt a Resolution Accepting Dedication of a Sidewalk Easement and an Emergency Access Easement at 1460 El Camino Real, Authorize the City Clerk to Sign the Parcel Map; and Authorize the City Manager to Sign the Subdivision Agreement**

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### RECOMMENDATION

Staff recommends that the City Council adopt a resolution (Attachment A) accepting dedication of a Sidewalk Easement and an Emergency Access Easement at 1460 El Camino Real, authorize the City Clerk to sign the parcel map; and authorize the City Manager to sign the subdivision agreement.

### BACKGROUND

On August 1, 2006, the City Council approved a Vesting Tentative Map for the property at 1460 El Camino Real, commonly referred to as the Beltramo property. This project consists of a commercial portion fronting El Camino Real and a residential portion fronting San Antonio Street. Conditions of approval for this project included the following requirements:

1. Applicant is to widen the existing sidewalk along El Camino Real from six feet to nine feet in width, requiring the dedication of a 3 foot Sidewalk Easement.
2. Applicant is to provide an Emergency Access Easement over the commercial driveway.
3. Applicant is required to construct new public street improvements (including curb, gutter, sidewalk) on El Camino Real and San Antonio Street, as well as a new 24" storm drainage system in San Antonio Street.

The applicant is ready to move forward with construction of the commercial portion and has filed a Parcel Map to subdivide the property into two parcels. The commercial parcel fronting El Camino Real will be developed into an office building, while the residential parcel fronting San Antonio Street will be developed into townhomes in the near future. The City Engineer is ready to approve the Parcel Map subdividing the property into the commercial and residential parcels allowing the commercial development to move forward, however the Sidewalk and Emergency Access Easements required over the commercial parcel require City Council approval.

This project is required to construct new curb, gutter and sidewalk along El Camino Real and San Antonio Street. In addition this project is also required to construct an upgraded storm drain in San Antonio Street.

## **ANALYSIS**

As a condition of the Tentative Map, the applicant was required to widen the existing sidewalk from six feet to nine feet in width along the El Camino Real frontage of their property. Since the widened portion of the public sidewalk is located within the applicant's private property, a Sidewalk Easement is required to allow the public to use the widened portion of the sidewalk. In addition, the applicant was also required to dedicate an Emergency Access Easement along their on-site driveway. The easement dedications are shown in Attachment B.

The conditions for this project include a requirement that the property be subdivided into the non-residential and residential portions before any on-site construction can begin. In order to allow the applicant to move forward with the project, the public street improvements required as a condition of the Tentative Map must be guaranteed as it is more appropriate to construct these improvements after the heavy construction needed for the buildings has been completed. The Subdivision Agreement is a contract between the applicant and the City that guarantees the construction of all public street improvements and requires a completion bond as a financial guarantee that all work will be completed. The Subdivision Agreement and Bonds are shown in Attachment C.

## **IMPACT ON CITY RESOURCES**

The staff time costs associated with review and acceptance of the easement dedications, and the review and approval of the subdivision agreement is fully recoverable through fees collected from the applicant.

## **POLICY ISSUES**

There are no specific policy issues with this action. Related policies are covered in the Council/Agency action of August 1, 2006, regarding the development project.

## **ENVIRONMENTAL REVIEW**

Environmental review is not required for this action. A Final EIR was prepared for the project and certified by the City Council on August 1, 2006.

Signature on file  
Roger K. Storz  
Senior Civil Engineer

Signature on file  
Ruben Niño  
Assistant Public Works Director

**PUBLIC NOTICE:** Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

## **ATTACHMENTS:**

- A. Resolution
- B. Parcel Map showing easements
- C. Subdivision Agreement and Bonds

**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO  
PARK ACCEPTING A SIDEWALK EASEMENT AND AN EMERGENCY  
ACCESS EASEMENT AND AUTHORIZING THE CITY CLERK TO SIGN  
THE PARCEL MAP FOR 1460 EL CAMINO REAL**

WHEREAS, the Parcel Map for 1460 El Camino Real shows the dedication of a Sidewalk Easement along El Camino Real, and an Emergency Access Easement on Parcel 1; and

WHEREAS, the Project includes the construction of a widened concrete sidewalk on the property along 1460 El Camino Real; and

WHEREAS, as a condition of the use permit to provide enhanced public pedestrian access along the El Camino Real frontage, and Emergency Access on Parcel 1; and

WHEREAS, the widened public sidewalk is located within the applicant's private property requiring a Sidewalk Easement to allow the public use of the sidewalk.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby accepts the required Sidewalk Easement and Emergency Access Easement as shown on the Parcel Map attached hereto as Exhibit A and incorporated herein by this reference; and

BE IT FURTHER RESOLVED that the City Council authorizes the City Clerk to sign the Parcel Map for said easements.

I, Margaret S. Roberts, City Clerk of Menlo Park, do hereby certify that the above and foregoing Council Resolution was duly and regularly passed and adopted at a meeting by said Council on this thirty-first day of July, 2012, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this thirty-first day of July, 2012.

Margaret S. Roberts, MMC  
City Clerk

CITY SURVEYOR'S STATEMENT

I, MICHAEL J. MIDDLETON, CITY SURVEYOR FOR THE CITY OF MENLO PARK, DO HEREBY STATE THAT I HAVE EXAMINED THIS MAP AND I AM SATISFIED THAT THE SURVEY DATA SHOWN THEREON IS TECHNICALLY CORRECT.

DATE: MICHAEL J. MIDDLETON, R.C.E. 29485, CITY OF MENLO PARK

CITY ENGINEER'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THIS MAP AND HAVE FOUND THAT THE SUBDIVISION SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP AND ANY APPROVED ALTERATIONS THEREOF; THAT THE MAP CONFORMS TO CHAPTER 7 OF THE SUBDIVISION MAP ACT; AND THAT THE MAP COMPLETES ALL LOCAL ORDINANCES APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP.

DATE: RUBEN R. NIÑO, R.C.E. 40988, ASSISTANT CITY ENGINEER, CITY OF MENLO PARK

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF D3MP, LLC IN MAY, 2012. I HEREBY STATE THAT THIS PARCEL MAP SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED TENTATIVE MAP IF ANY; AND THAT ALL THE MONUMENTS ARE ON THE CORNERS OF THE PARCELS AT THE POSITIONS INDICATED, AND ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

DATE: RYAN M. AMAYA, L.S. 8134



PARCEL MAP 1460 EL CAMINO REAL

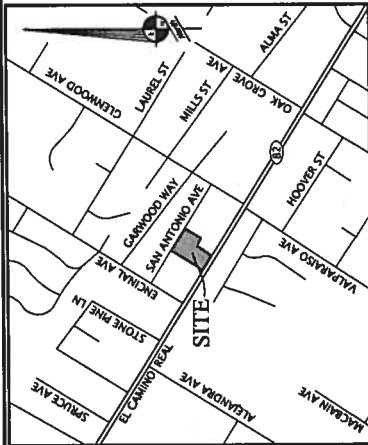
BEING A SUBDIVISION OF LOTS 5-8 AND 21-25 AS SHOWN ON THAT CERTAIN MAP ENTITLED "SUBDIVISION OF THE 11.88 ACRE TRACT NEAR MENLO PARK KNOWN AS THE 'DOMINGA TRACT'", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA, ON NOVEMBER 15, 1895 IN BOOK "B" OF MAPS AT PAGE(S) 49 AND COPIED INTO BOOK 2 OF MAPS AT PAGE 75.

CONSISTING OF THREE (3) SHEETS

CITY OF MENLO PARK SAN MATEO COUNTY, CALIFORNIA JULY, 2012



A11099 SHEET 1 OF 3



VICINITY MAP NOT TO SCALE

TRUSTEE'S ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ ) SS. COUNTY OF \_\_\_\_\_ ) ON \_\_\_\_\_, 2012 BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED \_\_\_\_\_

WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/IT/HEY EXECUTED THE SAME IN HIS/HER/OTHER AUTHORIZED CAPACITIE(S), AND THAT BY HIS/HER/OTHER SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) 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 NOTARY'S SIGNATURE PRINTED NOTARY'S NAME NOTARY'S PRINCIPAL PLACE OF BUSINESS NOTARY'S COMMISSION NUMBER EXPIRATION OF NOTARY'S COMMISSION

CITY CLERK'S STATEMENT

I, MARGARET S. ROBERTS, CITY CLERK AND EX-OFFICIO CLERK OF THE CITY COUNCIL OF MENLO PARK, CALIFORNIA, DO HEREBY CERTIFY THAT SAID COUNCIL BY RESOLUTION ADOPTED AT A REGULAR MEETING ON THE DAY OF \_\_\_\_\_, 20\_\_\_\_, DID ACCEPT ON BEHALF OF THE PUBLIC, ALL EASEMENTS OFFERED FOR DEDICATION FOR PUBLIC USE.

DATE: MARGARET S. ROBERTS, CITY CLERK AND EX-OFFICIO CLERK OF THE CITY COUNCIL OF THE CITY OF MENLO PARK

COUNTY RECORDER'S STATEMENT

FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2012, AT \_\_\_\_\_ M. IN BOOK \_\_\_\_\_ OF MAPS, AT PAGE(S) \_\_\_\_\_, AT THE REQUEST OF FIRST AMERICAN TITLE INSURANCE COMPANY.

FILE NO. \_\_\_\_\_ MARK CHURCH, SAN MATEO COUNTY RECORDER FEE: \_\_\_\_\_ BY: \_\_\_\_\_ DEPUTY RECORDER

OWNER'S STATEMENT

WE HEREBY STATE THAT WE ARE THE OWNERS OF OR HAVE SOME RIGHT, TITLE OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN UPON THIS MAP, AND WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS A CLEAR TITLE TO SAID REAL PROPERTY; AND WE HEREBY CONSENT TO THE MAKING AND FILING OF SAID MAP AND SUBDIVISION AS SHOWN WITHIN THE DISTINCTIVE BORDER LINE.

WE ALSO HEREBY DEDICATE TO PUBLIC USE EASEMENTS FOR SIDEWALK PURPOSES AND APPURTENANCES THERETO AND THE STRIPS OF LAND DESIGNATED AND DELINEATED AS "S.W.E." (SIDEWALK EASEMENT).

WE ALSO HEREBY DEDICATE TO PUBLIC USE EASEMENTS FOR EMERGENCY ACCESS PURPOSES ON OR OVER THOSE CERTAIN STRIPS OF LAND DESIGNATED AND DELINEATED AS "E.A.E." (EMERGENCY ACCESS EASEMENT).

WE ALSO HEREBY RESERVE FOR THE OWNERS OF PARCEL 1 AN EASEMENT FOR STORM DRAINAGE PURPOSES, DESIGNATED AND DELINEATED AS "S.D.E." (PRIVATE STORM DRAINAGE EASEMENT) FOR THE INSTALLATION AND MAINTENANCE OF PRIVATE STORM DRAINAGE FACILITIES. THIS EASEMENT IS TO BE KEPT OPEN AND FREE FROM BUILDINGS AND STRUCTURES OF ANY KIND, EXCEPT IRRIGATION SYSTEMS AND APPURTENANCES THERETO, LAWFUL FENCES AND ALL LAWFUL UNSUPPORTED ROOF OVERHANGS. THE MAINTENANCE, REPAIR, AND/OR REPLACEMENT OF PRIVATE STORM DRAINAGE FACILITIES SHALL BE THE SOLE RESPONSIBILITY OF THE OWNER OF PARCEL 1. SAID EASEMENT IS NOT OFFERED, NOR IS IT ACCEPTED FOR DEDICATION BY THE CITY OF MENLO PARK.

WE ALSO HEREBY RESERVE FOR THE OWNERS OF PARCEL 2, THEIR LICENSEES, VISITORS, AND TENANTS RECIPROCAL RIGHTS OF INGRESS AND EGRESS UPON AND OVER THOSE CERTAIN STRIPS OF LAND DESIGNATED AND DELINEATED AS "P.I.E.C." (PRIVATE INGRESS AND EGRESS EASEMENT); SAID EASEMENTS ARE NOT INTENDED FOR THE USE OF THE GENERAL PUBLIC BUT ARE INTENDED FOR THE EXCLUSIVE USE OF THE OWNERS OF PARCEL 2 AND THEIR LICENSEES, VISITORS, AND TENANTS. SAID EASEMENTS ARE NOT OFFERED, NOR IS IT ACCEPTED FOR DEDICATION BY THE CITY OF MENLO PARK.

WE ALSO HEREBY RESERVE FOR THE OWNERS OF PARCEL 2, THEIR LICENSEES, VISITORS, AND TENANTS RECIPROCAL RIGHTS OF INGRESS AND EGRESS UPON AND OVER THOSE CERTAIN STRIPS OF LAND DESIGNATED AND DELINEATED AS "P.A.R.K." (PARKING ACCESS EASEMENT); SAID EASEMENTS ARE NOT INTENDED FOR THE USE OF THE GENERAL PUBLIC BUT ARE INTENDED FOR THE EXCLUSIVE USE OF THE OWNERS OF PARCEL 2 AND THEIR LICENSEES, VISITORS, AND TENANTS. SAID EASEMENTS ARE TO BE KEPT OPEN AND FREE OF SURFACE STRUCTURES OF ANY KIND. SAID EASEMENT IS NOT OFFERED, NOR IS IT ACCEPTED FOR DEDICATION BY THE CITY OF MENLO PARK.

WE ALSO HEREBY RESERVE FOR THE OWNERS OF PARCEL 2, THEIR LICENSEES, VISITORS, AND TENANTS RECIPROCAL RIGHTS OF VEHICULAR PARKING UPON AND OVER THOSE CERTAIN STRIPS OF LAND DESIGNATED AND DELINEATED AS "P.A.R.K.I.N.G." (VEHICULAR PARKING ACCESS EASEMENT); SAID EASEMENTS ARE NOT INTENDED FOR THE USE OF THE GENERAL PUBLIC BUT ARE INTENDED FOR THE EXCLUSIVE USE OF THE OWNERS OF PARCEL 2 AND THEIR LICENSEES, VISITORS, AND TENANTS. SAID EASEMENTS ARE TO BE KEPT OPEN AND FREE OF SURFACE STRUCTURES OF ANY KIND. SAID EASEMENT IS NOT OFFERED, NOR IS IT ACCEPTED FOR DEDICATION BY THE CITY OF MENLO PARK.

"T.C.E." OVER PARCEL 2 FOR USE IN THE CONSTRUCTION OF IMPROVEMENTS, AND OTHER EASEMENTS SHALL AUTOMATICALLY TERMINATE AND EXPIRE UPON THE COMPLETION OF CONSTRUCTION OF THE IMPROVEMENTS ON PARCEL 1, OR UPON THE TERMINATION OF SAID EASEMENT BY DEDICATION OF PARCEL 1, WHICHEVER SHALL FIRST OCCUR. SAID EASEMENT IS NOT OFFERED, NOR IS IT ACCEPTED FOR DEDICATION BY THE CITY OF MENLO PARK.

AS OWNER: D3MP, LLC, a California limited liability company

BY: \_\_\_\_\_ ITS: \_\_\_\_\_ AS TRUSTEE: FIRST AMERICAN TITLE INSURANCE COMPANY BY: \_\_\_\_\_ ITS: \_\_\_\_\_

OWNER'S ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ ) SS. COUNTY OF \_\_\_\_\_ ) ON \_\_\_\_\_, 2012 BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED \_\_\_\_\_

WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/IT/HEY EXECUTED THE SAME IN HIS/HER/OTHER AUTHORIZED CAPACITIE(S), AND THAT BY HIS/HER/OTHER SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) 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 NOTARY'S SIGNATURE PRINTED NOTARY'S NAME NOTARY'S PRINCIPAL PLACE OF BUSINESS NOTARY'S COMMISSION NUMBER EXPIRATION OF NOTARY'S COMMISSION

**BASIS OF BEARINGS**

THE BEARINGS OF NORTH LEFT CORNER WERE TAKEN ON THE NORTHERLY CORNER OF AS SHOWN ON THAT CERTAIN PARCEL MAP FILED FOR RECORD ON FEBRUARY 17, 1969 IN VOLUME 7 OF PARCEL MAPS AT PAGE 10, SAN MATEO COUNTY RECORDS WAS TAKEN AS THE BASIS OF ALL BEARINGS SHOWN HEREON.

**NOTES**

1. ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF.
2. THE AREA WITHIN THE DISTINCTIVE BORDER LINE IS 1.549 ± ACRES.
3. THE DISTINCTIVE BORDER DENOTES THE BOUNDARY OF THE SUBDIVISION.

**LEGEND**

- DISTINCTIVE BORDER
- ADJACENT PROPERTY LINE
- NEW PROPERTY LINE
- TIE LINE
- CENTERLINE
- EASEMENT
- FOUND MONUMENT AS NOTED
- FOUND IRON PIPE OR AS NOTED
- ( ) SET 3/4" IRON PIPE W/ PLUG (LS 8134)
- ( ) RECORD INFORMATION

**ABBREVIATIONS**

- FND FOUND
- I.P. IRON PIPE
- RSM RECORD SUBDIVISION MAPS
- MON MONUMENT
- S.W.E. SIDEWALK EASEMENT
- E.A.L.E. EMERGENCY ACCESS EASEMENT
- P.A.L.E. PRIVATE INGRESS & EGRESS EASEMENT
- P.S.D.L. PEDESTRIAN ACCESS EASEMENT
- R.C.E. REGISTERED CIVIL ENGINEER
- T.C.C.E. TEMPORARY CONSTRUCTION EASEMENT
- U.O. UNKNOWN ORIGIN

**LINE TABLE (SHEET 2 ONLY)**

LINE	BEARING	DISTANCE
L1	N 31°42'00" E	7.67'
L2	N 58°18'00" W	2.93'
L3	N 31°42'00" E	19.44'
L4	N 58°18'00" W	4.25'
L5	N 31°42'00" E	5.48'
L6	N 58°18'00" W	9.23'
L7	N 31°42'00" E	10.24'
L8	N 58°18'00" W	22.71'
L9	N 58°18'00" W	25.88'
L10	N 31°42'00" E	1.87'

**PARCEL MAP**  
1460 EL CAMINO REAL

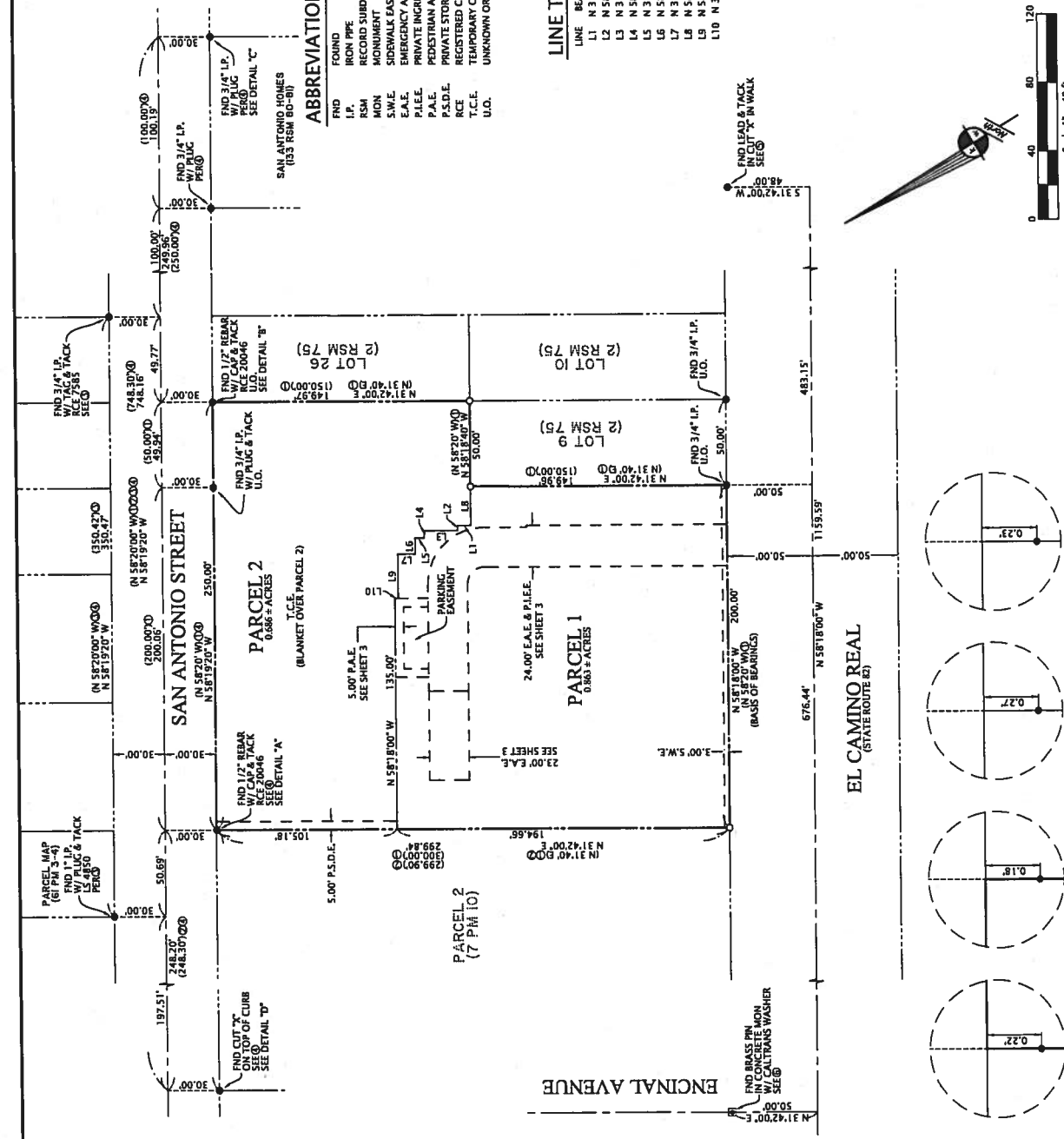
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CONSISTING OF THREE (3) SHEETS

CITY OF MENLO PARK SAN MATEO COUNTY, CALIFORNIA  
SCALE: 1" = 40'



A11099 SHEET 2 OF 3

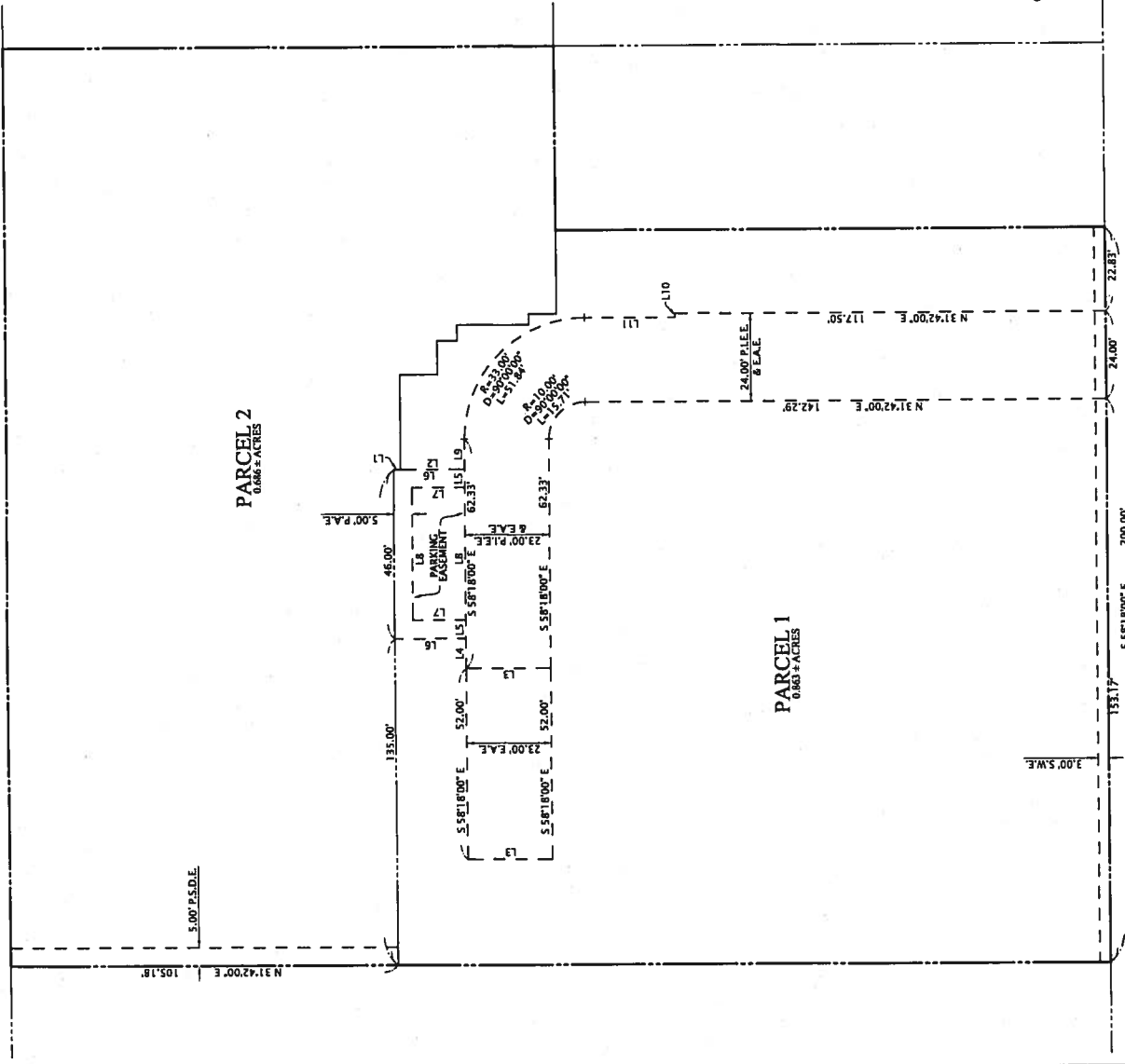


**LEGEND**

- DISTINCTIVE BORDER
- ADJACENT PROPERTY LINE
- NEW PROPERTY LINE
- - - EASEMENT

**ABBREVIATIONS**

- S.W.E. SIDEWALK EASEMENT
- E.A.E. EMERGENCY ACCESS EASEMENT
- P.A.E. PRIVATE INGRESS & EGRESS EASEMENT
- P.A.L. PEDESTRIAN ACCESS EASEMENT
- P.S.D.E. PRIVATE STORM DRAIN EASEMENT



**LINE TABLE (SHEET 3 ONLY)**

LINE	BEARING	DISTANCE
L1	N 31°42'00" E	1.87'
L2	S 31°42'00" W	17.50'
L3	N 31°42'00" E	23.00'
L4	N 58°18'00" W	8.17'
L5	N 58°18'00" W	5.00'
L6	S 31°42'00" W	19.37'
L7	S 31°42'00" W	14.37'
L8	S 58°18'00" E	36.00'
L9	S 58°18'00" E	8.17'
L10	S 58°18'00" E	1.00'
L11	S 31°42'00" W	24.75'

**PARCEL MAP**  
1460 EL CAMINO REAL

BEING A SUBDIVISION OF LOTS 5-B AND 21-25 AS SHOWN ON THAT CERTAIN MAP ENTITLED "SUBDIVISION OF THE 11.88 ACRE TRACT NEAR MENLO PARK KNOWN AS THE 'DOMINGA TRACT'", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA, ON NOVEMBER 15, 1895 IN BOOK "B" OF MAPS AT PAGE(S) 49 AND COPIED INTO BOOK 2 OF MAPS AT PAGE 75.

CONSISTING OF THREE (3) SHEETS

CITY OF MENLO PARK SAN MATEO COUNTY, CALIFORNIA  
JULY, 2012  
SCALE: 1" = 20'



**KIER & WRIGHT**  
CIVIL ENGINEERS & SURVEYORS, INC.  
3350 Scott Boulevard, Building 22  
Santa Clara, California 95054



**AGREEMENT FOR COMPLETION OF DEVELOPMENT IMPROVEMENTS**

THIS AGREEMENT FOR COMPLETION OF DEVELOPMENT IMPROVEMENTS (this "Agreement"), made and entered into, in duplicate, this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by and between D3MP, LLC, a California limited liability company, hereinafter referred to as "Applicant" and CITY OF MENLO PARK, a municipal corporation, situated in the County of San Mateo, State of California, hereinafter referred to as "City".

**WITNESSETH:**

WHEREAS, on \_\_\_\_\_, 2012, the City conditionally approved Applicant's request for a 2 lot minor subdivision project at the location shown on Exhibit A attached hereto and made a part hereof entitled, "Project Location Map"; and

WHEREAS, a condition of said approval was the installation of development improvements as shown in the approved project plans.

NOW, THEREFORE, IT IS AGREED as follows:

1. Applicant agrees to furnish at his/her own expense all the labor, material, equipment and inspection services necessary to complete, within eighteen (18) months from the date of this agreement, all Development Improvements as set forth and described in the Plans and Specifications prepared for said improvements, in compliance with City Standards and to the satisfaction of the City Engineer.
2. Applicant further agrees to install where required a domestic water supply and fire protection system, and a sanitary sewage system, in compliance with the regulations and requirements of the respective utility or agency.
3. Applicant further agrees, while engaged in the work provided for in this Agreement, to place and maintain suitable safeguards sufficient to prevent injury to any persons and to indemnify, defend and save harmless the City, its officers, representatives, and employees from and against any and all claims for loss, injury or damage (the "claims") resulting from the prosecution of said work except to the extent the Claim arises out of the negligence or willful misconduct of the City. Applicant agrees to maintain comprehensive commercial general liability and property damage insurance naming the City, its officers, agents, and employees as additional insured in a combined single limit of \$1,000,000 for the death and injury of any persons in any one occurrence; and for property damage in any one occurrence. A certificate of said insurance policy shall be filed with the City.
4. Applicant further agrees, contemporaneously with the execution of this Agreement, to file with the City a faithful performance surety bond or other guarantee as reasonably approved by the City, in a sum equal to the City Engineer's estimated value of the total cost of said improvements, including engineering and contingencies as set forth on Exhibit B attached hereto and made a part herein, entitled "Engineer's Cost Estimate". Said surety bond shall require the faithful performance of the terms and conditions of this Agreement; and shall be in a form satisfactory to the City Attorney.

5. Applicant further agrees to correct all defects in design, workmanship and material actually appearing during the warranty period, which period shall be one (1) year after the date of acceptance of the Development Improvements by the City Council, and to maintain said performance bond for the warranty period or to file with the City, prior to consideration of acceptance, a surety bond for the warranty period in a sum equal to at least fifty percent (50%) of said Engineer's Cost Estimate.

6. Applicant further agrees that when defects in design, workmanship, and materials actually appear during the warranty period and have been corrected (the "corrections"), the warranty period and surety bond shall automatically be extended for an additional year with respect to the Corrections only, to guarantee that such defects have been effectively corrected.

7. Applicant further agrees that should it fail to construct or complete the construction of any or all of said Development Improvements as herein provided, the City may complete or cause to be completed said Development Improvements and Applicant agrees to reimburse the City for any and all services such as labor and materials used, for completing said work, and the bonds herein mentions shall be security therefor.

8. City reserves the right, without the prior consent of Applicant, Applicant's surety, or any subsequent purchaser of property underlying or adjacent to said Development Improvements to:

(a) Extend the period of time during which Applicant shall be required to construct all or any part of said Development Improvements;

(b) Eliminate any Development improvements no longer deemed necessary, and to transfer or re-convey to Applicant any interest in real property no longer needed therefor;

(c) Exonerate or release Applicant's surety from all or any portion of its bond;

(d) Accept a substitute surety bond (personal or corporate) in exchange for or in lieu of the surety bond originally deposited by Applicant herein.

9. If the City is compelled to file litigation to enforce the terms and provisions of this Agreement or to collect on the bond, the prevailing party in such litigation shall be entitled to recover its reasonable attorney's fees and costs, whether such litigation is resolved by settlement or judgment

IN WITNESS WHEREOF, Applicant and City have executed these presents by their respective officers, thereunto duly authorized the day and year first herein about written.

APPLICANT:

CITY:

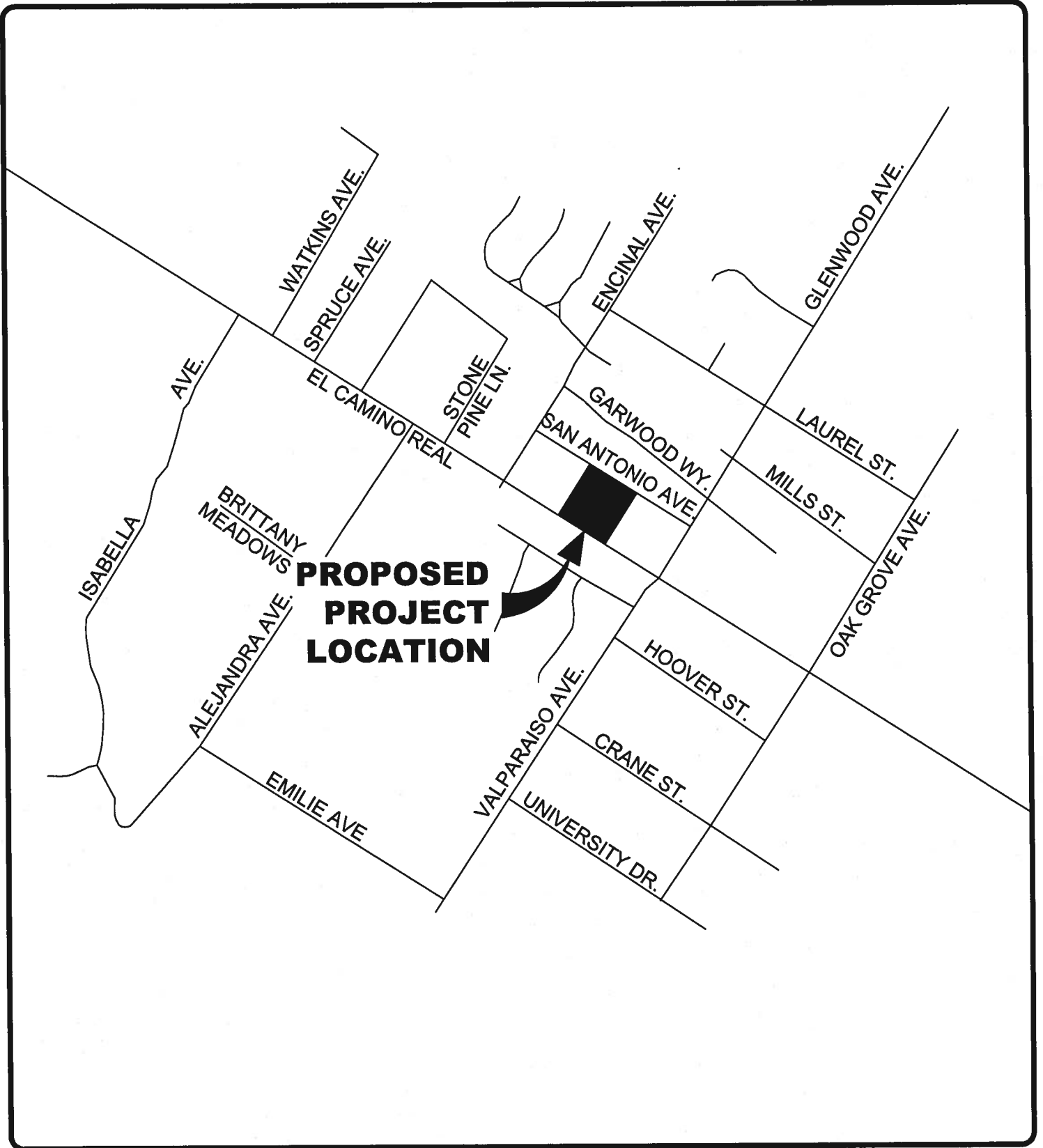
D3MP, LLC, a California limited liability company

CITY OF MENLO PARK, a  
Municipal Corporation

By: LDH, LLC, a California limited liability  
company

By: \_\_\_\_\_  
Alex D. McIntyre  
City Manager

By: \_\_\_\_\_  
Name: Derek K. Hunter, Jr.  
Its: Manager



**PROJECT LOCATION MAP**

1460 EL CAMINO REAL

MENLO PARK

CALIFORNIA

**EXHIBIT A**



**KIER & WRIGHT**

CIVIL ENGINEERS & SURVEYORS, INC.  
 3350 Scott Boulevard, Building 22 (408) 727 6665  
 Santa Clara, California 95054 fax (408) 727 5641

DATE	JULY 2012
SCALE	NO SCALE
DR. BY	MD
JOB	A11099
SHEET NO.	1 OF 1

## EXHIBIT B

### 1460 El Camino Real Engineer's Cost Estimate

By: Kier & Wright, dated 07.16.12

NOTE: Quantities shown are based on Improvement plans dated July 11, 2012  
prepared by Kier & Wright. Quantities and pricing are approximate and not guaranteed.

	Quantity	Unit	Unit Cost	Total Cost
<b>Off-Site Improvements</b>				
1 MOBILIZATION	1	LS	\$5,000	\$5,000
2 STREET DEMOLITION	1	LS	\$15,000	\$15,000
3 STREET GRADING	5100	SF	\$1	\$5,100
4 AC GRIND & OVERLAY	5100	SF	\$3	\$15,300
5 AC DEEPLIFT	670	SF	\$6	\$4,020
6 PCC CURB & GUTTER	670	LF	\$45	\$30,150
7 PCC DRIVEWAY APRON	200	SF	\$11	\$2,200
8 PCC SIDEWALK	2650	SF	\$9	\$23,850
9 LANDSCAPE PLANTING, GROUNDCOVER & TREES	1000	SF	\$12	\$12,000
10 ELECTROLIER	2	EA	\$4,000	\$8,000
11 8" PVC STORM DRAIN	25	LF	\$75	\$1,875
12 15" RCP STORM DRAIN	15	LF	\$225	\$3,375
13 18" RCP STORM DRAIN	243	LF	\$245	\$59,535
14 24" RCP STORM DRAIN	244	LF	\$300	\$73,200
15 CURB INLET	4	LS	\$4,000	\$16,000
16 STORM DRAIN SUMP PUMP SYSTEM INCL. POWER	1	LS	\$150,000	\$150,000
17 6" PVC SANITARY SEWER	115	LF	\$50	\$5,750
18 SANITARY SEWER CLEANOUT	3	EA	\$700	\$2,100
19 SANITARY SEWER MANHOLE	3	EA	\$5,600	\$16,800
20 PUBLIC FIRE HYDRANT	2	EA	\$4,200	\$8,400
21 8" PVC C900 CL200 FIRE SERVICE	40	LF	\$70	\$2,800
22 6" PVC C900 CL200 DOMESTIC WATER SERVICE	75	LF	\$55	\$4,125
23 1" WATER METERS WITH 3/4" SERVICE	16	EA	\$1,200	\$19,200
24 4" PVC IRRIGATION SERVICE	40	LF	\$20	\$800
25 4" IRRIGATION METER & SERVICE	1	EA	\$2,500	\$2,500
26 CONNECTION TO EXISTING MAIN	5	EA	\$2,000	\$10,000
<b>Subtotal Off-Site Improvements</b>				<b>\$497,080</b>
<i>5% Contingency</i>				<b>\$24,854</b>
<i>10% Engineering &amp; Inspection Fees</i>				<b>\$49,708</b>
<b>GRAND TOTAL CONSTRUCTION</b>				<b>\$571,642</b>

Bond No. \_\_\_\_\_

Premium \_\_\_\_\_

## FAITHFUL PERFORMANCE BOND

**WHEREAS**, the CITY OF MENLO PARK, a municipal corporation of the State of California ("City"), and **D3MP, LLC**, as principal ("Principal") have entered into an agreement entitled **AGREEMENT FOR COMPLETION OF DEVELOPMENT IMPROVEMENTS**, incorporated herein by reference and referred to as the "Contract," which requires Principal to install and complete certain designated public improvements; and,

**WHEREAS**, under the terms of the Contract and prior to commencing any work under the Contract, Principal is required to furnish a bond to City for faithful performance of the Contract.

NOW, THEREFORE, we the Principal and \_\_\_\_\_, a corporation duly authorized and admitted to transact business and issue surety bonds in the State of California ("Surety"), are held firmly bound unto the City in the sum of **Five Hundred Seventy Two Thousand Dollars (\$572,000.00)**, for the payment of which sum well and truly to be made, we the Principal and Surety bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally.

The condition of this obligation is such that, if the Principal, Principal's heirs, executors, administrators, successors, or assigns shall in all things stand to and abide by, and well and truly keep and perform all covenants, conditions, and agreements required to be kept and performed by Principal in the Contract and any changes, additions, or alterations made thereto, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meanings, and shall indemnify and save harmless City, its officers, employees, and

agents, as therein provided, then this obligation shall be null and void; otherwise, it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the sum specified above, there shall be included all costs, expenses, and fees, including attorney's fees, reasonably incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract or to the work to be performed thereunder or to the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration, or addition.

**IN WITNESS WHEREOF**, this instrument has been duly executed by authorized representatives of the Principal and Surety. SIGNED AND SEALED on \_\_\_\_\_, 2012.

PRINCIPAL:

SURETY:

D3MP, LLC

(Principal name)

(Seal)

\_\_\_\_\_

(Surety name)

BY: \_\_\_\_\_  
(Signature)

BY: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print name and title)

\_\_\_\_\_  
(Print name and title)

Principal address and telephone:

Surety address and telephone:

**Affix Corporate Seals**

**Attach Notary Acknowledgments for All Signatures**

**Attach Power-of-Attorney if executed by Attorney-in-Fact**

Bond No. \_\_\_\_\_

Premium \_\_\_\_\_

**DEFECTIVE MATERIALS AND WORKMANSHIP (WARRANTY) BOND**

**WHEREAS**, the CITY OF MENLO PARK, a municipal corporation of the State of California ("City") and **D3MP, LLC**, as principal ("Principal") have entered into an agreement entitled **AGREEMENT FOR COMPLETION OF DEVELOPMENT IMPROVEMENTS**, incorporated herein by reference and referred to as the "Contract," which requires Principal to install and complete certain designated public improvements; and,

**WHEREAS**, under the terms of the Contract, Principal is required to furnish a bond to City to make good and protect the City against the results of any work or labor done or materials or equipment furnished which are defective or not in accordance with the terms of the Contract having been used or incorporated in any part of the work so contracted for, which shall have appeared or been discovered, within the period of one (1) year from and after the completion and final acceptance of the work done under the Contract.

**NOW, THEREFORE**, we the Principal and \_\_\_\_\_, a corporation duly authorized and admitted to transact business and issue surety bonds in the State of California ("Surety"), are held firmly bound unto the City in the sum of **Two Hundred Eighty Six Thousand Dollars (\$286,000.00)**, for the payment of which sum well and truly to be made, we the Principal and Surety bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally.

The condition of this obligation is such that, if the Principal shall well and truly make good and protect the City against the results of any work or labor done or materials or equipment furnished which are defective or not in accordance with the terms of the Contract having been used or incorporated in any part of the work performed under the Contract, which shall have appeared or been discovered within



said one-year period from and after completion of all work under the Contract and final acceptance by City of said work, then this obligation shall be null and void; otherwise, it shall be and remain in full force and effect.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any change, extension of time, alteration or addition.

**IN WITNESS WHEREOF**, this instrument has been duly executed by authorized representatives of the Principal and Surety. SIGNED AND SEALED on \_\_\_\_\_, 2012.

PRINCIPAL:

SURETY:

D3MP, LLC  
(Principal name) (Seal)

\_\_\_\_\_  
(Surety name)

BY: \_\_\_\_\_  
(Signature)

BY: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print name and title)

\_\_\_\_\_  
(Print name and title)

Principal address and telephone:

Surety address and telephone:

**Affix Corporate Seals**  
**Attach Notary Acknowledgments for All Signatures**  
**Attach Power-of-Authority if executed by Attorney-in-Fact**

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## PUBLIC WORKS DEPARTMENT

Council Meeting Date: July 31, 2012

Staff Report #: 12-104

Agenda Item #: D-5

**CONSENT CALENDAR:** Authorize the Public Works Director to Accept the Work Performed by Vance Brown, Inc., for the Arrillaga Family Gymnastics Center Project

---

### RECOMMENDATION

Staff recommends that the City Council authorize the Public Works Director to accept the work performed by Vance Brown, Inc., for the Arrillaga Family Gymnastics Center Project (formerly the Burgess Gymnastics Center Project).

### BACKGROUND

On April 5, 2011, the City Council authorized the City Manager to enter into an agreement with Vance Brown, Inc. to construct the Arrillaga Family Gymnastics Center. The construction agreement was based on the arrangement and scope of work developed between the City and Mr. John Arrillaga that resulted in the City contributing a set amount toward construction and Mr. Arrillaga paying for the remaining building costs as a philanthropic contribution. In addition to this amount, Council authorized additional funds to pay for City required features and modifications that were not included in the original scope of work with Mr. Arrillaga.

### ANALYSIS

The Arrillaga Family Gymnastics Center broke ground with the demolition of the old Burgess Gymnasium in May of 2011 and was completed in approximately one year. The new 19,365 square foot facility includes a large gymnastics room, a smaller pre-school tumbling area, a multipurpose room, exercise room, lobby, office, locker rooms, and storage/mechanical rooms. Vance Brown, Inc., with assistance from the project architect and the project LEED Consultant, plan to submit documentation to achieve LEED Certification by the end of July/early August.

In addition to the initially agreed upon scope of work, contingency funds were utilized to make improvements to the project that would be beneficial to the City's operations. These items included, among others, additional utility connections and work related to unforeseen conditions, upgrades to the building's lighting system, voice and data systems, audio/video equipment, and furnishings for the facility.

The project was completed within the project budget.

Contractor: Vance Brown, Inc.  
3197 Park Boulevard  
Palo Alto, CA 94306

Date of Award: April 5, 2011

Date of Substantial Completion: May 2012

## IMPACT ON CITY RESOURCES

### Construction Budget

Construction Cost Share	\$ 5,000,000
Utility Connections and Additional Work	<u>\$ 706,943</u>
Total Construction Budget	\$ 5,706,943

### Construction Expenditures

Building Cost Sharing	\$ 5,000,000
Utility Connections and Additional Work	<u>\$ 682,213</u>
Total Construction Expenditure	\$ 5,682,213

Contingency funds were used to pay for various improvements to the project that were not initially requested in negotiations with Mr. Arrillaga.

## POLICY ISSUES

This action is consistent with the requirements of the State Public Contracts Code.

## ENVIRONMENTAL REVIEW

The Environmental Impact Report for the project was certified by the Council on July 21, 2009.

Signature on File  
Nathan Scribner  
Associate Engineer

Signature on file  
Ruben Niño  
Assistant Director of Public Works

**PUBLIC NOTICE:** Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

**ATTACHMENTS:** None



# PUBLIC WORKS DEPARTMENT

Council Meeting Date: July 31, 2012

Staff Report #: 12-105

Agenda Item #: D-6

**CONSENT CALENDAR:** Award a Contract to Suarez and Munoz Construction, Inc., in the Amount of \$187,326.50 for the 2011-12 Citywide Sidewalk Repair Project and Seminary Oaks Park Pathway Replacement Project, and Authorize a Total Budget of \$274,326.50 for Contingencies, Testing, and Inspection

---

## RECOMMENDATION

Staff recommends that the City Council award a contract to Suarez and Munoz Construction, Inc., in the amount of \$187,326.50 for the 2011-12 Citywide Sidewalk Repair Project and the Seminary Oaks Park Pathway Replacement Project and authorize a total budget of \$274,326.50 for contingencies, testing, and inspection.

## BACKGROUND

The streets of Menlo Park are lined with various species of trees. Most trees are located in close proximity to frontage improvements such as concrete sidewalks, curbs, gutters, and asphalt parking strips. As the trees mature, their roots spread out and sometimes cause damage to the improvements. The damage can result in tripping hazards, drainage problems, and nuisances for property owners and residents.

The frontage improvements that are damaged by City tree roots are repaired through the annual Sidewalk Repair Program. Staff has divided the City into five zones for the Program. Each year, staff focuses on one zone in which to conduct a thorough inspection and perform repair work. A limited amount of funds is also set aside to respond to residents' requests for repairs throughout the city.

Two categories of sidewalk damage are repaired through the Sidewalk Repair Program: (1) Tree root damage to concrete structures requiring complete removal and replacement of the concrete structure; and (2) Tree root uplift of concrete sidewalk panels with offsets where the trip hazard cannot be eliminated by the horizontal saw cut method.

Under the 2011-12 Sidewalk Repair Program, the Citywide Sidewalk Repair Project, now being proposed, involves the removal and replacement of the sidewalk trip hazards that could not be repaired with the horizontal saw cut method.

Also included in this years' Citywide Sidewalk Repair Project is the reconstruction of a seven foot wide serpentine foot pathway at Seminary Oaks Park. The existing decomposed granite foot pathway has deteriorated, and is creating a tripping hazard. The existing decomposed granite that now defines the pathway will be replaced with concrete.

## **ANALYSIS**

Plans and specifications for the project include sidewalk replacement work at 68 locations, as determined by staff and as identified in last year's trip hazard removal project that focused on the Willows neighborhood. Plans also include the Seminary Oaks Park Pathway Replacement Project. On July 19, 2012, six (6) bids were submitted and opened for the Citywide Sidewalk Repair Project and Seminary Oaks Park Pathway Replacement Project. The lowest bidder for the project, Suarez and Munoz Construction, Inc., of Hayward, California, submitted a bid in the amount of \$187,326.50. Attachment A provides the bid summary. Staff has checked the background and references of Suarez and Munoz Construction, Inc., and is satisfied with its past performance. Since the Contractor's bid was lower than anticipated, staff decided to include additional sidewalk repair construction sites. Therefore, the contingency reflects a higher contingency value to pick up additional sidewalk repair improvements.

### **Schedule**

The construction of the project is expected to begin near the middle of August, with completion anticipated in October 2012.

## **IMPACT ON CITY RESOURCES**

The construction budget for the 2011-12 Citywide Sidewalk Repair and Seminary Oaks Park Pathway Replacement Project consists of the following:

Construction contract	\$187,326.50
Contingency	\$ 57,000.00
Testing, and Inspection	<u>\$ 30,000.00</u>
<b>Total Construction Budget</b>	<b>\$274,326.50</b>

Sufficient funds are available in the Sidewalk Assessment Fund and General Fund for the Citywide Sidewalk Repair and Seminary Oaks Park Pathway Replacement Project for the construction of this project. Both projects were budgeted in FY 2011-12.

## **POLICY ISSUES**

The recommendation does not represent any change to existing City policy.

## **ENVIRONMENTAL REVIEW**

The project is categorically exempt under Class I of the current State of California Environmental Quality Act Guidelines, which allows minor alterations and replacement of existing facilities.

Signature on file  
Michel Jeremias  
Senior Civil Engineer

Signature on file  
Ruben Niño  
Assistant Public Works Director

**PUBLIC NOTICE:** Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

### **ATTACHMENT:**

A. Bid Summary

**BID SUMMARY**  
**CITYWIDE SIDEWALK REPAIR PROJECT**

**Engineer's Estimate: \$226,490.00**

**July 19, 2012**

**APPARENT LOW BIDDER**

1.	Suarez & Munoz Construction, Inc.	\$187,326.50
2.	B&M Builders, Inc.	\$189,995.92
3.	Sposeto Engineering Inc.	\$231,464.20
4.	J.J.R. Construction, Inc.	\$234,000.00
5.	Nor-Cal Concrete	\$241,440.95
6.	Golden Bay Construction, Inc.	\$257,729.00





# PUBLIC WORKS DEPARTMENT

Council Meeting Date: July 31, 2012

Staff Report #:12-106

Agenda Item #: D-7

**CONSENT CALENDAR:** Authorize the Public Works Director to Accept the Work Performed by Golden Bay Construction, Inc. for the Parking Plaza 2 Improvement Project

---

## RECOMMENDATION

Staff recommends that the City Council authorize the Public Works Director to accept the work performed by Golden Bay Construction, Inc. for the Parking Plaza 2 Improvement Project.

## BACKGROUND

On July 26, 2011, the City Council authorized a project budget of \$630,000 and awarded the construction contract to Golden Bay Construction, Inc., in the amount of \$518,340. As part of the authorization, the project for the plaza was to include the following improvements: Brick tiled-surfaced benches at the entrances; seven decorative light standards; four bioswale islands; twenty-one new trees; an irrigation system; 90 parking stalls which included four accessible compliant parking stalls; four bike racks; two public benches, replacement of an existing valley gutter along Ryan Lane including asphalt repairs and slurry overlay along Ryan and Escondido lanes, as well as other improvements.

## ANALYSIS

The construction was completed in February 2012, and Parking Plaza 2 was opened for full use. The project was extended due to various considerations: start of work was delayed in order to avoid impacting the August Downtown Block Party; construction work was halted during the Christmas Holidays to allow business access, and the delivery of the decorative lights and the light poles were delayed by several weeks by the manufacturer.

All work issues have been resolved and the project may now be closed. All work has been completed in compliance with the plans and specifications.

Construction work was completed within budget.

Contractor: Golden Bay Construction, Inc.  
2513 Wyandotte Street  
Mountain View, CA 94043-2314

Date of Award: July 26, 2011  
Date of Completion: February 20, 2012

### **IMPACT ON CITY RESOURCES**

#### **Construction Budget**

Construction contract	\$518,340
Contingency	<u>\$ 77,751</u>
<b>Total Budget</b>	<b>\$596,091</b>

#### **Construction Expenditures**

Construction contract	\$518,340
Contingency Expenditure	<u>\$ 54,846</u>
<b>Total Expenditures</b>	<b>\$573,186</b>

The contingency was used to make minor and major improvements to several features such as: Escondido and Ryan lanes received full asphalt reconstruction instead of asphalt repairs and slurry; both valley gutters at the entrance approaches of Ryan Lane from Chestnut and Crane streets were reconstructed; damaged to sidewalk, curb and gutter within the parking plaza was replaced along Chestnut Street and Oak Grove Avenue as well as other minor improvements.

### **POLICY ISSUES**

The recommendation does not represent any change to existing City policy.

### **ENVIRONMENTAL REVIEW**

The project is categorically exempt under Class I of the State of California Environmental Quality Act Guidelines and the City of Menlo Park's Environmental Review and Implementing Procedures.

Signature on file  
Michel Jeremias  
Senior Civil Engineer

Signature on file  
Ruben Niño  
Assistant Public Works Director

**PUBLIC NOTICE:** Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

**ATTACHMENTS:** None



# PUBLIC WORKS DEPARTMENT

Council Meeting Date: July 31, 2012  
Staff Report #: 12-107

Agenda Item #: D-8

**CONSENT CALENDAR: Adopt a Resolution Authorizing the City Manager to Award the Contract and Execute the Necessary Construction Agreements for the Safe Routes to Hillview Middle School Project in an Amount Not to Exceed \$70,000**

---

## RECOMMENDATION

Staff recommends that the City Council adopt a resolution authorizing the City Manager to award the contract and execute the necessary construction agreements for the Safe Routes to Hillview Middle School Project in the amount not to exceed \$70,000.

## BACKGROUND

On numerous occasions, staff has received requests from residents and parents of Hillview School students to enhance the marked crosswalks on Santa Cruz Avenue, especially the ones near Hillview School. They expressed concerns that drivers were not stopping or yielding while pedestrians were crossing the street within crosswalks. They were concerned that perhaps the crosswalks were not conspicuous enough for drivers to be aware of the presence of the crosswalks at the intersections.

On May 11, 2005, staff met with the Hillview School Principal and the school's Parents Teacher Organization (PTO) to present its recommendations to enhance the pedestrian and bicycle safety at the marked crosswalks on Santa Cruz Avenue by installing in-pavement lighted crosswalk systems on Santa Cruz Avenue at its intersections with San Mateo Drive, Cotton Street, Olive Street, Elder Avenue, and Lemon Avenue. The Hillview School Principal and PTO concurred with staff's recommendation.

On June 21, 2005, the City Council authorized staff to submit the Cycle 6 Safe Routes to School (SR2S) grant application to Caltrans for these proposed in-pavement lighted crosswalk systems on Santa Cruz Avenue for Hillview School, which the Transportation Commission unanimously endorsed. On June 21, 2006, however, staff received a notification from Caltrans that it was unsuccessful in getting this grant funding. Consequently, on December 12, 2006, staff presented to the City Council, as an Information item, of its plan to submit an application for the Cycle 1 Federal Safe Routes to School (SRTS) grant program for Hillview School. In order to have a more competitive grant application and with concurrence from the Hillview School Principal and PTO, staff modified its grant application project to reduce the number of locations to have in-pavement lighted crosswalk systems on Santa Cruz Avenue from five to three

intersections, namely, at its intersections with Elder Avenue, Cotton Street, and San Mateo Drive.

On May 22, 2007, the City of Menlo Park received a notification letter from Caltrans that the City's Cycle 1 SRTS grant application for Hillview School that it submitted on January 2, 2007 in the amount of \$143,000 had been approved.

As a result of the traffic mitigation recommended in the Hillview School Final Environmental Impact Report to install a traffic signal at the intersection of Santa Cruz Avenue and Elder Avenue and the subsequent City Council's authorization to staff to enter into a cost-sharing Memorandum of Understanding with the Menlo Park City School District, staff had to delay the implementation of this project. Staff also had to request Caltrans to change one of the proposed locations of the in-pavement lighted crosswalk systems from the intersection of Santa Cruz Avenue and Elder Avenue, where a traffic signal would be installed, to the intersection of Santa Cruz Avenue and Olive Street.

On May 10, 2012, staff received from Caltrans the authorization to proceed for construction of the in-pavement lighted crosswalk systems on Santa Cruz Avenue at its intersections with Olive Street, Cotton Street, and San Mateo Drive.

## **ANALYSIS**

Since the proposed lighted crosswalk at Santa Cruz Avenue and Olive Street is in close proximity to the new entrance to Hillview Middle School, City staff would like the lighted crosswalk system at Olive Street and Santa Cruz Avenue to be installed during the school summer break to minimize disruption to school children. The remaining two locations would be installed sometime in September and October. The City has already ordered the lighted crosswalk system equipment to expedite the delivery of the material.

The City is currently advertising the project for bids from qualified contractors. The bids for the project will be opened the last week of July. Staff was unable to have the award of contract available for the July 31st City Council meeting. The next Council meeting in which the Council could award the contract would be August 21st. This three week delay would not provide sufficient time for the contract documents to be processed and for the submittal of the equipment to be reviewed and ordered and would require delaying the project until after summer. In order to complete the lighted crosswalk location at Olive Street and Santa Cruz Avenue before the end of August, staff is requesting the Council to authorize the City Manager to execute the necessary construction agreements for the Safe Routes to Hillview Middle School Project in an amount not to exceed \$70,000, which include contingency and inspectional testing.

## **IMPACT ON CITY RESOURCES**

The estimated project cost of \$143,000 (\$15,400 for design and \$127,600 for equipment, construction engineering, and construction) for the Safe Routes to School Improvements for Hillview Middle School along Santa Cruz Avenue will be funded from the Measure A Fund and will be reimbursed to the City by the SRTS grant. No local matching funds are required. The grant should fully cover project costs.

## **POLICY ISSUES**

This recommendation would increase the City Manager's contract authorization limit from \$50,000 to \$70,000 for this one project.

## **ENVIRONMENTAL REVIEW**

The project is exempt under class 1 of the current State of California Environmental Quality Act Guidelines.

Signature on File  
Atul Patel, P.E.  
Senior Transportation Engineer

Signature on File  
Ruben Niño  
Assistant Public Works Director

**PUBLIC NOTICE:** Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

## **ATTACHMENT:**

A. Resolution

**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK AUTHORIZING THE CITY MANAGER TO AWARD THE CONTRACT AND EXECUTE THE NECESSARY CONSTRUCTION AGREEMENTS FOR THE SAFE ROUTES TO HILLVIEW MIDDLE SCHOOL PROJECT (CITY PROJECT NO. 70-065, FEDERAL PROJECT NO. SRTSL-5273(017)) IN AN AMOUNT NOT TO EXCEED \$70,000**

WHEREAS, the plans and specifications are complete for the Safe Routes to Hillview Middle School Project (Project) with the bid opening scheduled for July 31, 2012; and

WHEREAS, the Project needs to be operational for the beginning of the Hillview Middle School Fall session that begins September 4<sup>th</sup>, 2012; and

WHEREAS, delaying the award of the contract to the next City Council meeting will not provide sufficient time for the bids to be reviewed, contract documents processed and completion of the Project by mid-August.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Menlo Park hereby authorize the City Manager to execute a construction contract for the Project in an amount not to exceed \$70,000.

I, Margaret S. Roberts, City Clerk of the City of Menlo Park, do hereby certify that the above and foregoing Resolution was duly and regularly passed and adopted at a meeting by said Council on the thirty-first day of July, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this thirty-first day of July, 2012.

Margaret S. Roberts, MMC  
City Clerk



## PUBLIC WORKS DEPARTMENT

Council Meeting Date: July 31, 2012

Staff Report #: 12-108

Agenda Item #: D-9

**CONSENT CALENDAR:** Approve the Design and Installation of Shared Lane Markings on Menlo Avenue Between El Camino Real and University Drive and on University Drive Between Santa Cruz Avenue and Middle Avenue as Part of a Pilot Project

---

### RECOMMENDATION

Staff recommends that the City Council approve the design and installation of Shared Lane Markings, also known as Sharrows, on Menlo Avenue between El Camino Real and University Drive and on University Drive between Santa Cruz Avenue and Middle Avenue as part of a pilot project.

### BACKGROUND

On April 5, 2011, Council approved the two year work plan from the Bicycle Commission. The two year work plan identified a Pilot Project to install Shared Lane Markings on streets in the downtown area that would improve the safety of bicyclists. The two streets selected were University Drive and Menlo Avenue. Both streets have parallel parking and one lane in each direction.

### ANALYSIS

In 2009, Shared Lane Markings were introduced in the California Manual of Uniform Traffic Control Devices (CAMUTCD).

The 2012 CAMUTCD is used as a State standard for the implementation of traffic control devices. Section 9c.07 states that Shared Lane Markings may be used to:

- A. Assist bicyclists with lateral positioning in a shared lane with on-street parallel parking in order to reduce the chance of a bicyclist's impacting the open door of a parked vehicle,
- B. Assist bicyclists with lateral positioning in lanes that are too narrow for a motor vehicle and a bicycle to travel side by side within the same traffic lane,

- C. Alert road users of the lateral location bicyclists are likely to occupy within the traveled way,
- D. Encourage safe passing of bicyclists by motorists, and
- E. Reduce the incidence of wrong-way bicycling.

The CAMUTCD also states that “If used in a shared lane with on-street parallel parking, Shared Lane Markings should be placed so that the centers of the markings are at least 11 feet from the face of the curb, or from the edge of the pavement where there is no curb,” and “should be placed immediately after an intersection and spaced at intervals not greater than 250 feet thereafter.” For this project staff plans on installing the Shared Pavement Markings 12 feet from the face of curb. The spacing is consistent with the Valley Transportation Authority’s (VTA) Bicycle Technical Guidelines (BTG) and is currently the City of Palo Alto’s standard for installation. Also, to minimize installation and possible maintenance costs for the pilot project, the markings would be installed immediately after each intersection and staff would add additional markings if warranted in the future. The Shared Lane Markings are planned to be placed slightly greater than 250 feet since the intersection on the pilot streets are approximately 300 feet apart.

In October 2010, the Federal Highway Administration (FHWA) conducted a study “Evaluation of Shared Lane Markings” to evaluate the impact of several uses of shared lane pavement markings, specifically the “Sharrows” design, on operational and safety measures for bicyclists and motorists. The study concluded that Sharrows can be used in a variety of situations, and increased use should enhance motorist awareness of bicyclists or the possibility of bicyclists in the traffic stream. Results indicate that Sharrows increased operating space for bicyclists and also reduced sidewalk riding. The study also stated that “as communities continue to experiment with various uses of Sharrows, it is recommended that researchers continue to create similar trials in other locations and traffic settings and then evaluate and report those experiments so that more data can be examined and guidance to users improved”.

Staff proposes to conduct a before and after study of the pilot project streets to include counting the number of riders during a normal summer day, when school is in session and the cost to maintain the markings on the roadway on a yearly basis for three consecutive years.

## **SCOPE OF WORK**

Staff would use the City’s striping contractor to install Shared Pavement Markings at approximately 14 locations on Menlo Avenue and 16 on University Drive (Attachment A).



## **IMPACT ON CITY RESOURCES**

The Shared Lane Markings Project is currently not part of the 5 year Capital Improvement Project plan therefore, there is no budget for the project. The estimated cost for this project is \$9,000. There are sufficient funds in the striping and signing program budget for this project.

## **POLICY ISSUES**

This project is consistent with several policies in the 1994 General Plan Circulation, Transportation Element and the El Camino Real and Downtown Specific Plan. These policies seek to enhance the safety of Bicyclists.

## **ENVIRONMENTAL REVIEW**

The installation of Shared Lane Markings is not a project under the current California Environmental Quality Act Guidelines.

Signature on File  
Richard Angulo  
Transportation Technician

Signature on File  
Atul Patel  
Senior Transportation Engineer

**PUBLIC NOTICE:** Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

## **ATTACHMENTS:**

- A. Shared Lane Marking Location Map





# PUBLIC WORKS DEPARTMENT

Council Meeting Date: July 31, 2012  
Staff Report # 12-111

Agenda Item #: D-10

**CONSENT CALENDAR:** Authorize the City Manager to Amend the Existing Agreement for Design Services with Carollo Engineers for an Additional \$34,983; and \$10,000 for Contingency for a Total of \$294,983 for the Sharon Heights Pump Station; and Authorize an Increase in the Rental Agreement for Temporary Pumps for an Additional \$49,128; and \$41,000 for Contingency for a Total of \$180,128

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## RECOMMENDATION

Staff recommends that the City Council authorize the City Manager to amend the existing agreement for design services with Carollo Engineers for an additional \$34,983; and \$10,000 for contingency for a total of \$294,983 for the Sharon Heights Pump Station; and authorize an increase in the rental agreement for temporary pumps for an additional \$49,128 and \$41,000 for contingency for a total of \$180,128.

## BACKGROUND

The Sharon Heights Pump Station is a critical component of the City's water distribution system. Constructed in 1962, the pump station delivers potable water from the San Francisco Public Utilities Commission (SFPUC) water system aqueducts to Sharon Heights and to the City's two reservoirs. The existing Sharon Heights Pump Station consist of three outdoor pumps, a portable emergency diesel generator, and electrical switchgear.

In March 2009, Council authorized the City Manager to enter into an agreement with Carollo Engineers for design services in the amount of \$230,000 and a \$20,000 contingency. The proposed design of the pump station building is intended to reflect the residential characteristics of the surrounding neighborhood. The height of the building would be 16.5 feet to the peak of the gabled roof and 18.7 feet to the top of the exhaust fan, but the structure would be setback from the street to minimize its appearance. The maximum height in the R-1-S zoning district is 28 feet.

The colors and materials have been selected with input from the neighbors, and for compatibility with nearby residences, sustainability, durability, and quality. The design incorporates three skylights for natural light into the space, and provides a second means of access. On rare occasions when the equipment needs to be replaced, the skylights can be removed to allow the equipment to be lifted out of the building. However, all routine maintenance would occur within the building. The building would not house permanent staff. As maintenance is required, staff would park along the

driveway. The proposed project includes a back-up diesel generator to continue operations in the event of a power outage.

In August 2011, two of the three existing pumps at the Sharon Heights Pump Station failed, resulting in the immediate need for new equipment to be delivered to the site. In lieu of replacing the two pumps with new systems, staff opted to enter into a rental agreement with DW Pumps in order to install a temporary system that would fit with the existing infrastructure while the new facility was under design. The City Council on February 14, 2012 authorized a budget of \$90,000 for temporary pump rental.

## **ANALYSIS**

The Planning Commission approved the Sharon Heights Pump Station project on January 23, 2012 and City Council approval occurred on February 14, 2012. The project has been delayed to address acoustical analysis and final noise mitigation measures. During the design process the extent of noise analysis and design was not anticipated since the existing pumps are outside and the new pumps will be within a building. Therefore an acoustical consultant has been added to the project team. These tasks and the coordination of services during bidding were not in the original scope of service. This will result in an increase in the design consultant service of \$34,983. Staff is requesting an additional \$10,000 as a contingency to which will increase design services from \$250,000 to \$294,983.

Additionally, staff is changing the rental of pumps from DW Pumps to East Bay Pumps, Inc. East Bay Pumps is a larger company and has been more responsive to calls for service, which are available 24-hours per day and on weekends. Service of these pumps is critical for the operation of the water system. Also since the project has been delayed the rental of the pumps will need to occur longer than projected. Staff has also increased the contingency to \$41,000 to allow sufficient funds to rent a third pump if it fails. This will result in an increase in budget for pump rental from \$90,000 to \$180,128.

## **IMPACT ON CITY RESOURCES**

There are sufficient funds in the Sharon Heights Pump Station Replacement Project budget to cover the cost of consultant service and rental of the pumps.

## **POLICY ISSUES**

At the January 23, 2012 Planning Commission meeting, the Commission found that the project's proposed use would not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City. The City Council on February 14, 2012 approved the Use Permit and Architectural Control for the Sharon Heights Pump Station Replacement Project consisting of the demolition of the existing equipment and construction of a new 810-square-foot pump house in the same location as the three pumps and emergency diesel generator and removal of one heritage tree subject to the conditions of approval.

## ENVIRONMENTAL REVIEW

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

Signature on file  
Michel Jeremias  
Senior Civil Engineer

Signature on file  
Ruben Niño  
Assistant Public Works Director

**PUBLIC NOTICE:** Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

**ATTACHMENTS:** None

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# PUBLIC WORKS DEPARTMENT

Council Meeting Date: July 31, 2012  
Staff Report #: 12-110

Agenda Item #: D-11

**CONSENT CALENDAR: Authorize the Public Works Director to Accept the Work Performed by E.R. Brothers Company, Inc., for the Menlo Park Public Library Lobby Remodel Project**

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## RECOMMENDATION

Staff recommends that the City Council authorize the Public Works Director to accept the work performed by E.R. Brothers Company, Inc., for the Menlo Park Public Library Lobby Remodel Project.

## BACKGROUND

The Menlo Park main library was closed to the public for one month while three City projects were completed. The three projects included installation of new carpet, renovation of the lobby, and conversion from the previous barcode checkout system to a new Radio Frequency Identification (RFID) format. Other miscellaneous improvements also took place during the closure including painting, refinishing of existing maple panels, cleaning and sealing of existing tiles, and cleaning shelving and other items throughout the library.

To ensure that all three projects were completed concurrently, staff requested that the City Manager be authorized to execute a construction contract for the lobby remodel project before bids were opened. This was done on March 13, 2012 when the City Council awarded a contract to Lee Carpeting to supply carpet for the main library and adopted a resolution authorizing the City Manager to execute a construction agreement for the Library Lobby Remodel Project in an amount not to exceed \$100,000.

## ANALYSIS

On March 30, 2012, seven bids were received for the Main Library Lobby Remodel Project. The lowest bid was from E.R. Brothers Company, Inc. in the amount of \$42,850. Staff was satisfied with the references for E.R. Brothers Company, Inc. and the bid total was below the not-to-exceed amount authorized by Council so a construction agreement was executed in time for the contractor to obtain materials and begin work when the library closed on May 21st.

All work for the Lobby Remodel Project was completed in substantial conformance with the plans and specifications.

The details of the Lobby Remodel Project are below:

Contractor: E.R. Brothers Company, Inc.  
3629 Bercaw Lane  
San Jose, CA. 95124

Date of Award: March 13, 2012

Date of Substantial Completion: June 18, 2012

While the library was closed, the new carpet was installed, the lobby remodel was completed, the RFID self-check equipment and gates were installed, and library staff installed new RFID tags in all circulation materials so the library would be fully operational when it opened on June 19, 2012.

### **IMPACT ON CITY RESOURCES**

The project was completed within the allocated budget as described below.

#### Lobby Remodel Project

Construction contract and contingency amount	\$57,850
Total construction expenditures	<u>\$50,255</u>
Balance	\$ 7,595

Contingency funds for the lobby remodel project were used to pay for additional lighting, entry tiles, a data connection for the new RFID security gates, and other miscellaneous improvements.

### **POLICY ISSUES**

Final acceptance of a construction project is consistent with the requirements of the State Public Contracts Code.

### **ENVIRONMENTAL REVIEW**

The project was categorically exempt under Class I of the State of California Environmental Quality Act Guidelines.

Signature on file  
Nathan Scribner  
Associate Engineer

Signature on file  
Ruben Niño  
Assistant Public Works Director

**PUBLIC NOTICE:** Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

**ATTACHMENTS:** None





# PUBLIC WORKS DEPARTMENT

Council Meeting Date: July 31, 2012  
Staff Report #: 12-112

Agenda Item #: D-12

**CONSENT CALENDAR:** Adopt a Resolution Authorizing the Public Works Director to Accept the State Transportation Program - Local (STPL) 5273R Federal Grant in the Amount of \$385,000 and Execute All Agreements to Implement the 2012 Resurfacing of Federal Aid Routes Project for Sand Hill Road and Marsh Road

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## RECOMMENDATION

Staff recommends that the City Council adopt a resolution authorizing the Public Works Director to accept the State Transportation Program - Local (STPL) 5273R Federal Grant in the amount of \$385,000 and execute all agreements to implement the 2012 Resurfacing of Federal Aid Routes Project for Sand Hill Road and Marsh Road.

## BACKGROUND

On June 25, 2012, the City of Menlo Park received notification from the California Department of Transportation (Caltrans) that the City's 2012 Resurfacing of Federal Aid Routes Project to mill and pave a 2" overlay on Sand Hill Road and Marsh Road was selected to receive a (STPL) 5273R Federal Grant in the amount of \$385,000. The total amount of this project was estimated at \$449,293 and the program requires a local match of 14% of the project costs or \$64,293.

## ANALYSIS

On June 25, 2012, staff received the Program Supplement Agreement No.13-N from Caltrans, the agency responsible for administering the STPL Funds for the Federal government. This agreement covers the City's obligations regarding the use of Federal funds and the administration of the project.

Execution of this agreement and subsequent agreements for the phases of this project are required before Caltrans reimburses the City for expenses incurred to implement the project. The bidding phase will begin upon execution of this agreement. Project construction is expected to occur during the fall with completion anticipated by December 2012.

## IMPACT TO CITY RESOURCES

Of the total estimated project cost of \$449,293, the City's share of the project will be \$64,293 and it is budgeted in the FY 2011-12 Street Resurfacing Budget.

## **POLICY ISSUES**

This project is consistent with several policies in the 1994 General Plan Circulation and Transportation Element. These policies seek to maintain a circulation system using the Roadway Classification System that will provide for the safe and efficient movement of people and goods throughout Menlo Park for residential and commercial purposes.

## **ENVIRONMENTAL REVIEW**

The proposed project is categorically exempt under Class 1 of the California Environmental Quality Act Guidelines. Class 1 allows for minor alterations of existing facilities, including highways and streets, sidewalks, gutters, bicycle and pedestrian access, and similar facilities, as long as there is negligible or no expansion of use.

Signature on File  
Michel Jeremias  
Senior Civil Engineer

Signature on File  
Ruben Niño  
Assistant Public Works Director

**PUBLIC NOTICE:** Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

## **ATTACHMENTS:**

A. Resolution

RESOLUTION NO.

**RESOLUTION AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO ACCEPT THE STATE TRANSPORTATION PROGRAM – LOCAL (STPL) 5273R FEDERAL GRANT IN THE AMOUNT OF \$385,000 AND EXECUTE ALL AGREEMENTS TO IMPLEMENT THE 2012 RESURFACING OF FEDERAL AID ROUTES PROJECT, FOR SAND HILL ROAD AND MARSH ROAD**

WHEREAS, the City of Menlo Park is eligible to receive Federal funding for certain transportation projects through the California Department of Transportation (Caltrans); and

WHEREAS, on June 25, 2012, the City of Menlo Park received notification from Caltrans that the City's project to mill and pave a two-inch overlay on Sand Hill Road (Caltrans I-280 right-of-way to a point 1,000' east of the northbound off ramp) and Marsh Road (between Caltrans US-101 right-of-way and the railroad crossing) State Transportation Program - Local (STPL) 5273 Federal Grant in the amount of \$385,000; and

WHEREAS, the total amount of the project was estimated at \$449,293 and the program requires a local match of fourteen percent (14%) of the project costs or \$64,293; and

WHEREAS, Master Agreements and Program Supplement Agreements, Fund Exchange Agreements, and/or Fund Transfer Agreements need to be executed with the California Department of Transportation before such funds can be claimed.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Menlo Park does hereby authorize the Director of Public Works to accept the STPL 5273R Federal Grant in the amount of \$385,000 and to execute Program Supplement Agreement No. N013-N to Administering Agency-State Agreement for Federal-Aid Project No. 04-5273R, covering preliminary engineering; and

BE IT FURTHER RESOLVED, that the City Council hereby authorize the Director of Public Works to execute all other agreements necessary to implement the mill and paving of a 2" overlay on Sand Hill Road (Caltrans I-280 right-of-way to a point 1,000' east of the northbound off ramp) and Marsh Road (between Caltrans US-101 right-of-way and the railroad crossing).

I, Margaret S. Roberts, City Clerk of Menlo Park, do hereby certify that the above and foregoing Council Resolution was duly and regularly passed and adopted at a meeting by said Council on the thirty-first day of July, 2012, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this thirty-first day of July, 2012.

Margaret S. Roberts, MMC  
City Clerk

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## ADMINISTRATIVE SERVICES

Council Meeting Date: July 31, 2012  
Staff Report #: 12-114

Agenda Item: D-13

**CONSENT CALENDAR:**                    **Adopt a Resolution Authorizing the Execution of a Contract with the State of California Department of Education for Reimbursement to the City up to \$511,646 for Child Care Services at the Belle Haven Child Development Center for Fiscal Year 2012-13**

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### RECOMMENDATION

Staff recommends that the City Council adopt a Resolution executing a contract with the State of California Department of Education for reimbursement to the City for up to \$511,646 for the delivery of child care services at the Belle Haven Child Development Center for Fiscal Year 2012-13.

### BACKGROUND

The City of Menlo Park has operated the Belle Haven Child Development Center (BHDC) for over 30 years. The Belle Haven Child Development Center is licensed by the State Department of Social Services to provide quality child development services to families in Menlo Park and surrounding cities. The program receives funding from the State Department of Education, USDA Child and Adult Care Food Program, user fees, and the City of Menlo Park. The program seeks to build the children's self esteem by offering developmentally appropriate materials and activities that support social, emotional, physical, and cognitive abilities. Children are provided breakfast, lunch, and snacks daily. Until 2009-10 a highly trained and committed staff taught approximately 96 children 3-5 years of age. Cuts in state fund for 2010-11 required a decrease in program participation and this year 77 children were enrolled. The teacher to child ratio is 1:8.

Currently, the seventy-seven (77) program enrollees are subsidized under the California Department of Education Child Development Division (CDD) State Preschool Program. State funding restrictions require all parents of children enrolled in the CDC's subsidized slots to be working, in school or training, or be incapacitated. All families of children enrolled in the CDC must meet strict income eligibility requirements. The State contract also provides funding for additional resource materials, such as classroom supplies and small equipment to support these families.

A resolution must be adopted annually in order to certify the approval of the funding by the Governing Board of the jurisdiction receiving the reimbursement and to authorize the designated personnel to enter into the contract with the California Department of

Education. The City Manager has been identified as the Authorizing Agent for the City of Menlo Park for the purpose of signing the contract. A copy of the contract is included as Attachment B.

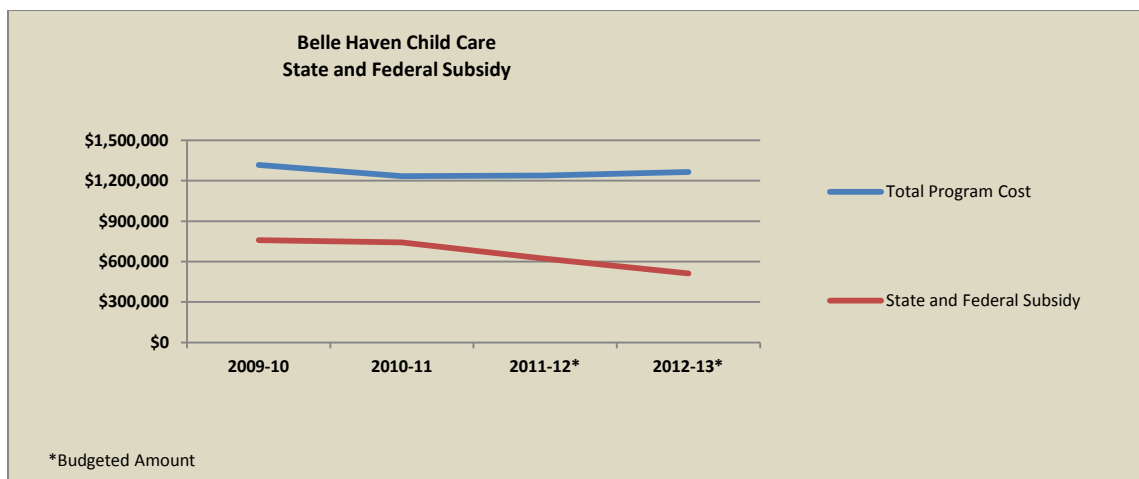
## ANALYSIS

Under the terms of the contract, the City agrees to expend contract funds on reimbursable costs necessary to provide child care services for eligible children. The City is also required to meet all reporting requirements and other standard contract provisions. The contract specifies minimum service requirements of 246 days of operation during the fiscal year and 13,783 child days of enrollment. The reimbursement rate is \$37.12 per child per day, up to a maximum of \$511,646 based on the minimum service requirements.

Due to California’s current financial crisis, the 2012-13 fiscal year contract minimum daily enrollment requirements have been reduced from 16,708 to 13,784 equivalent child care days (the 2010-11 requirement was 21,587). This translates, roughly, to a capacity of 60 subsidized slots, a further reduction from the 96 slots available in 2009-10. Over 100 families remain on the program’s waiting list. This contract change reduces the maximum annual reimbursement amount by \$108,561 or 17.5% less than the reimbursement amount available from the State for fiscal year 2012-13. This revenue reduction was anticipated in the development of the Fiscal Year 2012-13 budget.

Fiscal Year	Total program budget	State and Federal subsidy	Percent State decrease	Number subsidized slots
2009-10	\$1,316,010	\$759,338	-----	96
2010-11	\$1,233,398	\$742,162	2.26%	96
2011-12*	\$1,278,872	\$620,207	14.43%	77
2012-13*	\$1,264,105	\$511,646	17.50%	60

\*Budgeted amount



**IMPACT ON CITY RESOURCES**

The City will receive up to \$511,646 to support the Belle Haven Child Development Center through the State contract proposed for authorization. The City anticipates receiving additional revenues from parent fees, small grants, food reimbursements and other small revenue sources. The City’s direct cost to operate the Belle Haven Child Development Center is \$1,264,105. The net cost to the City for the BHCDC program for fiscal year 2012-13 is \$392,012.

**POLICY ISSUES**

The recommendation does not represent any change to existing City policy. The reduction in the State reimbursement rate does increase the offsetting revenue required to pay for the program. Although during the State budget negotiations there was discussion regarding increasing fees to participating families, the fees set by the State are equivalent to last fiscal year.

As discussed above, the State budget or the requirements of this particular program may change, which would require further consideration by the City Council. Staff will present additional information as it becomes available.

**ENVIRONMENTAL REVIEW**

Approval of the contract is not deemed a project under the California Environmental Quality Act.

Signature on file  
\_\_\_\_\_  
Natalie Bonham  
Program Supervisor – BHCDC

Signature on file  
\_\_\_\_\_  
Cherise Brandell  
Director of Community Services

**NOTICE:** Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

**ATTACHMENTS:**

- A - Resolution Authorizing the City Manager to Execute a Contract
- B - Contract with State of California Department of Education

**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK AUTHORIZING AN AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF EDUCATION TO RECEIVE THE SUBSIDY FOR CHILD CARE AND DEVELOPMENT SERVICES FOR FISCAL YEAR 2012-13**

WHEREAS, the City of Menlo Park has operated the Belle Haven Child Development Center (BHDCDC) for over 30 years; and

WHEREAS, the program offers developmentally appropriate materials and activities that support social, economical, physical and cognitive abilities; and

WHEREAS, the program receives funding from the State of California Department of Education; and

WHEREAS, the State contract also provides funding for additional resource materials such as classroom supplies and small equipment to support the participating families; and

WHEREAS, a resolution must be adopted annually in order to certify the approval of the funding by the City Council receiving the reimbursement and authorizing the designated personnel to enter into the contract.

BE IT AND IT IS HEREBY RESOLVED that the City Council of the City of Menlo Park authorizes entering into local agreement number CSPP-2566 reimbursing the City up to \$511,646 for child care services at the Belle Haven Child Development Center for fiscal year 2012-13, and that the person who is listed below is authorized to sign the transaction for the City Council.

Alex McIntyre  
Name

City Manager  
Title

I, Margaret S. Roberts, City Clerk of the City of Menlo Park of San Mateo County, California, do hereby certify that the above and foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Menlo Park at a meeting thereof held at a regular public place of meeting on thirty-first day of July, 2012, by the following votes:

AYES:

NOES:

ABSENT:



ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this thirty-first day of July, 2012.

---

Margaret S. Roberts, MMC  
City Clerk



**CALIFORNIA DEPARTMENT OF EDUCATION**

1430 N Street

Sacramento, CA 95814-5901

**F.Y. 12 - 13**

DATE: July 01, 2012

CONTRACT NUMBER: CSPP-2516

PROGRAM TYPE: CALIFORNIA STATE  
PRESCHOOL PROGRAM

PROJECT NUMBER: 41-2184-00-2

**LOCAL AGREEMENT FOR CHILD DEVELOPMENT SERVICES**

**CONTRACTOR'S NAME:** CITY OF MENLO PARK (BELLE HAVEN CHILD DEVELOPMENT CENTER)

By signing this contract and returning it to the State, you are agreeing to provide services in accordance with the FUNDING TERMS AND CONDITIONS (FT&C - available online at <http://www.cde.ca.gov/fg/aa/cd/>) and the CURRENT APPLICATION which by this reference are incorporated into this contract. The FT&C and Requirements specify the contractual responsibilities of the State and the contractor. The contractor's signature also certifies compliance with "General Terms and Conditions," (GTC 610/Exhibit A) which by this reference is incorporated herein.

Funding of this contract is contingent upon appropriation and availability of sufficient funds. This contract may be terminated immediately by the State if funds are not appropriated or available in amounts sufficient to fund the State's obligations under this contract.

The period of performance for this contract is July 01, 2012 through June 30, 2013. For satisfactory performance of the required services, the contractor shall be reimbursed in accordance with the Determination of Reimbursable Amount Section of the FT&C, at a rate not to exceed \$37.12 per child per day of full-time enrollment and a Maximum Reimbursable Amount (MRA) of \$511,646.00.

**SERVICE REQUIREMENTS**

Minimum Child Days of Enrollment (CDE) Requirement 13,784.0

Minimum Days of Operation (MDO) Requirement 246

Any provision of this contract found to be in violation of Federal and State statute or regulation shall be invalid, but such a finding shall not affect the remaining provisions of this contract.

Exhibit A, General Terms and Conditions attached.

<b>STATE OF CALIFORNIA</b>		<b>CONTRACTOR</b>			
BY (AUTHORIZED SIGNATURE)		BY (AUTHORIZED SIGNATURE)			
PRINTED NAME OF PERSON SIGNING Margie Burke, Manager		PRINTED NAME AND TITLE OF PERSON SIGNING			
TITLE Contracts, Purchasing & Conference Services		ADDRESS			
AMOUNT ENCUMBERED BY THIS DOCUMENT \$ 511,646  PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT \$ 0  TOTAL AMOUNT ENCUMBERED TO DATE \$ 511,646	PROGRAM/CATEGORY (CODE AND TITLE) Child Development Programs		FUND TITLE		Department of General Services use only
	(OPTIONAL USE) See Attached				
	ITEM See Attached	CHAPTER	STATUTE	FISCAL YEAR	
	OBJECT OF EXPENDITURE (CODE AND TITLE) 702				
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.		T.B.A. NO.	B.R. NO.		
SIGNATURE OF ACCOUNTING OFFICER See Attached		DATE			

**CONTRACTOR'S NAME:** CITY OF MENLO PARK (BELLE HAVEN CHILD DEVELOPMENT CENTER)

**CONTRACT NUMBER:** CSPP-2516

AMOUNT ENCUMBERED BY THIS DOCUMENT \$ 145,464	PROGRAM/CATEGORY (CODE AND TITLE) Child Development Programs	FUND TITLE Federal		
PRIOR AMOUNT ENCUMBERED \$ 0	(OPTIONAL USE)0656 13609-2184	FC# 93.596	PC# 000321	
TOTAL AMOUNT ENCUMBERED TO DATE \$ 145,464	ITEM 30.10.020.001 6110-194-0890	CHAPTER B/A	STATUTE 2012	FISCAL YEAR 2012-2013
	OBJECT OF EXPENDITURE (CODE AND TITLE) 702 SACS: Res-5025 Rev-8290			

AMOUNT ENCUMBERED BY THIS DOCUMENT \$ 80,030	PROGRAM/CATEGORY (CODE AND TITLE) Child Development Programs	FUND TITLE Federal		
PRIOR AMOUNT ENCUMBERED \$ 0	(OPTIONAL USE)0656 15136-2184	FC# 93.575	PC# 000324	
TOTAL AMOUNT ENCUMBERED TO DATE \$ 80,030	ITEM 30.10.020.001 6110-194-0890	CHAPTER B/A	STATUTE 2012	FISCAL YEAR 2012-2013
	OBJECT OF EXPENDITURE (CODE AND TITLE) 702 SACS: Res-5025 Rev-8290			

AMOUNT ENCUMBERED BY THIS DOCUMENT \$ 286,152	PROGRAM/CATEGORY (CODE AND TITLE) Child Development Programs	FUND TITLE General		
PRIOR AMOUNT ENCUMBERED \$ 0	(OPTIONAL USE)0656 23254-2184			
TOTAL AMOUNT ENCUMBERED TO DATE \$ 286,152	ITEM 30.10.020.001 6110-194-0001	CHAPTER B/A	STATUTE 2012	FISCAL YEAR 2012-2013
	OBJECT OF EXPENDITURE (CODE AND TITLE) 702 SACS: Res-6105 Rev-8590			

I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.	T.B.A. NO.	B.R. NO.
SIGNATURE OF ACCOUNTING OFFICER	DATE	71

EXHIBIT A

GENERAL TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER:

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

## Pilot Project Addendum

### SAN MATEO/SAN FRANCISCO COUNTY PILOT PROJECT LANGUAGE CHANGES TO FUNDING TERMS AND CONDITIONS (FT&C) (CSPP)

Add the following definitions to Section I. "Definitions" (p.3):

I. DEFINITIONS (As applicable to each specific program type)

"Pilot Project -Pilot Reimbursement Rate" means the reimbursement rate that is determined annually by the number of participating contractors and the available funds including their service level.

"Pilot Project -Transition range of income" means the range of income between the statewide and county pilot income thresholds.

"San Francisco/San Mateo Pilot Project - Income eligible" means that an eligible family's income may be extended past seventy Percent (70%) of the state median income but not exceed eighty (80%) for the pilot project median income, adjusted for family size and adjusted annually.

Add the following language to Section VI. Accounting and Reporting Requirements: (p. 34)

VI. ACCOUNTING AND REPORTING REQUIREMENTS

O. Annual Pilot Project Reporting

As required by the legislation, Counties of San Francisco/San Mateo Pilot Project agency participants will provide all of the necessary data to assist the Counties of San Francisco/San Mateo in reporting annual reports on the progress of the pilot program for submittal to the Legislature, the Department of Social Services and the California Department of Education/Child Development Division. These annual reports will track the County's performance on five outcome goals:

1. Maintain the number of active direct service child care and development services contractors in San Francisco/San Mateo Counties
2. Increase the aggregate child days of enrollment at participating contractors by two



percent (2%)

3. Increase the monthly income for families approaching the state income eligibility threshold
4. Increase the stability of care for families approaching the state income eligibility threshold.
5. Decrease the share of unearned direct services contract funds returned to the California Department of Education.

In addition, the pilot program agency participants will also monitor the waiting lists, the funds held in reserve accounts, and the income profile of subsidized families to identify any potential negative side effects for low-income families waiting for subsidized care in San Francisco/San Mateo Counties.

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# ADMINISTRATIVE SERVICES DEPARTMENT

Council Meeting Date: July 31, 2012

Staff Report #: 12-113

Agenda Item #: D-14

**CONSENT CALENDAR:**      **Extend the Term for Housing Commissioner Anne Moser through October 2012**

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## RECOMMENDATION

Staff recommends extending the term for Housing Commissioner Anne Moser through October 2012.

## BACKGROUND

The City Council approved the creation of the Housing Element Steering Committee (Committee) at the May 22, 2012 City Council meeting. The Committee is comprised of two Planning Commissioners, two Housing Commissioners, appointed by the respective chairs, and two Council Members (Cohen and Ohtaki).

## ANALYSIS

Subsequent to the Council creating the Committee, the Planning Commission and Housing Commission Chairs appointed members Katie Ferrick, Jack O'Malley, Carolyn Clarke and Anne Moser respectively. Anne Moser will be completing her second term on the Housing Commission, with a term ending July 31, 2012. Since she is serving her second term, she is ineligible to apply for another term. Ms. Moser is the only Housing Commissioner with a term expiring this year.

Staff is delaying a future appointment to fill the vacancy in order for Ms. Moser to serve on the Committee through October, when their work on the Draft Housing Element will be completed.

## IMPACT ON CITY RESOURCES

There is no fiscal impact for the proposed action.

## POLICY ISSUES

Council has extended terms in the past in order to meet specific goals.

## **ENVIRONMENTAL REVIEW**

The proposed action does not require environmental review.

*Signature on file*  
Margaret S. Roberts, MMC  
City Clerk

**PUBLIC NOTICE:** Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

**ATTACHMENTS:** None



**CITY COUNCIL  
SPECIAL AND REGULAR MEETING **DRAFT** MINUTES**

Tuesday, May 22, 2012 at 5:30 p.m.  
701 Laurel Street, Menlo Park, CA 94025  
City Council Chambers

Mayor Keith called the Special Meeting to order at 5:35 p.m. with all members present.

There were no members of the public present to speak. The Council went into Closed Session at 5:36 p.m.

- CL1.** Conference with legal counsel pursuant to Government Code Section 54956.9 regarding existing litigation - 1 case:  
*City of Menlo Park and Menlo Park City Council v. Peninsula Interfaith Action, Urban Habitat Program and Youth United for Community Action*  
Superior Court of California, County of San Mateo, Case No. 513882

Mayor Keith called the Regular Meeting to order 7:00 p.m. with all members present.

**REPORT FROM CLOSED SESSION**

**ACTION:** There was no reportable action from Closed Session.

**ANNOUNCEMENTS:** None

**A. PRESENTATIONS AND PROCLAMATIONS**

- A1.** Proclamation recognizing Frank Helfrich for his dedication in preserving the history of Menlo Park ([Proclamation](#))

Mayor Keith presented the Proclamation to Frank Helfrich

Public Comments

- Bette Meissur congratulated Mr. Helfrich on being recognized. She also thanked the Public Works department for all they do around Menlo Park.
- Jim Lewis discussed Mr. Helfrich's work on archiving the history of Menlo Park. Several certificates and proclamations were read by Mr. Lewis. ([Awards](#))

- A2.** Presentation of San Francisquito Creek Joint Powers Authority (SFCJPA) Budget by Len Materman, Director ([PowerPoint](#))

Len Materman, Director of SFCJPA gave a brief presentation regarding the budget for the SFCJPA.

**B. COMMISSION/COMMITTEE VACANCIES, APPOINTMENTS AND REPORTS**

**C. PUBLIC COMMENT #1:** None

#### D. CONSENT CALENDAR

**ACTION:** Motion and second (Fergusson/Ohtaki) to approve the Consent Calendar, excluding Item D2, as submitted passes unanimously.

- D1. Authorize the City Manager to enter into agreements with Casey Construction, Pacific Underground Construction, Inc. and West Valley Construction for on-call emergency water system services and authorize the City Manager to extend the agreements for up to three additional years ([Staff report #12-073](#))
- D3. Authorize the Director of Public Works to accept the work by Nor-Cal Concrete Company for the Citywide Sidewalk Repair Program ([Staff report #12-075](#))
- D4. Authorize the City Manager to execute master agreements for professional services with multiple consulting firms for engineering, surveying, inspection and testing services ([Staff report #12-076](#))
- D5. Adopt **Resolution No. 6061** to request \$204,253 of Lifeline Transportation Program funds from the Metropolitan Transportation Commission to fund 40-percent of the proposed \$516,000 three year operations budget for the City's midday shuttle service spanning fiscal years 2012-13 through 2014-15 ([Staff report #12-078](#))
- D6. Adopt **Resolution No. 6062** giving preliminary approval of the engineer's report for the Menlo Park Landscaping District for fiscal year 2012-13 which proposes no increases to the tree or sidewalk portions of the assessment; adopt **Resolution No. 6063** of intent to order the levy and collection of assessments at the current rates for the Menlo Park Landscaping District for fiscal year 2012-13; and setting the date for the public hearing for June 12 ([Staff report #12-077](#))
- D7. Accept Council minutes for the meetings of April 24 and May 8, 2012 ([Attachment](#))
- D2. Adopt **Resolution No. 6064** authorizing the application for funds under State Proposition 1B and approve the plan to utilize \$463,027 of the Proposition 1B funds for the 2011-12 Street Resurfacing Project; award a construction contract for the 2011-12 Street Resurfacing Project to C.F. Archibald Paving, Inc in the amount of \$3,167,991; and authorize a project budget in the amount of \$4,477,991 for construction, contingencies, material testing and construction administration ([Staff report #12-074](#))

Pulled by Council Member Ohtaki to pose a question to staff

**ACTION:** Motion and second (Ohtaki/Fergusson) to approve the Consent Calendar Item D2, as submitted passes unanimously.

#### E. PUBLIC HEARING

- E1. Review of the City Manager's proposed 2012-13 Budget and Capital Improvement Program for the City of Menlo Park; consideration of the revised long-term financial forecast; and discussion of the continuation of the current reduced rate of Utility Users Tax beyond September 30, 2012 ([Staff report #12-082](#))

Staff presentation given by Alex McIntyre, City Manager and Carol Augustine, Finance Director ([PowerPoint](#))

Note: The Public Hearing was opened prior to the staff presentation due to the number of young children present to speak.

The Public Hearing was opened at 7:34 p.m.

Public Comments

- Sarah Havlish stated she is opposed to merging the Belle Haven After School program (BHASP).
- Matt Henry stated that the BHASP and the Boys and Girls Club are not compatible and that the BHASP and the Belle Haven Child Development Center (BHCDC) should be left as they are now.
- David Laurance, Beechwood School Principle, spoke in opposition of eliminating the BHASP.
- Michaun Auzeene spoke in opposition of eliminating the BHASP and stated that there should have been more outreach to the community. The BHASP is open during school breaks which is beneficial to working parents.
- Isis Contreras urged the Council to keep the BHASP open. She presented a petition with signatures in favor of keeping the BHASP intact.
- Elias Blawie stated that the City needs to decrease the administrative senior staff, to look critically at the business development function, eliminate the Assistant City Manager position and to do more with less.
- Valerie Brook Wilke stated she is opposed to merging the BHASP and the Boys and Girls Club.

**ACTION:** Motion and second (Cline/Fergusson) to close the Public Hearing at 7:53 p.m. passes unanimously.

Staff presentation was presented at this time.

**ACTION:** By consensus the Council suspended implementation of the cost-reduction strategy to merge the Belle Have After School program with another service provider.

**F. REGULAR BUSINESS**

**F1.** Approval of a Settlement Agreement regarding Housing Element litigation; approval of the Work Program for the Housing Element Update and Technical Update of the General Plan; approval of overall budget of \$1,150,000 and adoption of resolutions appropriating a total of \$714,000 from General Fund Reserves for FY 2011-12; authorization of the City Manager to enter into contracts in excess of \$50,000; creation of a Housing Element Steering Committee and appointment of two Council members ([Staff report #12-081](#))

Staff presentation given by Justin Murphy, Development Services Manager ([PowerPoint](#))

Public Comments

- Karen Nunez stated that she supports the Settlement Agreement and this will allow affordable housing.
- Katia Avalos stated she supports the Settlement Agreement
- Alejandro Change stated he supports the Settlement Agreement and completing the Housing Element.

- Mark Moulton, Housing Leadership Council of San Mateo County, stated that he has nothing to add on top of what the student stated. He hopes that the Council will lean on them heavily and assist with the Housing Element
- Patricia Boyle stated that she commends the Council decision to update the Housing Element. The City maintains a list of those who qualify for Below Market Rate (BMR) housing that has over 100 names of those interested.
- Vu-Bang Nguyen urged the Council to approve the Settlement Agreement.
- Chuck Bernstein stated that this Settlement Agreement is extortion and urged the Council to mount an active defense. ([Letter](#))
- Elias Blawie supports work on the Housing Element; however he firmly opposes the staff recommendation.
- Diana Reddy, Peninsula Interfaith Action and Housing Leadership Council, spoke about the benefits of having a current Housing Elements.
- Michele Beasley commends the City for having the discussion and moving forward on the Housing Element. She supports approval of the Settlement Agreement.
- William Byron Webster stated that if the City goes to court, they will lose the lawsuit.
- Edie Keating urged the Council on moving ahead of the Settlement Agreement and the Housing Element.
- Irwin Dawld stated that Palo Alto is the only city in Santa Clara County that has not submitted a Housing Element. The real question is why the City of Menlo Park has not submitted a Housing Element for 20 years.
- Cherie Zaslowsky stated the Council is on the verge of shattering the small town atmosphere. The Council should take into consideration what high density housing and gridlock have on the impact to the schools. She urged the Council to not be associated with Area of Bay Area Governments (ABAG)
- Nevada Merriman stated that San Mateo County has good leadership and when leadership guides the Housing Element process, it puts in the foundation. She supports the Council moving forward with the Settlement Agreement.
- Gail Srekanoyle supports the Housing Element and encouraged the Council to look at secondary units, which is being used in other cities. She stated that rent control must be put into place. ([Handouts](#))

**ACTION:** Motion and second (Ohtaki/Cline) to approve items 1-6 below, passes unanimously.

1. Approve a Settlement Agreement settling lawsuit filed by Peninsula Interfaith Action, Urban Habitat Program and Youth United for Community Action, San Mateo County Superior Court Case No. CIV 513882, and Authorize the City Manager to execute the Agreement on behalf of the City and enter into a Stipulated Judgment;
2. Adopt **Resolution No. 6065** amending the Fiscal Year 2011-12 budget appropriating \$114,000 from the General Fund Reserve for payment of Petitioner’s attorney’s fees as required pursuant to the terms of the Settlement Agreement;
3. Approve the work program for the Housing Element Update and Technical Update of the General Plan, which includes a community outreach process and selection criteria for housing sites;
4. Adopt **Resolution No. 6066** establishing an overall budget of \$1,150,000 for the Housing Element Update and Technical Update of the General Plan and amending the Fiscal Year



2011-12 budget appropriating \$600,000 from the General Fund Reserve for the consultant services;

5. Authorize the City Manager to enter into various contracts for consulting services in excess of \$50,000 for the Housing Element Update and Technical Update of the General Plan, provided the total amounts of the contracts are less than the Council-approved budget for the Housing Element Update; and
6. Authorize the creation of a Housing Element Steering Committee comprised of two Planning Commissioners, two Housing Commissioners, appointed by the respective chairs, and two Council Members; and appoint two Council Members to serve on the Housing Element Steering Committee.

**ACTION:** By consensus, A. Cohen and P. Ohtaki will be the Council Members to serve on the Housing Element Steering Committee.

- F2.** Consider a resolution approving a \$1,849,047 loan from the Below Market Rate fund to HIP Housing for the purchase of a 12-unit apartment building at 1157 and 1161 Willow Road for Low- and Very Low-Income housing opportunities, reallocating \$1 million from the Foreclosure Prevention Program and using \$990,000 from interest income and authorize the City Manager to execute any documents necessary to consummate such loan ([Staff report #12-080](#))

Staff presentation given by Doug Frederick, Housing Manager ([PowerPoint](#))

Public Comments

- Diana Reddy stated that HIP Housing is good organization and she encouraged the Council to approve the resolution.
- Anne Moser stated that she would like Menlo Park to be known for having housing with a range of housing. The Housing Commission whole-heartedly supports this item. The location is in a good location for BMR rental properties.
- William Byron Webster stated that this is a modest expression of good faith to provide housing. This is an act of integrity.
- Mark Moulton, Housing Leadership Council of San Mateo County, spoke in support of the item.

**ACTION:** Motion and second (Fergusson/Cline) to adopt **Resolution No. 6067** approving a \$1,849,047 loan from the Below Market Rate fund to HIP Housing for the purchase of a 12-unit apartment building at 1157 and 1161 Willow Road for Low- and Very Low-Income housing opportunities, reallocating \$1 million from the Foreclosure Prevention Program and using \$990,000 from interest income and authorize the City Manager to execute any documents necessary to consummate such loan and a goal of fifty percent (50%) occupancy of veterans and an annual report on the occupancy goal passes unanimously.

- F3.** Consider state and federal legislative items, including decisions to support or oppose any such legislation, and items listed under Written Communication or Information Item: None

**G. CITY MANAGER’S REPORT: None**

**H. WRITTEN COMMUNICATION: None**

**I. INFORMATIONAL ITEMS**

- I1.** Five-year projection of solid waste and recycling materials collection and processing costs  
([Staff report #12-079](#))

The City Council received the report.

**J. COUNCILMEMBER REPORTS:** None

**K. PUBLIC COMMENT #2:** None

**L. ADJOURNMENT**

The meeting was adjourned at 12:27 a.m. on May 23, 2012.



Margaret S. Roberts, MMC

City Clerk

Minutes accepted at the Council meeting of



## CITY COUNCIL SPECIAL AND REGULAR MEETING **DRAFT** MINUTES

Tuesday, May 29, 2012 at 6:00 p.m.

701 Laurel Street, Menlo Park, CA 94025  
City Council Chambers

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Vice Mayor Ohtaki called the Special Meeting to order at 6:00 p.m. with Cline, Cohen and Ohtaki present.

There were no members of the public present to speak. The Council went into Closed Session at 6:01 p.m.

Mayor Keith arrived at 6:35 p.m.

**CL1.** Conference with legal counsel pursuant to Government Code Section 54956.9(c) regarding potential litigation - 1 case

Closed Session was adjourned at 6:58 p.m.

Mayor Keith called the Regular Meeting to order 7:00 p.m. with all members present.

### **REPORT FROM CLOSED SESSION**

**ACTION:** There was no reportable action from Closed Session.

### **ANNOUNCEMENTS**

The Menlo Park Historical Association is holding a one hour (11:00 – Noon) Celebration for the 25th Anniversary of the Menlo Park Clock Tower. The festivities will be held at the Clock Tower located on the eastern end of Santa Cruz Avenue, at the Train Station on June 19.

### **A. PRESENTATIONS AND PROCLAMATIONS**

**A1.** Presentation by Police Department: Special Olympics Torch Run and Tip a Cop events  
Police Chief Bryan Roberts gave a brief presentation on the Tip a Cop event and the Special Olympics Torch Run for 2012 ([PowerPoint](#))

**B. COMMISSION/COMMITTEE VACANCIES, APPOINTMENTS AND REPORTS:** None

### **C. PUBLIC COMMENT #1**

- Matt Henry spoke regarding the Ringwood Bridge and appreciates that the community comments have been taken into consideration. He commented on a stop sign at Pierce and Market Streets which is downstream from the crosswalk and cars would have to go across the crosswalk before getting to the stop sign. ([Map](#))
- Shundon Lloyd requested the Council support the San Mateo County Alpine Road/280 Project and to consider writing a letter of support to the County.

**D. CONSENT CALENDAR:** None

## E. PUBLIC HEARING

- E1.** Consider a request for an amended and restated Conditional Development Permit and Development Agreement for the property located at 1601 Willow Road (East Campus) and heritage tree removal permit and environmental review for the properties located at the 1601 Willow Road (East Campus) and 312 and 313 Constitution Drive (West Campus) ([Staff report #12-083](#)) ([PowerPoint](#))([PowerPoint](#))

Staff presentation by Rachel Grossman, Associate Planner – Project overview  
Chip Taylor, Public Works Director – Marsh and Middlefield Roads

- Tim Tosta, Facebook Attorney, thanked the Council, Planning Commission, the extraordinary staff and the many supporters in the community on behalf of John Tenanes. The process in Menlo Park has been the best process for a project. Facebook has set out and already is a good neighbor. He urged the Council to complete this part of the project approval.
- Robert Eckles, Traffic Engineer, stated that his firm has been looking at all of the traffic mitigations involved with the Facebook Project. He stated that the traffic mitigation measures regarding the Marsh and Middlefield Roads are sufficient. There are multiple standards for lane widths.
- Tim Tosta explained that there have been three Environmental Impact Reports (EIRs) that address the Marsh Road and Middlefield Road intersection; the Menlo Gateway Project, the North Fair Oaks Project and the Facebook Project. The first two EIRs have the same mitigation as the Facebook EIR and the Town of Atherton accepted the mitigations in those EIRs. They are now asking for road improvements near the upper channel estimated at \$1-1½ million dollars. The Town of Atherton is asking Facebook to front the entire amount for the intersection rather than a fair share. California Environmental Quality Act (CEQA) requires mitigation of the impacts that your project causes. The impact for the Facebook mitigation will happen after the East and West Campuses are at full staff, which is expected to be 2020-2025. The cumulative impact is during the p.m. peak hours going south bound direction on Middlefield onto Marsh. There is an existing problem that the Town of Atherton has in the right turn from Marsh to Middlefield in the a.m. period. This is not a significant impact under the Facebook, Menlo Gateway or the North Fair Oaks EIR.

CEQA says that if there is an impact, you pay for the impact you cause (CEQA Guideline Section 15126.4 (4) including subsection (b)). Facebook generates 8% of the traffic that has been found to be significant and Facebook is willing to pay 30%. The mitigation must be proportionate to the impact. The difficulty with the mitigations being requested by the Town of Atherton is that it is not a stable position. The current mitigation being requested from the Town of Atherton falls outside of the CEQA process. The mitigations being requested by the Town of Atherton were not brought up during the review of the Draft EIR, they were raised when the Final EIR was in print. (*Documents referenced*)

- Theresa DellaSanta, Interim City Manager with the Town of Atherton, read a statement into the record stating that the EIR is inadequate. ([Statement](#)) Council Member Dobbie stated that the Town of Atherton would like to come to a conclusion. He pointed out on January 19, 2012, they sent the City a letter regarding the EIR and underestimating traffic.

The Public Hearing was opened at 8:13 p.m.

### Public Comment

- David Tuipulotu spoke in favor of the project Facebook is in a position to assist the Belle Haven Community move forward.
- William Byron Webster commended the City Council, Planning Commission and Facebook regarding the progress made regarding the City of East Palo Alto concerns.
- Sharon Williams urged the Council to move forward with the Facebook Project.
- Charlie Bourne stated that traffic and transportation have not been adequately addressed by staff or the Planning Commission. He also stated that the Transportation Commission could not file comments on the EIR.
- Dorsey Nunn spoke against the project and the contributions that Facebook have made to the community.
- Nancy Cash, representing the Mt. Olive Church, thanked the Council for a phenomenal process and encouraged the Council approve the items.
- Vicky Robledo, a Belle Haven resident, stated that she has not been happy with the process as she was not a part of the process for input. What is Facebook doing to accommodate her?
- William Nack, San Mateo County Building Trades, stated that Facebook has brought jobs to the area and respectfully requested the Council to approve staff recommendations.
- Fran Dehn, Menlo Park Chamber of Commerce, stated that the Chamber of Commerce has addressed the Planning Commission and the City Council on numerous occasions. The Chamber of Commerce fully supports the Facebook Project as it will have a net positive impact to the community.
- Dr. Nancy Jewell Cross, Clean Air Transport, stated she is concerned that there is not a Transportation Plan and no consideration of environmental conditions in other communities. ([Memo](#))
- Kail Lubarsky, Jog Train, stated they are supportive of Facebook as they are a good neighbor and due to Facebook generosity, the community is better and urged the Council to approve the project.
- Omar Chatty stated that he made comments on the EIR with two suggestions for traffic improvements; making Highway 84 into an expressway and expanding BART around the Bay.
- Cedric Williams gave suggestions on what Facebook could have done or could do for the Belle Haven Community. He requested more interaction on the project.
- Matt Henry stated that he has, in the past, provided a list of items the Belle Haven Neighborhood could use to City staff and previous City Councils. The list was provided to Facebook at their request.

**ACTION:** Motion and second (Fergusson/Cline) to close the Public Hearing at 8:53 p.m. passes unanimously.

**ACTION:** Motion and second (Fergusson/Ohtaki) to approve **Resolution No. 6068** certifying the Final Environmental Impact Report for the Facebook Campus Project located at 1601 Willow Road and 312 and 313 Constitution Drive; to approve **Resolution No. 6069** adopting findings required by the California Environmental Quality Act, Statement of Overriding Considerations, and adopting the mitigation monitoring and reporting program for the property located at 1601 Willow Road; to approve **Resolution No. 6070** approving an Amended and Restated Conditional Development Permit for the property located at 1601 Willow Road; and to approve **Resolution No. 6071** approving Heritage tree removal permits for the properties located at 1601 Willow Road, and 312 and 313 Constitution Drive passes unanimously.

**ACTION:** An Ordinance of the City Council approving the Development Agreement with Facebook, Inc. and Wilson Menlo Park Campus, LLC for the property located at 1601 Willow Road was introduced.

**F. REGULAR BUSINESS**

**F1.** Consider state and federal legislative items, including decisions to support or oppose any such legislation, and items listed under Written Communication or Information Item: None

**G. CITY MANAGER’S REPORT:** None

**H. WRITTEN COMMUNICATION:** None

**I. INFORMATIONAL ITEMS:** None

**J. COUNCILMEMBER REPORTS**

Council Members reported on meetings attended in compliance with AB1234 reporting requirements.

**K. PUBLIC COMMENT #2**

Andrew Boone agreed with comments made during Public Comment #1 regarding the Alpine/280 Project that will be before the San Mateo County Transportation Authority.

**L. ADJOURNMENT**

The meeting was adjourned at 9:31 p.m.



Margaret S. Roberts, MMC

City Clerk

Minutes accepted at the Council meeting of



## CITY COUNCIL REGULAR MEETING **DRAFT** MINUTES

Tuesday, June 12, 2012 at 7:00 p.m.  
701 Laurel Street, Menlo Park, CA 94025  
City Council Chambers

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Mayor Keith called the Regular Meeting to order 7:06 p.m. with all members present.

Mayor Keith led the pledge of allegiance.

**ANNOUNCEMENTS:** None

**A. PRESENTATIONS AND PROCLAMATIONS:** None

**B. COMMISSION/COMMITTEE VACANCIES, APPOINTMENTS AND REPORTS:** None

**C. PUBLIC COMMENT #1**

- Kathy Hamilton commented on High Speed Rail and encouraged the Council to take a stronger stance.
- Maurice Ghysels, Superintendent of the Menlo Park City School District, discussed the enrollment of students and will be involved in the update of the Housing Element Steering Committee meetings, stakeholder meetings and community meetings.
- Jim Cogan, PG&E, updated the Council on upcoming work in Menlo Park.

**D. CONSENT CALENDAR**

**ACTION:** Motion and second (Cline/Ohtaki) to approve the Consent Calendar Items D1 – D4 as submitted passes unanimously.

**D1.** Authorize the City Manager to enter into a contract with Revolution Foods in the amount of \$78,464 for the delivery of food services at Belle Haven Child Development Center ([Staff report #12-090](#))

**D2.** Adopt **Resolution No. 6079:** a) Calling and giving notice of holding a General Municipal Election for two seats on the Menlo Park City Council; b) requesting that the City Council consolidate the election with the Presidential General Election to be held on November 6, 2012; and c) contracting with the San Mateo County Chief Elections Office for election services ([Staff report #12-091](#))

**D3.** Adopt **Resolution No. 6080** appropriating a total of \$350,000 from the Below Market Rate Housing Fund for FY 2011-012; authorizing the City Attorney and City Manager to take all steps necessary to cure an existing loan default and purchase the property at 1403 Sage Street and retain the home in the City's BMR program ([Staff report #12-096](#))

**D4.** Adopt **Resolution No. 6081** accepting dedication of a public access easement and authorizing the City Manager to sign the certificate of acceptance for the 200 Middlefield Road Frontage Improvements Project ([Staff report #12-087](#))



**D5.** Adopt **Resolution No. 6082** supporting the Willow Road/US 101 Interchange Project and the Sand Hill Road Signal Interconnect Project and submitting an application for Measure A Highway Program Funding for the Willow Road/US 101 Interchange Project and the Sand Hill Road Signal Interconnect Project ([Staff report #12-097](#))

Item pulled by Council Member Ohtaki for questions

**ACTION:** Motion and second (Fergusson/Ohtaki) to adopt **Resolution No. 6082** supporting the Willow Road/US 101 Interchange Project and submitting an application for Measure A Highway Program Funding for the Willow Road/US 101 Interchange Project and authorizing the City Manager to execute the Funding Agreement and to include bicycle and pedestrian safety as goals for the project passes unanimously.

**ACTION:** Motion and second (Fergusson/Ohtaki) to adopt **Resolution No. 6083** supporting the Sand Hill Road Signal Interconnect Project and submitting an application for Measure A Highway Program Funding for the Sand Hill Road Signal Interconnect Project and authorizing the City Manager to execute the funding agreement passes unanimously.

**D6.** Waive the reading and adopt an ordinance amending Title 16 of the Menlo Park Municipal Code to incorporate the El Camino Real/Downtown Specific Plan, and ordinances rezoning properties located in the El Camino Real/Downtown Specific Plan area ([Staff report #12-098](#))

**ACTION:** Motion and second (Fergusson/Cline) to waive the reading of the ordinance and to adopt the following.

**Ordinance No. 979:** An Ordinance of the City of Menlo Park, amending Title 16 of the Menlo Park Municipal Code to incorporate the El Camino Real/Downtown Specific Plan passes unanimously.

**Ordinance No. 980:** An Ordinance of the City of Menlo Park, rezoning properties located in the El Camino Real/Downtown Specific Plan Area (Applicable to all Specific Plan Districts except El Camino Real South-East and South-West Districts) passes unanimously.

**NOTE:** Council Member Fergusson announced she is recused from the El Camino Real South-East and El Camino Real South West zoning districts due the location of her husband's place of business and left the meeting at 7:28 and returned at 7:29.

**NOTE:** Vice Mayor Ohtaki announced he is recused from the El Camino Real South West zoning district due to property recently sold and left the meeting at 7:28 and returned at 7:29.

**ACTION:** Motion and second (Cline/Ohtaki) to waive the reading of the ordinance and to adopt the following.

**Ordinance No. 981:** An Ordinance of the City of Menlo Park, rezoning properties located in the El Camino Real/Downtown Specific Plan Area (Applicable to El Camino Real South-East District) passes 3-0-0-2 (Recused: Fergusson and Ohtaki)

**Ordinance No. 982:** An Ordinance of the City of Menlo Park, rezoning properties located in the El Camino Real/Downtown Specific Plan Area (Applicable to El Camino Real South-West District) passes 3-0-0-2 (Recused: Fergusson and Ohtaki).



## E. PUBLIC HEARING

- E1.** Adopt a resolution overruling protests, ordering the improvements, confirming the diagram and ordering the levy and collection of assessments at the existing fee rates for the sidewalk and tree assessments for the City of Menlo Park Landscaping Assessment District for fiscal year 2012-13 ([Staff report #12-088](#))

There was no staff presentation

The Public Hearing was opened at 7:30 p.m. There were no speakers during the Public Hearing.

**ACTION:** Motion and second (Fergusson/Cline) to close the Public Hearing at 7:31 p.m. passes unanimously.

**ACTION:** Motion and second (Fergusson/Cohen) to approve **Resolution 6084** overruling protests, ordering the improvements, confirming the diagram and ordering the levy and collection of assessments at the existing fee rates for the sidewalk and tree assessments for the City of Menlo Park Landscaping Assessment District for fiscal year 2012-13 passes unanimously.

- E2.** Adopt a resolution authorizing collection of a regulatory fee at existing rates to implement the local City of Menlo Park Storm Water Management Program for Fiscal Year 2012-13 ([Staff report #12-092](#))

There was no staff presentation

The Public Hearing was opened at 7:31 p.m. There were no speakers during the Public Hearing.

**ACTION:** Motion and second (Cline/Fergusson) to close the Public Hearing at 7:31 p.m. passes unanimously.

**ACTION:** Motion and second (Cline/Ohtaki) to approve **Resolution 6085** authorizing collection of a regulatory fee at existing rates to implement the local City of Menlo Park Storm Water Management Program for Fiscal Year 2012-13 passes unanimously.

- E3.** Adopt a resolution recommending that the San Mateo County Flood Control District impose basic and additional charges for funding the fiscal year 2012-13 countywide National Pollutant Discharge Elimination System General Program ([Staff report #12-089](#))

There was no staff presentation

The Public Hearing was opened at 7:35 p.m. There were no speakers during the Public Hearing.

**ACTION:** Motion and second (Cline/Ohtaki) to close the Public Hearing at 7:35 p.m. passes unanimously.

**ACTION:** Motion and second (Cline/Fergusson) to approve **Resolution 6086** recommending that the San Mateo County Flood Control District impose basic and additional charges for funding the fiscal year 2012-13 countywide National Pollutant Discharge Elimination System General Program passes unanimously.

**F. REGULAR BUSINESS**

**F1.** Adopt resolutions: Adopting the 2012-13 Budget and Capital Improvement Program for the City of Menlo Park; establishing the appropriation limit for fiscal year 2012-13; establishing a Consecutive Temporary Tax percentage reduction in Utility Users Tax rates; and determining the continued need for imposition of the Utility Users Tax per Section 3.14.310 of the Municipal Code ([Staff report #12-093](#))

Staff presentation by Carol Augustine, Finance Director (*PowerPoint*)

**ACTION:** Motion and second (Fergusson/Ohtaki) to approve **Resolution No. 6087** adopting the Budget for fiscal year 2012-13 and adopting the Capital Improvement Program for the Fiscal Year passes unanimously.

**ACTION:** Motion and second (Fergusson/Ohtaki) to approve **Resolution No. 6088** establishing appropriations limit for Fiscal Year 2012-13 passes unanimously.

**ACTION:** Motion and second (Fergusson/Ohtaki) to approve **Resolution No. 6089** establishing a temporary tax percentage reduction in the Utility Users Tax pursuant to Section 3.14.130 of the City of Menlo Park Municipal Code passes unanimously.

**ACTION:** Motion and second (Fergusson/Ohtaki) to approve **Resolution No. 6090** determining that the Utility Users Tax, pursuant to Section 3.14 of the City of Menlo Park Municipal Code, is necessary for the financial health of the City passes unanimously.

**F2.** Introduction of an ordinance to amend Menlo Park Municipal Code to increase the Transient Occupancy Tax (TOT) rate from 10% to 12% ([Staff report #12-095](#))

Staff presentation by Carol Augustine, Finance Director

Public Comments

- Henry Riggs stated that raising taxes on a service that supports our businesses will cause them the advantage that notes coming to Menlo Park is like coming to the one island of less expensive taxes.

**ACTION:** Motion and second (Cline/Cohen) to introduce an Ordinance of the City Council to amend the Menlo Park Municipal Code to increase the Transient Occupancy Tax (TOT) rate from 10% to 12% passes unanimously.

**F3.** Amend the Public Noticing Policy (Policy) for Development Permit applications in order to provide alternate means for noticing the public of development projects in a cost effective and efficient manner ([Staff report #12-094](#))

Staff presentation by Margaret Roberts, City Clerk

**ACTION:** Motion and second (Ohtaki/Fergusson) to amend the Public Noticing Policy (Policy) for Development Permit applications in order to provide alternate means for noticing the public of development projects in a cost effective and efficient manner and to add a QR Code to the postcard passes unanimously.

**F4.** Consider state and federal legislative items, including decisions to support or oppose any such legislation, and items listed under Written Communication or Information Item: None

**G. CITY MANAGER'S REPORT:** None

**H. WRITTEN COMMUNICATION:** None

**I. INFORMATIONAL ITEMS**

**11.** Belle Haven CDC Self Evaluation Report for the Child Development Division of the California Department of Education for fiscal year 2011-12 ([Staff report #12-086](#))

**J. COUNCILMEMBER REPORTS**

- Council Members Ohtaki and Cohen provided information on the Housing Element Steering Committee meetings.

**NOTE:** Council Member Cohen and City Attorney Bill McClure announced their recusal on High Speed Rail due to the proximity of their properties and left the meeting at 8:24 p.m.

- Kelly Fergusson spoke on High Speed Rail and the trailer bill. Staff was asked to stay on top of the legislation and to call a meeting as soon as possible thereafter for the Council to discuss.

**K. PUBLIC COMMENT #2:** None

**L. ADJOURNMENT**

The meeting was adjourned at 8:29 p.m.



Margaret S. Roberts, MMC

City Clerk

Minutes accepted at the Council meeting of

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## COMMUNITY DEVELOPMENT DEPARTMENT

Council Meeting Date: July 31, 2012  
Staff Report #: 12-114

Agenda Item #:E-1

**PUBLIC HEARING:** Consider a Request for a Use Permit, Architectural Control, Tentative Subdivision Map, Below Market Rate Housing Agreement, Application of State Density Bonus Law, and Environmental Impact Report to Construct 26 Residential Units on a 1.23-acre Site Located at 612 Partridge Avenue, 603 - 607 College Avenue, and 321 - 389 El Camino Real (Collectively Known as 389 El Camino Real)

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### RECOMMENDATION

Staff recommends that the City Council concur with the recommendation of the Planning Commission and approve the following actions related to the 389 El Camino Real Project, subject to the specific actions contained in Attachment A:

1. **Environmental Review:** Adopt a resolution certifying the Final Environmental Impact Report (EIR), Adopting the Statement of Overriding Considerations and Adopting the Mitigation Monitoring and Reporting Program;
2. **State Density Bonus:** Apply the State Density Bonus Law to allow one incentive and six development standard waivers;
3. **Use Permit:** Make findings and approve a Use Permit for construction of three or more units in the R-3 zoning district and new construction of residential units in the C-4(ECR) zoning district;
4. **Architectural Control:** Adopt findings and approve the Architectural Control for design review of the new buildings and site improvements;
5. **Tentative Map:** Make findings and approve the Tentative Map to merge seven lots into two lots, abandon the public street easement for Alto Lane, and create 26 residential condominium units; and
6. **Below Market Rate (BMR) Housing Agreement:** Approve the BMR Housing Agreement to provide three on-site BMR units in accordance with the City's Below Market Rate Housing Program and State Density Bonus Law.

## **BACKGROUND**

On September 2, 2009, the applicant submitted initial plans for a 26-unit residential project under the State Density Bonus Law (Government Code Section 65915 and relevant amendments). The applicant had previously presented conceptual plans for a larger mixed-use project that would have required General Plan and Zoning Ordinance Amendments, but this option was ultimately not pursued. A Planning Commission study session was held on the 26-unit residential project on June 28, 2010, in which both the Planning Commission and members of the public commented on the proposal. Commissioners generally shared similar sentiments about the proposal, and highlighted potential concerns about the lack of open space, the impacts to the local school district, and too many inconsistencies with the Zoning Ordinance's development regulations, which created elements that were out of character with the Allied Arts neighborhood. The primary concerns raised by the neighbors were the density and scale of the development compared to its surroundings. The topics of parking and traffic were also issues. In addition, the Commission and several members of the public were interested in learning more about the State Density Bonus Law, which would allow the project to have a density bonus and apply development standard waivers.

On May 2, 2011, the Planning Commission conducted a study session regarding the State Density Bonus Law (Government Code section 65915) with the City Attorney's Office. The study session was not specific to the 389 El Camino Real project, but the City Attorney's Office reviewed components of the Law that would be applicable to the project. The applicability of the State Density Bonus Law with respect to the proposed project is further discussed below in the State Density Bonus Law section.

Following the June 28, 2010 Planning Commission study session, the applicant worked with a Neighborhood Task Force and staff to discuss and address concerns. Based upon the comments raised by the Commission, the Neighborhood Task Force, and staff, the applicant made the following revisions to the project:

- Reduced the overall height of the buildings to conform with the height limitations of the C-4 (ECR) and R-3 zoning districts;
- Reduced the height of the residences adjacent to the Allied Arts neighborhood from three stories to two stories;
- Reoriented units to face El Camino Real;
- Increased the front setback for the unit fronting on College Avenue, to provide a better transition between the units closer to El Camino Real and the adjacent single-family neighborhood;
- Increased the setbacks along the right side property line of the R-3 zoned property, creating more private open space for these units as well as providing a greater buffer between these units and the adjacent single-family residential property;
- Increased the size and amenities of the College Avenue pocket park;

- Created a new common open space area along El Camino Real through the elimination of a driveway;
- Redesigned the architecture to avoid uniformity and blend in more appropriately with the Allied Arts neighborhood;
- Incorporated higher quality building materials and finishes; and
- Provided the option for an elevator to be installed in five of the residences, which would provide flexibility for disabled persons to purchase a residence in the development.

A Planning Commission study session was held on the project and public hearing held for the Draft EIR on March 19, 2012, in which both the Planning Commission and members of the public had the opportunity to comment on the Draft EIR and discuss the revisions made to the project since the previous study session. Comments and responses on the Draft EIR are discussed in the Environmental Review section of this report.

On June 25, 2012, the Planning Commission held a public hearing to consider recommendations on the actions required for project approval. The approved excerpt minutes for this meeting are included as Attachment H. After considering public comments and project materials, including the EIR, the Planning Commission recommended that the City Council take all required actions and approve the project. With the exception of the State Density Bonus component (5-2, with Commissioners Bressler and Kadvany opposed), all recommendations for approval were unanimous.

The staff reports and minutes from all of the meetings are available online and at the Community Development Department for review.

On June 5 and 12, 2012, the City Council approved and adopted the El Camino Real/Downtown Specific Plan and conducted related approval actions. The associated ordinances became effective on July 12, 2012, and the Specific Plan includes the subject properties within its Plan area. However, because the project was submitted prior to the Specific Plan becoming effective, it may be reviewed and approved under the preexisting Zoning Ordinance regulations. This report contains a section comparing the proposal to the equivalent Specific Plan regulations, for reference.

## **ANALYSIS**

### **Proposed Project**

The proposal involves the demolition of one single-family residence and a triplex and the construction of 26 residential units, designed as 17 attached townhouses and nine single-family residences (five of which would be fully detached and four of which would be structurally attached via roof connections) on a 1.23-acre site. A location map and the project plans are included as Attachments E and F, respectively.

### **Site Layout/Access**

The townhomes would be arranged in a series of four rows perpendicular to El Camino Real, consisting of four to five units per row. To provide a more active street presence along El Camino Real, the entrances to the units adjacent to El Camino Real, with the exception of the end unit in Building C adjacent to Planet Auto, are oriented to face El Camino Real. Each of the El Camino Real entrances would provide a porch, which would help frame the entry and represent an inviting architectural feature.

The single-family semi-attached and detached units would be located parallel to El Camino Real along the rear of the property (as viewed from El Camino Real). The frontage of the two units along College Avenue and Partridge Avenue are oriented to face the street, while the seven interior units are oriented to face the internal driveway.

Access to the site would consist of two driveways off of El Camino Real, with each driveway providing two-way access to and from the site. These driveways connect to form a loop, providing access to all but two units. Two single-family units would be independent and take access from College and Partridge Avenues. The Menlo Park Fire Protection District has been consulted on the proposed site layout to ensure that emergency vehicles would be able to make a loop through the site if access is needed.

### **Mix of Units/Size of Units**

The proposed 17 townhouse units feature a mix of two- and three-bedroom units, while the nine single-family units (includes semi-attached and detached units) are all four-bedroom units. The table below shows the mix of units as well as an approximate square footage for each of the units. The overall gross floor area for the project is approximately 46,600 square feet.

**Product Mix**

	Square Footage (range)	Number of Units Proposed
2 bedroom/2.5 baths	1,342 – 1,410	2
3 bedroom/3 bath	1,471 – 1,582	7
3 bedroom/3.5 bath	1,653 – 2,038	8
4 bedroom/2.5 bath	1,925 – 2,059	9



## ***Architectural Style and Materials***

The architectural style would be traditional in nature to blend with the varied architectural styles of the Allied Arts neighborhood, with articulation through the use of pop out windows, balconies and porches.

The townhouse units would feature gable roofs, shingle siding, divided light windows (with interior and exterior grids and a between-the-glass spacer bar), copper gutters and downspouts, decorative corbels, “spider” and decorative metal railings, tapered columns, and enhanced use of stone veneer at the bases and columnar features. The building height of the proposed townhouses is 30 feet to the top of the roof; however, an additional 3.8 feet of roof height would be provided to screen for rooftop mechanical equipment. The design of the roofline, both for the actual roof and roof screening, have been designed to blend in with the overall architectural style of the buildings.

The semi-detached and detached single-family residences along the rear would feature complimentary, but different materials. The seven interior homes would feature hip roofs, a combination of stucco and horizontal siding, or stucco and board and batten on the exterior façades. Wood trim, trellises and simulated divided light windows, similar to the townhouse units, would also be used on these single-family homes.

The residences facing Partridge and College Avenues would have an independent design to not appear as part of the larger project, and to create a transition into the adjacent neighborhood. The residence on College Avenue has been designed to reflect Craftsman-style architecture, with a mix of hip and gable roofs, shingle siding, divided light windows, tapered wood porch column, dormers, decorative wood corbels, and stone veneer base. The proposed residential unit on Partridge Avenue would be reminiscent of Spanish style architecture, and would feature a hip concrete tile roof, stucco siding, decorative ceramic tile and metal railing, divided light windows, arched entryway with decorative stucco and ceramic tile trim, and decorative metalwork throughout the façade.

## ***Open Space***

The proposed project includes two common open space areas: a large open space area along El Camino Real located between Buildings A1 and A2, and a smaller “pocket park” along College Avenue. The open space areas would not only be amenities to the residents on the site, they would also aesthetically enhance the neighborhood, as the two areas would be visible from College Avenue and El Camino Real. The open space near El Camino Real would include a fountain that will serve as a focal point, and include other passive elements such as a lawn and a barbeque. The pocket park near College Avenue would feature the existing heritage redwood tree that would be preserved in place. Both of these areas would include functional and decorative features such as seating areas and wood trellises. Although they are not public parks, both common open spaces would remain publicly accessible. Permanent barriers are not proposed, and limitations to public access (i.e. permanent barrier fencing, gates)

would not be permitted, as these areas would aesthetically enhance the streetscape along El Camino Real and College Avenue.

### ***Landscaping***

The site contains one heritage size redwood tree located at 603 College Avenue, which is proposed to remain and be a feature of the pocket park. As part of the off-site improvements, the applicant proposes to remove five of the existing, non-heritage street trees along El Camino Real to accommodate the new driveways and provide views to the fountain and open space. One non-heritage cedar street tree along College Avenue is recommended for removal by the City Arborist, as this tree is in poor condition and competes with the nearby heritage redwood tree.

The applicant is proposing to plant 58 new trees throughout the site, including decorative accent trees (such as crepe myrtle and Eastern redbud) along El Camino Real and College Avenue, and a row of trees (*arbutus marina*) along the fence line in the rear yards of the single-family homes to provide privacy screening for both the new homeowners and the adjacent neighbors.

The front yard landscaping along College Avenue, as well as the other common open spaces, would be maintained by the future homeowners' association to maintain a quality and manicured presence.

### **Tentative Map**

The seven legal parcels that comprise the project site are proposed to be merged to form two new parcels that would substantially follow the existing zoning boundary line between the C-4 (ECR) and the R-3 districts. The larger of the two parcels is approximately 0.98-acre and would be in the C-4 (ECR) zoning district, while the smaller parcel is approximately .25-acre and would be in the R-3 zoning district. As noted previously, while the properties have recently been rezoned to the SP-ECR/D (El Camino Real/Downtown Specific Plan) zoning district, the project was submitted prior to that action and is being considered for approval consistent with the preexisting zoning districts. The technical front property line for each of the two new lots would be along College Avenue.

The 26 residential units would be condominiums on these two shared common lots. With the exception of exclusive use easements for private open space, all shared facilities and landscaping would be maintained by the future homeowner's association.

### ***Abandonment of Alto Lane***

The proposed development includes the abandonment of the public street easement for Alto Lane. As part of the proposed street abandonment, the existing storm drain easement that runs through Alto Lane and extends the length of the project site would also be abandoned, and a new realigned storm drain easement would be created.

The portion of Alto Lane on this block is only accessible from College Avenue, as it ends mid-block and does not provide a connection to Partridge Avenue. Currently, this portion of Alto Lane appears only to serve the triplex at 603-607 College Avenue. With the demolition of the triplex as part of the proposed project, this portion of Alto Lane would no longer serve a useful purpose as a public street easement, and its abandonment will not affect any users. The area occupied by Alto Lane would be incorporated into the overall project site, divided between the two new parcels, and assume the respective zoning designations of these two parcels.

The abandonment of Alto Lane and the existing storm drain easement are necessary for the development of the proposed project, as the function of the proposed site layout and circulation are conditional upon the abandonment of these easements.

### ***Pedestrian Access Easement along El Camino Real***

The proposed development would require the dedication of a 3.7-foot-wide pedestrian access easement (PAE) along the site's El Camino Real frontage. The PAE would accommodate the proposed six foot wide sidewalk by providing public access over this portion of the project site because there is insufficient width in the existing right-of-way. Additional discussion of the sidewalks is provided in the El Camino Real/Downtown Specific Plan comparison section of this report.

### **Below Market Rate (BMR) Housing Agreement**

The applicant is proposing to provide three on-site BMR units to low-income households, in compliance with the City's Below Market Rate Housing Program and State Density Bonus Law. The provision of low-income units would provide a level of affordability that exceeds that of typical BMR units in the City, which are generally at moderate income levels. All three units are townhouses consisting of one 2 bedroom/2.5 bath unit, one 3 bedroom/3 bath unit, and one 3 bedroom/3.5 bath unit. These units are spread out across the site in three different buildings, and are generally representative of the selection of townhouse floor plans. The draft Below Market Rate For-Sale Agreement is included as Attachment D. The Housing Commission has reviewed the BMR Housing Agreement and approved the selection of these three units at their regular meeting on May 2, 2012.

### **Application of the State Density Bonus Law to the Project**

The applicant is proposing to apply the provisions of Government Code Section 65915 (GC 65915), the State Density Bonus Law, to the project. A copy of GC 65915 is included for reference as Attachment G. The purpose of GC 65915 is to encourage and provide incentives to developers to include lower income housing units in their developments. In this case, the applicant is proposing to include three units for low-income households. Where the proposal exceeds the requirements of the City's Below Market Rate (BMR) Ordinance, the applicant is entitled to the benefits provided by GC

65915. The language of GC 65915 is mandatory; therefore, the City must grant the applicant a density bonus, which would allow the applicant to increase the density above the maximum allowable limit under the Zoning Ordinance, and grant one or more incentives or concessions for the production of housing units.

### ***Density Bonus***

The percentage density bonus for low income, very-low income and moderate income units is detailed in the tables found in sub-section (f) of GC 65915. The more low-income units provided, the greater the density bonus up to a maximum of 35 percent. Since 14 percent (three of 21 units) of the project units are designated for low income households, the applicant is entitled to a 26 percent density bonus or six additional units. While this would allow for a maximum of 27 residential units on the site, the applicant is requesting approval of 26 units. Per GC 65915, the applicant must agree to restrict the low-income units for at least 30 years.

### ***Incentives***

An applicant that has applied for a State density bonus may submit a proposal for specific incentives. An incentive means any of the following:

1. A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that result in identifiable, financially sufficient, and actual cost reductions.
2. Approval of mixed use zoning in conjunction with a housing project.
3. Other regulatory incentives proposed by the developer that result in identifiable, financially sufficient, and actual cost reductions.

The number of incentives a project is entitled to depends on the percentage of low, very-low or moderate income units provided (no incentive is provided for the provision of non-income restricted senior housing units). In this case, the applicant is entitled to one incentive because the project includes at least 10 percent of total units for low income households. Per GC 65915, the City shall grant the incentive requested by the developer, unless the City makes a written finding, based upon substantial evidence, of any of the following:

1. The incentive is not required to provide for affordable housing costs as defined in Health and Safety Code Section 50052.5.
2. The incentive would have a specific adverse impact, as defined in Government Code Section 65589.5(d)(2), upon public health and safety or the physical environment or any real property listed in the California Register of Historic Places.
3. The incentive would be contrary to federal or state law. (GC 65915(d)(1))

The applicant has identified the requested incentive to have the maximum allowable Floor Area Ratio (FAR) for the C-4 (ECR) zoning district be 75 percent. Per the existing

C-4 (ECR) zoning district regulations, the maximum allowed FAR (for non-office uses only) is 55 percent, except that an FAR not exceeding 75 percent may be authorized by a use permit. In this case, a use permit to obtain the 75 percent FAR would not be required, if granted as an incentive per GC 65915. The incentive shall be granted unless a finding based on one of the three criteria noted above is made.

### ***Development Standard Waivers***

In addition to an incentive, the applicant is entitled to development standard waivers if the application of a development standard would physically preclude construction of a project that includes lower income housing. There is no specific limit on the number of development standard waivers that an applicant may request. Furthermore, the City is obligated to grant the requested development standard waiver(s), unless it can find that the waiver would have a specific adverse impact, as defined in Government Code Section 65589.5(d)(2), upon public health and safety or the physical environment or any property listed on the California Register of Historical Places or would be contrary to federal or state law.

The applicant is proposing a total of six development standard waivers, including five waivers in the R-3 zoning district, including modifications to the rear setback, separation between buildings (on adjacent sites), building coverage, FAR, and landscaping, and one waiver in the C-4 (ECR) zoning district regarding building FAR. While the requested incentive would allow the floor area ratio in the C-4 (ECR) zoning district to increase to 75 percent without the need for a use permit, a 90 percent floor area ratio is what would be required to physically enable the construction of the proposed number of units; therefore, it is necessary to apply a development standard waiver for floor area ratio in the C-4 (ECR) zoning district in addition to the requested incentive discussed above.

The following tables summarize the Zoning Ordinance development standards of the R-3 and C-4(ECR) zoning districts, and compare them with the proposed development. The development standards for which waivers are requested are highlighted.

### R-3 Zoning District Comparison

	PROPOSED PROJECT		R-3 ZONING ORDINANCE	
Lot area	11,146	sq. ft.	7,000	sq. ft.
Lot width	59.7	ft.	80	ft. min.
Lot depth	158.3	ft.	100	ft. min.
Front setback (College)	20	ft.	20	ft. min.
Rear setback	3.3	ft.	15	ft. min.
Right side setback	15	ft.	10	ft. min.
Left side setback (ECR)	10	ft.	10	ft. min.
Between building setbacks (on-site)	Attached		20	ft. min.
Between building setbacks (adjacent sites)	6.7	ft.	20	ft. min.
Building coverage	4,983	sf	3,343	sf max.
	44.7	%	30	% max.
FAR (Floor Area Ratio)	8,231	sf	5,015	sf max.
	73.8	%	45	%
Building height	27.9	ft.	35	ft. max.
Landscaping	42.9	%	50	% min.
Paving	12.4	%	20	% max.
Balcony	No balconies		20	ft. from the side property line when abutting single-family residences

### C-4(ECR) Zoning District Comparison

	PROPOSED PROJECT		C-4(ECR) ZONING ORDINANCE	
Lot area	42,516	sq. ft.	10,000	sq. ft.
Lot width	189.5	ft.	75	ft. min.
Lot depth	128.6	ft.	125	ft. min.
Front setback (ECR)	3.9 to 16	ft.	0	ft. min.
Rear setback	5.3	ft.	0	ft. min.
Right side setback	2	ft.	0	ft. min.
Left side setback	2.4	ft.	0	ft. min.
Building coverage	19,571	sf	42,516	sf max.
	46.0	%	100	% max.
FAR (Floor Area Ratio)	38,350	sf	31,887	sf max.
	90.2	%	75	%
Building height	30	ft.	30	ft. max.
Landscaping	28.3	%	10	% min.

**Parking**

GC 65915(p) provides that no city shall require a vehicular parking ratio, inclusive of handicapped and guest parking, for a development with at least 10 percent low-income units that exceeds the following ratios:

- 1. Zero (0) to one (1) bedroom, one (1) parking space.
- 2. Two (2) or three (3) bedroom, two (2) parking spaces.
- 3. Four (4) or more bedrooms, two and one-half (2.5) parking spaces.

The on-site parking requirement can be met through tandem or uncovered parking spaces. The application of GC 65915 differs from the City’s Zoning Ordinance, which requires two parking spaces (one covered and the second either covered or uncovered) per dwelling unit, and each space must be independently accessible and not located within the front or side setback. However, parking standards per GC 65915 preempt local parking requirements.

The applicant is proposing 62 parking spaces, consisting of a mix of 34 covered spaces, 18 covered tandem spaces, and 10 uncovered guest parking spaces. Under GC 65915, the required number of parking spaces is 57 spaces as shown in the table below.

**Proposed Parking**

	Number of Units in Proposed Project	Number of Parking Spaces Required Per GC 65915
0-1 bedrooms (1 space)	0	0
2-3 bedrooms (2 spaces)	17	34
4 or more bedrooms (2.5 spaces)	9	22.5
<b>TOTAL</b>	<b>26</b>	<b>57*</b>

\*Per GC 65915, the total number of parking spaces shall be rounded up to the next whole number.

**EI Camino Real/Downtown Specific Plan Comparison**

The proposed project is located within the project area for the EI Camino Real/Downtown Specific Plan. On June 12, 2012, the City Council completed all actions necessary to approve the Specific Plan, which went into effect on July 12, 2012. However, the project application was deemed complete prior to final action on the Specific Plan, and therefore, the project would not be subject to its rules and regulations.

Although the applicant intends to pursue the proposal under the General Plan and Zoning Ordinance land use designations prior to the adoption of the EI Camino Real/Downtown Specific Plan, and in accordance with the State Density Bonus law, this

section of the report provides an overview of how the proposed project would relate to the El Camino Real/Downtown Specific Plan. This section is for reference purposes only.

Under the Specific Plan, the project site is located in the El Camino Real Mixed Use land use designation and the El Camino Real South-West (ECR SW) zoning district. The El Camino Real Mixed Use land use designation allows for a mix of retail, service, residential, and public and semi-public uses. Residential dwelling units are a permitted use within the designation.

The El Camino Real South-West (ECR SW) zoning district establishes a base maximum intensity (FAR) of 110 percent and base maximum density of 25 dwelling units per acre. The base intensity and density may be exceeded up to a maximum intensity of 150 percent and maximum density of 40 dwelling units per acre with the provision of public benefit. With a proposed overall FAR of 87 percent and density of 21.1 dwelling units per acre for the entire project site, the proposed project would be consistent with the base intensity and density.

The ECR SW zoning district restricts height to 38 feet, although façade heights on all but the interior side of a lot are limited to 30 feet. Above the 30 foot maximum façade height, a 45-degree profile is required. All of the buildings of the proposed project are 30 feet or less and therefore, would meet the façade height limit.

The ECR SW zoning district requires setbacks along front and street sides of corner lots of between seven and 12 feet. Rear setbacks are required to be a minimum of 20 feet and interior side setbacks may range from a minimum of five to a maximum of 25 feet. The setback range is intended to provide flexibility to allow each development to optimize building placement according to a specific situation. Additionally, sidewalk widths along El Camino Real are required to be a minimum of 12 feet, which includes a minimum eight-foot wide walking zone and a minimum four-foot wide area for street furnishings.

The proposed project would provide sidewalks that are six feet in width along El Camino Real and College Avenue, which is wider than existing, and would maintain the existing four-foot wide sidewalk along Partridge Avenue. With the proposed building setbacks of 3.9 feet to 16 feet along El Camino Real, it would not be possible to achieve an eight-foot wide sidewalk area along the entire length of the project's El Camino Real frontage. Areas with larger front setbacks would be landscaped. The interior side setback would be met, but the rear setback of 20 feet would not be met.

With regard to parking, the ECR SW zoning district requires a ratio of 1.85 spaces per dwelling unit for a total of 49 spaces where 62 spaces is being proposed. Finally, the ECR SW district requires a minimum of 30 percent open space with additional provisions for private open space. The proposed common open space would be approximately 20.6 percent of the lot area and private open space would be



approximately an additional 13.5 percent, for a total combined open space of approximately 34.1 percent.

## **FISCAL ANALYSIS**

The City's independent economic consultant, Bay Area Economics (BAE) prepared a Fiscal Impact Analysis (FIA), projecting the potential changes in fiscal revenues and service costs directly associated with development of the proposed project. The FIA evaluated the potential fiscal impacts of the proposed project for the City of Menlo Park and other governmental entities that serve the project site including the Menlo Park Fire Protection District, Bear Gulch Water District, West Bay Sanitary District, Elementary and High School Districts, San Mateo County Community College District, San Mateo County Office of Education Special District, the Midpeninsula Regional Open Space District, and the Sequoia Health Care District.

The FIA found that the proposed project would have a slight positive fiscal impact (surplus) for the City's General Fund. All special districts would experience a positive net fiscal impact from the proposed project, except for the Menlo Park City Elementary School District and the Sequoia Union High School District. The payment of one-time impact fees and capital facilities charges to the City and special districts would total approximately \$1.1 million.

The Draft FIA was released on May 21, 2012 for a public comment period that ended on June 19, 2012. No comments were received during the public comment period; therefore, the Draft FIA has been finalized with no changes.

The FIA does not require action by the City Council. The City Council should consider the FIA in reviewing the proposed project.

## **ENVIRONMENTAL REVIEW**

The California Environmental Quality Act (CEQA) requires the evaluation of the potential impacts of projects that will result in a physical change in the environment. In accordance with CEQA, the preparation of an EIR is required when a project has the potential to result in a significant environmental impact that cannot be mitigated to a less than significant level. The purpose of an EIR is to inform City decision-makers, responsible agencies, and the general public of the potential environmental impacts associated with a project, and will be used by the City and the public in their review of the proposed project and associated approvals.

The EIR for the 389 El Camino Real project evaluates 16 topic areas as required by CEQA for potential project impacts. A Notice of Preparation (NOP) was circulated on February 16, 2011 to notify responsible agencies and interested parties that an EIR would be prepared for the proposed project. Based on the verbal comments presented at the EIR scoping session at the Planning Commission meeting on February 28, 2011 and written communication received during the EIR scoping period, six out of the 16

environmental topic areas were identified as potential areas of controversy surrounding the project. Particular focus on the analysis of these six topic areas are addressed in separate sections of the EIR and include the following:

- Land Use and Planning Policy
- Public Services and Utilities
- Air Quality
- Noise
- Aesthetics
- Transportation, Circulation and Parking

The following topics are not evaluated in detail in the EIR: agriculture and forestry resources; biological resources; cultural resources; geology and soils; greenhouse gas emissions; hazards and hazardous materials; hydrology and water quality; mineral resources; population and housing; and recreation. These topics are discussed together in the Effects Found Not to be Significant section of Chapter VI – Other CEQA Considerations in the Draft EIR.

The EIR identifies that the proposed project will result in potentially significant impacts in the Transportation, Air Quality, Noise, and Aesthetics categories. Impacts in all categories, with the exception of Transportation impacts, will be mitigated to a less than significant level. Impacts in the Transportation category are significant and unavoidable. A complete list of impacts and mitigation measures is included in Chapter II – Summary of the Draft EIR. A comprehensive table of all potential environmental impacts and associated mitigation measures can be found in Table II-2, which begins on page 9. Additionally, the significant and unavoidable transportation impacts were explained in detail in the March 19, 2012 Planning Commission staff report and are summarized below.

The road segment analysis found that the proposed project would result in three significant unavoidable transportation impacts:

- 1) In the Near Term Plus Project Condition, the proposed project would add 68 vehicles to the roadway segment of University Drive between Middle Avenue and Cambridge Avenue, which exceeds the City's 25-trip threshold for local roadways with Average Daily Trips (ADT) greater than 1,350 vehicles;
- 2) In the Long Term Plus Project Condition, the proposed project would add 68 vehicles to the roadway segment of University Drive between Middle Avenue and Cambridge Avenue, which exceeds the City's 25-trip threshold for local roadways with ADT greater than 1,350 vehicles; and,
- 3) In the Long Term Plus Project Condition, the proposed project would add 52 vehicles to the roadway segment of Middle Avenue between University Drive and El Camino Real, which exceeds the City's 50-trip threshold for collector roadways with ADT greater than 9,000 vehicles.

Comments received on the Draft EIR, both at the March 19, 2012 Planning Commission study session on the project and public hearing on the Draft EIR and in writing during the public review period, are addressed in the Response to Comments document that was circulated on June 14, 2012.

The key differences between the Draft EIR and the Final EIR are related to transportation and public services, and are summarized below:

- Transportation: As a result of comments by David Roise and Planning Commissioners at the March 19, 2012 study session and public hearing, traffic analysis of the project's potential impacts to the intersection of El Camino Real and Sand Hill Road, and potential traffic through Creek Drive were evaluated. In both cases, the traffic analysis determined that the project would not result in any new impacts upon the roadway system beyond those impacts described in the Draft EIR.
- Public Services: Several Planning Commissioners at the March 19, 2012 study session and public hearing expressed interest in the potential student generation rate from the proposed project, and had asked staff to look into the actual student generation rates from the 110 and 175 Linfield Drive residential project, which features units of a size comparable to the units in the proposed project. Based on current student enrollment data from the Menlo Park City School District and the Sequoia Union High School District, the actual current student enrollment rate at the 56-unit Linfield Drive project is 15 students (13 elementary/middle school students, and two high school students). As a comparison, the Draft EIR estimated that a total of 15 students would be generated from the proposed project based on the student generation rates provided by the school districts. The project's potential impacts to schools remain less than significant.

The responses and revision in the Final EIR substantiate and confirm the analysis contained in the Draft EIR. No new significant environmental impacts, no new significant information, and no increase in the significance of an already-identified impact have resulted from responding to comments.

Additionally, the Response to Comments includes text revisions that are intended to provide clarification and include previously omitted appendices, but do not identify a new impact or increase in the significance of an already-identified impact. The Draft EIR and the Response to Comments document together constitute the Final EIR. Given the significant and unavoidable impacts associated with the project, the City Council would be required to adopt a Statement of Overriding Considerations, if it determines that the project's benefits outweigh its environmental impacts. A draft Resolution Certifying the Final EIR, Adopting the Statement of Overriding Considerations and Adopting the Mitigation Monitoring and Reporting Program is included as Attachment B. The Mitigation Monitoring and Reporting Program is included as Exhibit A in Attachment B.

## **CORRESPONDENCE**

Correspondence received on the Draft EIR during the public review period has been incorporated into the Final EIR's Response to Comments document. Since the June 25, 2012 Planning Commission public hearing, the City has not received any additional correspondence.

## **IMPACT ON CITY RESOURCES**

The project sponsor is required to pay planning permit fees, based on the City's Master Fee Schedule, to fully cover the cost of staff time spent on the review of the project. The project sponsor is also required to bear the cost of the associated environmental review and fiscal analysis. For the environmental review and fiscal analysis, the project sponsor deposits money with the City and the City pays the consultants.

As noted previously, the project FIA found that the proposed project is projected to have a slight positive fiscal impact (surplus) for the City's General Fund.

## **POLICY ISSUES**

The Project does not require an amendment to the City's General Plan. The primary policy issues for the City Council to consider while reviewing the project are whether the required use permit, architectural control, and related findings can be made. In addition, the City Council should consider the benefits of the project in relation to the significant and unavoidable environmental impacts.

## **CONCLUSION**

The proposed project would occupy an existing underutilized site and provide higher density housing near Downtown, including providing three low-income housing units for the City. The applicant has redesigned the project to accommodate the requests of the Neighborhood Task Force by shifting the height and mass of buildings away from the neighbors, changing the architectural style to blend more appropriately with the Allied Arts neighborhood, and improving the quality of the building materials and finishes.

As part of the review of the project, an Environmental Impact Report was prepared, which determined that the project would result in significant and unavoidable impacts related to transportation. Staff believes that the project includes substantial benefits that outweigh its significant, and adverse environmental impacts. As such, staff recommends that the City Council concur with the recommendation of the Planning Commission and adopt a resolution certifying the Environmental Impact Report, adopting the Statement of Overriding Considerations, and adopting the Mitigation Monitoring and Reporting Program. Staff further recommends that the Council approve the Use Permit, Architectural Control, major subdivision, BMR Housing Agreement, and application of the State Density Bonus Law. Conditions of approval are included in Attachment C.

Signature on file  
Thomas Rogers  
Senior Planner

Signature on file  
Arlinda Heineck  
Community Development Director

## **PUBLIC NOTICE**

Public notification consisted of publishing a notice in the local newspaper and notification by mail of owners and occupants in the area bounded by El Camino Real, Harvard Avenue, University Drive, and Middle Avenue, and residents on Morey Drive and Kenwood Drive. In addition, the 389 El Camino Real project page is available at the following web address: [http://www.menlopark.org/projects/comdev\\_389ecr.htm](http://www.menlopark.org/projects/comdev_389ecr.htm).

This page provides up-to-date information about the project, allowing interested parties to stay informed of its progress. The page allows users to sign up for automatic email bulletins, notifying them when content is updated. Previous staff reports and other related documents are available for review on the project page.

## **ATTACHMENTS**

- A. Draft Findings and Actions for Approval
- B. Draft Resolution Certifying the Final Environmental Impact Report, Adopting the Statement of Overriding Consideration and Adopting the Mitigation Monitoring and Reporting Program
- C. Draft Conditions of Approval
- D. Draft Below Market Rate (BMR) For-Sale Agreement for 389 El Camino Real
- E. Location Map
- F. Project Plans
- G. State Density Bonus Law
- H. Planning Commission – Approved Excerpt Minutes from the Meeting of June 25, 2012

**Note:** Attached are reduced versions of maps and diagrams submitted by the applicants. The accuracy of the information in these drawings is the responsibility of the applicants, and verification of the accuracy by City Staff is not always possible. The original full-scale maps, drawings and exhibits are available for public viewing at the Community Development Department.

## **EXHIBITS TO BE PROVIDED AT MEETING**

Color and Materials Boards

## **DOCUMENTS AVAILABLE FOR REVIEW AT CITY OFFICES AND WEBSITE**

- Planning Commission Staff Report for the meeting of June 25, 2012
- Final Environmental Impact Report (EIR)
- Fiscal Impact Analysis (FIA)

## **ATTACHMENT A - DRAFT**

### **FINDINGS AND RECOMMENDED ACTIONS FOR APPROVAL**

#### **389 El Camino Real Project**

The Planning Commission recommends that the City Council take the following actions:

#### **Environmental Review**

1. Adopt a Resolution of the City Council of the City of Menlo Park, State of California, Certifying the Final Environmental Impact Report (EIR), Adopting the Statement of Overriding Considerations and Adopting the Mitigation Monitoring and Reporting Program for the 389 El Camino Real Project for the 389 El Camino Real Project (Attachment B).

#### **State Density Bonus Law**

2. Apply the State Density Bonus Law to allow one incentive and six development standard waivers.

#### **Use Permit**

3. 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.
4. Approve the use permit for construction of three or more units in the R-3 zoning district and for new construction of residential units in the C-4(ECR) zoning district subject to the Conditions of Approval (Attachment C).

#### **Architectural Control**

5. Adopt the following findings, as per Section 16.68.020 of the Zoning Ordinance, pertaining to architectural control approval:
  - a. The general appearance of the structures is in keeping with the character of the neighborhood;
  - b. The development will not be detrimental to the harmonious and orderly growth of the City;
  - c. The development will not impair the desirability of investment or occupation in the neighborhood; and,

- d. The development provides adequate parking as required in all applicable City Ordinances and has made adequate provisions for access to such parking.
6. Approve the architectural control for the proposed design of the new buildings and site improvements subject to the Conditions of Approval (Attachment C).

**Major Subdivision**

7. Make findings that the proposed major subdivision is technically correct and in compliance with all applicable State regulations, City General Plan, Zoning and Subdivision Ordinances, and the State Subdivision Map Act.
8. Approve the request for a Tentative Map to merge seven lots into two lots, abandon the public street easement for Alto Lane, and create 26 residential condominium units.

**Below Market Rate Housing Agreement**

9. Approve the Below Market Rate Housing Agreement to provide three on-site BMR units in accordance with the City's Below Market Rate Housing Program and State Density Bonus Law (Attachment D).

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT AND ADOPTING FINDINGS, A STATEMENT OF OVERRIDING CONSIDERATIONS AND A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE PROPERTY LOCATED AT 389 EL CAMINO REAL**

WHEREAS, 389 El Camino Real, LLC (“Project Sponsor”) proposes to redevelop an approximately 1.23-acre site (consisting of seven legal parcels) located at 389 El Camino Real, Menlo Park (“Project Site”); and

WHEREAS, the Project Sponsor would demolish an existing one-story single family residence and a triplex and develop 26 residential units and associated parking, facilities and landscaping, including approximately 18,315 square feet of open space that comprises approximately 34 percent of the Project Site (“Project”); and

WHEREAS, all of the residential units would be for sale, and three of the 26 units would be priced at affordable levels for low-income households, in accordance with the City’s Below Market Rate (“BMR”) Housing Program and the provisions of Government Code Section 65915, State Density Bonus Law; and

WHEREAS, for purposes of compliance with the provisions of the California Environmental Quality Act (“CEQA”) and the CEQA Guidelines, on February 16, 2011, a Notice of Preparation (“NOP”) was circulated notifying responsible agencies and interested parties that an Environmental Impact Report (“EIR”) would be prepared for the Project; and

WHEREAS, the City of Menlo Park (“City”) held a scoping meeting before the Planning Commission during the NOP comment period, on February 28, 2011, to receive comments from the public and interested public agencies on issues that should be addressed in the EIR; and

WHEREAS, the City published a Draft EIR (SCH #201102207) on February 17, 2012, and provided a 46-day public comment period lasting until April 2, 2012; and

WHEREAS, the City filed the Draft EIR with the California Office of Planning and Research and made copies of the Draft EIR available at the Community Development Department, on the City’s website, and at the Menlo Park Library; and

WHEREAS, the City’s Planning Commission held a public hearing on the Draft EIR for the Project on March 19, 2012; and

WHEREAS, all comments on the Draft EIR concerning environmental issues received during the public comment period were evaluated and responded to in writing by the



City as the Lead Agency in accordance with Section 15088 of the CEQA Guidelines;  
and

WHEREAS, the comments on the Draft EIR and the written responses were packaged into a Response to Comments Document that was published on June 14, 2012, and the City made copies of the Response to Comments Document available at the Community Development Department, on the City's website, and at the Arrillaga Family Recreation Center; and

WHEREAS, the Draft EIR and the Response to Comments Document comprise the Final EIR; and

WHEREAS, CEQA and the CEQA Guidelines require a written analysis and conclusions regarding the Project's environmental impacts, mitigation measures and Project alternatives that, in the City's view, justify approval of the Project; and

WHEREAS, after notice having been lawfully given, a public hearing was scheduled before the City's Planning Commission on June 25, 2012, whereat all persons interested therein might appear and be heard; and

WHEREAS, on June 25, 2012, the City's Planning Commission, after having fully reviewed, considered and evaluated all the testimony and evidence submitted in this matter, voted affirmatively to recommend that the City Council find that the Final EIR for the Project was prepared in compliance with CEQA, certify the Final EIR for the Project pursuant to CEQA, make the findings required by CEQA, adopt the Statement of Overriding considerations, and adopt the Mitigation Monitoring and Reporting Program ("MMRP"); and

WHEREAS, after notice having been lawfully given, a public hearing was scheduled before the City Council on July 31, 2012, whereat all persons interested therein might appear and be heard; and

WHEREAS, on July 31, 2012, after closing the public hearing, the City Council of the City of Menlo Park having fully reviewed, considered and evaluated all the testimony and evidence submitted in this matter voted affirmatively to find that the Final EIR for the Project was prepared in compliance with CEQA, certify the Final EIR for the Project pursuant to CEQA, make the findings required by CEQA, adopt the Statement of Overriding considerations, and adopt the MMRP.

NOW, THEREFORE, the City of Menlo Park, acting by and through its City Council, hereby resolves as follows:

1. The City Council of the City of Menlo Park hereby certifies the Final EIR for the Project pursuant to CEQA.

2. The City Council of the City of Menlo Park hereby makes the following findings with respect to the significant effects on the environment as identified in the Final EIR for the Project and adopts the MMRP for the Project:

### **I. RECORD OF PROCEEDINGS**

For purposes of CEQA and the findings set forth herein, the record of proceedings for the City's findings and determinations consists of the following documents and testimony, at a minimum:

- a. The Final EIR for the Project and all related reports, documents, studies, memoranda, and maps.
- b. The NOP and other public notices issued by the City in conjunction with the EIR for the Project.
- c. All written and oral comments submitted by agencies or members of the public during the public review period for the EIR and any public hearings or meetings held on Project approvals.
- d. All other public reports, documents, studies, memoranda, maps, or other planning documents related to the Project prepared by the City, consultants to the City, or responsible or trustee agencies with respect to the City's compliance with the requirements of CEQA and the Project entitlements.
- e. All matters of common knowledge to this Planning Commission and City Council, including, but not limited to:
  - i. The City's General Plan and other applicable policies;
  - ii. The City's Zoning Ordinance and other applicable ordinances;
  - c. Information regarding the City's fiscal status; and
  - d. Applicable City policies and regulations.

The documents described above comprising the record of proceedings are located in the Community Development Department, City of Menlo Park, 701 Laurel Street, Menlo Park, CA 94025. The custodian of these documents is the Community Development Director or her designee.

### **II. FINDINGS FOR SIGNIFICANT IMPACTS AVOIDED OR MITIGATED TO A LESS-THAN-SIGNIFICANT LEVEL**

The Final EIR for the Project concluded that there would be significant environmental impacts. The City finds that by incorporating into the Project all the mitigation measures outlined in the MMRP, the impacts discussed below are reduced to a less-than-significant level.

#### **A. Air Quality**

**Impact AIR-1:** Construction of the Project would generate air pollutant emissions that could expose sensitive receptors to substantial pollutant concentrations.

Mitigation Measure AIR 1: Consistent with guidance from the Bay Area Air Quality Management District (“BAAQMD”), the following actions shall be required of construction contracts and specifications for the Project:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt tracked-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible.
- Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure, Title 13, Section 2485 of the California Code of Regulations). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with the manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- A publicly visible sign shall be posted with the telephone number and person to contact at the City regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD’s phone number shall also be visible to ensure compliance with applicable regulations.

**FINDINGS:** Based upon the Final EIR for the Project and the entire record before the Planning Commission and City Council, this City Council finds that:

*Effects of Mitigation:* Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect related to construction period emissions, as identified in the Final EIR for the Project. The City finds that the implementation of air quality control measures during the construction period, in conformance with guidance from BAAQMD, is feasible and will reduce the temporary construction-period impacts related to air pollution to a less-than-significant level.

*Remaining Impacts:* Any remaining impacts related to construction period emissions would not be significant.

**Impact AIR 2:** Construction of the Project would generate air pollutant emissions that could expose sensitive receptors to substantial toxic air contaminants.

Mitigation Measure AIR 2: Consistent with guidance from the BAAQMD, the following actions shall be required of construction contracts and specifications for the Project:

- The construction contractor shall ensure the idling time of diesel-powered construction equipment is two minutes or less.
- The construction contractor shall utilize off-road equipment (more than 50 horse-power) used in the construction of the Project (i.e., owned, leased, and subcontractor vehicles) that achieves a project wide fleet-average 20 percent nitrogen oxide reduction and 45 percent particulate matter reduction compared to the most recent ARB fleet average. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options that are available.
- All construction equipment, diesel trucks, and generators shall be equipped with Best Available Control Technology for emission reductions of nitrogen oxides and particulate matter.
- The Project construction contractor shall use equipment that meets the ARB's most recent certification standard for off-road heavy duty diesel engines.

**FINDINGS:** Based upon the Final EIR for the Project and the entire record before the Planning Commission and City Council, this City Council finds that:

*Effects of Mitigation:* Changes or alterations have been required in, or incorporated into the Project that avoid or substantially lessen the significant environmental effect related to toxic air contaminants as identified in the Final EIR for the Project. The efficient machinery required to be used as part of Mitigation Measure AIR-2 would result in measurable reductions in toxic air contaminant emissions compared to standard equipment. The City finds that the implementation of air quality control measures during the construction period designed to reduce diesel exhaust and other toxic air contaminants, in conformance with guidance from BAAQMD, is feasible and will reduce related impacts to a less-than-significant level.

*Remaining Impacts:* Any remaining impacts related to the reduction of diesel exhaust and other toxic air contaminants would not be significant.

## **B. Noise**

**Impact NOISE-1:** Noise levels from Project construction activities could result in a substantial temporary or periodic increase in ambient noise levels in the Project Site vicinity above levels existing without the Project.

Mitigation Measure NOISE-1: The following measures shall be implemented during construction of the Project:

- (a) To minimize construction noise impacts on nearby residents and businesses, and to be consistent with Chapter 8.06 of the City's Municipal Code,

standard construction activities that exceed stated noise limits shall be permitted only between the hours of 8:00 a.m. and 6:00 p.m. from Monday to Friday.

(b) To reduce daytime construction-related noise impacts to the maximum feasible extent, the Project Sponsor shall develop a site-specific noise reduction program subject to City review and approval, which includes the following measures:

- Signs shall be posted at the construction site that include permitted construction days and hours, a day and evening contact number for the job site, and a day and evening contact number for the City. The signs shall be posted at all entrances to the construction site upon the commencement of construction for the purpose of informing contractors and subcontractors and all other persons at the construction site of the basic requirements of the Noise Ordinance of the Municipal Code. The signs shall be at least five feet above ground level and shall consist of a white background with black letters.
- A pre-construction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation protocols are in place prior to the issuance of a building permit (including the establishment of construction hours, neighborhood notification, posted signs, etc.).
- Equipment and trucks used for Project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds).
- Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for Project demolition or construction activities shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed-air exhaust from pneumatically powered tools. Where use of pneumatic tools is unavoidable, an exhaust muffler on equipment with compressed-air exhaust systems shall be used; this muffler can lower noise levels, which could achieve a reduction of 5 A-weighted decibels (“dBA”). Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible.
- Stationary noise sources shall be located as far from sensitive receptors as possible and they shall be muffled and enclosed within temporary sheds; or insulation barriers or other measures shall be incorporated to the extent feasible.
- No piece of powered equipment shall generate noise in excess of 85 dBA at 50 feet. Powered equipment is defined by the City to be a motorized device powered by electricity or fuel used for construction, demolition, and property or landscape maintenance or repairs. Powered equipment includes but is not limited to: parking lot sweepers, saws, sanders, motors, pumps, generators, blowers, wood chippers, vacuums, drills and nail guns (but specifically excluding internal fuel combustion engine leaf blowers).
- Prior to construction, a temporary sound barrier shall be constructed along the Project’s western property line adjacent to the existing residential properties that border the Project Site. The temporary sound barrier shall extend from the Project property line at College Avenue to the Project

property line at Partridge Avenue. This temporary sound barrier shall be constructed at the minimum height of six feet above the proposed finished pad elevation with a minimum surface weight of four pounds per square foot (or with any commercially available sound barrier material that has an equivalent noise reduction coefficient as a material with a minimum surface weight of four pounds per square foot) and shall be constructed so that vertical or horizontal gaps are eliminated. This temporary barrier shall remain in place through the construction phase in which heavy construction equipment, such as excavators, bulldozers, scrapers, loaders, rollers, pavers, and dump trucks are operating within 100 feet of the western Project Site boundary.

**FINDINGS:** Based upon the Final EIR for the Project and the entire record before the Planning Commission and City Council, this City Council finds that:

*Effects of Mitigation:* Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect related to construction period noise as identified in the Final EIR for the Project. Similar measures are routinely applied to development projects throughout the City and region. The City finds that the provisions for implementation of noise control/containment measures during the construction period for the Project are feasible and will reduce the temporary construction-period impact to noise levels to a less-than-significant level.

*Remaining Impacts:* Any remaining impacts related to construction noise would not be significant.

**Impact NOISE-2:** Implementation of the Project would expose future residents of the Project to noise levels that exceed the “normally acceptable” standard for new residential development established in the City’s Land Use Compatibility Standards for Community Noise Environments.

Mitigation Measure NOISE-2a: In order to ensure that windows can remain closed for prolonged periods of time to meet the interior noise standard of 45 dBA community noise equivalent level (“CNEL”) established by the City, an alternative form of ventilation, such as air conditioning or noise-attenuated passive ventilation systems, shall be included in all proposed dwelling units.

Mitigation Measure NOISE-2b: In order to meet the interior noise standard of 45 dBA CNEL established by the City, all proposed dwelling units that would be located within 45 feet of the centerline of the outermost travel lane of El Camino Real shall be constructed to have an overall minimum STC rating of STC-35, and all exterior doors and windows shall have a minimum rating of STC-33. Quality control shall be exercised in construction to ensure all air-gaps and penetrations of the building shell are controlled and sealed.

**FINDINGS:** Based upon the Final EIR for the Project and the entire record before the Planning Commission and City Council, this City Council finds that:

*Effects of Mitigation:* Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on interior noise levels as identified in the Final EIR for the Project. These measures are standard construction practices that insulate interior spaces from exterior noise, including traffic noise. The City finds that the provisions for implementation of an alternative form of ventilation and minimum STC ratings, for buildings located within 45 feet of the centerline of the outermost travel lane, will reduce noise related to traffic to a less-than-significant level.

*Remaining Impacts:* Any remaining impacts related to traffic noise would not be significant.

**Impact NOISE-2:** Implementation of the Project could expose nearby existing land uses to unacceptable noise levels in violation of the City's Noise Ordinance (Chapter 8.06).

**Mitigation Measure NOISE-3:** The Project Sponsor shall ensure that Project plans submitted for a building permit include documentation that proposed stationary equipment shall not generate noise that exceeds 60 dBA equivalent continuous noise level ("Leq") during daytime hours and 50 dBA Leq during nighttime hours, as measured at any point on a neighboring residential property nearest where the noise source at issue generates the highest noise level.

**FINDINGS:** Based upon the Final EIR for the Project and the entire record before the Planning Commission and City Council, this City Council finds that:

*Effects of Mitigation:* Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect related to noise generated by stationary equipment as identified in the Final EIR for the Project. The careful location and shielding of mechanical equipment is a practical measure that will reduce potential adverse effects on the ambient noise environment. The City finds that the provisions for implementation of noise control/containment measures for stationary equipment for the Project are feasible and will reduce the operation period impact to noise levels to a less-than-significant level.

*Remaining Impacts:* Any remaining impacts related to operation period noise would not be significant.

### **C. Aesthetics**

**Impact AES-1:** The Project could increase the amount of light and glare in Menlo Park.

Mitigation Measure AES-1: The Project Sponsor shall prepare a lighting plan and photometric study and submit them to the City for review and approval prior to issuance of a building permit. City staff shall review the plan to ensure that any outdoor lighting for the Project is oriented downwards and is designed to minimize lighting or glare off-site.

**FINDINGS**: Based upon the Final EIR for the Project and the entire record before the Planning Commission and City Council, this City Council finds that:

*Effects of Mitigation*: Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect related to light and glare as identified in the Final EIR for the Project. The careful design of lighting on the Project Site is a practical way to avoid glare and unnecessary light spillover. The City finds that the provisions for preparation of a lighting plan and photometric study are feasible and will reduce the impacts of the Project related to light and glare to a less-than-significant level.

*Remaining Impacts*: Any remaining impacts related to light and glare would not be significant.

### **III. FINDINGS AND RECOMMENDATIONS REGARDING SIGNIFICANT AND UNAVOIDABLE IMPACTS**

The Final EIR for the Project concluded that there would be significant environmental impacts. The City finds that by incorporating into the Project all the mitigation measures outlined in the MMRP, impacts are reduced. However, even after mitigation, some impacts are significant and unavoidable. The City finds that there is no additional feasible mitigation that could be imposed beyond what is detailed herein. For the reasons set forth in the Statement of Overriding Considerations below, the City finds that there are economic, legal, social, technological or other benefits of the Project that override the significant and unavoidable impacts.

#### **A. Transportation, Circulation and Parking**

**Impact TRANS-1**: In the Near Term Plus Project Condition, the Project would contribute trips to University Drive between Middle Avenue and Cambridge Avenue that would exceed the City's 25-trip threshold for local roadways with ADT greater than 1,350 vehicles.

Mitigation Measure TRANS-1a: Additional roadway capacity may reduce this impact to a less-than-significant level. University Drive between Middle Avenue and Cambridge Avenue currently has one travel lane in each direction and obtaining additional roadway capacity could include constructing an additional travel lane in one or both travel directions. However, this measure would require right-of-way acquisition, which is infeasible. As such, the impact would remain significant and unavoidable.



Mitigation Measure TRANS-1b: The Project Sponsor shall develop and implement a Transportation Demand Management (“TDM”) Program to encourage the use of alternative modes of transportation and reduce the daily number of vehicles generated by the Project. The TDM Program shall be consistent with the City of Menlo Park TIA Guidelines. Potential TDM measures include the following:

- A commute assistance kiosk. A kiosk or bulletin board that provides information on alternative modes of transportation available in the area;
- Subsidized public transit passes. As part of homeowners or membership fees, a subsidized pass for public transit may be provided to residents;
- Carpool matching assistance. A person or database to link residents traveling to similar locations, to allow for carpooling;
- Vanpools. Vanpools are generally privately-sponsored and provide pick-up and drop-off services for commuters who work and live in the same general area;
- Shuttle service to area transit hubs. Privately-sponsored vehicles transport residents between dwelling units and area transit hubs such as SamTrans bus stops, BART Stations, and the Menlo Park Caltrain Station; and
- Bicycle facilities. For residential projects, these facilities would generally include bicycle racks and bicycle lockers (although residents would be expected to store bicycles in their residences).

**FINDINGS:** Based upon the Final EIR for the Project and the entire record before the Planning Commission and City Council, this City Council finds that:

*Effects of Mitigation:* Implementation of the mitigation measures above would not reduce the potentially significant traffic impacts to a less-than-significant level. Implementation of a TDM Program would incrementally reduce the impacts of the Project on roadway capacity, but not to a less-than-significant level. The addition of roadway capacity along University Drive between Middle Avenue and Cambridge Avenue would require the acquisition of private property and the disruption of the City’s residential neighborhoods, and was deemed infeasible.

*Remaining Impacts:* The impacts to the roadway capacity of University Drive between Middle Avenue and Cambridge Avenue would remain significant and unavoidable.

**Impact TRANS-2:** In the Long Term Plus Project Condition, the Project would contribute trips to University Drive between Middle Avenue and Cambridge Avenue that would exceed the City’s 25-trip threshold for local roadways with ADT greater than 1,350 vehicles.

Mitigation Measure TRANS-2: Implement Mitigation Measures TRANS-1a and TRANS-1b.

**FINDINGS:** Based upon the Final EIR for the Project and the entire record before the Planning Commission and City Council, this City Council finds that:

*Effects of Mitigation:* Implementation of the mitigation measures above would not reduce the potentially significant traffic impacts to a less-than-significant level. Implementation of a TDM Program would incrementally reduce the impacts of the Project on roadway capacity, but not to a less-than-significant level. The addition of roadway capacity along University Drive between Middle Avenue and Cambridge Avenue would require the acquisition of private property and the disruption of the City's residential neighborhoods, and was deemed infeasible.

*Remaining Impacts:* The impacts to the roadway capacity of University Drive between Middle Avenue and Cambridge Avenue would remain significant and unavoidable.

**Impact TRANS-3:** In the Long Term Plus Project Condition, the Project would contribute trips to Middle Avenue between University Drive and El Camino Real that would exceed the City's 50-trip threshold for collector roadways with ADT greater than 9,000 vehicles.

Mitigation Measure TRANS-3a: Additional roadway capacity would reduce this impact to a less-than-significant level. Middle Avenue between University Drive and El Camino Real currently has one travel lane in each direction and obtaining additional roadway capacity would include constructing an additional travel lane in one or both travel directions. However, this measure would require right-of-way acquisition, which is infeasible. As such, the impact would remain significant and unavoidable.

Mitigation Measure TRANS-3b: Implement Mitigation Measure TRANS-1b.

**FINDINGS:** Based upon the Final EIR for the Project and the entire record before the Planning Commission and City Council, this City Council finds that:

*Effects of Mitigation:* Implementation of the mitigation measures above would not reduce the potentially significant traffic impacts to a less-than-significant level. Implementation of a TDM Program would incrementally reduce the impacts of the Project on roadway capacity, but not to a less-than-significant level. The addition of roadway capacity along Middle Avenue between University Drive and El Camino Real would require the acquisition of private property and the disruption of the City's residential neighborhoods, and was deemed infeasible.

*Remaining Impacts:* The impacts to the roadway capacity of Middle Avenue between University Drive and El Camino Real would remain significant and unavoidable.

#### **IV. PROJECT ALTERNATIVES**

CEQA requires that EIRs assess feasible alternatives or mitigation measures that may substantially lessen the significant effects of projects prior to approval (Public

Resources Code Section 21002). With the exception of the “no project” alternative, the specific alternatives or types of alternatives that must be assessed are not specified. CEQA “establishes no categorical legal imperative as to the scope of alternatives to be analyzed in an EIR. Each case must be evaluated on its own facts, which in turn must be reviewed in light of the statutory purpose.” Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d. 553, 556. The legislative purpose of CEQA is to protect public health, welfare and the environment from significant impacts associated with all types of development by ensuring that agencies regulate activities so that major consideration is given to preventing environmental damage while providing a decent home and satisfying living environment for every Californian (Public Resources Code Section 21000).

CEQA Guidelines state that the “range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant effects” of the project. CEQA Guidelines Section 15126(d)(2). Thus, an evaluation of the project objectives is key to determining which alternatives should be assessed in the EIR.

The main objective of the Project Sponsor is to develop a residential project that is economically feasible and contributes to the City’s housing stock. Other Project objectives are as follows:

- Redevelop an underutilized site with a mixture of attached and detached single-family units that is compatible with the surrounding neighborhood;
- Design the Project in a way that is sensitive to the character of the Allied Arts neighborhood to the west;
- Encourage in-fill development in the City and allow for a more vibrant mix and density of land uses;
- Provide housing opportunities, including affordable housing, for existing and future residents of Menlo Park;
- Create development that enhances the visual character of the El Camino Real corridor;
- Locate a project in close proximity to a regional transportation corridor with good local access from major streets and freeways; and
- Locate a project in close proximity (i.e., easy access by foot and/or bike) to transit services, and other major local and regional services and employment centers, including the Safeway grocery-shopping complex, the Stanford Shopping Center, the Stanford Hospital, and the Menlo Park Caltrain station.

The CEQA Guidelines state that the “range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant effects” of the project. The City evaluated the alternatives listed below.

#### Alternative 1: No Project Alternative

The No Project alternative is discussed on pages 192 to 194 of the Draft EIR. The No Project alternative assumes re-occupancy of the triplex and single-family

residence on the site. The existing buildings and infrastructure would remain with minimal building upgrades.

The No Project alternative would eliminate many of the significant impacts associated with the Project, in that it would not result in ground-disturbing activities, new construction, or the development of new residential uses at the Project Site (and the associated generation of new vehicle trips). Therefore, the No Project alternative would avoid several impacts that could result from the Project, including: certain traffic impacts and congestion on local roadways; air quality impacts associated with the Project; exposure to noise from construction, traffic and stationary sources on the Project Site; and the creation of new light and glare. While the No Project alternative would be the environmentally superior alternative in the context of impact reduction, it would not meet the primary objectives of the Project. Specifically, it would not develop the Project Site with residential uses located in close proximity to a regional transportation corridor with access to transit, services, and regional job centers.

**FINDINGS:** The No Project alternative is rejected as an alternative because it would not achieve the primary objectives of the Project.

#### Alternative 2: Baseline Zoning Alternative

The Baseline Zoning alternative is discussed on pages 194 to 197 of the Draft EIR. The Baseline Zoning alternative assumes that all structures on the Project Site would be demolished and a mixture of uses would be developed that is in general conformance with the C-4(ECR) and R-3 zones within the site. Approximately 23,000 square feet of commercial space could be developed in a two-story building located adjacent to El Camino Real. Per the requirements of the Zoning Ordinance, 156 parking spaces would be required as part of the commercial component, some of which would be located in a parking structure. The remainder of the site would be developed with three single-family residential units, ranging in size from approximately 1,500 square feet to 2,000 square feet, which would contain two garage parking spaces each.

The Baseline Zoning alternative would have similar impacts to the Project resulting from construction and redevelopment on the Project Site and the location of the Project Site with respect to existing land uses. The majority of these impacts could be mitigated to a less-than-significant level, similar to the Project. However, this alternative would generate significant unavoidable transportation impacts beyond those identified for the Project. In the Near Term Condition and Long Term Condition, the alternative would be expected to result in impacts at local approaches to State-controlled intersections that would not occur with implementation of the Project. In addition, impacts would occur to roadway segments beyond the University Avenue and Middle Avenue segments that would be substantially adversely affected by the Project.

Also, because this alternative would result in a significant increase in vehicle trips compared to the Project, it would result in significant impacts to regional air quality and greenhouse gas emissions compared to those identified for the Project. Although the alternative would achieve some of the objectives of the Project, it would do so to a

lesser extent than the Project because housing development on the Project Site would be reduced.

**FINDINGS:** The Baseline Zoning alternative is rejected as an alternative because it would include the construction of commercial uses (which is not a project objective), would not substantially reduce the environmental impacts of the Project, and would result in significant congestion of roadway segments in the near and long term. The alternative would achieve some of the objectives of the Project, although not to the degree of the Project, because commercial uses would be substituted for some of the residential units that would be included as part of the Project. Therefore, the alternative would not expand the City's supply of residential uses to the extent of the Project.

#### Alternative 3: Reduced Residential Alternative

The Reduced Residential alternative is discussed on pages 197 to 200 of the Draft EIR. The Reduced Residential alternative is designed to avoid the Project's significant and unavoidable contribution to traffic volumes on University Drive between Middle Avenue and Cambridge Avenue in the Near Term Plus Project Condition and Long Term Plus Project Condition, and Middle Avenue between University Drive and El Camino Real in the Long Term Plus Project Condition. To avoid these impacts would require a reduction in the number of residential units on the site from a total of 26 residential units (including nine single-family units and 17 townhouse units) to a total of 12 residential units (including five single-family units and seven townhouse units). All existing structures on the Project Site would be demolished as part of the alternative.

In general, vehicle trip rates are closely tied to the density and intensity of a given use (along with user characteristics and other relevant factors). With less than half of the residential units of the Project, the Reduced Residential alternative would generate fewer trips and would thus avoid the significant transportation impacts of the Project. Other impacts, like the potential to expose adjacent sensitive receptors to air pollution, would be similar to the Project. This alternative would meet most of the Project objectives, although the objectives relating to the development of single-family housing on the Project Site and providing additional housing opportunities would be achieved to a lesser extent than the Project. In addition, this alternative would be inconsistent with the vision for the area as defined by the El Camino Real/Downtown Specific Plan (approved in June 2012) and other planning documents, which envision the development of more intense land uses along the El Camino Real corridor to promote increased walkability and transit use. Most importantly, the alternative would reduce the potential for higher-intensity housing along El Camino Real.

**FINDINGS:** The Reduced Residential alternative is rejected as an alternative. The alternative would meet most of the Project objectives, although the objectives relating to the development of single-family housing on the site and providing additional housing opportunities would be achieved to a lesser extent than the Project. The alternative would avoid the significant transportation impacts associated with the Project.

#### Alternative 4: Mixed Use Alternative

The Mixed Use alternative is discussed on pages 200 to 202 of the Draft EIR. This alternative assumes development of a mixed-use project similar to that envisioned in El Camino Real/Downtown Specific Plan (approved in June 2012): 22 multi-family residential units and approximately 13,400 square feet of commercial space. It is assumed the commercial space would be general retail space, occupied by one tenant or two to three smaller tenants.

The Mixed Use alternative would result in impacts similar to the Project related to construction and redevelopment of the Project Site and the location of the Project Site with respect to existing land uses. The majority of these impacts could be mitigated to a less-than-significant level, similar to the Project. However, the alternative would generate significant unavoidable transportation impacts beyond those identified for the Project. In the Near Term Condition and Long Term Condition, the alternative would be expected to result in impacts at local approaches to State-controlled intersections that would not occur with implementation of the Project. In addition, impacts would occur to roadway segments beyond the University Avenue and Middle Avenue segments that would be substantially adversely affected by the Project. Also, because the alternative would result in a significant increase in vehicle trips compared to the Project, it would result in significant impacts to regional air quality and delivery trucks operating within the Project Site could expose nearby residential uses to elevated levels of toxic air contaminants. This alternative would meet most of the Project objectives, although the objectives relating to the development of single-family housing on the site and providing additional housing opportunities would be achieved to a lesser extent than the Project.

**FINDINGS:** The Mixed Use alternative is rejected as an alternative to the Project. While the alternative would meet most of the Project objectives, with the exception of the objective relating to the development of single-family housing on the Project Site, it would not substantially reduce the impacts of the Project on the environment related to transportation. In addition, the objective regarding providing additional housing opportunities would not be achieved to the same extent as the Project.

#### Alternative 5: Senior Housing Alternative

The Senior Housing alternative is discussed on pages 202 to 204 of the Draft EIR. The Senior Housing alternative assumes the development of 26 attached units restricted to seniors. The units would be approximately 1,000 square feet in size, on average, and would contain either one or two bedrooms. Because seniors typically drive less than non-seniors, and due to the proximity of the site to transit, the alternative would include only one parking space per unit plus nine guest spaces, for a total of 35 parking spaces.

Because seniors typically drive at lower rates than non-seniors, the Senior Housing alternative would generate less traffic than the Project and avoid the significant impacts to the local roadway system. Other impacts, like the potential to expose adjacent sensitive receptors to air pollution, would be similar to the Project. This

alternative would achieve all of the Project objectives, with the exception of the objective relating to the development of single-family housing.

While the Senior Housing alternative would not be infeasible on its face (senior housing developments of between 30 and 100 units exist in Menlo Park), it would be challenging to develop on the Project Site. According to correspondence from the Project Sponsor submitted during public review of the Draft EIR, the alternative would be difficult to develop or undesirable for the following reasons:

- The Project Sponsor is not capable of building senior housing on the Project Site due to the lack of past experience building such projects.
- A senior housing project would require on-site social and health services, which could not practicably be accommodated on the Project Site (and, if developed, would generate adverse traffic and air quality impacts).
- A senior housing project of 26 units would be on the low end of the critical mass of units needed to make such a project cost-effective.
- Single-story building structures or elevators in a higher-rise structure would be required on the site, neither of which would be feasible and/or cost-effective on the site.

**FINDINGS:** The Senior Housing alternative is rejected as an alternative to the Project. The alternative would avoid the significant unavoidable impacts of the Project on the local roadways system and promote City policies related to the development of housing along transit corridors and the provision of housing for seniors. However, it would not develop a mixture of attached and detached single-family residential units. Even though the Senior Housing alternative is identified as the environmentally superior alternative in the Draft EIR, it is not feasible for the Project Sponsor to develop senior housing on this site.

## **V. STATEMENT OF OVERRIDING CONSIDERATIONS RELATED TO THE PROJECT FINDINGS**

The City Council of the City of Menlo Park adopts and makes the following Statement of Overriding Considerations regarding the significant unavoidable impacts of the Project. After review of the entire administrative record the City Council finds that pursuant to CEQA Section 21081(b) and CEQA Guidelines Section 15093, specific economic, legal, social, technological and other benefits of the Project outweigh the Project's unavoidable adverse impacts and the City Council finds that the significant and unavoidable adverse impacts are acceptable in light of the Project's benefits.

### **A. Significant Unavoidable Impacts**

With respect to the foregoing findings and in recognition of those facts that are included in the record, the City has determined that the Project would result in significant unavoidable transportation impacts as disclosed in the Final EIR for the Project. The impacts would not be reduced to a less-than-significant level by feasible changes or alterations to the Project.

The City hereby finds that, where possible, changes or alterations have been required in or incorporated into the Project that substantially lessen the significant environmental effects identified in the Final EIR for the Project. The City further finds that there are no additional feasible mitigation measures that could be imposed to reduce and/or eliminate the significant and unavoidable impacts listed above. These impacts could not be reduced to a less than significant level by feasible changes, mitigations measures, or alterations to the Project.

**B. Overriding Considerations**

The City Council finds that each of the overriding considerations set forth below constitutes a separate and independent ground for a finding that the benefits of the Project outweigh its significant adverse environmental impacts and is an overriding consideration warranting approval of the Project. The City Council of the City of Menlo Park specifically adopts and makes this Statement of Overriding Considerations regarding the significant unavoidable impacts of the Project and the anticipated benefits of the Project.

The City Council has considered the Final EIR, the public record of proceedings on the Project, and other written materials presented to the City as well as oral and written testimony at all public hearings related to the Project, and does hereby determine that implementation of the Project as specifically provided for in the Project documents would result in the following substantial public benefits:

1. The Project will benefit the surrounding neighborhood through the conversion of an underutilized site into higher density residential uses that will increase pedestrian activity around El Camino Real, and provide more customers for local businesses and Downtown Menlo Park.
2. The Project will enhance the visual and community character of the surrounding area and El Camino Real corridor compared to existing conditions.
3. The Project will encourage the use of public transit, and walking and bicycling due to the site's location in close proximity to transit services, and other major local and regional services and employment centers.
4. The Project would provide housing opportunities, including affordable housing, for existing and future residents of Menlo Park and assist the City in meeting its Regional Housing Needs Allocation (RHNA) obligations.
5. The Project will generate new construction-related jobs in the City of Menlo Park.
6. The Project will contribute to the planned conversion of El Camino Real from an automobile-oriented commercial-style strip to a more compact, urban land use pattern.
7. The Project will encourage residential growth around transit, which is a recognized way to reduce per capita greenhouse gas emissions and combat global climate change.



**VI. SEVERABILITY**

If any term, provision, or portion of these Findings and Statement of Overriding Considerations or the application of these Findings and Statement of Overriding Considerations to a particular situation is held by a court to be invalid, void or unenforceable, the remaining provisions of these Findings and Statement of Overriding Considerations, or their application to other actions related to the Project, shall continue in full force and effect unless amended or modified by the City.

**VII. ADOPTION OF THE MMRP**

The City Council hereby adopts the mitigation measures set forth for the Project in the Final EIR and the MMRP attached hereto as Exhibit A and incorporated herein by this reference.

I, Margaret S. Roberts, City Clerk of Menlo Park, do hereby certify that the above and foregoing Council Resolution was duly and regularly passed and adopted at a meeting by said Council on the 31st day of July, 2012, by the following votes:

AYES:

NOES:

ABSTAIN:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this thirty-first day of July, 2012.

Margaret S. Roberts, MMC  
City Clerk

**Table 1: Mitigation Monitoring and Reporting Program**

Mitigation Measures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Non-Compliance Sanction
<b>A. Land Use and Planning Policy</b>				
<i>There are no significant land use and planning policy impacts.</i>				
<b>B. Transportation, Circulation and Parking</b>				
<p><b>TRANS-1a:</b> Additional roadway capacity may reduce this impact to a less-than-significant level. University Drive between Middle Avenue and Cambridge Avenue currently has one travel lane in each direction and obtaining additional roadway capacity could include constructing an additional travel lane in one or both travel directions. However, this measure would require right-of-way acquisition, which is infeasible. As such, the impact would remain significant and unavoidable.</p>	Mitigation measure found infeasible	Mitigation measure found infeasible	Mitigation measure found infeasible	
<p><b>TRANS-1b:</b> The project sponsor shall develop and implement a Transportation Demand Management (TDM) Program to encourage the use of alternative modes of transportation and reduce the daily number of vehicles generated by the project. The TDM Program shall be consistent with the City of Menlo Park TIA Guidelines. Potential TDM measures include the following:</p> <ul style="list-style-type: none"> <li>• A commute assistance kiosk. A kiosk or bulletin board that provides information on alternative modes of transportation available in the area;</li> <li>• Subsidized public transit passes. As part of homeowners or membership fees, a subsidized pass for public transit may be provided to residents;</li> <li>• Carpool matching assistance. A person or database to link residents traveling to similar locations, to allow for carpooling;</li> <li>• Vanpools. Vanpools are generally privately-sponsored and provide pick-up and drop-off services for commuters who work and live in the same general area;</li> <li>• Shuttle service to area transit hubs. Privately-sponsored vehicles transport residents between dwelling units and area transit hubs such as SamTrans bus stops, BART Stations, and the Menlo Park Caltrain Station; and</li> <li>• Bicycle facilities. For residential projects, these facilities would generally include bicycle racks and bicycle lockers (although residents would be expected to store bicycles in their residences).</li> </ul> <p>The TDM Program, which could be shared with that of other residential developments or businesses in the area, shall be reviewed and approved by the City.</p>	Planning Division and Transportation Division	Review and approve the TDM program	Prior to granting certificate of occupancy	No issuance of certificate of occupancy

**Table 1 Continued**

Mitigation Measures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Non-Compliance Sanction
<p><u>TRANS-2:</u> Implement Mitigation Measures TRANS-1a and TRANS-1b.</p> <p><u>TRANS-3a:</u> Additional roadway capacity would reduce this impact to a less-than-significant level. Middle Avenue between University Drive and El Camino Real currently has one travel lane in each direction and obtaining additional roadway capacity would include constructing an additional travel lane in one or both travel directions. However, this measure would require right-of-way acquisition, which is infeasible. As such, the impact would remain significant and unavoidable.</p> <p><u>TRANS-3b:</u> Implement Mitigation Measure TRANS-1b.</p>	<p>(Refer to Mitigation Measures TRANS-1a and TRANS-1b)</p> <p>Mitigation measure found infeasible</p> <p>(Refer to Mitigation Measure TRANS-1b)</p>	<p>(Refer to Mitigation Measures TRANS-1a and TRANS-1b)</p> <p>Mitigation measure found infeasible</p> <p>(Refer to Mitigation Measure TRANS-1b)</p>	<p>(Refer to Mitigation Measures TRANS-1a and TRANS-1b)</p> <p>Mitigation measure found infeasible</p> <p>(Refer to Mitigation Measure TRANS-1b)</p>	<p>(Refer to Mitigation Measures TRANS-1a and TRANS-1b)</p> <p>Mitigation measure found infeasible</p> <p>(Refer to Mitigation Measure TRANS-1b)</p>
<p><b>C. Air Quality</b></p> <p><u>AIR-1:</u> Consistent with guidance from the BAAQMD, the following actions shall be required of construction contracts and specifications for the project:</p> <ul style="list-style-type: none"> <li>• All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.</li> <li>• All haul trucks transporting soil, sand, or other loose material off-site shall be covered.</li> <li>• All visible mud or dirt tracked-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.</li> <li>• All vehicle speeds on unpaved roads shall be limited to 15 mph.</li> <li>• All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible.</li> <li>• Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.</li> <li>• Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure, Title 13, Section 2485 of the California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.</li> </ul>	<p>Building Division</p>	<p>Review and approve the dust control plan. Verify that air quality control measures in Mitigation Measure AIR-1 are included.</p>	<p>Prior to issuance of building or grading permit</p>	<p>No issuance of building or grading permit</p>

**Table 1 Continued**

Mitigation Measures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Non-Compliance Sanction
<p><u>AIR-1</u> <i>Continued</i></p> <ul style="list-style-type: none"> <li>All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.</li> <li>A publicly visible sign shall be posted with the telephone number and person to contact at the City regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.</li> </ul>				
<p><u>AIR-2</u>: Consistent with guidance from the BAAQMD, the following actions shall be required of construction contracts and specifications for the project:</p> <ul style="list-style-type: none"> <li>The construction contractor shall ensure the idling time of diesel-powered construction equipment is 2 minutes or less.</li> <li>The construction contractor shall utilize off-road equipment (more than 50 horsepower) used in the construction of the project (i.e., owned, leased, and subcontractor vehicles) that achieves a project wide fleet-average 20 percent nitrogen oxide reduction and 45 percent particulate matter reduction compared to the most recent ARB fleet average. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options that are available.</li> <li>All construction equipment, diesel trucks, and generators shall be equipped with Best Available Control Technology for emission reductions of nitrogen oxides and particulate matter.</li> <li>The project construction contractor shall use equipment that meets the ARB's most recent certification standard for off-road heavy duty diesel engines.</li> </ul>	<p>Building Division</p>	<p>Review and approve the air pollution control plan. Verify that air quality control measures in Mitigation Measure AIR-2 are included.</p>	<p>Prior to issuance of building or grading permit</p>	<p>No issuance of building or grading permit</p>

**Table 1 Continued**

Mitigation Measures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Non-Compliance Sanction
<p><b>D. Noise</b></p> <p><b>NOISE-1:</b> The following measures shall be implemented during construction of the project:</p> <p>(a) To minimize construction noise impacts on nearby residents and businesses, and to be consistent with Chapter 8.06 of the City's Municipal Code, standard construction activities that exceed stated noise limits shall be permitted only between the hours of 8:00 a.m. and 6:00 p.m. from Monday to Friday.</p> <p>(b) To reduce daytime construction-related noise impacts to the maximum feasible extent, the project sponsor shall develop a site-specific noise reduction program subject to City review and approval, which includes the following measures:</p> <ul style="list-style-type: none"> <li>• Signs shall be posted at the construction site that include permitted construction days and hours, a day and evening contact number for the job site, and a day and evening contact number for the City. The signs shall be posted at all entrances to the construction site upon the commencement of construction for the purpose of informing contractors and subcontractors and all other persons at the construction site of the basic requirements of the Noise Ordinance of the Municipal Code. The sign shall be at least 5 feet above ground level and shall consist of a white background with black letters.</li> <li>• A pre-construction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation protocols are in place prior to the issuance of a building permit (including the establishment of construction hours, neighborhood notification, posted signs, etc.).</li> <li>• Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds).</li> <li>• Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project demolition or construction activities shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed-air exhaust from pneumatically powered tools. Where use of pneumatic tools is unavoidable, an exhaust muffler on equipment with compressed-air exhaust systems shall be used; this muffler can lower noise levels, which could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible.</li> </ul>	<p>Building Division</p>	<p>1) Verify that construction activities occur only during permitted hours</p> <p>2) Ensure that noise control measures and features are in place, including the temporary sound barrier</p>	<p>1) Ongoing throughout the construction period</p> <p>2) Prior to issuance of a building or grading permit</p>	<p>1) Impose stop work order</p> <p>2) No issuance of building or grading permit</p>

**Table 1 Continued**

Mitigation Measures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Non-Compliance Sanction
<p><u>NOISE-1 Continued</u></p> <ul style="list-style-type: none"> <li>Stationary noise sources shall be located as far from sensitive receptors as possible and they shall be muffled and enclosed within temporary sheds; or insulation barriers or other measures shall be incorporated to the extent feasible.</li> <li>No piece of powered equipment shall generate noise in excess of 85 dBA at 50 feet. Powered equipment is defined by the City to be a motorized device powered by electricity or fuel used for construction, demolition, and property or landscape maintenance or repairs. Powered equipment includes but is not limited to: parking lot sweepers, saws, sanders, motors, pumps, generators, blowers, wood chippers, vacuums, drills and nail guns (but specifically excluding internal fuel combustion engine leaf blowers).</li> <li>Prior to construction, a temporary sound barrier shall be constructed along the project's western property line adjacent to the existing residential properties that border the project site. The temporary sound barrier shall extend from the project property line at College Avenue to the project property line at Partridge Avenue. This temporary sound barrier shall be constructed at the minimum height of 6 feet above the proposed finished pad elevation with a minimum surface weight of 4 pounds per square foot (or with any commercially available sound barrier material that has an equivalent noise reduction coefficient as a material with a minimum surface weight of 4 pounds per square foot) and shall be constructed so that vertical or horizontal gaps are eliminated. This temporary barrier shall remain in place through the construction phase in which heavy construction equipment, such as excavators, bulldozers, scrapers, loaders, rollers, pavers, and dump trucks are operating within 100 feet of the western project site boundary.</li> </ul>				
<p><u>NOISE-2a:</u> In order to ensure that windows can remain closed for prolonged periods of time to meet the interior noise standard of 45 dBA CNEL established by the City, an alternative form of ventilation, such as air conditioning or noise-attenuated passive ventilation systems, shall be included in all proposed dwelling units.</p>	Building Division and Planning Division	Verify that project plans show alternative form of ventilation in each building	Prior to issuance of building permit	No issuance of building permit

**Table 1 Continued**

Mitigation Measures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Non-Compliance Sanction
<p><b>NOISE-2b:</b> In order to meet the interior noise standard of 45 dBA CNEL established by the City, all proposed dwelling units that would be located within 45 feet of the centerline of the outermost travel lane of El Camino Real shall be constructed to have an overall minimum STC rating of STC-35, and all exterior doors and windows shall have a minimum rating of STC-33. Quality control shall be exercised in construction to ensure all air-gaps and penetrations of the building shell are controlled and sealed.</p>	<p>Building Division and Planning Division</p>	<p>Verify that project plans show appropriate STC rating for affected units.</p>	<p>Prior to issuance of building permit</p>	<p>No issuance of building permit</p>
<p><b>NOISE-3:</b> The project sponsor shall ensure that project plans submitted for a building permit include documentation that proposed stationary equipment shall not generate noise that exceeds 60 dBA <math>L_{eq}</math> during daytime hours and 50 dBA <math>L_{eq}</math> during nighttime hours, as measured at any point on a neighboring residential property nearest where the noise source at issue generates the highest noise level.</p>	<p>Building Division and Planning Division</p>	<p>Verify that project plans contain proper documentation for stationary equipment</p>	<p>Prior to issuance of building permit</p>	<p>No issuance of building permit</p>
<p><b>E. Public Services and Utilities</b></p>				
<p><i>There are no significant Public Services and Utilities impacts.</i></p>				
<p><b>F. Aesthetics</b></p>				
<p><b>AES-1:</b> The project applicant shall prepare a lighting plan and photometric study and submit them to the City for review and approval prior to issuance of a building permit. City staff shall review the plan to ensure that any outdoor lighting for the project is oriented downwards and is designed to minimize lighting or glare off-site.</p>	<p>Building Division</p>	<p>Review and approve lighting plan and photometric study.</p>	<p>Prior to issuance of building permit</p>	<p>No issuance of building permit</p>

Source: LSA Associates, 2012.

## **ATTACHMENT C**

### ***DRAFT* – Conditions of Approval**

#### **Use Permit, Architectural Control, Tentative Subdivision Map**

#### **321-389 El Camino Real, 603-607 College Avenue, and 612 Partridge Collectively Known as 389 El Camino Real**

#### **Conditions**

1. Development of the project shall be substantially in conformance with the plans by Dahlin Group, BKF and Gates Associates, dated received by the Planning Division on June 18, 2012, consisting of 80 plan sheets, except as modified by the conditions contained herein.
2. The Use Permit, Architectural Control, and Tentative Subdivision Map shall expire two years from the date of approval if the applicant does not submit a complete building permit application within that time. The Community Development Director may extend this date per Municipal Code Section 16.82.170. Within two years from the date of approval of the tentative map, the applicant shall submit a Final Map for review and approval of the City Engineer.
3. Minor modifications to building exteriors and locations, fence styles and locations, signage, and significant landscape features may be approved by the Community Development Director or designee, based on the determination that the proposed modification is consistent with other building and design elements of the approved Use Permit and will not have an adverse impact on the character and aesthetics of the site. The Director may refer any request for revisions to the plans to the Planning Commission for architectural control approval. A public hearing could be called regarding such changes if deemed necessary by the Planning Commission.
4. Major modifications to building exteriors and locations, fence styles and locations, signage, and significant landscape features may be allowed subject to obtaining an architectural control permit from the Planning Commission, based on the determination that the proposed modification is compatible with the other building and design elements of the approved Use Permit and will not have an adverse impact on the character and aesthetics of the site. A public hearing could be called regarding such changes if deemed necessary by the Planning Commission.
5. Major revisions to the development plan which involve material changes, or expansion or intensification of development require public hearings by the Planning Commission and City Council.



6. The project shall comply with all aspects of the California Building Code in effect at the time of Building permit application.
7. Concurrent with the submittal for a demolition permit, the applicant shall submit a tree preservation plan to address the protection of the heritage redwood and existing street trees to remain, 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 applicant 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 prior to issuance of a demolition permit.
8. Concurrent with the submittal for a demolition permit, the applicant shall submit a plan for: 1) construction safety fences around the periphery of the construction area, 2) dust control, 3) air pollution control, 4) erosion and sedimentation control, 5) tree protection fencing, and 6) construction vehicle parking. The plans shall be subject to review and approval by the Building, Engineering, and Planning 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.
9. Consistent with BAAQMD's Best Management Practices for Construction, the following actions shall be included in the dust control plan subject to review and approval by the Building Division prior to issuance of a demolition permit:
  - All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  - All visible mud or dirt tracked-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  - All vehicle speeds on unpaved roads shall be limited to 15 mph.
  - All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible.
  - Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  - Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure, Title 13, Section 2485 of the California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
  - All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

- A publicly visible sign shall be posted with the telephone number and person to contact at the City regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.  
(Mitigation Measure AIR-1)

10. Consistent with guidance from the BAAQMD, the following actions shall be included in the air pollution control plan subject to review and approval by the Building Division prior to issuance of a demolition permit:

- The construction contractor shall ensure the idling time of diesel-powered construction equipment is 2 minutes or less.
- The construction contractor shall utilize off-road equipment (more than 50 horsepower) used in the construction of the project (i.e., owned, leased, and subcontractor vehicles) that achieves a project wide fleet average 20 percent nitrogen oxide reduction and 45 percent particulate matter reduction compared to the most recent ARB fleet average. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options that are available.
- All construction equipment, diesel trucks, and generators shall be equipped with Best Available Control Technology for emission reductions of nitrogen oxides and particulate matter.
- The project construction contractor shall use equipment that meets the ARB's most recent certification standard for off-road heavy duty diesel engines.

(Mitigation Measure AIR-2)

11. Prior to demolition permit issuance, all buildings that are proposed for demolition shall be surveyed for asbestos-containing materials under the National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines. All potentially friable asbestos-containing materials shall be removed prior to building demolition in accordance with NESHAP guidelines and BAAQMD Regulation 11, Rule 2: Hazardous Materials; Asbestos Demolition, Renovation and Manufacturing. The BAAQMD's Enforcement Division shall be consulted prior to commencing demolition of a building containing asbestos materials.

12. Prior to demolition permit issuance, a survey of painted surfaces on all buildings at the site shall be conducted. Based on the results of the survey, if lead-based paint is still bonded to the building surfaces, its removal is not required prior to demolition. If lead-based paint is peeling, flaking, or blistered, it shall be removed prior to demolition in accordance with state requirements. It is assumed that such paint will become separated from the building components during demolition activities; thus, it must be managed and disposed as a separate waste stream. Any debris or soil containing lead paint or coating must be disposed at landfills that have acceptance criteria for the waste being disposed. The project shall follow the requirements outlined by California Occupational Safety and Health Administration (Cal-OSHA)

Lead in Construction Standard, Title 8, California Code of Regulations (CCR) 1532.1 during demolition activities. These regulations include employee training, employee air monitoring, and dust control.

13. Prior to demolition permit and/or 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.
14. Prior to recordation of the Final Map, the existing structures shall be demolished after obtaining a demolition permit.
15. Concurrent with the application for a Final Map, the applicant shall submit covenants, conditions and restrictions (CC&Rs) for the approval of the City Engineer and the City Attorney. The Final Map and the CC&Rs shall be recorded concurrently and shall include administration of the Transportation Demand Management (TDM) Program. The TDM Program shall be consistent with the City of Menlo Park's Transportation Impact Analysis Guidelines. Potential TDM measures include the following:
  - A commute assistance kiosk. A kiosk or bulletin board that provides information on alternative modes of transportation available in the area;
  - Subsidized public transit passes. As part of homeowners or membership fees, a subsidized pass for public transit may be provided to residents;
  - Carpool matching assistance. A person or database to link residents traveling to similar locations, to allow for carpooling;
  - Vanpools. Vanpools are generally privately-sponsored and provide pick-up and drop-off services for commuters who work and live in the same general area;
  - Shuttle service to area transit hubs. Privately-sponsored vehicles transport residents between dwelling units and area transit hubs such as SamTrans bus stops, BART Stations, and the Menlo Park Caltrain Station; and,
  - Bicycle facilities. For residential projects, these facilities would generally include bicycle racks and bicycle lockers (although residents would be expected to store bicycles in their residences).
  - The TDM Program, which could be shared with that of other residential developments or businesses in the area, shall be reviewed and approved by the Planning and Transportation Divisions.

(Mitigation Measure TRANS-1b)

16. Concurrent with the application submittal for the Final Map, the applicant shall submit a Grading and Drainage Plan, including an Erosion and Sedimentation Control Plan, for review and approval of the City Engineer. 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 Grading and Drainage Plan shall be approved prior to issuance of a grading permit.

17. The application submittal for the Final Map shall include the following abandonments and dedications:
  - Abandonment of Alto Lane;
  - Abandonment of the existing storm drain easement; dedicate to the City the new utility easements, storm drain easements; and,
  - Dedication of the Pedestrian Access Easement (PAE) along El Camino Real.
18. As part of a complete Final Map application, the applicant shall submit a complete application for a pedestrian access easement for the portion of the proposed sidewalk along El Camino Real located on private property, subject to the review of the Planning and Engineering Divisions. Concurrent with Final Map approval, the easement shall be approved by the City Council and documentation showing proof of recordation with the San Mateo County Recorder's Office shall be provided.
19. Prior to recordation of the Final Map, the applicant shall install new improvements as shown on the project plans per City and Caltrans standards along the entire property frontage subject to the review and approval of the Engineering Division. The applicant shall obtain an encroachment permit, from the appropriate reviewing jurisdiction, prior to commencing any work within the right-of-way or public easements. If determined appropriate and subject to the approval of the Engineering Division, the applicant may provide a bond for the completion of the work subsequent to the recordation of the Final Map.
20. Concurrent with the application for an encroachment permit for frontage improvements, the applicant shall submit a Sidewalk Protection Plan detailing an alternate pedestrian path along El Camino Real while the frontage improvements are under construction, subject to the review and approval of the Engineering Division.
21. Prior to recordation of the Final Map, the applicant shall install new utilities to the point of service subject to review and approval of the City Engineer. All electric and communication lines servicing the project shall be placed underground. Each lot/unit shall have separate utility service connections. If determined appropriate and subject to the approval of the Engineering Division, the applicant may provide a bond for the completion of the work subsequent to the recordation of the Final Map.
22. Prior to the recordation of the Final Map, the applicant shall enter into a Subdivision Improvement Agreement and provide a bond for the completion of site improvements, subject to the approval of the Engineering Division.
23. Prior to recordation of the Final Map, the applicant shall pay any applicable recreation fees (in lieu of dedication) per the direction of the City Engineer in compliance with Section 15.16.020 of the Subdivision Ordinance. The estimated recreation in-lieu fee is \$704,000 (based on \$4 million value of acreage).
24. Concurrent with the application for a grading permit, the applicant shall submit a soil management plan (SMP) for the northwestern half of the project site between El

Camino Real and Alto Lane. The SMP shall indicate how soils excavated from this area will be screened for potential hydrocarbon contamination and managed (segregation, storage, sampling, and disposal). The SMP shall also describe the mitigation, notification, and sampling measures that will be implemented if hydrocarbon vapors or visual signs of contamination are encountered during soil grading and excavation. The SMP shall be reviewed and approved by the San Mateo County Health Department, and written confirmation obtained from the San Mateo County Health Department demonstrating approval of the SMP shall be submitted to the Planning and Building Divisions, prior to the issuance of a grading permit.

25. Concurrent with the application for a grading permit, the applicant shall submit a draft "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. The applicant shall enter into and record a Stormwater Treatment Measures Operations and Maintenance Agreement prior to finalizing the building permit for the first residential unit.
26. Concurrent with the application for a grading permit, the applicant shall submit an updated Hydrology Report for review and approval by the Public Works Department. The Hydrology Report shall confirm that the project does not result in increased storm water runoff as measured by the peak flow rate for a 10-year storm and shall also confirm that the on-site depressed garages will not be subject to flooding during a 10-year storm. If the Hydrology Report shows an increase of runoff (over the existing conditions runoff), then the applicant shall implement modifications to the project to ensure that neither impact occurs subject to review and approval of the Planning and Engineering Divisions.
27. Concurrent with the application for a grading permit, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. Landscaping shall properly screen all utility equipment that is installed outside of a building and that cannot be placed underground. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
28. Prior to grading permit issuance, the applicant shall provide documentation of the recordation of the Final Map at the County Recorder's Office for review and approval of the Engineering Division and the Planning Division. Application for a grading permit may be made prior to recordation.
29. A complete building permit application will be required for any remediation work that requires a building permit. No remediation work that requires approval of a building permit shall be initiated until the applicant has received building permit approvals for

that work. All building permit applications are subject to the review and approval of the Building Division.

30. Prior to building permit issuance, the applicant shall submit a detailed landscape plan, including the size, species, and location, and irrigation plan for review and approval by the Planning Division and the Public Works Department. The plan shall allow for sight distance visibility and comply with the Water Efficient Landscaping Ordinance (Municipal Code Chapter 12.44). The landscaping shall be installed prior to final building inspection.
31. Concurrent with the submittal for a building permit, the applicant shall submit revised landscape elevations for the proposed metal trellis along the shared property line with 301 El Camino Real for review and approval by the Planning Division. To ensure adequate traffic safety and visibility, the trellis shall not exceed two feet in height within the first ten feet of the street curb. After the first ten feet, the trellis shall step up in height to seven feet up to the existing adjacent building located at 301 El Camino Real. The trellis may reach a maximum of nine feet in height along the existing building wall.
32. Concurrent with the submittal for a building permit, the applicant shall submit a lighting plan, providing the location, architectural details and specifications for all exterior lighting subject to review and approval by the Planning Division. The lighting plan shall minimize glare and confirm that there is no spillover onto adjacent properties and the public right-of-way. (Mitigation Measure AES-1)
33. Concurrent with the submittal for a building permit, a design-level geotechnical investigation report shall be submitted to 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.
34. 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.
35. Prior to building permit issuance, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, Recology, and utility companies' regulations that are directly applicable to the project.
36. Plans and specifications for upgrading any sewer facilities shall be submitted to the West Bay Sanitary District (WBSD) for approval and issuance of the appropriate permits prior to the approval of the Final Map. The project shall upgrade the sewer facilities to which it connects as designated by the WBSD; specific improvements would be determined at the final design level.

37. Prior to building permit issuance, the applicant shall submit documentation subject to the approval of the Planning and Building Divisions demonstrating that the proposed residential units shall be designed with an adequate alternative form of ventilation, such as air conditioning or noise-attenuated passive ventilation systems, to meet the interior noise standard of 45 dBA CNEL. (Mitigation Measure NOISE-2a)
38. Prior to building permit issuance, the applicant shall ensure that project plans submitted for a building permit show that all proposed dwelling units that would be located within 45 feet of the centerline of the outermost travel lane of El Camino Real shall be constructed to have an overall minimum STC rating of STC-35, and all exterior doors and windows shall have a minimum rating of STC-33. Quality control shall be exercised in construction to ensure all air-gaps and penetrations of the building shell are controlled and sealed. (Mitigation Measure NOISE-2b)
39. Prior to building permit issuance, the applicant shall ensure that project plans submitted for a building permit include documentation that proposed stationary equipment shall not generate noise that exceeds 60 dBA  $L_{eq}$  during daytime hours, and 50 dBA  $L_{eq}$  during nighttime hours, as measured at any point on a neighboring residential property nearest where the noise source at issue generates the highest noise level. (Mitigation Measure NOISE-3)
40. Prior to issuance of each applicable building permit, the applicant shall pay the following fees associated with the project:
  - The applicant shall pay all applicable school impact fees associated with the project.
  - The applicant shall pay the applicable Building Construction Street Impact Fee.
41. Prior to building permit issuance, the applicant shall pay the transportation impact fee per the direction of the Transportation Division in compliance with Chapter 13.26 of the Municipal Code. The current estimated transportation impact fee is \$46,074, although the final fee shall be the fee in effect at the time of payment.
42. The following measures shall be implemented during construction of the project:
  - (a) To minimize construction noise impacts on nearby residents and businesses, and to be consistent with Chapter 8.06 of the City's Municipal Code, standard construction activities that exceed stated noise limits shall be permitted only between the hours of 8:00 a.m. and 6:00 p.m. from Monday to Friday.
  - (b) To reduce daytime construction-related noise impacts to the maximum feasible extent, the applicant shall develop a site-specific noise reduction program subject to Building Division review and approval, which includes the following measures:
    - Signs shall be posted at the construction site that include permitted construction days and hours, a day and evening contact number for the disturbance coordinator at the job site, and a contact number for the City. The signs shall be posted at all entrances to the construction site upon the

commencement of construction for the purpose of informing contractors and subcontractors and all other persons at the construction site of the basic requirements of the Noise Ordinance of the Municipal Code. The sign shall be at least 5 feet above ground level and shall consist of a white background with black letters.

- A pre-construction meeting shall be held with the City building inspectors and the general contractor/on-site project manager to confirm that noise mitigation protocols are in place prior to the issuance of a building permit (including the establishment of construction hours, neighborhood notification, posted signs, etc.).
- Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds).
- Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project demolition or construction activities shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed-air exhaust from pneumatically powered tools. Where use of pneumatic tools is unavoidable, an exhaust muffler on equipment with compressed-air exhaust systems shall be used; this muffler can lower noise levels, which could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible.
- Stationary noise sources shall be located as far from sensitive receptors as possible and they shall be muffled and enclosed within temporary sheds; or insulation barriers or other measures shall be incorporated to the extent feasible.
- No piece of powered equipment shall generate noise in excess of 85 dBA at 50 feet. Powered equipment is defined by the City to be a motorized device powered by electricity or fuel used for construction, demolition, and property or landscape maintenance or repairs. Powered equipment includes but is not limited to: parking lot sweepers, saws, sanders, motors, pumps, generators, blowers, wood chippers, vacuums, drills and nail guns (but specifically excluding internal fuel combustion engine leaf blowers).
- Prior to construction, a temporary sound barrier shall be constructed along the project's western property line adjacent to the existing residential properties that border the project site. The temporary sound barrier shall extend from the project property line at College Avenue to the project property line at Partridge Avenue. This temporary sound barrier shall be constructed at the minimum height of 6 feet above the proposed finished pad elevation with a minimum surface weight of 4 pounds per square foot (or with any commercially available sound barrier material that has an equivalent noise reduction coefficient as a material with a minimum surface weight of 4 pounds per square foot) and shall be constructed so that vertical or horizontal gaps are eliminated. This temporary barrier shall remain in place through the construction phase in which heavy construction equipment, such as



excavators, bulldozers, scrapers, loaders, rollers, pavers, and dump trucks are operating within 100 feet of the western project site boundary.  
(Mitigation Measure NOISE-1)

THIS DOCUMENT IS RECORDED FOR THE BENEFIT  
OF THE CITY OF MENLO PARK AND  
IS EXEMPT FROM FEE PER  
GOVERNMENT CODE SECTIONS 27383 AND 6103.

WHEN RECORDED MAIL TO: )  
 )  
COMMUNITY DEVELOPMENT DEPARTMENT )  
CITY OF MENLO PARK )  
701 Laurel Street )  
Menlo Park, CA 94025-3483 )  
 )  
 )

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**BELOW MARKET RATE FOR-SALE AGREEMENT**  
**389 EL CAMINO REAL**

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## **BELOW MARKET RATE FOR-SALE AGREEMENT**

This Below Market Rate For-Sale Agreement ("Agreement") is made as of this \_\_\_\_ day of \_\_\_\_\_ 2012 by and between THE CITY OF MENLO PARK, a California municipality ("City") and 389 EL CAMINO ASSOCIATES, LLC, a California limited liability company ("Owner"), with respect to the following:

### **RECITALS**

A. Owner is the owner of certain real property located in the City of Menlo Park, County of San Mateo, State of California ("Property"), more particularly described in Exhibit A attached hereto. The Property is commonly known as 389 El Camino Real and consists of Assessor's Parcel Numbers 071-412-430-2, 071-412-220-7, 071-412-230-6, 071-412-170-4 and 071-412-250-4.

B. Pursuant to City Municipal Code Chapter 16.96, the City's BMR Housing Ordinance ("BMR Ordinance"), and the City's Below Market Rate Housing Program Guidelines ("Guidelines") attached hereto as Exhibit B, Owner is required to enter into this Agreement for the benefit of the City to insure compliance with the City's BMR Ordinance and the Guidelines, which is a prerequisite to obtaining final development approvals and "Final Inspection" of the units from the Building Division.

C. Owner plans to redevelop the Property by constructing a total of twenty-six (26) new attached and detached for-sale single-family residential units of which three (3) shall be below market rate units ("BMR Units"), as required by, and in full compliance with the City's BMR Ordinance and the Guidelines.

D. The BMR Units shall be sold to third parties who meet the eligibility requirements set forth in the BMR Ordinance and the Guidelines, and with prices determined in accordance with this Agreement.

E. This Agreement is for the benefit of Owner and the City. The deeds to the BMR Units shall contain restrictions that limit the sales price of the BMR Units in accordance with the BMR Ordinance and the Guidelines. These deed restrictions relating to the three (3) BMR Units shall be binding on the future owners of those units.

NOW, THEREFORE, the parties agree as follows:

1. The three (3) BMR Units are to be completed and sold in accordance with the BMR Ordinance and the Guidelines with the appropriate deed restrictions. For purposes of Section 8 of the Guidelines, a BMR Unit shall be deemed "available for purchase" when the City has issued a letter that states that the BMR Unit meets the requirements of the Guidelines and satisfies the provisions of this Agreement. The letter will be issued when the

BMR Unit is substantially ready for occupancy, as reasonably determined by the City's Community Development Director, and when the BMR Unit has passed Final Inspection by the Building Division.

2. Section 5.1 of the Guidelines requires the BMR Units to generally be of the same size as the market rate units and be distributed throughout the development. The locations of the three (3) BMR Units are shown as BMR Unit #s 2, 8 and 13 on Exhibit C attached hereto. The floor plans showing the size and layout of the BMR Units are shown on Exhibit D attached hereto.

3. The streetscape elevations of the BMR Units will be as approved by the Planning Commission.

4. The exterior materials used in the construction of the BMR Units will be similar and indistinguishable from those used on the market rate units. The interior finishes of the BMR Units shall be similar to those of the market rate units, except for upgrades purchased by individual buyers.

5. Each BMR Unit shall be affordable to households which are U.S. Department of Housing and Urban Development ("HUD") low or State lower income eligible as defined in Section 50079.5 of the California Health and Safety Code, as described in the Guidelines, and are of the smallest household size eligible for the BMR Unit on the BMR waiting list maintained by the City on the date that the Sales Price is set, as more particularly described below. The BMR Sales Price shall be calculated according to the following formula by reference to the definitions and standards set forth in Sections 6.1 and 6.2, below.

6.1 The "**Sales Price**" shall be calculated by adding the cash down payment, defined in 6.2.10., below, to the Maximum Mortgage Amount, defined in Section 6.1.6, below, less lender and escrow fees and costs incurred by the buyer. The Sales Price shall be set before the commencement of the sale process for the BMR Units.

6.1.1 Calculate the "**Smallest Household Size**": The household with the smallest number of persons eligible for the BMR Unit, as shown in Section 14, Table C (Occupancy Standards) of the Guidelines.

6.1.2. The current "**Maximum Eligible Income**" shall be the most current State Income Limit for San Mateo County, Lower Income category, as published by the State of California Department of Housing and Community Development, for the Smallest Household Size.

6.1.3. Calculate the "**Maximum Allowable Monthly Housing Expenses**": Multiply the Maximum Eligible Income by thirty three percent (33%) and divide by twelve (12).

6.1.4. Calculate the "**Actual Monthly Housing Expenses**": Add the following costs associated with a particular BMR Unit, as more particularly described in Paragraph 6.2 below, and divide by twelve (12): (a) any loan fees, escrow fees and other closing costs (amortized over 360 months) and/or private mortgage insurance associated therewith; (b) property taxes and assessments; (c) fire, casualty insurance and flood insurance, if required; (d) property maintenance and repairs, deemed to be One Hundred Dollars (\$100) per month; (e) a reasonable allowance for utilities as set forth in the Guidelines, not including telephones, and (f) homeowners association fees, if applicable, but less the amount of such homeowners association fees allocated for any costs attributable to (c), (d) or (e) above.

6.1.5. Calculate the "**Maximum Monthly Mortgage Payment Amount**": Subtract the Actual Monthly Housing Expenses from the Maximum Allowable Monthly Housing Expenses.

6.1.6. Determine the "**Maximum Mortgage Amount**": Determine the amount of mortgage that a lender would loan, based upon the Maximum Monthly Mortgage Payment Amount and based upon the down payment found to be the lowest that lenders are willing to accept in a survey of lenders as described below. Survey and take the average of at least three local lenders who regularly make home loans at a typical housing expense ratio to first-time buyers in the price range of the BMR home on the day that the price is set. The mortgage amount shall be for a 30-year fixed rate mortgage with standard fees, closing costs and no points, and shall be less than or equal to the Maximum Monthly Mortgage Amount.

6.2. The calculation of the Sales Price shall be based upon the factors defined below. These definitions conform to the eligibility and underwriting standards established by the major secondary mortgage market investors, such as the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac").

6.2.1. Mortgage Interest Rate. The mean average of contract interest rates on the date that the Sales Price is set, for fixed rate, 30-year "Conforming" mortgages (presently \$417,000 or less, as such amount may be adjusted from time to time as the maximum amount of FHA Conforming mortgages), or for jumbo mortgages if applicable, as quoted by three local retail lenders. The three local retail lenders shall be selected at random by the City from the list of lenders certified by San Mateo County to make first mortgage loans with Mortgage Credit Certificates.

6.2.2. Points. The mean average of points quoted by three local lenders that make mortgage loans to first time home buyers in the City of Menlo Park on the date that the Sales Price is set for fixed rate, 30 year mortgages of \$417,000 or less, or for jumbo mortgages if applicable, which lenders are selected on a random basis by the City. Points are a one-time fee paid to a lender for making a loan. One point is

equal to one percent of the loan amount.

6.2.3. Lender/Escrow Fees. The mean average of fees charged by three local lenders that make mortgage loans to homebuyers, which lenders are selected on a random basis by the City, plus escrow company fees, for such items as title insurance, appraisal, escrow fees, document preparation and recording fees.

6.2.4. Loan to Value Ratio. The maximum ratio of the dollar amount of a Conforming mortgage to the sales price of a home which a lender is willing to approve at a given point in time. For purposes of this Agreement, the Loan to Value Ratio shall be calculated as the mean average of the maximum Loan to Value Ratios as quoted by three local lenders selected on a random basis by the City from a list of lenders who actively make loans to homebuyers and who participate in the Mortgage Credit Certificate program.

6.2.5. Housing Expense Ratio. The mean average of the housing expense ratio as reported on the date that the sales price is set, for fixed rate, 30-year mortgages of \$417,000 or less, or for jumbo mortgages if applicable, by three local lenders that make mortgage loans to homebuyers in the City of Menlo Park, which lenders are selected on a random basis by the City. Housing expense is defined as the sum of the annual mortgage payment (including principal and interest), and annual payments for taxes, homeowners association dues, insurance, property maintenance and repairs, a reasonable allowance for utilities according to the San Mateo County Housing Authority Utility Financial Allowance Chart which is periodically updated and amended, and any secondary financing (but excluding any portion of the aforementioned expenses covered by homeowners association dues). To determine the ratio, this sum is divided by gross annual income.

6.2.6. Homeowners Insurance. Calculated as the mean average of the annual cost of insurance quoted by two or three local brokers, based on their experience, for a housing unit of the price, room configuration, location, construction material and structure type of the subject BMR Unit. Flood insurance costs, if required shall be calculated by this same method.

6.2.7. Private Mortgage Insurance. The mean average of the annual cost of private mortgage insurance quoted by two or three local lenders, based on their experience, for a housing unit of the price, location, and structure type of the subject BMR Unit.

6.2.8. Taxes. The tax rate as reported by the San Mateo County Assessor's Office.

6.2.9. Homeowners' Dues. Reported by the developer and as set forth in the Public Report issued by the California Department of Real Estate for the

project.

6.2.10. Down Payment. Cash portion paid by a buyer from his own funds, as opposed to that portion of the purchase price which is financed. For the purpose of calculating the BMR Sales Price, the down payment will be defined as the mean average of the smallest down payment required by the two or three local lenders surveyed.

6.3. The Sales Price shall be agreed upon in writing by Owner and the City's Community Development Director no later than the date of the Final Inspection, or at an earlier date agreed to by the City's Community Development Director, and before the process begins to find a buyer.

7. As a condition precedent to a Final Inspection of any market rate unit at least one (1) BMR Unit shall have passed Final Inspection, and no more than nine (9) market rate units shall have passed Final Inspection until a second BMR Unit passes Final Inspection. In any event, the last BMR Unit must pass Final Inspection before the last market rate unit passes Final Inspection.

8. If there is a standard pre-sale requirement by the BMR applicant's lender for a certain percentage of units in the project to be sold before the BMR applicant's lender will close escrow on the loan, then the time for the City's purchase or the buyer's purchase will be extended until that requisite number of units has closed.

9. This Agreement shall be binding on and inure to the benefit of the parties hereto and any respective assigns and or owners of the property. Either party may freely assign this Agreement without the consent of the other. However, to be valid, an assignment of this Agreement must be in writing.

10. This Agreement is a covenant running with the land for the benefit of the City and all lands owned by the City within the limits of the City.

11. If any legal action is commenced to interpret or enforce this Agreement or to collect damages as a result of any breach of this Agreement, the party prevailing shall be entitled to recover all reasonable attorney's fees and costs incurred in such action from the other party.

12. Owner shall record this Agreement in the Office of the County Recorder of San Mateo prior to the recording of a final subdivision map for any portion of the Property and shall provide a copy of such recorded agreement to the City.

13. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

14. The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.

15. The exhibits attached hereto are hereby incorporated herein by this reference for all purposes.

16. This Agreement supersedes any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between the parties as to the subject matter hereof.

17. If any portion of this Agreement as applied to either party or to any circumstances shall be adjudged by a court to be void or unenforceable, such portion shall be deemed severed from this Agreement and shall in no way effect the validity or enforceability of the remaining portions of this Agreement.

18. Any and all obligations or responsibilities of Owner under this Agreement shall terminate upon the recording of the grant deeds conveying the BMR Units to qualified third party purchasers in accordance with the terms and provisions of this Agreement, the recording of the deed restrictions against such BMR Units, and/or the payment of the in lieu fees, if applicable, to be paid through escrow, as set forth in Section 4.3 of the Guidelines.

19. The execution and delivery of this Agreement shall not be deemed to be for the benefit of the third party purchasers of the BMR Units or any other third party and any and all obligations and responsibilities of Owner under this Agreement are to the City for whose benefit this Agreement has been entered into. No third party purchaser of a BMR or market rate unit, homeowners' association or any other third party shall obtain any rights or standing to complain that the BMR Units were not constructed, designed, sold or conveyed in accordance with this Agreement, or the BMR Ordinance and the Guidelines as a result of this Agreement. Furthermore, the acceptance of this Agreement by the City, the acceptance of the interior specifications for the BMR Units and the conveyance of the BMR Units to qualified third parties shall conclusively indicate that Owner has complied with this Agreement and the BMR Ordinance and the Guidelines.

20. To the extent of any conflict between the terms and provisions of the Guidelines attached hereto as Exhibit B and the terms and provisions of the Agreement, the terms and provisions of this Agreement shall prevail.

*\*\*Signatures on next page\*\**



IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

City of Menlo Park	389 El Camino Associates, LLC, a California limited liability company
By: _____ Name: Alex D.McIntyre Its: City Manager	By: Matteson Real Estate Equities, Inc., a California corporation, its Manager  By: _____ Name: _____ Its: _____

**Notarial acknowledgement for the City and 389 El Camino Associates, LLC are attached.**

List of Exhibits

- Exhibit A: Property Description
- Exhibit B: BMR Guidelines
- Exhibit C: BMR Unit Locations
- Exhibit D: BMR Floor Plans

**EXHIBIT A**

LEGAL DESCRIPTION

## **EXHIBIT B**

### **GUIDELINES**

[The City's Below Market Rate Housing Program Guidelines as modified or amended as of May 10, 2011 are incorporated herein by this reference]

**EXHIBIT C**

**BMR UNIT LOCATIONS**

**EXHIBIT D**

**BMR FLOOR PLANS**

# 389 El Camino Real, Menlo Park Inclusionary Housing Plan



**Submitted: April 24, 2012**



*Matteson Realty Services, Inc.*

*Matteson Real Estate Equities, Inc.*

*Matteson Management Services, Inc.*

*Matteson Development Partners, Inc.*

*JB Matteson, Inc.*

April 24, 2012

Ms. Deanna Chow  
Senior Planner, Planning Department  
City of Menlo Park  
701 Laurel Street  
Menlo Park, CA 94025

**Re: Inclusionary Housing Plan – 389 El Camino Real, Menlo Park**

Dear Deanna,

This correspondence outlines the Inclusionary Housing Plan for our proposed 26-unit for-sale residential project for the site located at 389 El Camino Real, Menlo Park. This IHP includes the following:

- 1) Project Objectives
- 2) Project Description
- 3) Affordable Unit Count By Unit Type and Level of Affordability
- 4) Parameters for Establishing the Initial Sales Price
- 5) Characteristics of BMR Units
- 6) Eligibility Requirements for Households Applying to Purchase BMR Units
- 7) BMR Unit Purchase Process, Buyer Selection and Sale Procedures
- 8) Application of Government Code Section 65915, The State Density Bonus Law
- 9) Draft BMR For-Sale Agreement (the “BMR Housing Agreement”), Marked to Show Changes from the Template Supplied by Senior Planner

**1) Project Objectives:**

Our objective as the applicant is to develop a residential project that is economically feasible and contributes to the City of Menlo Park’s housing stock. In furtherance of that goal, our specific objectives for the project are as follows:

- Redevelop an underutilized site with a mixture of attached and detached single-family units that is compatible with the surrounding neighborhood
- Design the project in a way that is sensitive to the character of the Allied Arts Neighborhood to the west
- Encourage in-fill development in the City of Menlo Park and allow for a more vibrant mix and density of land uses
- Provide housing opportunities, including affordable housing, for existing and future residents of Menlo Park
- Create development that enhances the visual character of the El Camino Real corridor
- Locate a project in close proximity to a regional transportation corridor with good local access from major streets and freeways, and

1825 South Grant Street, Suite 700 | San Mateo, California 94402 | 650.802.1800 PHONE | 650.802.1811 FAX  
[www.mattesoncompanies.com](http://www.mattesoncompanies.com)

- Locate a project in close proximity (i.e., easy access by foot and/or bike) to transit services and other major local and regional services and employment centers, including the Safeway grocery shopping complex, the Stanford Shopping Center, the Stanford Hospital, the Menlo Park City Civic Center, and the Menlo Park Caltrain Station.

We have noted that in the environmental impact reports for the Bohannon development on the east side of the City as well as similar analysis of the former Cadillac dealership site on El Camino Real, a significant “jobs-housing imbalance” has occurred in the City as commercial development has outpaced residential development. One of the key benefits of the 389 El Camino Real project is to continue to address that imbalance by providing new housing in proximity to Downtown and transit services, while especially also including the development *on site* of badly needed affordable housing units.

**2) Project Description:**

The 389 El Camino Real project involves the redevelopment of an approximately 1.23 acre site located along the El Camino Real corridor, between College Avenue on the North and Partridge Avenue on the south. The vast majority of the site consists of a paved parking lot that was the site of the former Anderson Truck Sales. The project would also demolish a small 1,280 square foot uninhabited single family residence constructed between 1910 and 1925 that fronts on Partridge Avenue, and one 4,250 square foot partially occupied triplex building constructed in 1948 that fronts on College Avenue. The project would involve the construction of twenty-six (26) new residential units, consisting of six (6) detached single-family homes, three (3) semi-attached single-family homes, and seventeen (17) attached townhouse units. The townhomes are arranged in a series of four rows perpendicular to El Camino Real; one single family home would face Partridge Avenue, one single family home would face College Avenue, and the balance of the detached and semi-attached single family homes would be located parallel to El Camino Real along the rear of the property that adjoins the Allied Arts Residential neighborhood. A schematic site plan and landscaped site plan are enclosed for your reference.

Two of the twenty-six units (8%) are three-story townhome units that have two bedrooms and two baths and range from 1,316 to 1,342 square feet. Fifteen of the units (58%) are three-story townhome units that have three bedrooms and three to three and one-half baths and range from 1,465 to 2,011 square feet. Nine of the units (35%) are the single family homes containing four bedrooms and two and a half baths and range from 1,934 to 2,059 square feet.

The project includes 18,315 square feet of open space (approximately 34% of the site), of which 7,256 square feet is private open space clustered around the nine small-lot single family units, while 11,059 square feet is shared open space, divided into a small “pocket park” located on College Avenue centered on a heritage Redwood Tree, as well as a large landscaped area adjacent to El Camino Real that contains seating, lawns, landscaping, barbeques, a decorative trellis, and a fountain.

Every residence, including all townhomes, has an enclosed two-car garage, totaling fifty-two (52) spaces. An additional ten (10) commonly shared spaces, including two (2) handicapped spaces, are provided on the site for visitors and are located adjacent to the large open space fronting El Camino Real.

**3) Affordable Unit Count and Level of Affordability:**

Three (3) of the twenty six (26) residences shall be set aside on site as affordable units for “Low Income” families (the “BMR Units”). These 3 “low” units are designated as Unit #2, Unit #8 and Unit #13 as shown on the attached diagram. Please also refer to the attached floor plans for each of the units.

**4) Parameters for Establishing the Initial Sales Price:**

The initial maximum sales price for the BMR Units will be established in substantial compliance with the City of Menlo Park’s Below-Market-Rate Housing Program Guidelines (the “BMR Guidelines”) and as reflected in the attached Draft BMR Housing Agreement.



**5) Characteristics of BMR Units:**

The unit types, floor plans, sizes and locations were outlined in Paragraph 3 above. The other characteristics of the BMR Units, including Design and Materials as well as Legal Characteristics shall be as set forth in the BMR Guidelines.

**6) Eligibility Requirements for Households Applying to Purchase BMR Units:**

The Eligibility Requirements as set forth in Section 6 of the BMR Guidelines shall apply to purchasers of the BMR Units.

**7) BMR Unit Purchase Process, Buyer Selection and Sale Procedures:**

The BMR Unit Purchase Process, Buyer Selection and Sale Procedures shall be as set forth in Section 8 of the BMR Guidelines. The Matteson Companies have recently completed the sales of 90 units in a condominium project in San Carlos that included BMR units and similar procedures, and we are prepared to cooperate and work with the City to accomplish the sale of the BMR Units as contemplated by the BMR Guidelines.

**8) Application of Government Code Section 65915, State Density Bonus:**

389 El Camino is being submitted subject to the State Density Bonus Law, Government Code Section 65915 and relevant amendments.

Density Bonus: The project is providing three (3) "Low Income" units, which exceeds the affordability requirements for the project as mandated by the City's Below Market Rate Guidelines. Pursuant to GC Section 65915, the provision of three (3) "Low Income" units entitles the Developer to a density bonus of 26%, or 6 units, resulting in a maximum permitted density of 27 units. The development plan, as submitted, consists of 26 units or 1 unit less than the permitted maximum density. The applicability of GC Section 65915 and this density bonus calculation have been confirmed by the City Attorney.

Incentives / Concessions: GC Section 65915 entitles us to request and receive from the City one "financially sufficient" incentive or concession, in order to accommodate the BMR Units as well as the additional units provided by the Density Bonus described above. The concession we have requested relates to the FAR necessary to accommodate the project as designed while not sacrificing quality of the units or the livability of the development. The purpose of this incentive / concession is to offset the significant subsidy created as a result of the restricted sales price on the three (3) designated Below Market Rate residences.

Development Standard Waivers: As provided for in GC Section 65915, in order to construct the proposed 26 unit project, we are entitled to receive waivers or variances to certain development standards in the Menlo Park zoning ordinances applicable to the project site. During the design revision process for the project over the past two years, the Matteson Companies met extensively with City Staff and the Neighborhood Task Force for College and Partridge Avenues to (a) address the concerns of the neighbors and City Staff to the original project design, and (b) to find ways to reduce the number of Development Standard Waivers to only those absolutely needed in order to accommodate the project as envisioned, including the three (3) BMR Units and the five (5) additional units the project contains over and above the original zoning pursuant to GC Section 65915.

There are now a total of five (5) Development Standard Waivers:

- One Development Standard Waiver relates to a minor internal setback (not impacting project neighbors or frontages) between the R-3 zoned parcel (four homes total) and the C-4 zoned parcel (22 homes total).
- One Development Standard Waiver relates to Lot Coverage in the R-3 zone only, and could be eliminated if the rear homes were returned to three (3) stories from two (2), but lowering the height of these homes is a critical issue for the neighbors, and we thus advocate leaving these homes at the lower height limit and having a lot coverage in the R-3 zone of 44.7% instead of 30% as the zoning of the R-3 district would normally call for. The project requires no Development Standard Waiver for Lot Coverage in the C-4 zoning area.
- A third Development Standard Waiver relates to Landscaped Area, again only in the R-3 zoned area. Similarly with Lot Coverage, this Development Standard waiver could be eliminated if the rear homes were returned to three (3) stories, but for the reasons expressed above we believe usage of the waiver is more appropriate. As a result, our Landscaped Area in the R-3 zone is 42.9% vs. a target of 50%.

- The final two Development Standard Waivers relate to the same issue – FAR. The issue relates to two Development Standard Waivers solely because it impacts both the R-3 Zone as well as the C-4 Zone. FAR is the Development Standard Waiver most directly linked to the Density Bonus and the accommodation of the BMR Units and the additional units allowed as a bonus under State Density Bonus Law. Additional FAR is logically needed to absorb the additional units.

No Development Standard Waivers are requested for building heights, perimeter setbacks, paving, lot area, width, depth or parking.

Parking Standards: Pursuant to GC 65915, the Developer for the project at 389 El Camino Real is requesting, and is entitled, to the use of State parking standards as follows:

2 and 3 Bedroom Units	2 on-site parking spaces
4 Bedroom Units	2.5 on-site parking space

Guest and handicap parking are included in the above totals. The spaces may be offered as tandem spaces and as uncovered spaces. The use of the State parking standards is not considered an incentive or concession. We are actually exceeding these minimum requirements in the project as submitted. While the project would be required to have 57 spaces, 62 spaces are being provided.

9) **Draft BMR Housing Agreement:**

See the attached draft of a BMR Housing Agreement, prepared in accordance with the BMR Guidelines. This draft was prepared from a template supplied by City Planning Staff and has been marked to reflect changes to that draft.

We would appreciate your review and comment on this Inclusionary Housing Plan at your earliest convenience.

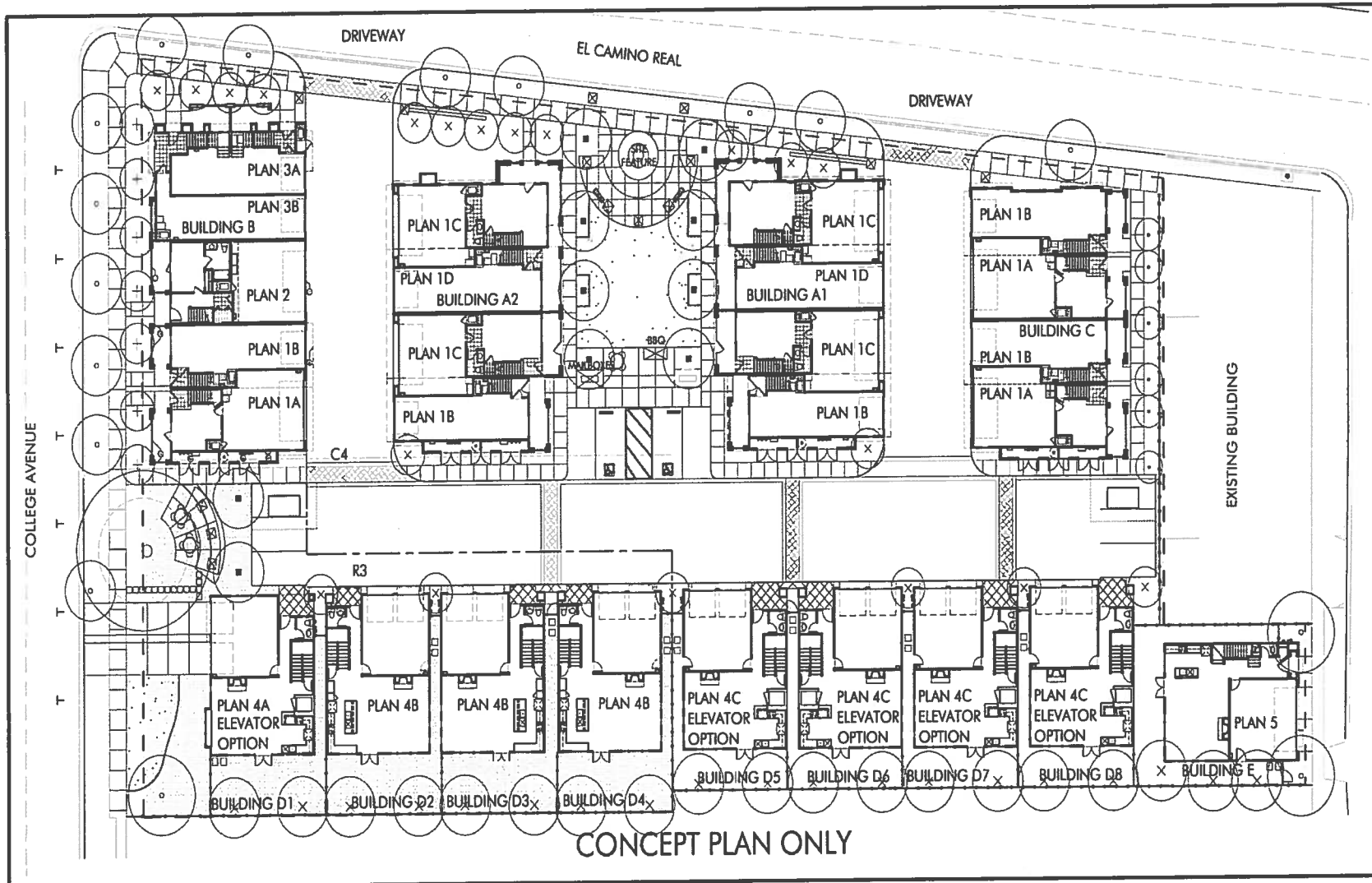
389 EL CAMINO ASSOCIATES, LLC  
 By: Matteson Real Estate Equities, Inc.  
 Manager



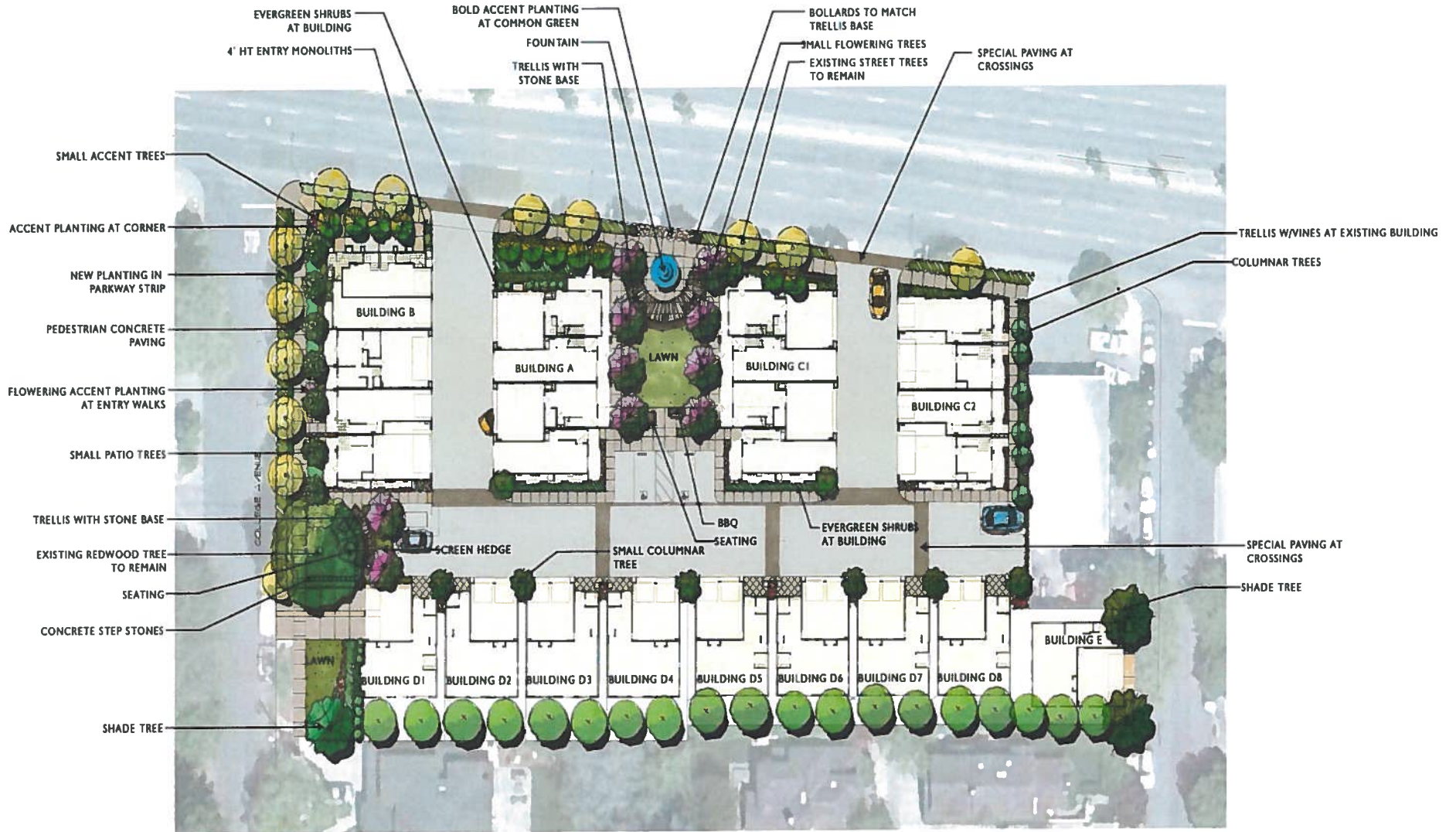
Matt Matteson  
 President

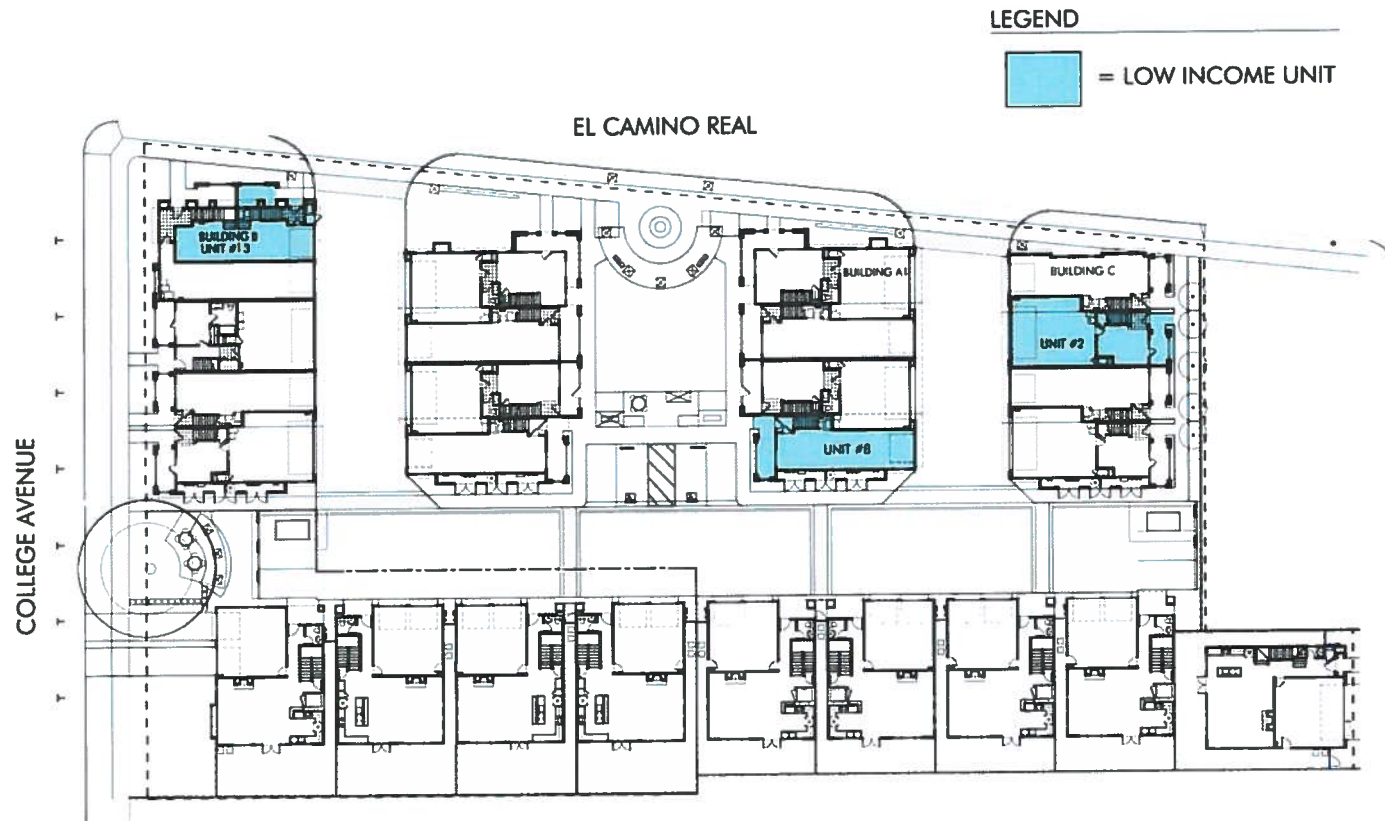
Cc: Mr. William R. Garrett, Esq., Hanna & Van Atta  
 Mr. David Blackwell, Allen Matkins et al.

# Project Site Plan – March 19, 2012



# Landscape Plan





**LEGEND**

= LOW INCOME UNIT

**UNIT # 2 PLAN 1A**

TYPE: TOWNHOUSE  
 STORIES: 3  
 BEDROOMS: 3  
 BATHROOMS: 3  
 DENS: 1  
 SQUARE FOOTAGE: 1,605 SF

**UNIT # 8 PLAN 1B**

TYPE: TOWNHOUSE  
 STORIES: 3  
 BEDROOMS: 3  
 BATHROOMS: 3  
 SQUARE FOOTAGE: 1,493 SF

**UNIT # 13 PLAN 3A**

TYPE: TOWNHOUSE  
 STORIES: 3  
 BEDROOMS: 2  
 BATHROOMS: 2.5  
 SQUARE FOOTAGE: 1,342 SF

LOW INCOME UNITS



DAHLIN GROUP

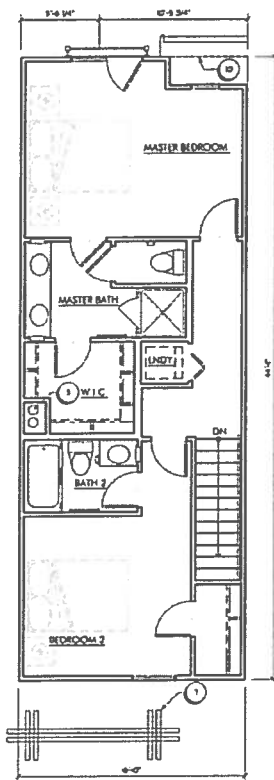


389 EL CAMINO, MENLO PARK, CA

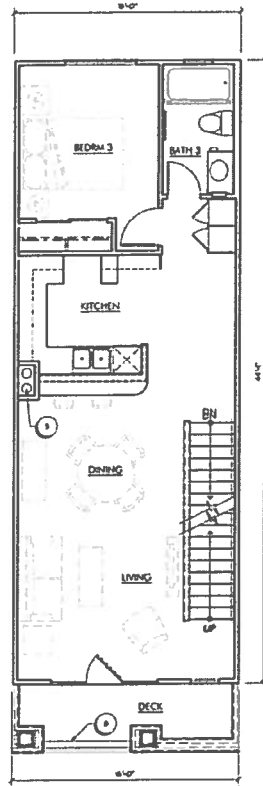
MATTESON DEVELOPMENT PARTNERS, INC.

3843 OWING DRIVE  
 PLEASANTON, CA 94588  
 925-211-7200  
 925-211-7201 Fax

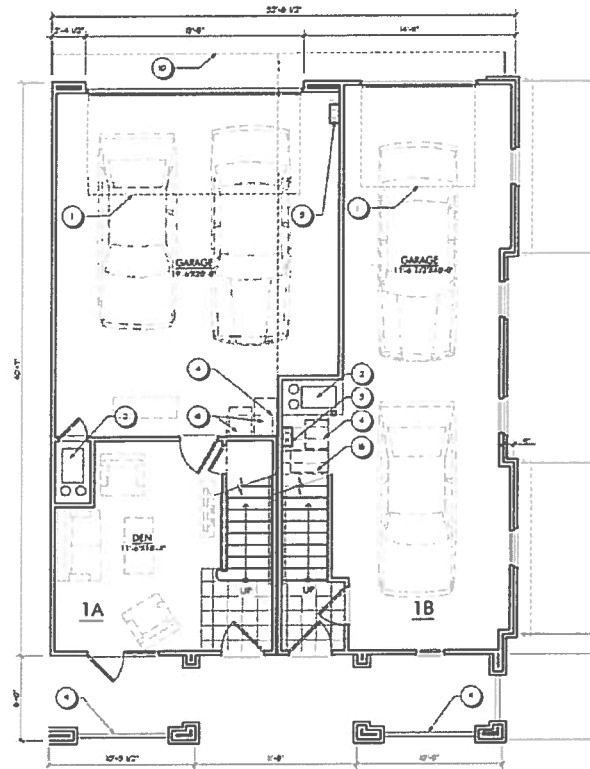




PLAN 1B - UNITS 3, 16  
PLAN 1A - UNIT 2  
THIRD FLOOR



PLAN 1B - UNITS 3, 16  
PLAN 1A - UNIT 2  
SECOND FLOOR



PLAN 1A - UNIT 2  
FIRST FLOOR

PLAN 1B - UNIT 1  
FIRST FLOOR

- FLOOR PLAN KEY NOTES:**
1. Overhead garage door above
  2. Furnace & ducts
  3. Tank-less water heater
  4. Line of stair above
  5. Duct space
  6. Roof access ladder
  7. Trellis- see elevation
  8. Guardrail
  9. Decorative railing
  10. Lines of floor above/ below
  11. Optional elevator/ storage
  12. Attic access
  13. Attic furnace
  14. Meter locations
  15. Fireplace
  16. Trash / recycling containers

**UNIT # 2 PLAN 1A**  
**TYPE: TOWNHOUSE**  
**STORIES: 3**  
**BEDROOMS: 3**  
**BATHROOMS: 3**  
**DENS: 1**  
**SQUARE FOOTAGE: 1,605 SF**

TOWNHOME - UNIT PLANS  
 PLAN 1B - FLOOR PLAN

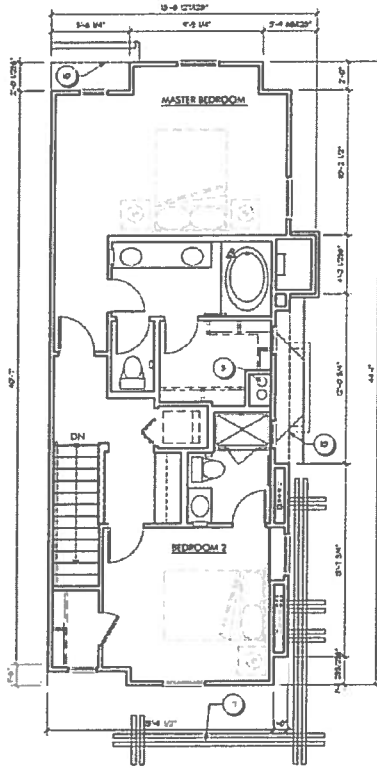
PROJECT NO: 271.009

**DAHLIN GROUP**

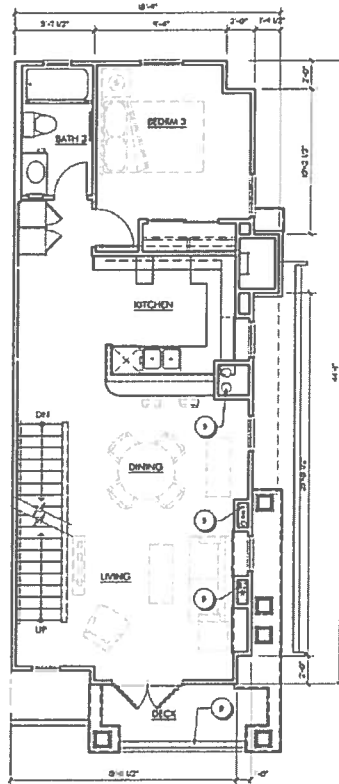
3845 OWENS DRIVE,  
 PLEASANTON, CA 94588  
 925.251.7000  
 925.251.7201 Fax

A3.1a2

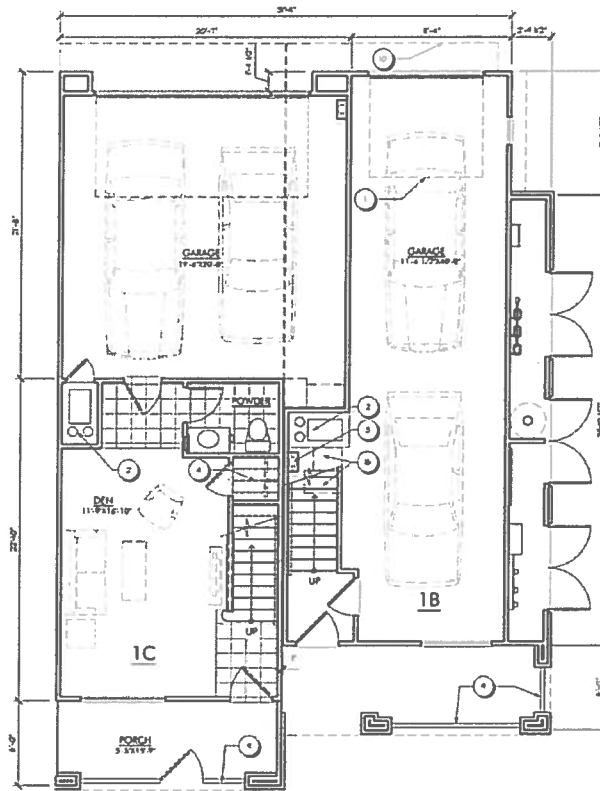
389 EL CAMINO, MENLO PARK, CA  
 MATTESON DEVELOPMENT PARTNERS, INC.



PLAN 1B - UNITS 8, 12  
THIRD FLOOR



PLAN 1B - UNITS 8, 12  
SECOND FLOOR



PLAN 1C - 7, 11  
FIRST FLOOR  
SEE A3.1C2

PLAN 1B - UNITS 8, 12  
FIRST FLOOR

- FLOOR PLAN KEY NOTES:**
1. Overhead garage door above
  2. Furnace & ducts
  3. Tank-less water heater
  4. Line of stair above
  5. Duct space
  6. Roof access ladder
  7. Trellis- see elevation
  8. Guardrail
  9. Decorative railing
  10. Lines of floor above/ below
  11. Optional elevator/ storage
  12. Attic access
  13. Attic furnace
  14. Meter locations
  15. Fireplace
  16. Trash / recycling containers

**UNIT # 8 PLAN 1B**  
**TYPE: TOWNHOUSE**  
**STORIES: 3**  
**BEDROOMS: 3**  
**BATHROOMS: 3**  
**SQUARE FOOTAGE: 1,493 SF**

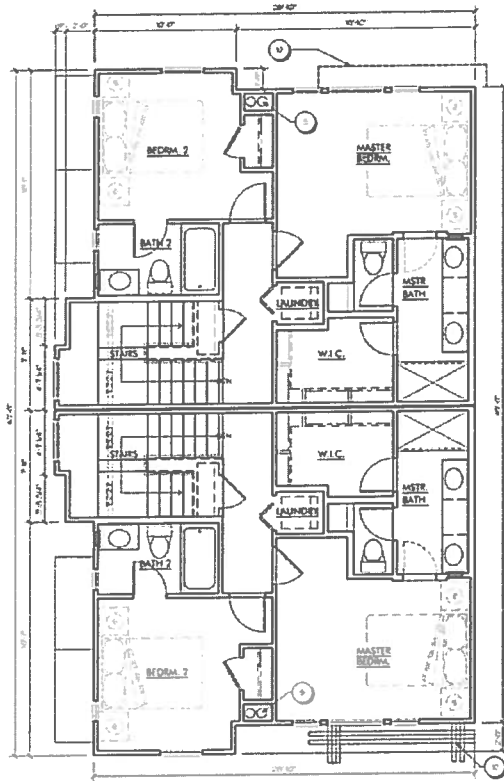
TOWNHOME - UNIT PLANS  
 PLAN 1C & 1D - FLOOR PLAN  
 PROJECT NO - 271.009



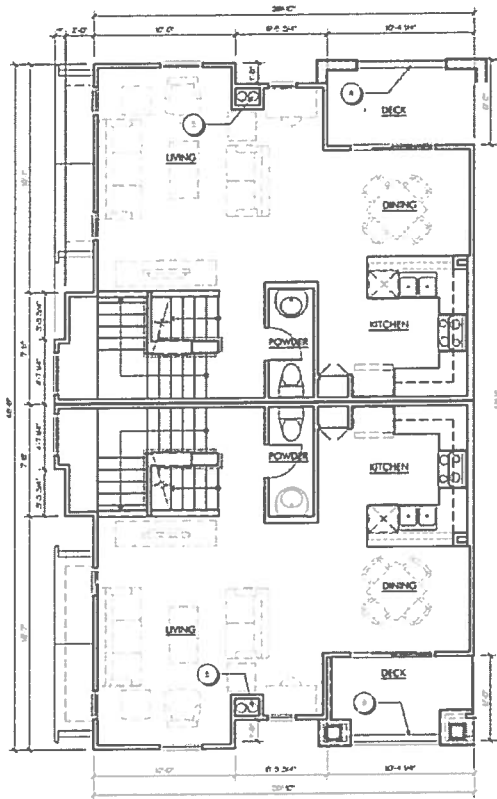
5643 OWENS DRIVE,  
 PLEASANTON, CA 94588  
 925.251.7200  
 925.251.7201 Fax

A3.1c3

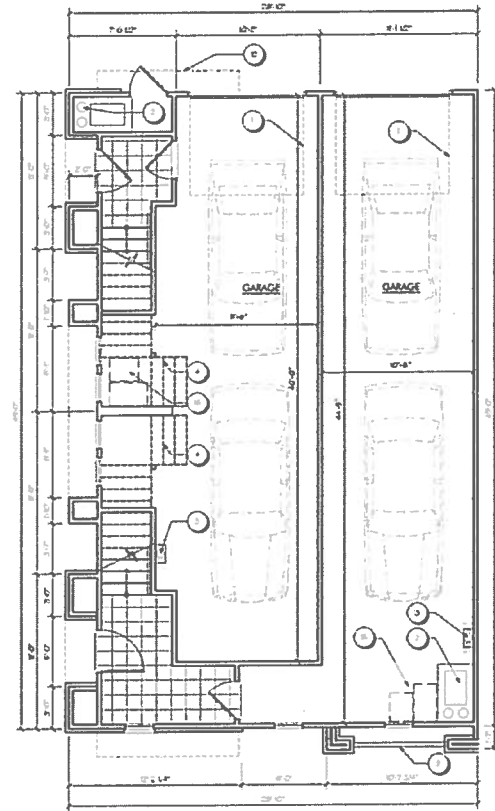
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 MATTESON DEVELOPMENT PARTNERS, INC.



PLAN 3A & 3B  
THIRD FLOOR



PLAN 3A & 3B  
SECOND FLOOR



PLAN 3A  
FIRST FLOOR

PLAN 3B  
FIRST FLOOR

- FLOOR PLAN KEY NOTES:**
1. Overhead garage door above
  2. Furnace & ducts
  3. Tank-less water heater
  4. Line of stair above
  5. Duct space
  6. Roof access ladder
  7. Trellis- see elevation
  8. Guardrail
  9. Decorative railing
  10. Lines of floor above/ below
  11. Optional elevator/ storage
  12. Attic access
  13. Attic furnace
  14. Meter locations
  15. Fireplace
  16. Trash / recycling containers

**UNIT # 13 PLAN 3A**  
**TYPE: TOWNHOUSE**  
**STORIES: 3**  
**BEDROOMS: 2**  
**BATHROOMS: 2.5**  
**SQUARE FOOTAGE: 1,342 SF**

TOWNHOME - UNIT PLANS  
 PLAN 3A & 3B - FLOOR PLANS



5669 OWENS DRIVE,  
 PLEASANTON, CA 94588  
 925.251.7200  
 925.251.7201 Fax

A3.3a

389 EL CAMINO, MENLO PARK, CA  
 MATTESON DEVELOPMENT PARTNERS, INC.



**March 19, 2012 – Planning Commission Study Session –  
Elevation on College Avenue near El Camino Real**



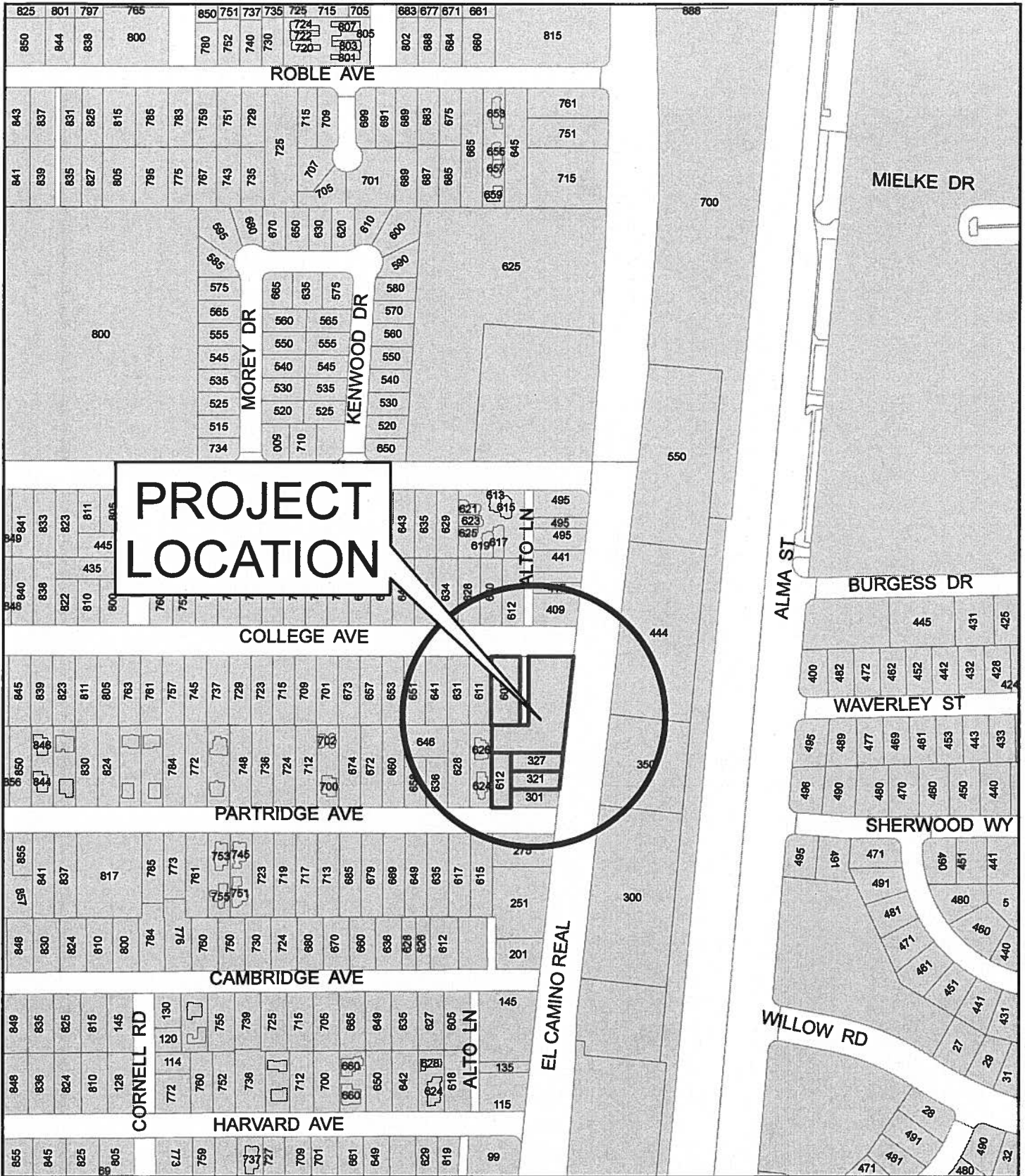
**March 19, 2012 - Planning Commission Study Session –  
Elevation at Corner of El Camino and College Avenue**





**March 19, 2010 – Planning Commission Study Session –  
Elevation on El Camino Real Planet Auto Repair Shop**





**PROJECT  
LOCATION**

**CITY OF MENLO PARK**  
 LOCATION MAP  
 389 EL CAMINO REAL



DRAWN: KTP CHECKED: KTP DATE: 07/31/12 SCALE: 1" = 300' SHEET: 1



# 389 EL CAMINO REAL MENLO PARK, CA

BY MATTESON COMPANIES



**PROJECT TEAM**

DEVELOPER	THE MATTESON DEV PARTNERS, INC ONE LADDON DRIVE SUITE 200 REDWOOD CITY, CA 94061
ARCHITECT	DAHLIN GROUP 3845 CHENG DRIVE PLEASANTON, CA 94588
CIVIL ENGINEER	BJP ENGINEERS 755 SHORELINE DRIVE, SUITE 200 REDWOOD CITY, CA 94063
LANDSCAPE ARCHITECT	GATES + ASSOCIATES 3871 CROWN CANYON RD. SAN BARTOLOME, CA 95083
UTILITY CONSULTANT	PGA UTILITY DESIGN 4005 VILLAGE PARKWAY, SUITE 204 DUBLIN, CA 94568
ACOUSTIC ENGINEER	CHARLES H. SALTER & ASSOCIATES, INC. 70 SUTTER STREET SAN FRANCISCO, CA 94104



**SHEET INDEX**

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A1 1b	BUILDING FOOTPRINTS	
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A3 3f	PLAN 3 - AREA CALCULATIONS	
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A3 3i	PLAN 3 - FLOOR PLANS & ROOF PLAN	
A3 3j	PLAN 3 - AREA CALCULATIONS	
A3 3k	PLAN 3 - FLOOR PLANS & ROOF PLAN	
A3 3l	PLAN 3 - AREA CALCULATIONS	
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A3 3n	PLAN 3 - AREA CALCULATIONS	
A3 3o	PLAN 3 - FLOOR PLANS & ROOF PLAN	
A3 3p	PLAN 3 - AREA CALCULATIONS	
A3 3q	PLAN 3 - FLOOR PLANS & ROOF PLAN	
A3 3r	PLAN 3 - AREA CALCULATIONS	
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A4 19	BUILDING E - SECTION	
A4 20	BUILDING E - SECTION	
C - 1	GREEN SHEET	

**UNIT DATA**

Plan Type	Unit #	Stories	Bedroom Type	Sq. Ft.	Total (plan type)	Total (bedroom type)	% of Total
1A	2	3	3 BD + D / 3.5 BTH	1853	3	14	12%
	4	3	3 BD + D / 3.5 BTH	1732			
	17	3	3 BD + D / 3.5 BTH	1732			
1B	1	3	3 BD / 3 BTH	1554	5		10%
	3	3	3 BD / 3 BTH	1471			
	6	3	3 BD / 3 BTH	1493			
	12	3	3 BD / 3 BTH	1493			
	16	3	3 BD / 3 BTH	1471			
1C	5	3	3 BD + D / 3.5 BTH	2094	4		15%
	7	3	3 BD + D / 3.5 BTH	1864			
	9	3	3 BD + D / 3.5 BTH	2094			
	11	3	3 BD + D / 3.5 BTH	1864			
1D	6	3	3 BD / 3 BTH	1582	2		7%
	19	3	3 BD / 3 BTH	1582			
	2	15	3 BD / 3.5 BTH	2039	1	1	4%
3A	13	3	2 BD / 2.5 BTH	1342	1	2	4%
3B	14	3	2 BD / 2.5 BTH	1410	1	2	4%
4A	18	2	4 BD / 2.5 BTH	2054	1	8	4%
	19	2	4 BD / 2.5 BTH	2050			
	20	2	4 BD / 2.5 BTH	2050			
	21	2	4 BD / 2.5 BTH	2050			
4C	22	2	4 BD / 2.5 BTH	2034	4		15%
	23	2	4 BD / 2.5 BTH	2034			
	24	2	4 BD / 2.5 BTH	2034			
	25	2	4 BD / 2.5 BTH	2034			
S	26	2	4 BD / 2.5 BTH	1825	1	1	4%
<b>Total Unit Count</b>					<b>28</b>	<b>100%</b>	

**BUILDING DATA**

BLDG	FIRST FLOOR S.F.	SECOND FLOOR S.F.	THIRD FLOOR S.F.	Total Buildings	Total S.F.
A1	943 SF	3,029 SF	2,939 SF	1	7,055 SF
A2	945 SF	3,039 SF	2,959 SF	1	7,055 SF
B	1,091 SF	3,449 SF	3,433 SF	1	8,105 SF
C	168 SF	7,853 SF	7,789 SF	1	6,322 SF
D1	788 SF	1,266 SF	N/A	1	2,054 SF
D2-D4	797 SF	1,262 SF	N/A	3	2,809 SF
D5-D8	772 SF	1,262 SF	N/A	4	2,834 SF
E	740 SF	1,182 SF	N/A	1	1,922 SF

**PARKING REQUIREMENTS (From Parking Standards per Government Code Section 65913)**

UNIT TYPE	SPACES/UNIT	# OF UNITS	SPACES REQ.
2 BED	2.0	7	4
3 BED	2.0	13	26
4 BED	2.5	9	23
<b>TOTAL RESIDENTIAL</b>			<b>53</b>

**PARKING PROVIDED**

COVERED STANDARD	34
COVERED TANDEM	18
UNCOVERED GUEST	9
ACCESSIBLE	7
<b>TOTAL PROVIDED</b>	<b>67</b>

**OPEN SPACE**

<b>COMMON OPEN SPACE</b>	
TOTAL COMMON OPEN SPACES	11,059 SF
COMMON OPEN SPACE PER UNIT	475 SF/UNIT
<b>PRIVATE OPEN SPACE</b>	
TOTAL PRIVATE OPEN SPACES	7,250 SF
TOTAL OPEN SPACE ((COMMON + PRIVATE)	18,315 SF
TOTAL OPEN SPACE PER UNIT ((COMMON + PRIVATE)	704 SF/UNIT
COMMON & PRIVATE OPEN SPACE	34% OF SITE AREA

**SITE AREA**

TOTAL SITE AREA	53,647 SQFT
PAVING/ HARDSCAPE AREA	12,791 SQFT
PERCENTAGE OF SITE	22%
RESIDENTIAL AREA	24,554 SQFT
PERCENTAGE OF SITE	45.76%
LANDSCAPED AREA	16,375 SQFT
PERCENTAGE OF SITE	30.47%
TRELLISES	485 SQFT, 0.01%

**PROJECT DATA**

<b>SITE DATA</b>	
SITE A/P/N	071-417-270, 230, 230, 179, 430
SITE AREA (GROSS & NET)	53,647 SF / 1.23 ACRES
SITE ZONING	R2, C4
<b>BUILDING DATA</b>	
GROSS FLOOR AREA	
FIRST FLOOR	10,754 SF
SECOND FLOOR	23,665 SF
THIRD FLOOR	12,160 SF
TOTAL	46,581 SF

**DEVELOPMENT PARAMETERS- R2 ZONE**

FAR (FLOOR AREA RATIO)	8.231 / 11,146 = 0.74
SITE COVERAGE	4,983 / 11,146 = 0.45
NUMBER OF UNITS	4
MAXIMUM BUILDING HEIGHT	4 / .26 = 15.38 UNITS PER ACRE

**DEVELOPMENT PARAMETERS- C4 ZONE**

FAR (FLOOR AREA RATIO)	38,350 / 42,516 = 0.9
SITE COVERAGE	19,571 / 42,516 = 0.46
NUMBER OF UNITS	22
DENSITY	22 / 0.98 = 22.45 UNITS PER ACRE
MAXIMUM BUILDING HEIGHT	30 FEET

**DEVELOPMENT PARAMETERS-COMBINED SITE**

FAR (FLOOR AREA RATIO)	46,581 / 53,647 = 0.87
SITE COVERAGE	24,554 / 53,647 = 0.46
NUMBER OF UNITS	26
DENSITY	26 / 1.23 = 21.12 UNITS PER ACRE

**CIVIL ENGINEERING DRAWINGS**

D1	TERRITORY MAP COVER SHEET
D2	TERRITORY MAP EXISTING CONDITIONS PLAN
D3	TERRITORY MAP PROPOSED LOTS
D4	TERRITORY MAP PROPOSED SITE PLAN
D5	TERRITORY MAP HORIZONTAL CENTERLINE PLAN
D6	TERRITORY MAP GRADING PLAN
D7	TERRITORY MAP STREET PLAN
D8	TERRITORY MAP STREET SECTION AND DETAILS
D9	TERRITORY MAP FIRE TRUCK TURNING & VEHICULAR CIRC. EXHIBIT
D10	TERRITORY MAP EROSION CONTROL TREATMENT PLAN

**UTILITY DRAWINGS**

U1	JOINT TRENCH TITLE SHEET
U2	JOINT TRENCH PLAN

**LANDSCAPE DRAWINGS**

L1	PLANT LIST
L2	CONCEPTUAL LANDSCAPE PLAN
L3	ELEVATIONS
L4	TRAILER/DECKS
L5	TREE PLAN
L6	SITE FURNITURE

**COVER SHEET & PROJECT DATA**

APRIL 6, 2012 PROJECT NO. 221-009

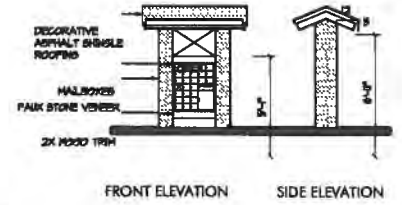
**DAHLIN GROUP**

## 389 EL CAMINO, MENLO PARK, CA

MATTESON DEVELOPMENT PARTNERS, INC.

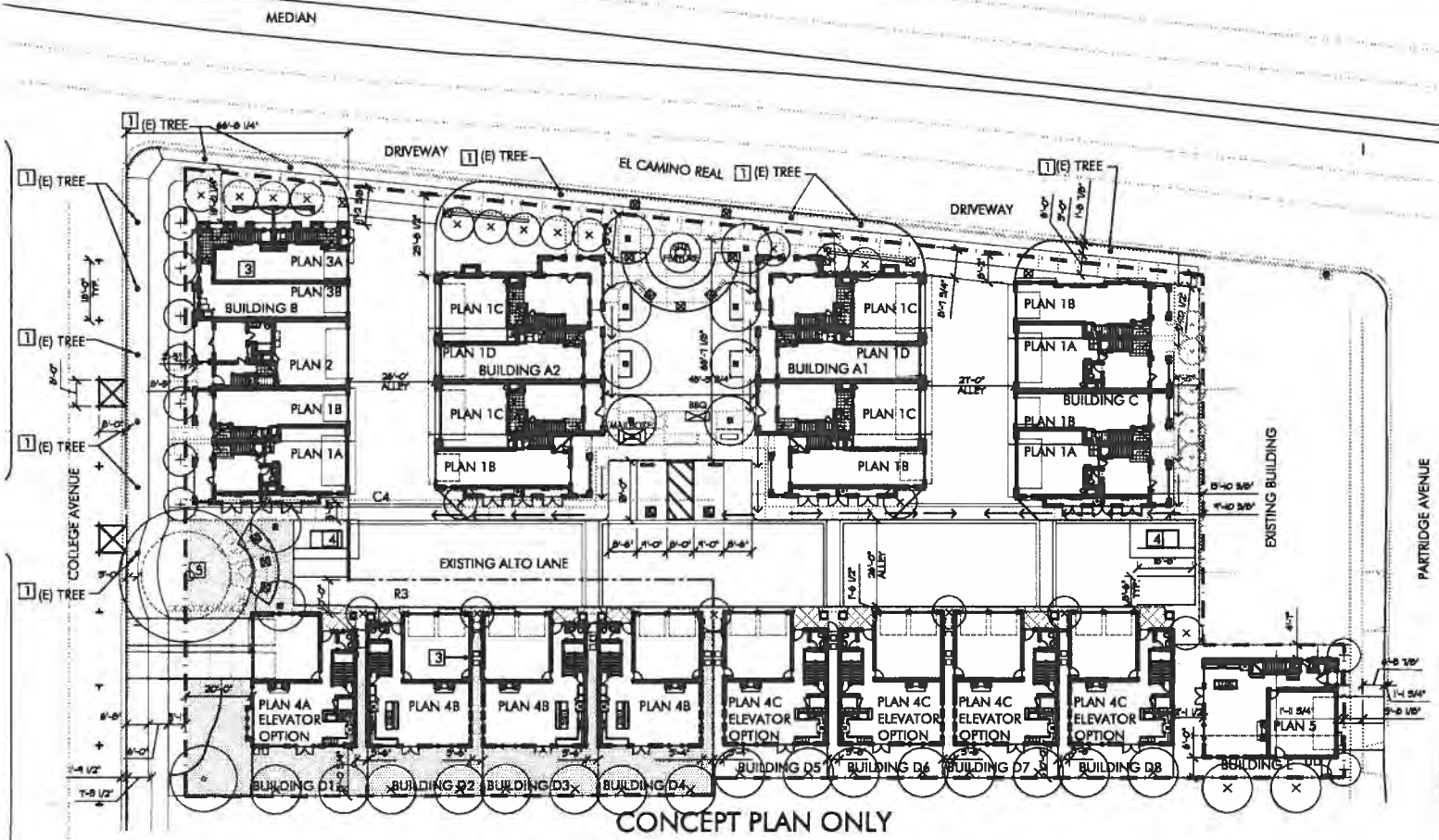
3845 CHENG DRIVE, PLEASANTON, CA 94588  
925.251.7200  
925.251.7201 FAX

**T01**



1 MAILBOXES

- LEGEND**
- ← ACCESSIBLE ROUTE
  - ▣ ACCESSIBLE STALL PER CBC 11.09A.5
  - 1 EXISTING STREET TREES
  - 3 TRASH / RECYCLE LOCATION, TYP
  - 4 TRANSFORMER (BELOW GRADE)
  - 5 EXISTING REDWOOD TREE



ARCHITECTURAL SITE PLAN  
SCALE: 1/16" = 1'-0"

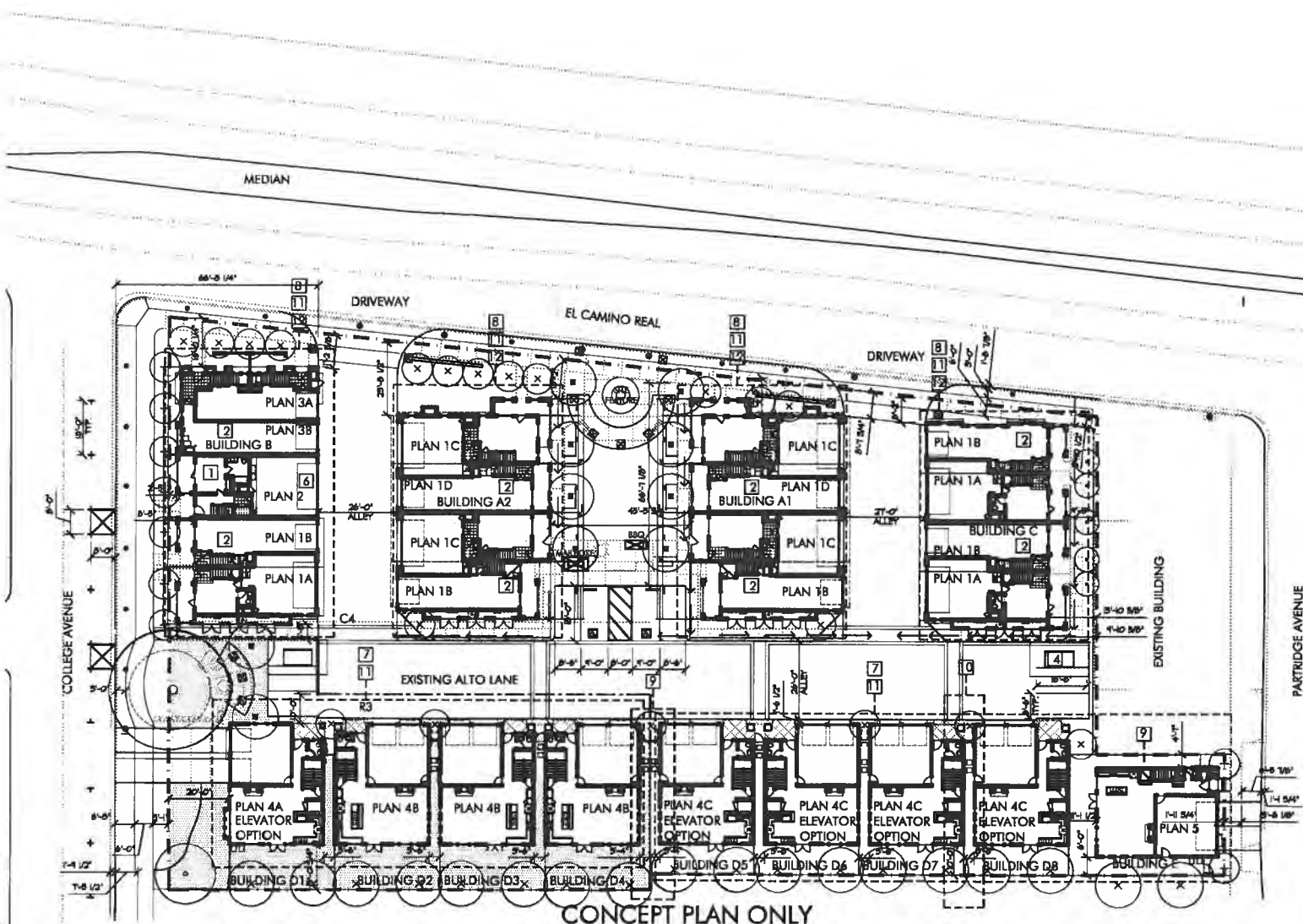
JUNE 8, 2012 PROJECT NO.: 221.007



389 EL CAMINO, MENLO PARK, CA  
MATTESON DEVELOPMENT PARTNERS, INC.

3845 OWENS DRIVE,  
PASADENA, CA 92388  
952.251.7200  
952.251.7201 Fax

A1.1a



- LEGEND**
- ← ACCESSIBLE ROUTE
  - ⊠ ACCESSIBLE STALL PER CBC 11.09A.5
  - ① ACCESSIBLE UNIT PER CBC 11.02A.3.1 EXCEPTION
  - ② CARRIAGE UNIT PER CBC 1107A.1.A
- 
- ⑥ ACCESSIBLE GARAGE DOOR PER CBC 1109A.8.1
  - ⑦ BUILDINGS ON THE SAME LOT CAN BE CONSIDERED AS ONE BUILDING PER CBC 705.3, EXCEPTION  
 TOTAL ALLOWABLE AREA FOR TYPE VB WITH NFPA 13 TABLE 503 - AREA PER FLOOR: 7000 SF  
 CBC 506.3 INCREASE FOR SPRINKLERS: 2 X = 14000 SF  
 TOTAL ALLOWABLE AREA: 21000 SF  
 ACTUAL AREA FOR BUILDINGS D1-D4: 8,231 SF  
 ACTUAL AREA FOR BUILDINGS D5-E: 10,061 SF
  - ⑧ TOTAL ALLOWABLE AREA FOR TYPE VA WITH NFPA 13 TABLE 503 - AREA PER FLOOR: 12000 SF  
 CBC 506.3 INCREASE FOR SPRINKLERS: 2 X = 24000 SF  
 TOTAL ALLOWABLE AREA: 36000 SF  
 ACTUAL AREA FOR BUILDINGS A1: 7,034 SF  
 ACTUAL AREA FOR BUILDINGS A2: 7,034 SF  
 ACTUAL AREA FOR BUILDINGS B: 7,999 SF  
 ACTUAL AREA FOR BUILDINGS C: 6,426 SF
  - ⑨ 1-HOUR WALLS REQUIRED PER CBC TABLE 602  
 15% MAX; OPENINGS <5' PER TABLE 705.5  
 PARAPET NOT REQUIRED IF ROOF CONSTRUCTED PER CBC 705.11.5
  - ⑩ EXTERIOR WALLS BETWEEN UNITS NOT REQUIRED TO BE FIRE RATED PER CBC 709.5
  - ⑪ ONLY ONE EXIT REQUIRED PER CBC 1015.1 EXCEPT, 2 125' MAX; COMMON PATH OF EGRESS PER CBC 1014.3.5
  - ⑫ FIRE PARTITION WALLS SEPARATING UNITS REQUIRED PER CBC 420.2 & 709.1  
 FLOORS & WALLS SEPARATING UNITS SHALL HAVE A STC RATING OF 50 PER CBC 1207.7  
 FLOORS SEPARATING UNITS SHALL HAVE AN IIC RATING OF 50 PER CBC 1207.8

BUILDING CODE ANALYSIS  
 SCALE: 1/16"=1'-0"

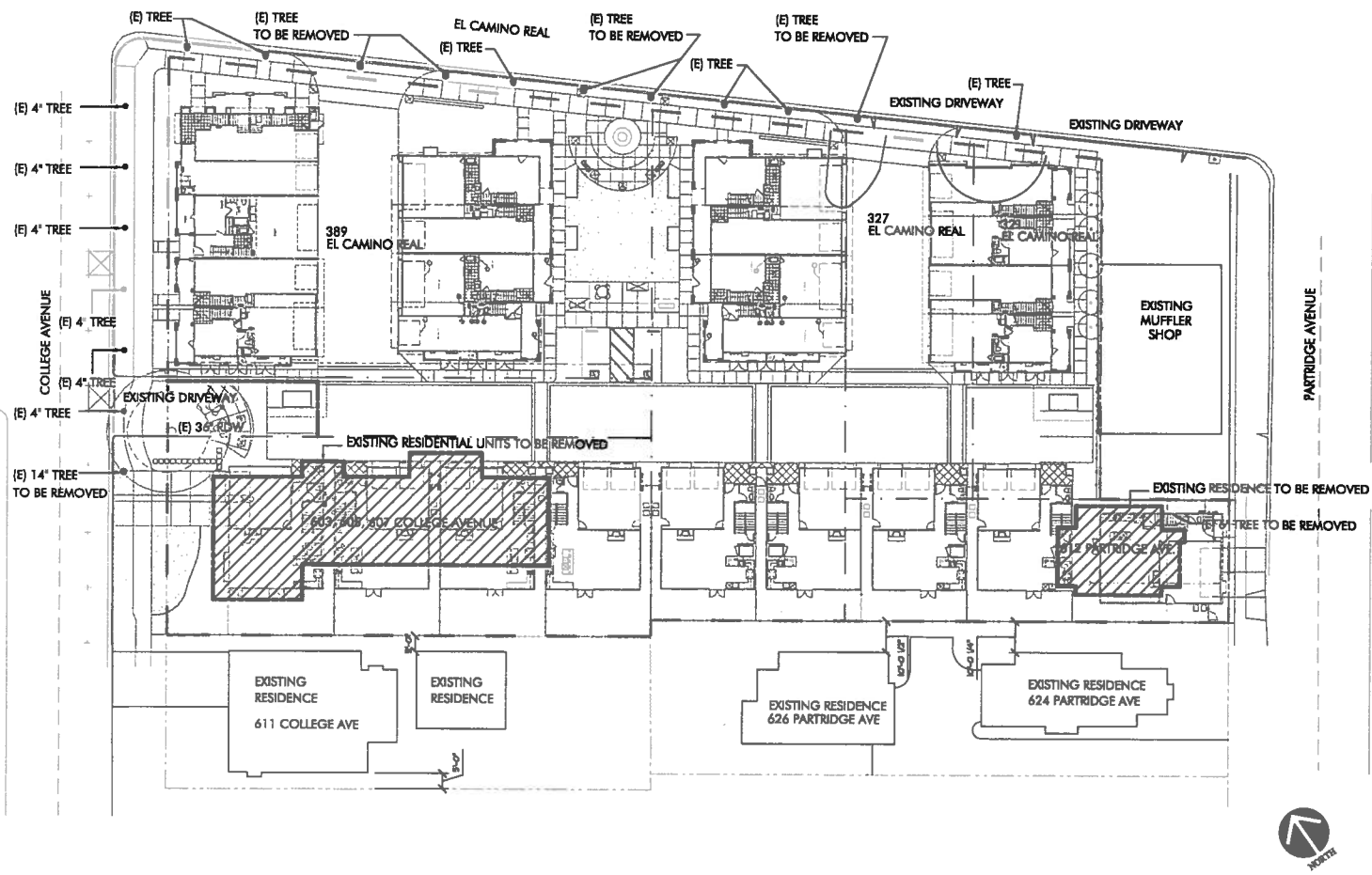
JUNE 8, 2012 PROJECT NO: 221.009



389 EL CAMINO, MENLO PARK, CA  
 MATTESON DEVELOPMENT PARTNERS, INC.

3663 OWENS DRIVE,  
 PLEASANTON, CA 94588  
 925.251.7200  
 925.251.7201 Fax

A1.1b



AREA PLAN  
SCALE: 1/16" = 1'-0"

JUNE 8, 2012 PROJECT NO: 221.009



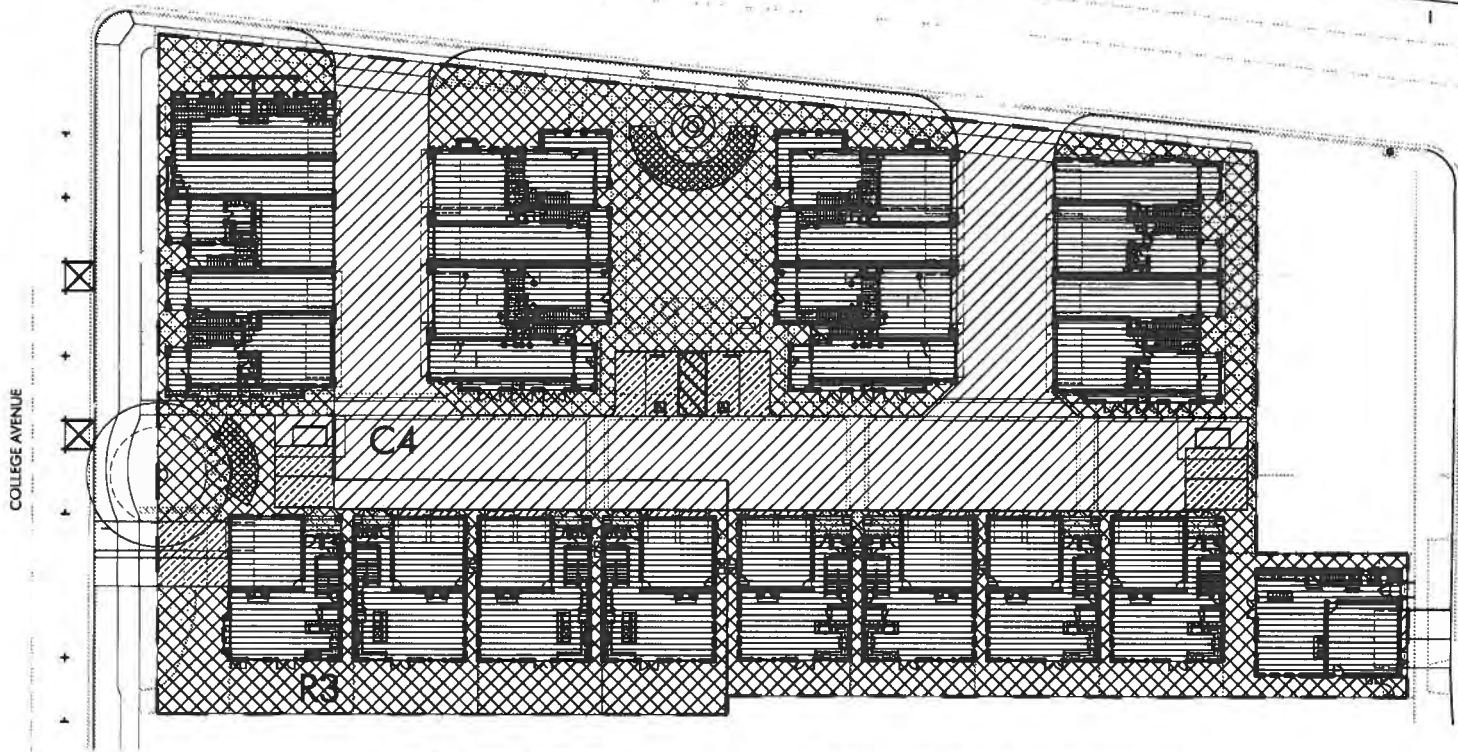
# 389 EL CAMINO, MENLO PARK, CA

MATTESSON DEVELOPMENT PARTNERS, INC.

5843 OWENS DRIVE,  
PLEASANTON, CA 94588  
925.251.7200  
925.251.7201 Fax

A1.2





**LANDSCAPE AREA BREAKDOWN**

	REQUIRED	PROVIDED
R3:	50% 5,580 SF	42.93% 4,785 SF
C4:	10% 4,251 SF	28.28% 12,025 SF
SITE TOTAL:	18% 9,831 SF	30.42% 16,325 SF

PREVIOUS SUBMITTALS FOR THIS PROJECT HAD 3 STORY HOMES IN THE R3 LOT WHICH HAD A FOOTPRINT OF 870 SF EACH. THIS CURRENT SUBMITTAL HAS REPLACED THOSE 3 STORY HOMES WITH 2 STORY HOMES WHICH MOVED MORE SPACE TO THE GROUND FLOOR, THE HOMES NOW HAVING A FOOTPRINT OF 1,242 SF EACH. THIS HAS RESULTED IN LESS AVAILABLE SITE AREA FOR LANDSCAPING ON THE R3 LOT.

- LEGEND**
- PAVING/HARDSCAPE AREA  
12,291 SQFT 22.9%
  - R3: 1020 (PAVING) + 368 (PERVIOUS) = 1,388 SQFT  
C4: 10,644 (PAVING) + 588 (PERVIOUS) = 10,903 SQFT
  - RESIDENTIAL AREA (COUNTS TOWARDS BUILDING COVERAGE)  
24,542 SQFT 45.73%
  - R3: 4,983 SQFT  
C4: 19,585 SQFT
  - LANDSCAPE AREA  
1,6325 SQFT 30.42%
  - R3: 4,417 (LANDSCAPE) + 368 (PERVIOUS) = 4,785 SQFT  
C4: 11,437 (LANDSCAPE) + 588 (PERVIOUS) = 12,025 SQFT
  - TRELLIS AREA (COUNTS TOWARDS BUILDING COVERAGE)  
485 SQFT .01%
  - PERVIOUS PAVING AREA  
R3: 736 SQFT  
C4: 1,176 SQFT
- NOTE:** PERVIOUS PAVING COUNTS AS 50% LANDSCAPE COVERAGE CREDIT. IT IS USED AT RESIDENT DRIVEWAY APRONS AND PARKING STALLS AS INDICATED.
- SEE LANDSCAPE SPECIFICATIONS FOR PERVIOUS PAVING MATERIAL



AREA CALCULATIONS  
SCALE: 1/16" = 1'-0"

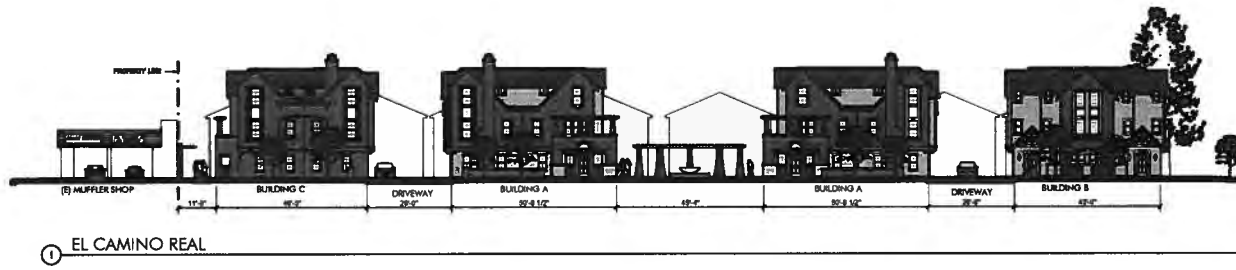
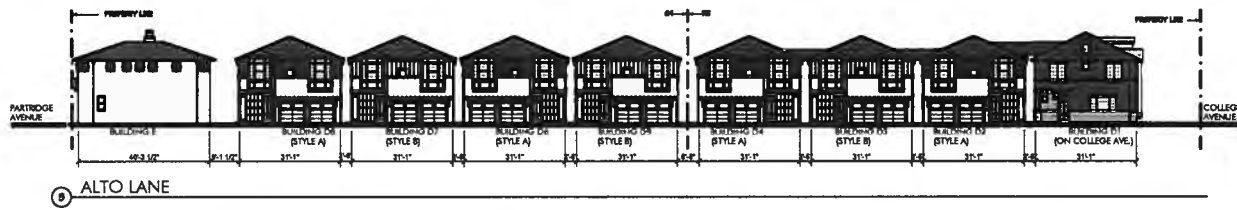


389 EL CAMINO, MENLO PARK, CA

MATTESON DEVELOPMENT PARTNERS, INC.

3865 OWENS DRIVE,  
PLEASANTON, CA 94588  
925.251.7200  
925.251.7201 Fax

A1.3

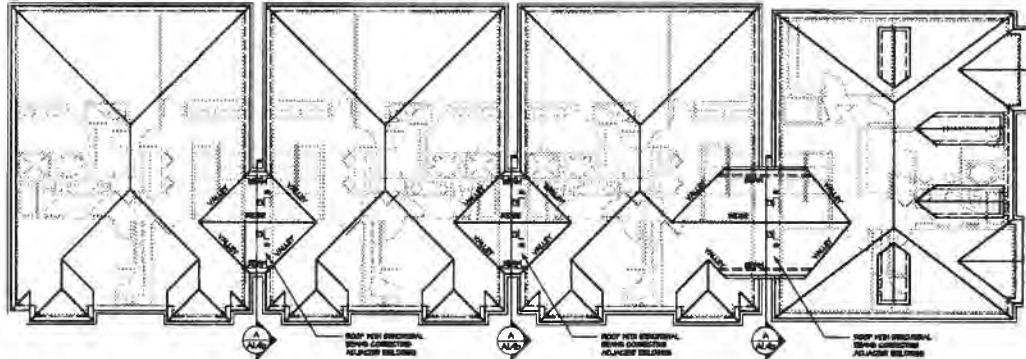


STREETSCAPES  
 SCALE: 1/16"=1'-0"  
 0 10' 20' 30'  
 JUNE 8, 2012 PROJECT NO: 221.009  
 DASHIN ARCHITECTS

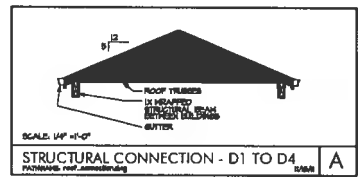
389 EL CAMINO, MENLO PARK, CA  
 MATTESON DEVELOPMENT PARTNERS, INC.

5865 OWENS DRIVE  
 PLEASANTON, CA 94588  
 925.251.7200  
 925.251.7201 Fax

A1.4a



ROOF PLAN D1-D4



STRUCTURAL CONNECTION - D1 TO D4  
SCALE: 1/4" = 1'-0"  
DATE: 05/08/12



ALTO LANE

STRUCTURAL CONNECTION  
BETWEEN BUILDINGS - R3 LOT  
SCALE: 1/8" = 1'-0"  
JUNE 8, 2012 PROJECT NO: 221.001



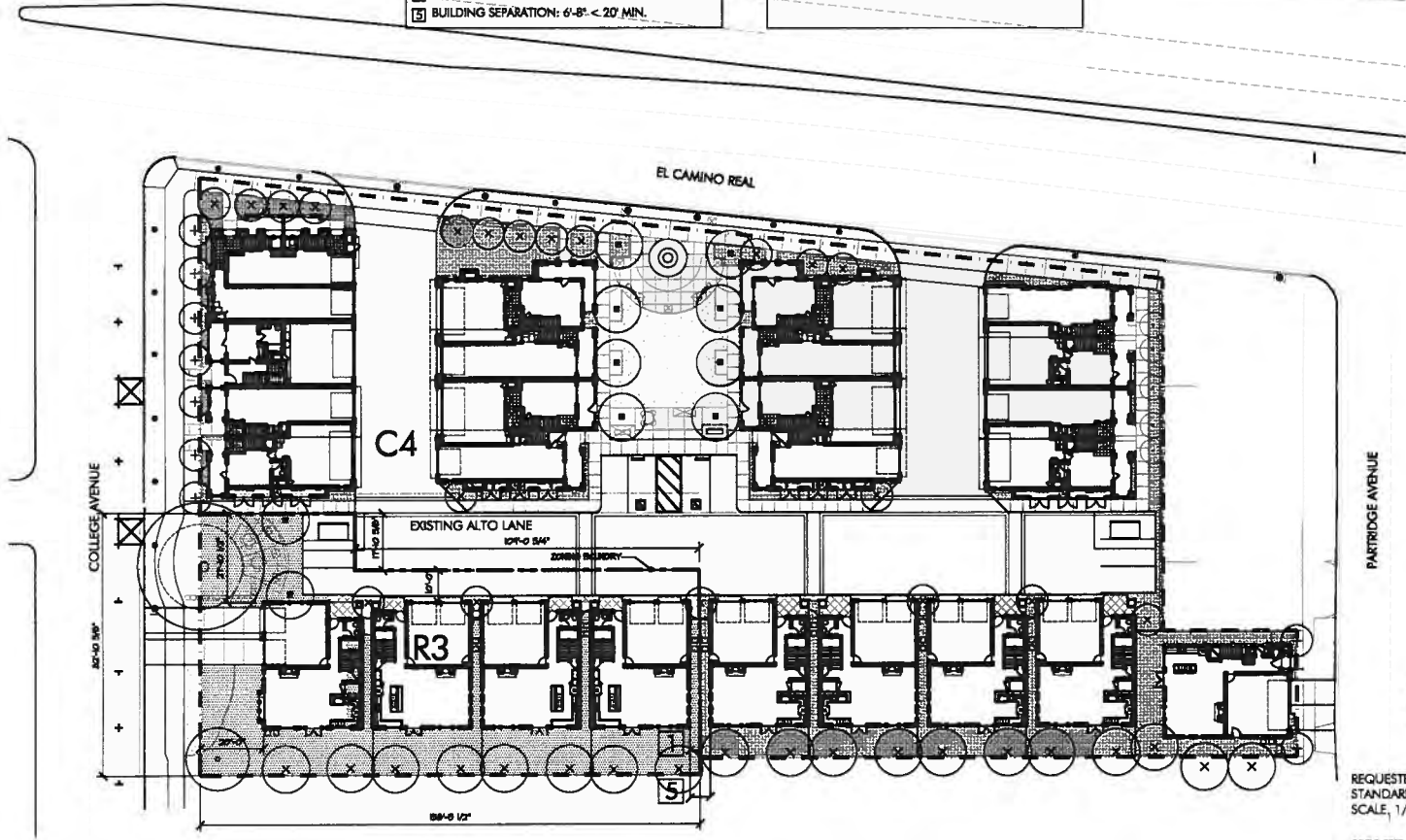
389 EL CAMINO, MENLO PARK, CA

MATTESON DEVELOPMENT PARTNERS, INC.

# REQUESTED DEVELOPMENT STANDARD WAIVERS

- R3 WAIVERS:**
- 1 REAR SETBACK: 3'-4" < 15' MIN.
  - 2 BUILDING COVERAGE: 45% > 30% MAX.
  - 3 FAR: 74% > 45% MAX.
  - 4 LANDSCAPE COVERAGE: 43% < 50% MIN.
  - 5 BUILDING SEPARATION: 6'-8" < 20' MIN.

- C4 WAIVERS:**
- 1 FAR: 90% > 75% MAX.



REQUESTED DEVELOPMENT  
STANDARD WAIVERS  
SCALE: 1/16"=1'-0"

DATE: 8, 2012 PROJECT NO: 221-009



389 EL CAMINO, MENLO PARK, CA

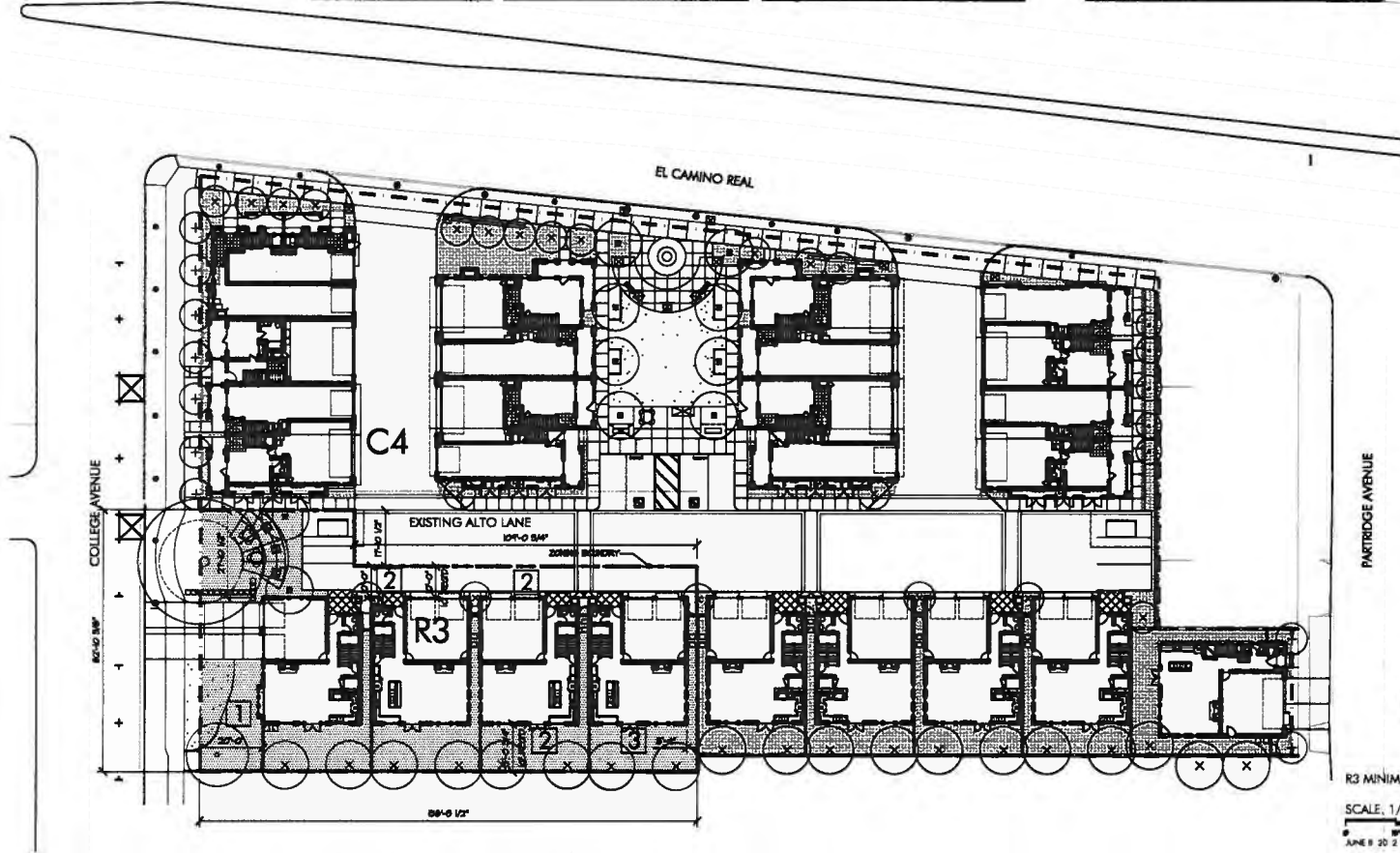
MATTESSON DEVELOPMENT PARTNERS, INC.

3445 OWENS DRIVE  
PULSANOTA, CA 94368  
925.251.7900  
925.251.7901 Fax

A1.5a

## R3 MINIMUM SETBACK COMPLIANCE

REQUIRED:	PROVIDED:	NOTE:
1 FRONT SETBACK: 20'	1 FRONT SETBACK: 20'	ALL FOUR RESIDENCES IN THE R3 ARE STRUCTURALLY CONNECTED. (BUILDINGS D1, D2, D3 & D4). THIS STRUCTURAL CONNECTION BETWEEN THESE RESIDENCES ELIMINATES THE 20' REQUIRED DISTANCE BETWEEN STAND ALONE STRUCTURES IN THE
2 SIDE YARD SETBACKS: 10'	2 SIDE YARD SETBACKS: 10' TO 15'-4"	
3 REAR SETBACK: 15'	3 REAR SETBACK: 3'-4" (WAIVER REQUIRED)	



389 EL CAMINO, MENLO PARK, CA  
 MATTESON DEVELOPMENT PARTNERS, INC.

R3 MINIMUM SETBACK COMPLIANCE  
 SCALE: 1/16" = 1'-0"  
 JUNE 8 2012 PROJECT NO: 221.009  
 DAHLIN GROUP

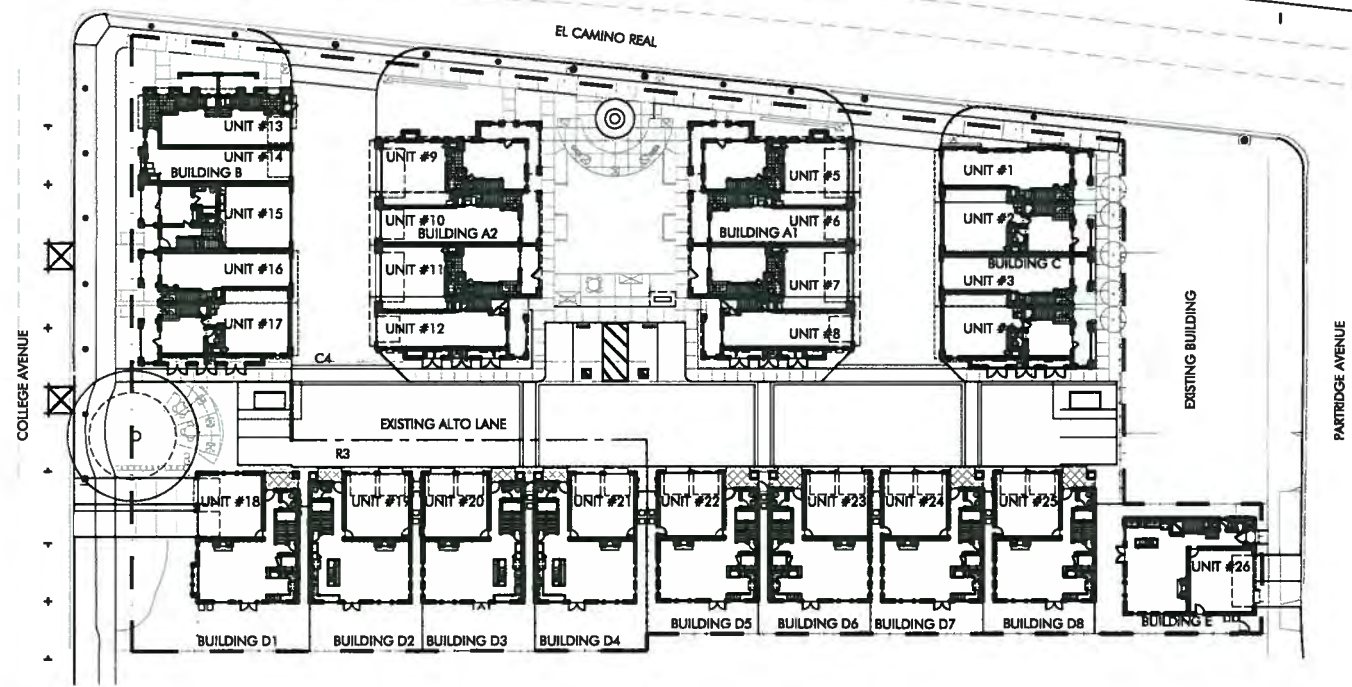
3842 OWING DRIVE  
 PLEASANTON, CA 94588  
 925.251.7200  
 925.251.7201 Fax

A1.5b

**AGGREGATE FLOOR AREA TABLE**

Building	Area	Volume	Height	Notes
Building A1	1,200	12,000	10	
Building A2	1,200	12,000	10	
Building B	1,200	12,000	10	
Building C	1,200	12,000	10	
Building D1	1,200	12,000	10	
Building D2	1,200	12,000	10	
Building D3	1,200	12,000	10	
Building D4	1,200	12,000	10	
Building D5	1,200	12,000	10	
Building D6	1,200	12,000	10	
Building D7	1,200	12,000	10	
Building D8	1,200	12,000	10	
Building E	1,200	12,000	10	
<b>TOTAL</b>	<b>12,000</b>	<b>120,000</b>	<b>10</b>	

Building	Area	Volume	Height	Notes
Building A1	1,200	12,000	10	
Building A2	1,200	12,000	10	
Building B	1,200	12,000	10	
Building C	1,200	12,000	10	
Building D1	1,200	12,000	10	
Building D2	1,200	12,000	10	
Building D3	1,200	12,000	10	
Building D4	1,200	12,000	10	
Building D5	1,200	12,000	10	
Building D6	1,200	12,000	10	
Building D7	1,200	12,000	10	
Building D8	1,200	12,000	10	
Building E	1,200	12,000	10	
<b>TOTAL</b>	<b>12,000</b>	<b>120,000</b>	<b>10</b>	



**18.04 Gross floor area**

(A) "Gross floor area" applies to all zoning districts except the single-family residential and R-2 zoning districts and means the sum of the horizontal area of all areas within the surrounding solid units of a building covered by a roof measured to the outside surfaces of exterior walls or portions thereof subject to the clarifications in subsections (B), (C) and (D).

(B) Gross floor area includes the following features of a building that meet the criteria of subsection (A) unless otherwise specified in subsection (C):

- (1) Areas of a basement with a finished floor height of six feet, six inches (6'6") or greater;
- (2) Mezzanines, including elevated platforms and storage platforms, but excluding vertical shafting units and columns;
- (3) Areas of an atrium with a floor to ceiling height of six feet, six inches (6'6") or greater;
- (4) Equipment and utility areas containing mechanical equipment, electrical panels, meters, control boxes, switch boxes;
- (5) Storage areas;
- (6) Bay windows and similar projections or cantilevered areas; and
- (7) Eaves, overhangs, and awnings.

(C) Gross floor area excludes the following features of a building that meet the criteria of subsection (A):

- (1) Areas of a building or buildings that are designed as nonresidential or nonoccupiable spaces with finished walls, floors and ceilings, walls exceed the one percent (1%) of the maximum allowed gross floor area of the lot. To qualify for this exclusion, such spaces must have less than (2) any of the following characteristics: a floor to ceiling height that is less than six feet, six inches (6'6"); limited access (i.e., the absence of the necessary physical space to provide a building code-compliant exit in door; unconditioned air (i.e., the air is neither heated nor cooled); no windows or skylights; and no enclosure. This exclusion may include areas of a building that would otherwise exceed the one-percent maximum limitation on defined volume (C.2);
- (2) Areas of a building or buildings dedicated to the maintenance of non-generating equipment, such as building mechanical equipment and generators, not to exceed one percent (1%) of the maximum allowed gross floor area of the lot. This restriction applies to equipment utilized for the operation of the building systems and does not apply to equipment utilized in connection with a business operating from a building;
- (3) All areas devoted to covered parking and related circulation for automobiles and bicycles, including garage ramps, below grade parking structures, and above grade parking structures;
- (4) Covered porches and covered balconies provided that at least one end is open and unobstructed to the exterior except for columns or posts not more than twelve (12") in width and not more than six feet in height, and not more than four (4") in height;
- (5) Vent shafts, such as building mechanical air ducts and chimneys; and
- (6) Enclosures solely for trash and recycling.

**GROSS FLOOR AREA SITE PLAN**  
SCALE: 1/16" = 1'-0"

JUNE 8, 2012 PROJECT NO: 221.009

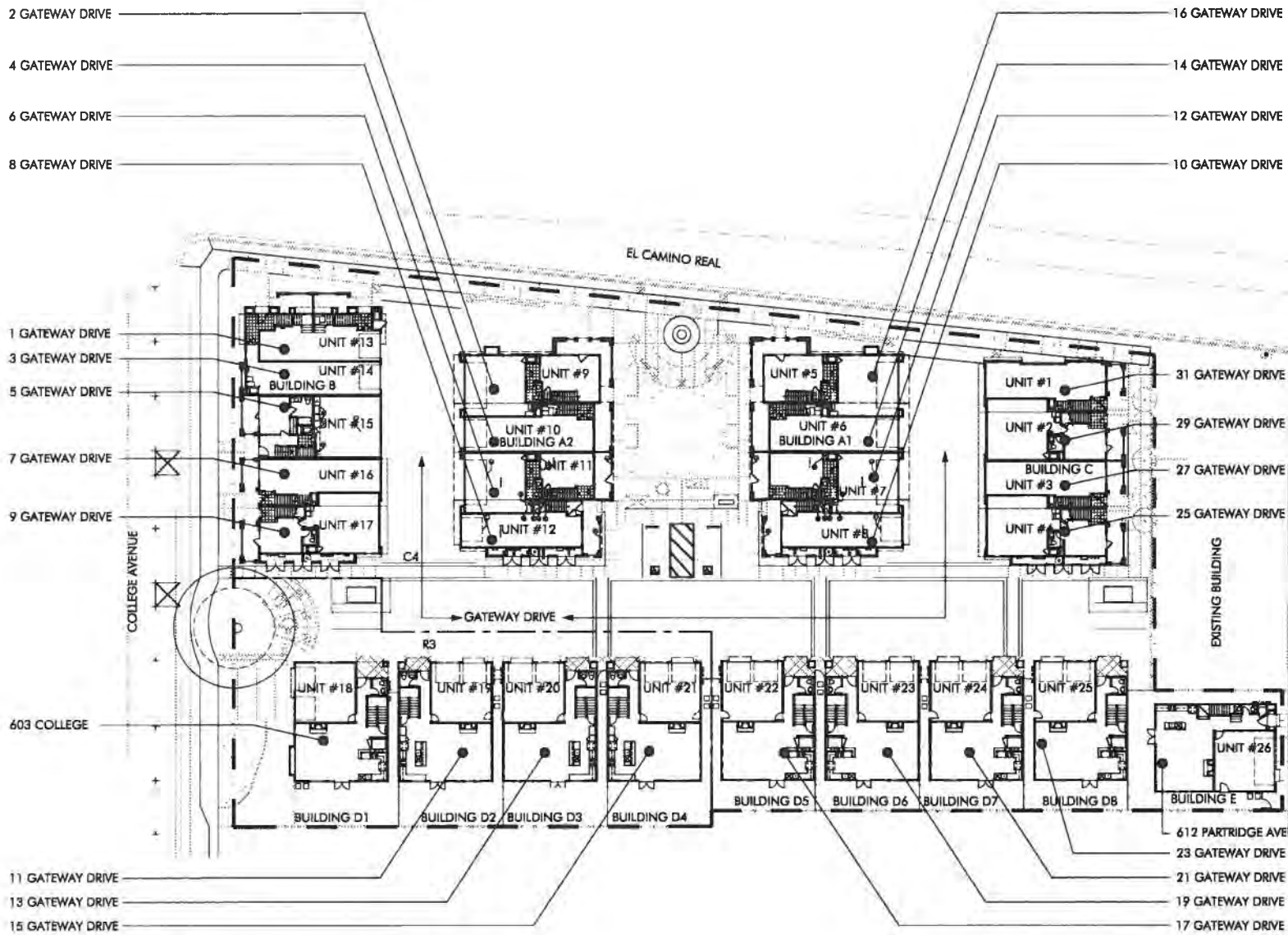
**DAHLIN GROUP**

389 EL CAMINO, MENLO PARK, CA  
MATTESON DEVELOPMENT PARTNERS, INC.

3845 OWENS DRIVE,  
PESQUERA, CA 94054  
925.251.7200  
925.251.7201 Fax

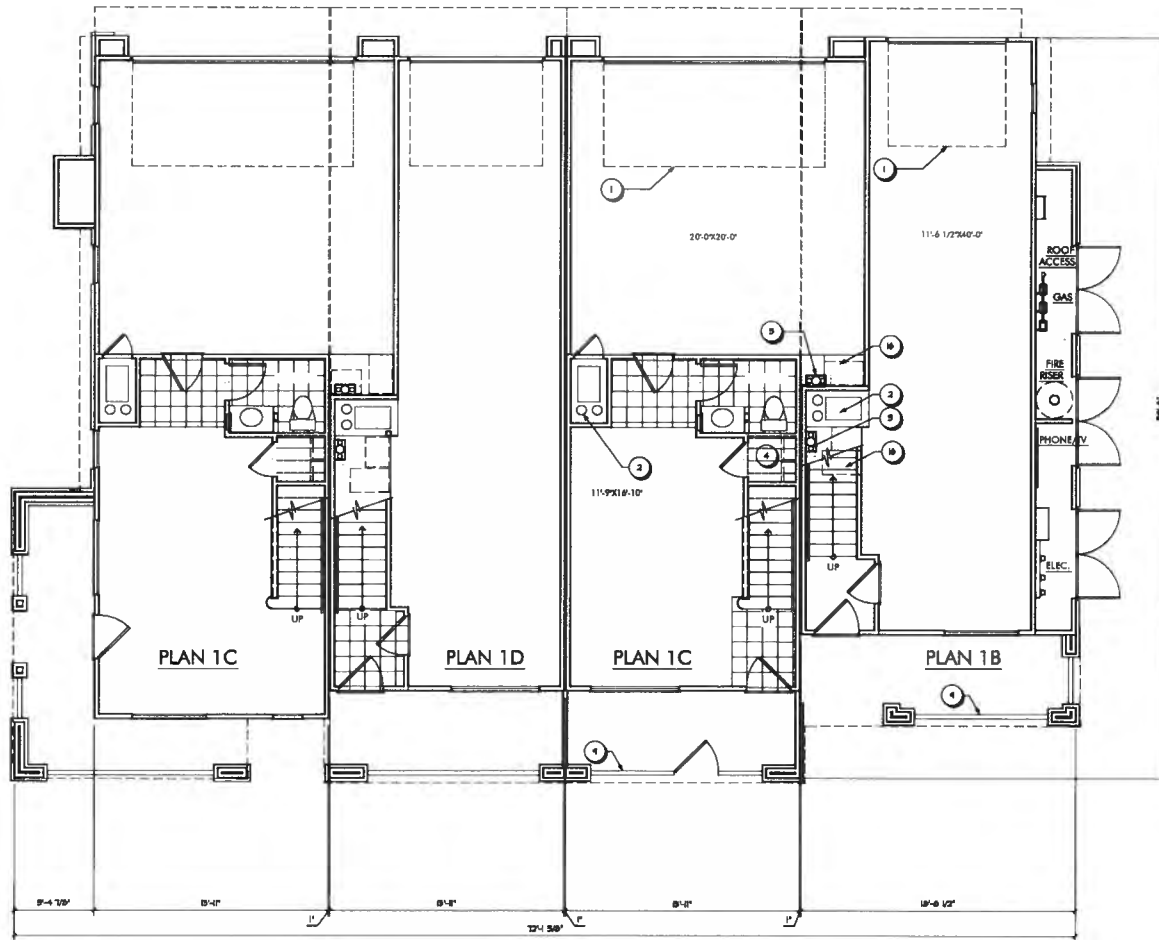
**A1.6**





# 389 EL CAMINO, MENLO PARK, CA

MATTESON DEVELOPMENT PARTNERS, INC.



FOR FURTHER INFORMATION:  
 SEE A3.1a1 FOR PLANS 1A & 1B  
 SEE A3.1a2 FOR PLANS 1A & 1B  
 SEE A3.1a3 FOR PLANS 1A & 1B  
 SEE A3.1c1 FOR PLANS 1C & 1D  
 SEE A3.1c2 FOR PLANS 1B, 1C & 1D  
 SEE A3.1c3 FOR PLANS 1B & 1C  
 SEE A3.2a FOR PLAN 2  
 SEE A3.3a FOR PLANS 3A & 3B

TOWNHOME - BUILDING PLAN  
 BUILDING A1, A2 SIM. - FIRST FLOOR  
 SCALE: 1/4"=1'-0"

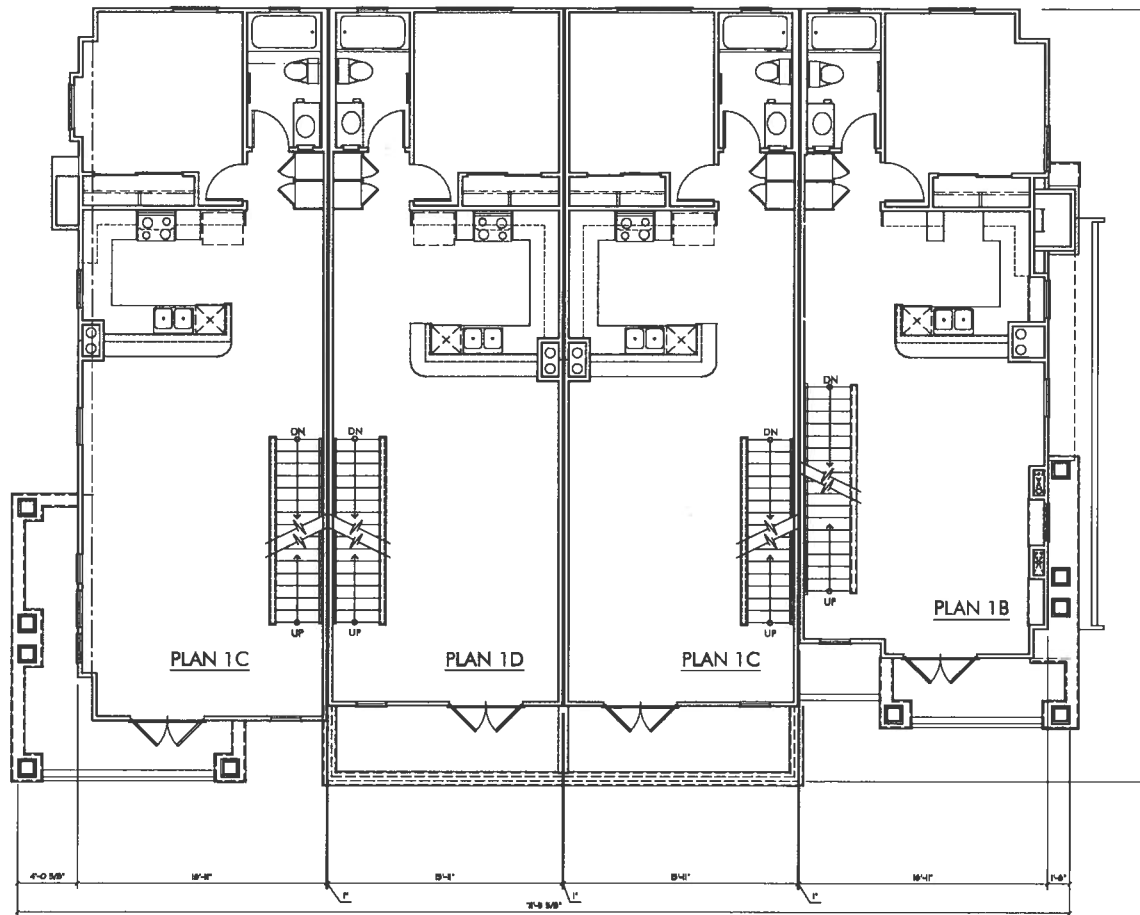
JUNE 8, 2012 PROJECT NO: 221.009



389 EL CAMINO, MENLO PARK, CA

MATTESON DEVELOPMENT PARTNERS, INC.





FOR FURTHER INFORMATION:  
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 SEE A3.1a2 FOR PLANS 1A & 1B  
 SEE A3.1a3 FOR PLANS 1A & 1B  
 SEE A3.1c1 FOR PLANS 1C & 1D  
 SEE A3.1c2 FOR PLANS 1B, 1C & 1D  
 SEE A3.1c3 FOR PLANS 1B & 1C  
 SEE A3.2a FOR PLAN 2  
 SEE A3.3a FOR PLANS 3A & 3B

TOWNHOME - BUILDING PLAN  
 BUILDING A1, A2 SIM. - SECOND FLR.  
 SCALE: 1/4"=1'-0"

0 4 8 16  
 JUNE 8, 2012 PROJECT NO: 221.009

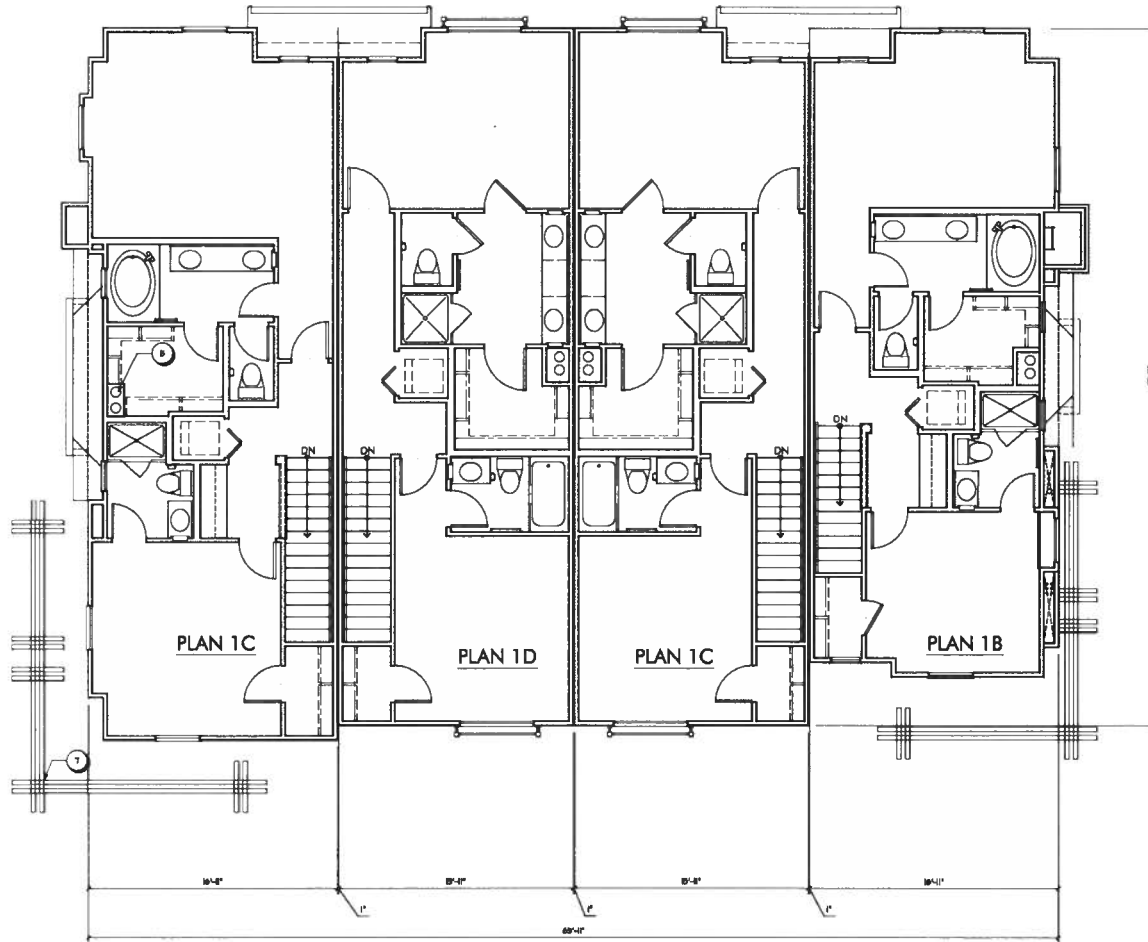


389 EL CAMINO, MENLO PARK, CA

MATTESON DEVELOPMENT PARTNERS, INC.

183  
 183 COWS DRIVE  
 MENLO PARK, CA 94028  
 925.251.7200  
 925.251.7201 Fax

A2.1b



FOR FURTHER INFORMATION:  
 SEE A3.1a1 FOR PLANS 1A & 1B  
 SEE A3.1a2 FOR PLANS 1A & 1B  
 SEE A3.1a3 FOR PLANS 1A & 1B  
 SEE A3.1c1 FOR PLANS 1C & 1D  
 SEE A3.1c2 FOR PLANS 1B, 1C & 1D  
 SEE A3.1c3 FOR PLANS 1B & 1C  
 SEE A3.2a FOR PLAN 2  
 SEE A3.3a FOR PLANS 3A & 3B

TOWNHOME - BUILDING PLAN  
 BUILDING A1, A2 SIM. - THIRD FLOOR  
 SCALE: 1/4" = 1'-0"  
 JUNE 8, 2012 PROJECT NO: 221.009



389 EL CAMINO, MENLO PARK, CA

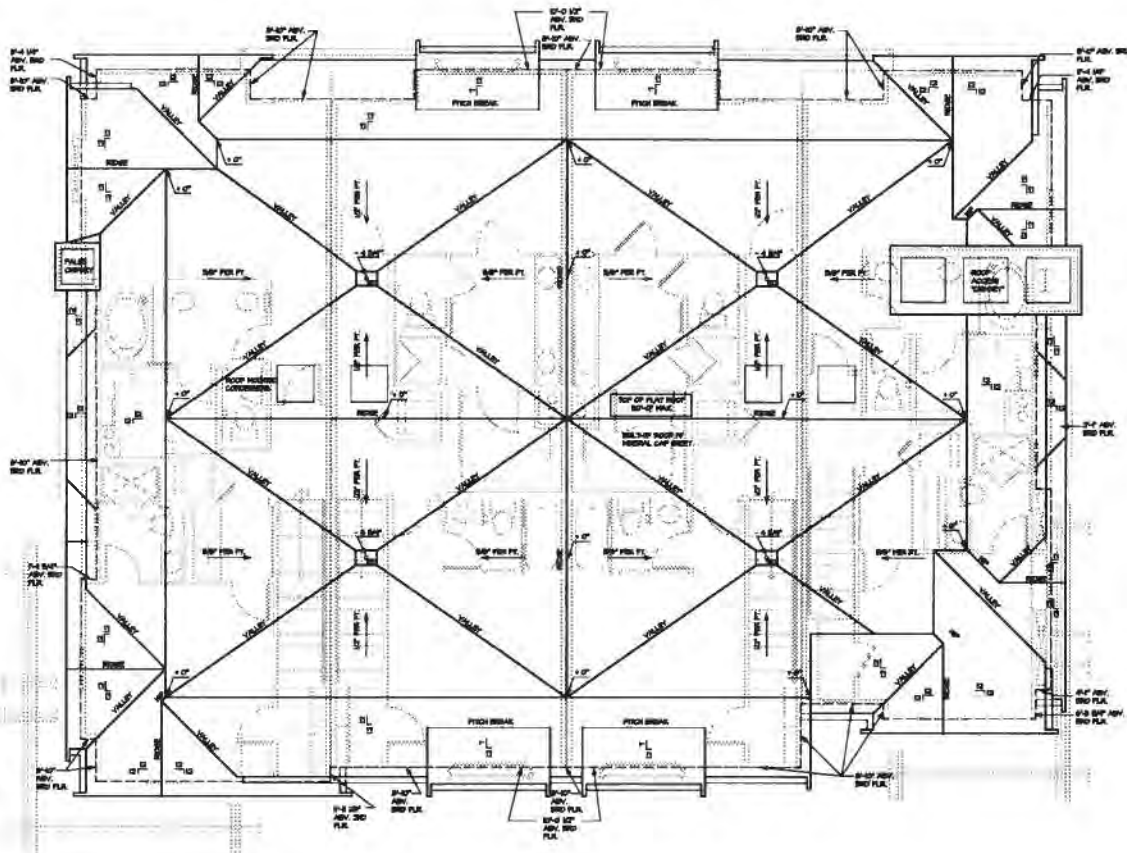
MATTESON DEVELOPMENT PARTNERS, INC.

184

5865 OWENS DRIVE,  
 PLEASANTON, CA 94588  
 925.251.7200  
 925.251.7201 Fax

A2.1c

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FOR FURTHER INFORMATION:  
 SEE A3.1a1 FOR PLANS 1A & 1B  
 SEE A3.1a2 FOR PLANS 1A & 1B  
 SEE A3.1a3 FOR PLANS 1A & 1B  
 SEE A3.1c1 FOR PLANS 1C & 1D  
 SEE A3.1c2 FOR PLANS 1B, 1C & 1D  
 SEE A3.1c3 FOR PLANS 1B & 1C  
 SEE A3.2a FOR PLAN 2  
 SEE A3.3a FOR PLANS 3A & 3B

TOWNHOME - BUILDING PLAN  
 BUILDING A1, A2 SIM. - ROOF PLAN  
 SCALE: 1/4"=1'-0"

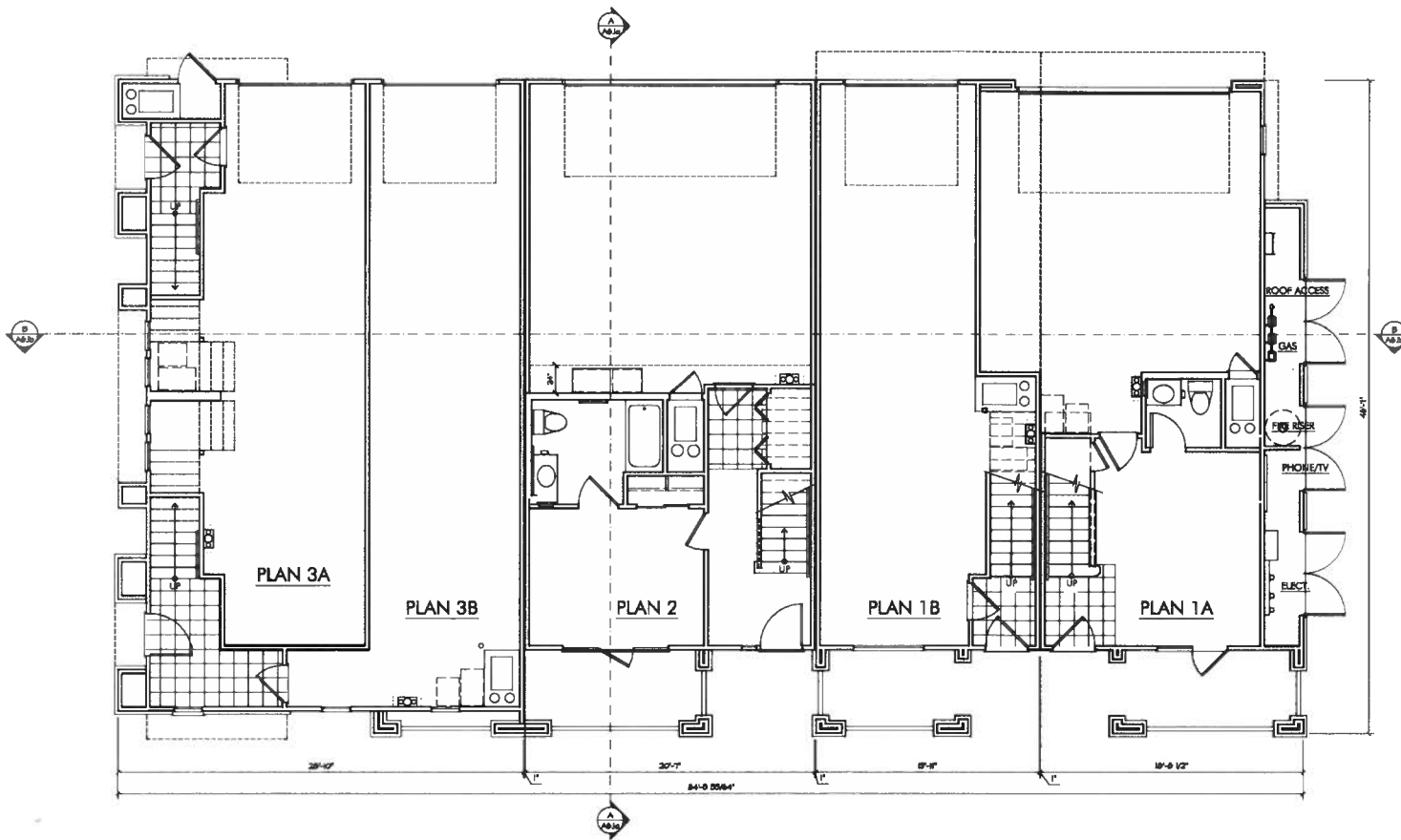
JUNE 8, 2012 PROJECT NO. 221 009



389 EL CAMINO, MENLO PARK, CA  
 MATTESON DEVELOPMENT PARTNERS, INC.

5865 OWENS DRIVE,  
 MENLO PARK, CA 94568  
 TEL: 650.320.0000  
 FAX: 650.320.0000

185 A2.1d



FOR FURTHER INFORMATION:  
 SEE A3.1a1 FOR PLANS 1A & 1B  
 SEE A3.1a2 FOR PLANS 1A & 1B  
 SEE A3.1a3 FOR PLANS 1A & 1B  
 SEE A3.1c1 FOR PLANS 1C & 1D  
 SEE A3.1c2 FOR PLANS 1B, 1C & 1D  
 SEE A3.1c3 FOR PLANS 1B & 1C  
 SEE A3.2a FOR PLAN 2  
 SEE A3.3a FOR PLANS 3A & 3B

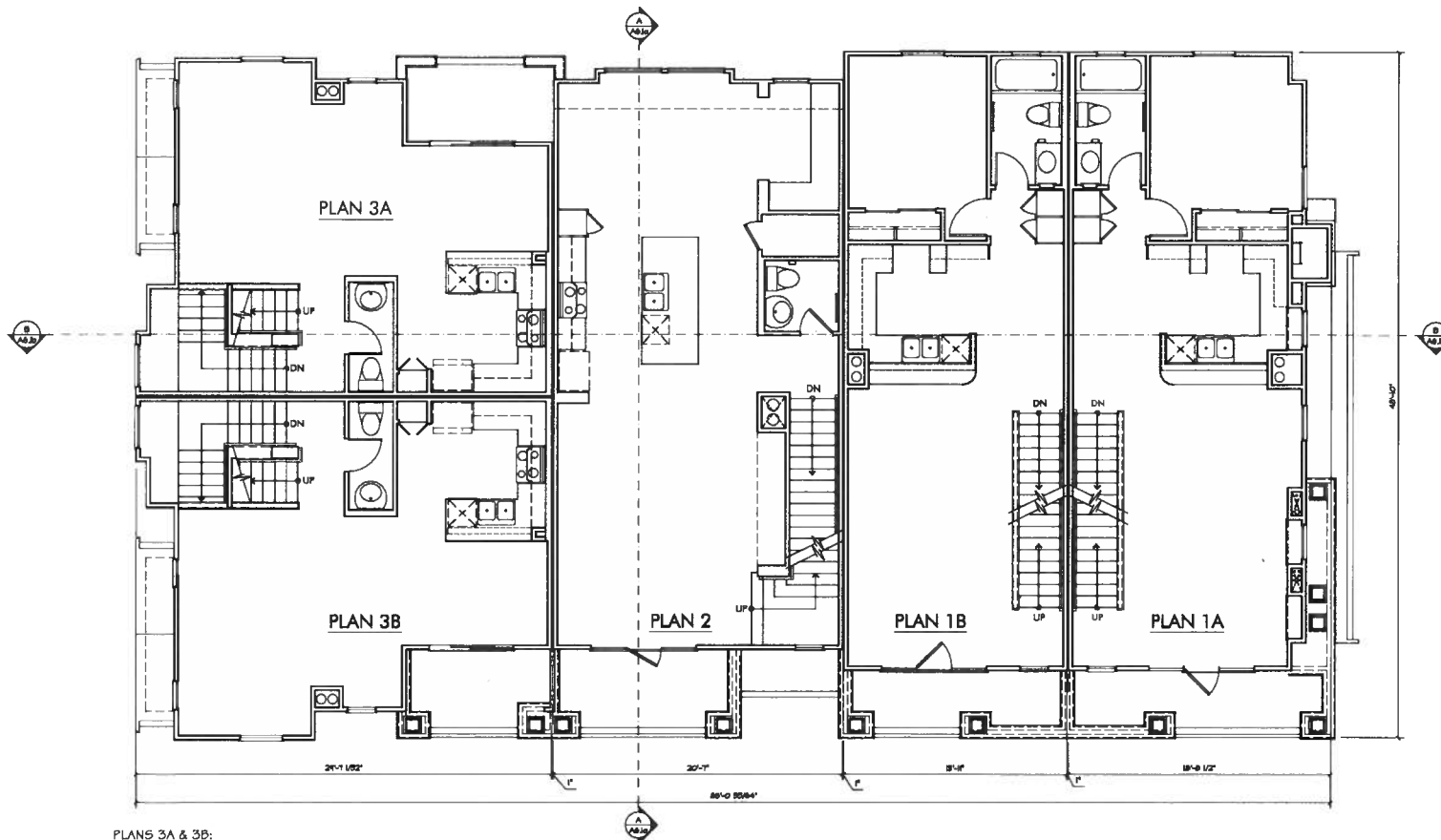
TOWNHOME - BUILDING PLAN  
 BUILDING B - FIRST FLOOR  
 SCALE: 1/4"=1'-0"

JUNE 8, 2012 PROJECT NO: 221.009



389 EL CAMINO, MENLO PARK, CA

MATTESON DEVELOPMENT PARTNERS, INC.



PLANS 3A & 3B:  
GROSS AREA: 589 SQFT

FOR FURTHER INFORMATION:  
 SEE A3.1a1 FOR PLANS 1A & 1B  
 SEE A3.1a2 FOR PLANS 1A & 1B  
 SEE A3.1a3 FOR PLANS 1A & 1B  
 SEE A3.1c1 FOR PLANS 1C & 1D  
 SEE A3.1c2 FOR PLANS 1B, 1C & 1D  
 SEE A3.1c3 FOR PLANS 1B & 1C  
 SEE A3.2a FOR PLAN 2  
 SEE A3.3a FOR PLANS 3A & 3B

TOWNHOME - BUILDING PLAN  
 BUILDING B - SECOND FLOOR  
 SCALE: 1/4"=1'-0"

JUNE 8, 2012 PROJECT NO: 221.009

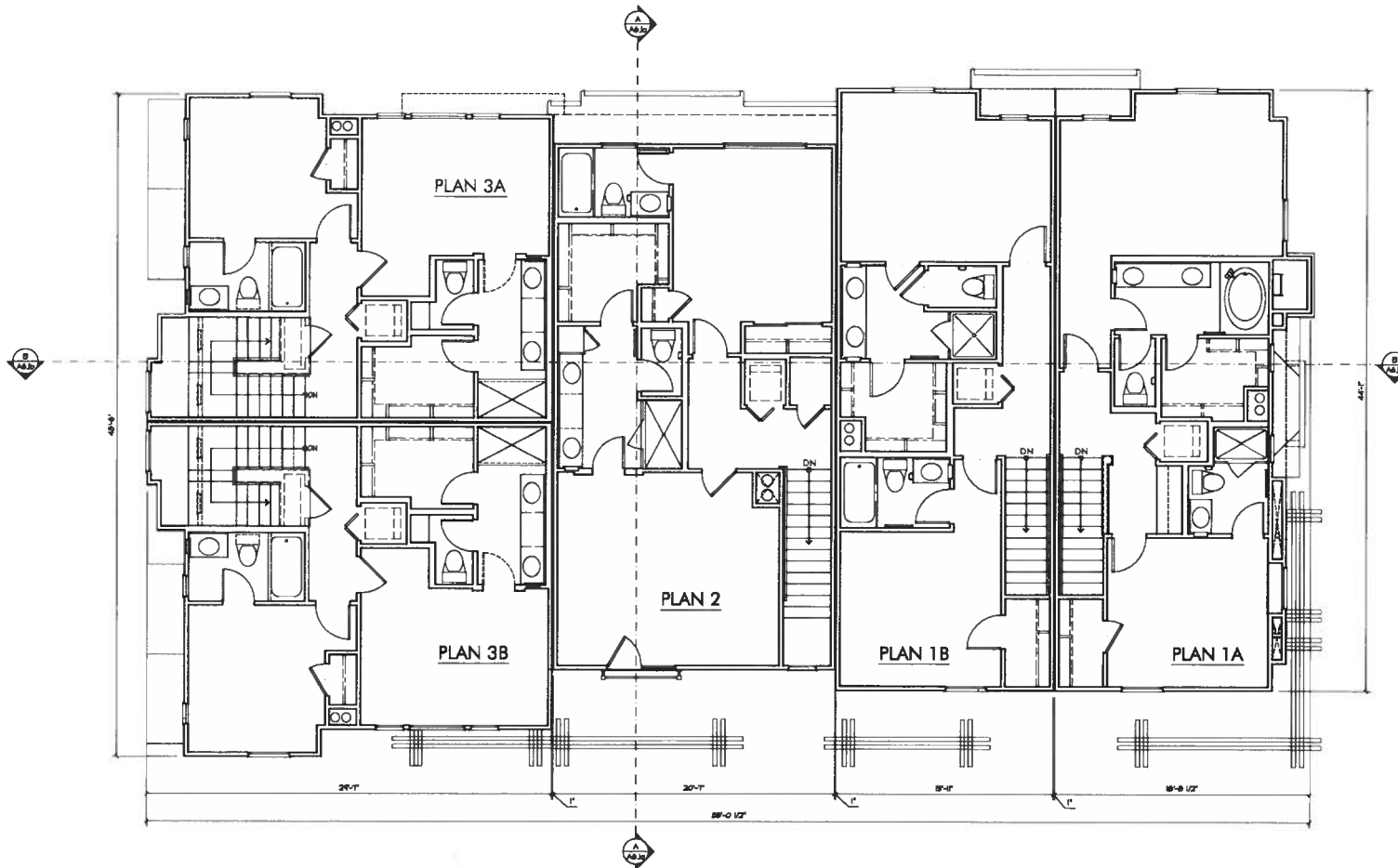


389 EL CAMINO, MENLO PARK, CA

MATTESON DEVELOPMENT PARTNERS, INC.

5665 OWENS DRIVE,  
 FOLSOM, CA 94550  
 916.700.7200  
 925.751.7201 Fax

187 A2.2b



FOR FURTHER INFORMATION:  
 SEE A3.1a1 FOR PLANS 1A & 1B  
 SEE A3.1a2 FOR PLANS 1A & 1B  
 SEE A3.1a3 FOR PLANS 1A & 1B  
 SEE A3.1c1 FOR PLANS 1C & 1D  
 SEE A3.1c2 FOR PLANS 1B, 1C & 1D  
 SEE A3.1c3 FOR PLANS 1B & 1C  
 SEE A3.2a FOR PLAN 2  
 SEE A3.3a FOR PLANS 3A & 3B

TOWNHOME - BUILDING PLAN  
 BUILDING B - THIRD FLOOR  
 SCALE: 1/4" = 1'-0"

JUNE 8, 2012 PROJECT NO: 221.009

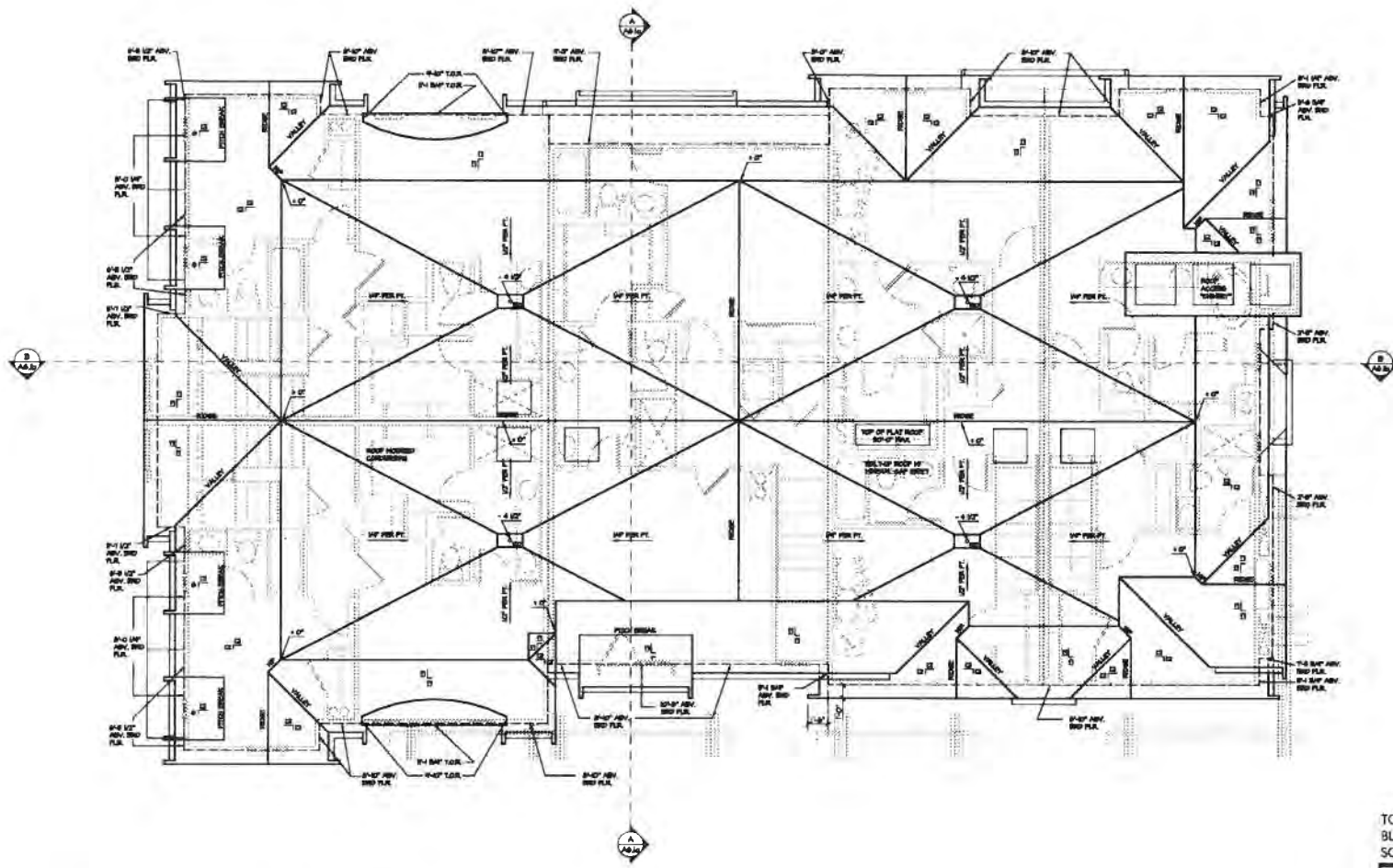


389 EL CAMINO, MENLO PARK, CA

MATTESON DEVELOPMENT PARTNERS, INC.

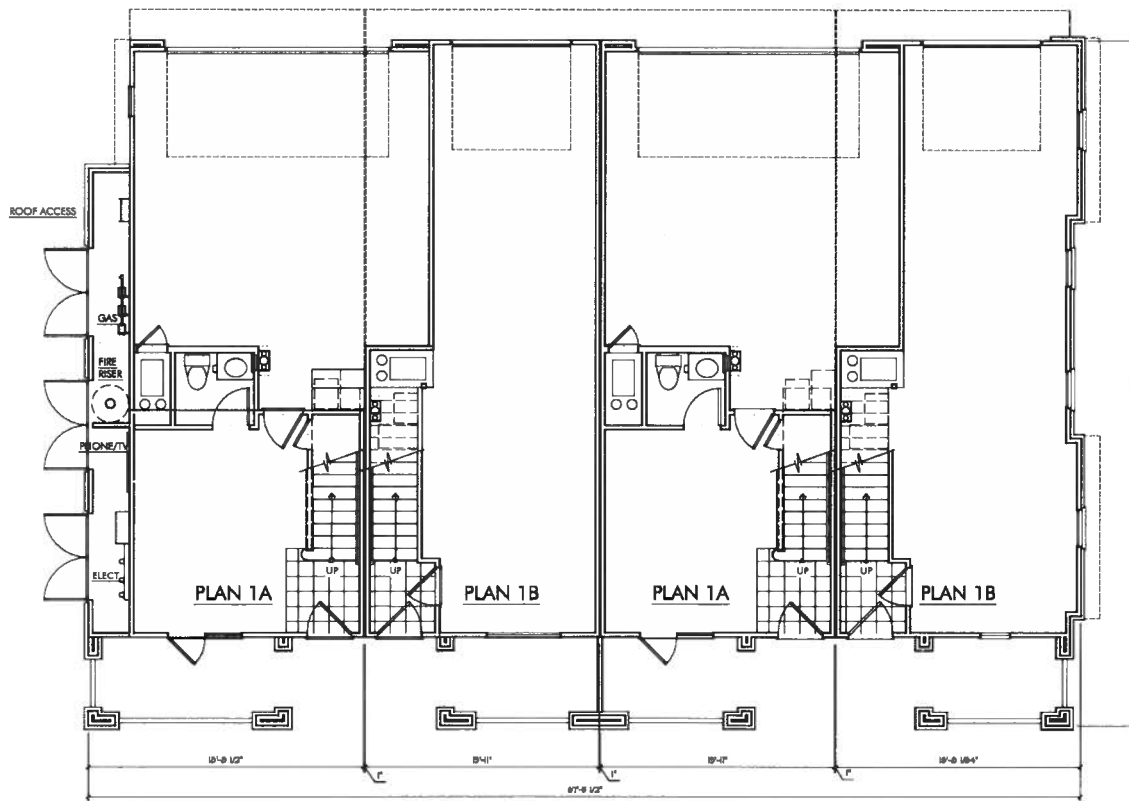
5665 OWENS DRIVE,  
 PLEASANTON, CA 94550  
 925.351.7200  
 925.351.7201 Fax

A2.2c



TOWNHOME - BUILDING PLAN  
 BUILDING B - ROOF PLAN  
 SCALE: 1/4" = 1'-0"  
 0 4 8  
 JUNE 8, 2012 PROJECT NO: 221.009  
 URBAN DESIGN

389 EL CAMINO, MENLO PARK, CA  
 MATTESON DEVELOPMENT PARTNERS, INC.



FOR FURTHER INFORMATION:  
 SEE A3.1a1 FOR PLANS 1A & 1B  
 SEE A3.1a2 FOR PLANS 1A & 1B  
 SEE A3.1a3 FOR PLANS 1A & 1B  
 SEE A3.1c1 FOR PLANS 1C & 1D  
 SEE A3.1c2 FOR PLANS 1B, 1C & 1D  
 SEE A3.1c3 FOR PLANS 1B & 1C  
 SEE A3.2a FOR PLAN 2  
 SEE A3.3a FOR PLANS 3A & 3B

TOWNHOME - BUILDING PLAN  
 BUILDING C - FIRST FLOOR  
 SCALE: 1/4" = 1'-0"



389 EL CAMINO, MENLO PARK, CA

MATTESON DEVELOPMENT PARTNERS, INC.

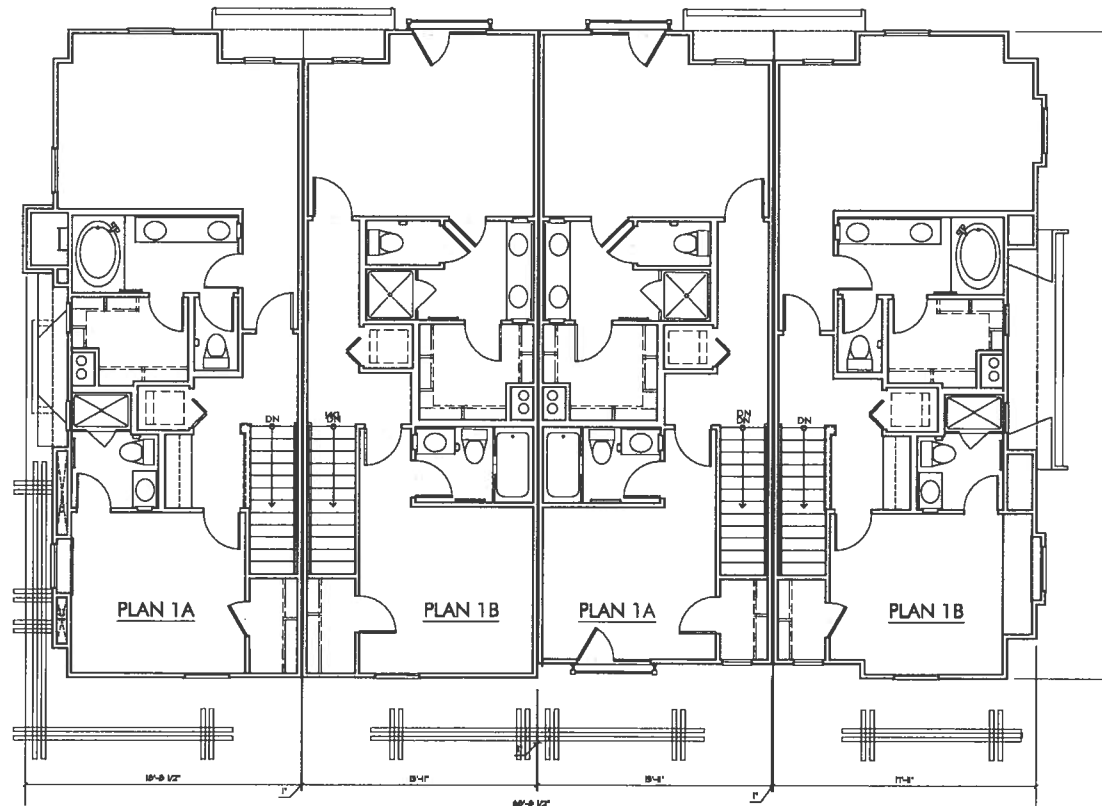
5865 OWENS DRIVE,  
 PLEASANTON, CA 94588  
 925.251.7300  
 925.251.7201 Fax

A2.3a

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FOR FURTHER INFORMATION:  
 SEE A3.1a1 FOR PLANS 1A & 1B  
 SEE A3.1a2 FOR PLANS 1A & 1B  
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 SEE A3.1c1 FOR PLANS 1C & 1D  
 SEE A3.1c2 FOR PLANS 1B, 1C & 1D  
 SEE A3.1c3 FOR PLANS 1B & 1C  
 SEE A3.2a FOR PLAN 2  
 SEE A3.3a FOR PLANS 3A & 3B

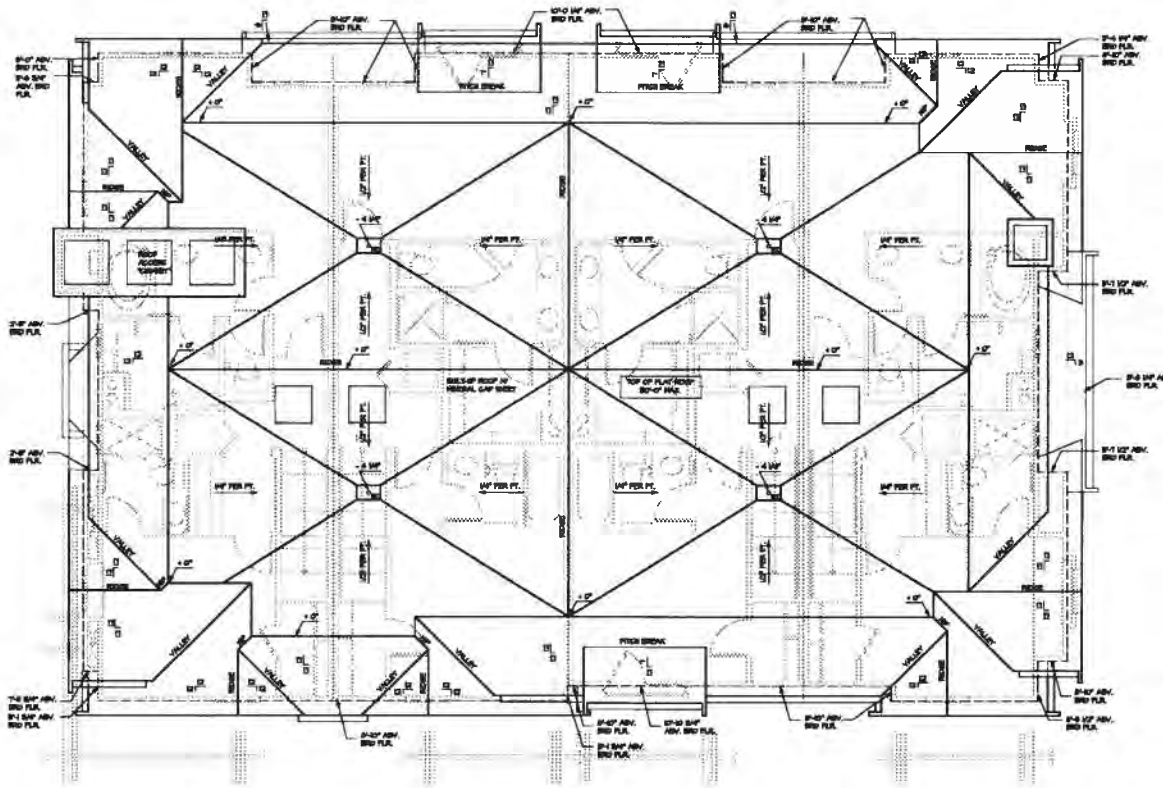
TOWNHOME - BUILDING PLAN  
 BUILDING C - THIRD FLOOR  
 SCALE: 1/4" = 1'-0"

JUNE 8, 2012 PROJECT NO: 221.009



389 EL CAMINO, MENLO PARK, CA

MATTESON DEVELOPMENT PARTNERS, INC.



TOWNHOME - BUILDING PLAN  
 BUILDING C - ROOF PLAN  
 SCALE: 1/4"=1'-0"  
 JUNE 8, 2012 PROJECT NO: 221.009



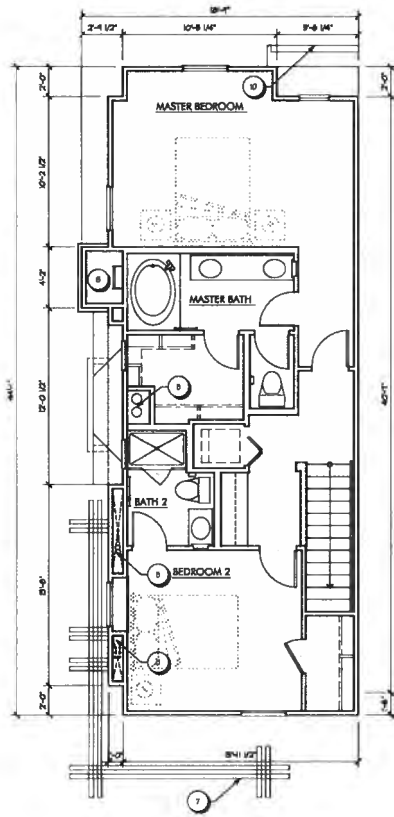
389 EL CAMINO, MENLO PARK, CA

MATTESON DEVELOPMENT PARTNERS, INC.

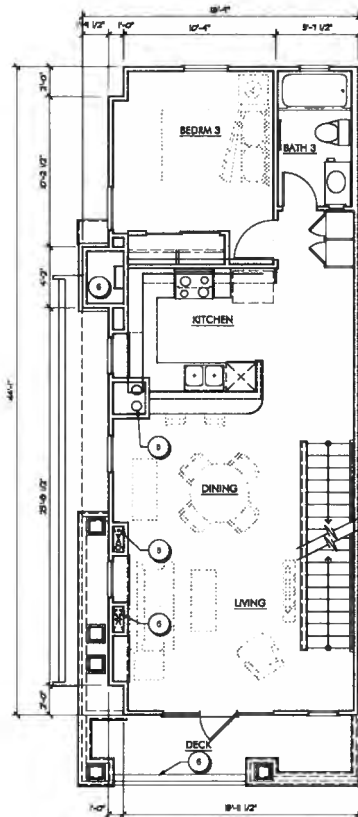
5865 OWENS DRIVE,  
 FOLSOM, CA 95680  
 TEL: 916.977.0000  
 FAX: 916.977.0101

193

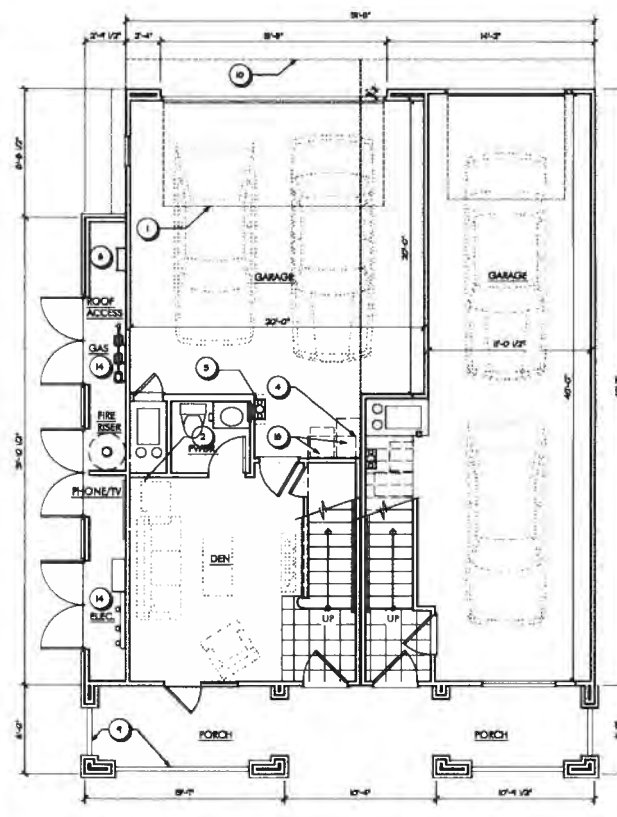
A2.3d



PLAN 1A - UNITS 4, 17  
THIRD FLOOR



PLAN 1A - UNITS 4, 17  
SECOND FLOOR



PLAN 1A - UNITS 4, 17  
FIRST FLOOR

PLAN 1B - UNITS 3, 16  
FIRST FLOOR  
SEE A3.1a2

- FLOOR PLAN KEY NOTES: ①
1. Overhead garage door above
  2. Furnace & ducts
  3. Tank-less water heater
  4. Line of stair above
  5. Duct space
  6. Roof access ladder
  7. Trellis- see elevation
  8. Guardrail
  9. Decorative railing
  10. Lines of floor above/ below
  11. Optional elevator/ storage
  12. Attic access
  13. Attic furnace
  14. Meter locations
  15. Fireplace
  16. Trash / recycling containers

TOWNHOME - UNIT PLANS  
PLAN 1A FLOOR PLAN  
SCALE: 1/4"=1'-0"

JUNE 8, 2012 PROJECT NO: 221.009

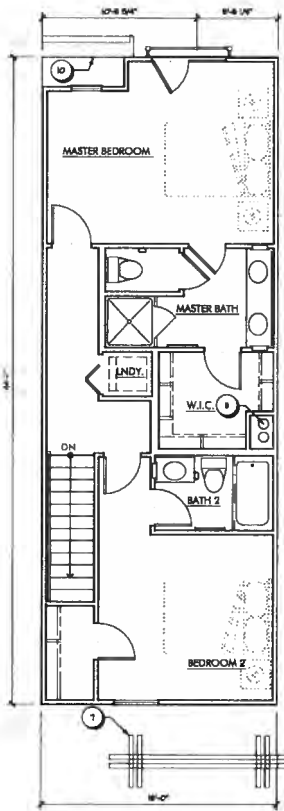


389 EL CAMINO, MENLO PARK, CA

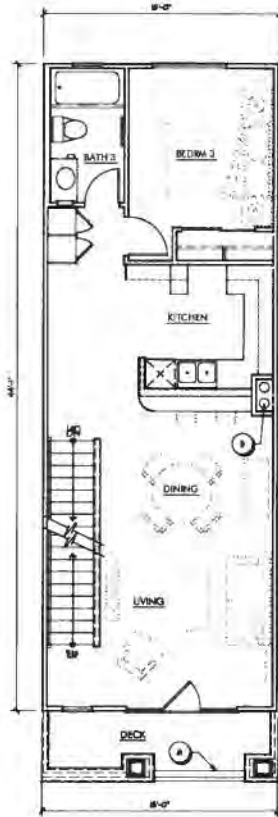
MATTESON DEVELOPMENT PARTNERS, INC.

SRAS OWING DEVL.  
PLEASANTON, CA 94588  
925.251.7200  
925.251.7201 Fax

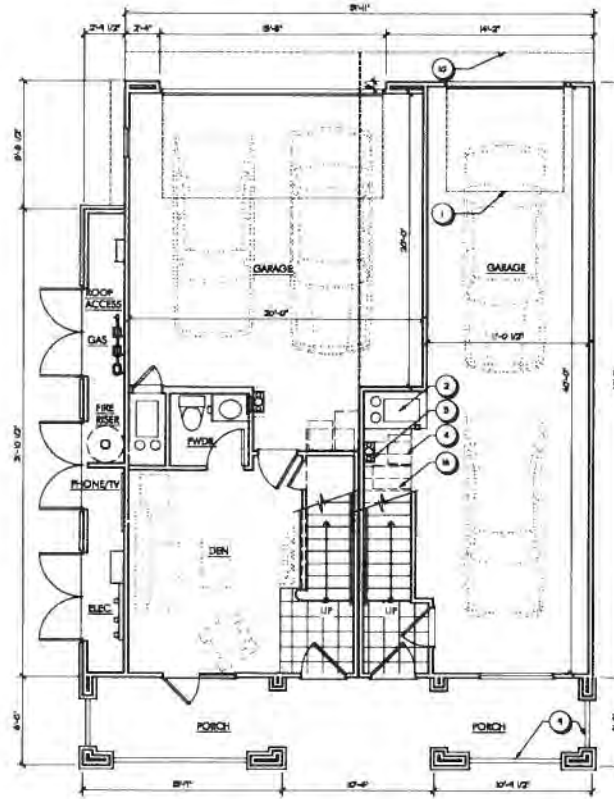
A3.1a1



PLAN 1B - UNITS 3, 16  
 PLAN 1A SIM. - UNIT 2  
 THIRD FLOOR



PLAN 1B - UNITS 3, 16  
 PLAN 1A SIM. - UNIT 2  
 SECOND FLOOR



PLAN 1A - UNITS 4, 17  
 FIRST FLOOR  
 SEE A3.1a1

PLAN 1B - UNITS 3, 16  
 FIRST FLOOR

- FLOOR PLAN KEY NOTES: ①
1. Overhead garage door above
  2. Furnace & ducts
  3. Tank-less water heater
  4. Line of stair above
  5. Duct space
  6. Roof access ladder
  7. Trellis - see elevation
  8. Guardrail
  9. Decorative railing
  10. Lines of floor above/below
  11. Optional elevator/storage
  12. Attic access
  13. Attic furnace
  14. Meter locations
  15. Fireplace
  16. Trash / recycling containers

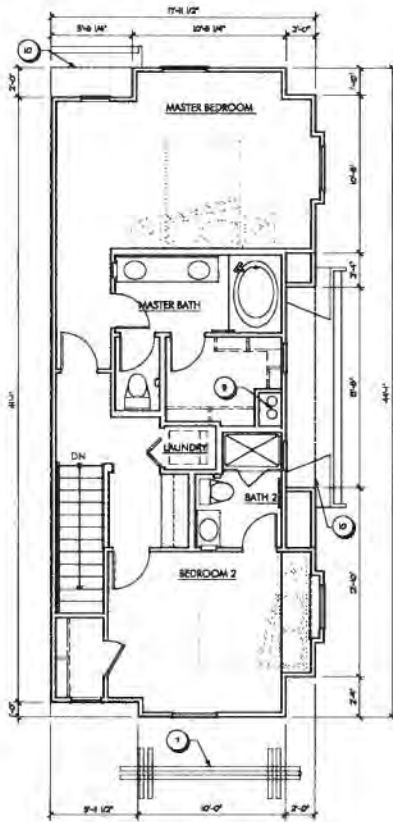
TOWNHOME - UNIT PLANS  
 PLAN 1B - FLOOR PLAN  
 SCALE: 1/4"=1'-0"

JUNE 8, 2012 PROJECT NO. 221,009

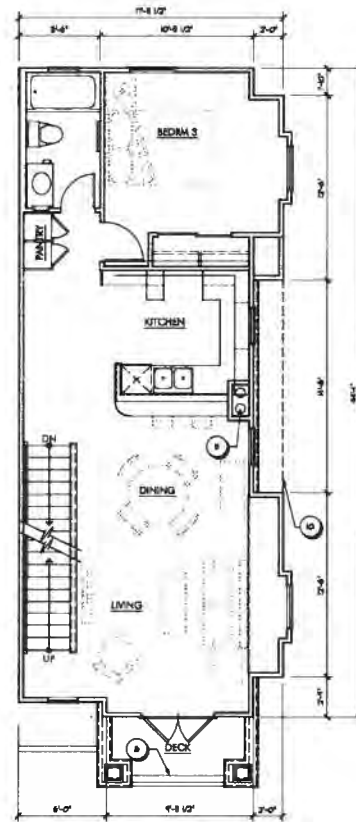


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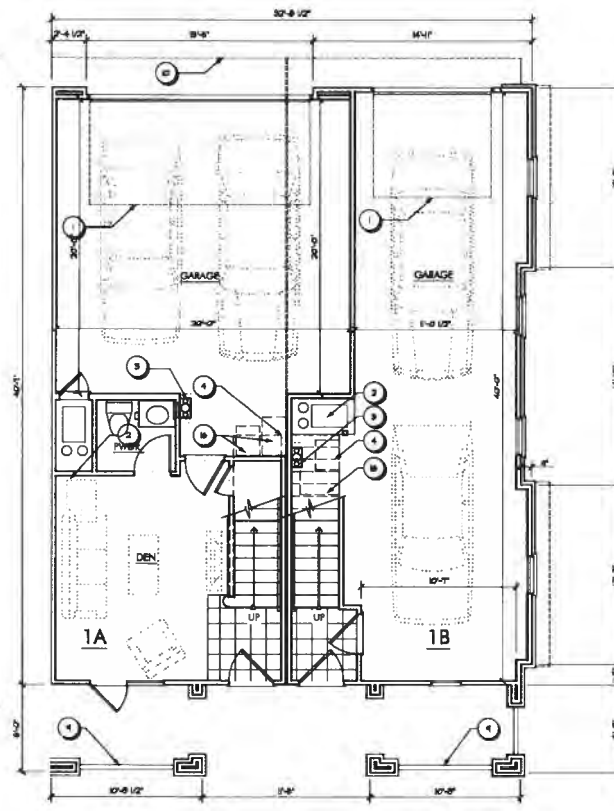
MATTESON DEVELOPMENT PARTNERS, INC.



PLAN 1B - UNIT 1  
THIRD FLOOR



PLAN 1B - UNIT 1  
SECOND FLOOR



PLAN 1A - UNIT 2  
FIRST FLOOR

PLAN 1B - UNIT 1  
FIRST FLOOR

- FLOOR PLAN KEY NOTES:** ①
1. Overhead garage door above
  2. Furnace & ducts
  3. Tank-less water heater
  4. Line of stair above
  5. Duct space
  6. Roof access ladder
  7. Trellis- see elevation
  8. Guardrail
  9. Decorative railing
  10. Lines of floor above/ below
  11. Optional elevator/ storage
  12. Attic access
  13. Attic furnace
  14. Meter locations
  15. Fireplace
  16. Trash / recycling containers

TOWNHOME - UNIT PLANS  
PLAN 1A & 1B - FLOOR PLAN  
SCALE: 1/4"=1'-0"

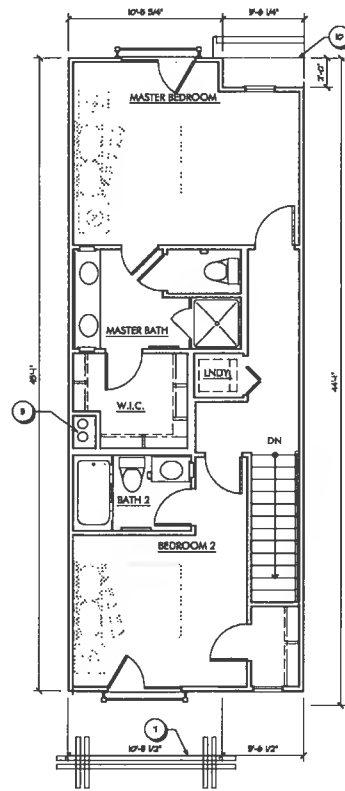
JUNE 8, 2012 PROJECT NO.: 221.009

389 EL CAMINO, MENLO PARK, CA

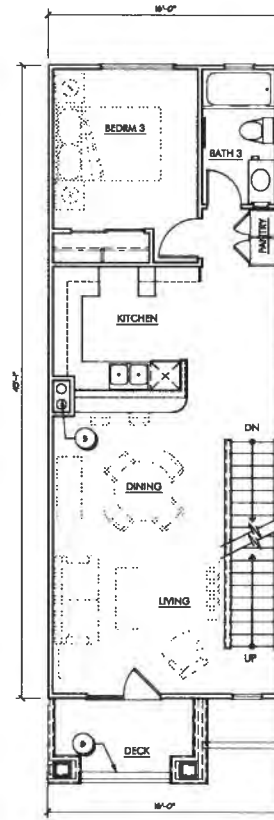
MATTESON DEVELOPMENT PARTNERS, INC.

5565 OWENS DRIVE,  
PILASANTO, CA 94550  
925.251.7200  
925.251.7201 Fax

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PLAN 1A - UNIT 2  
THIRD FLOOR



PLAN 1A - UNIT 2  
SECOND FLOOR

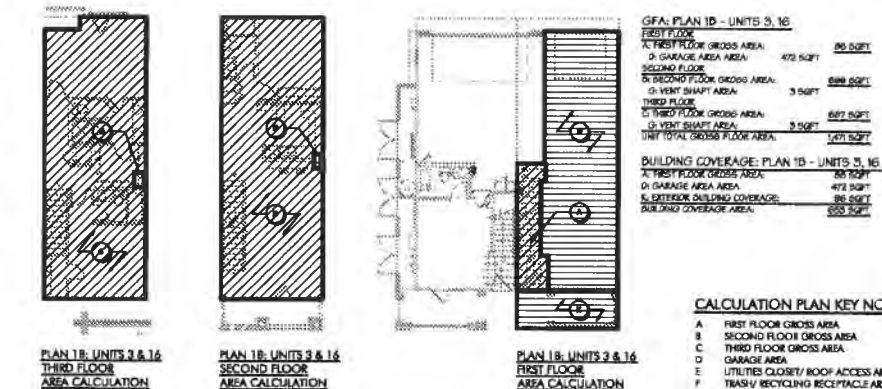
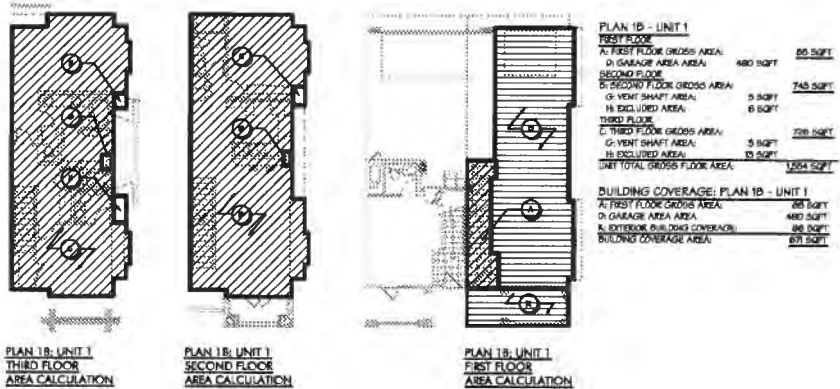
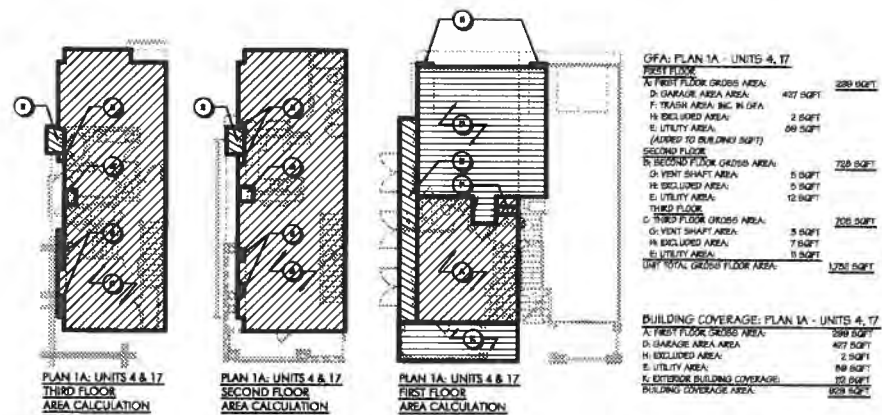
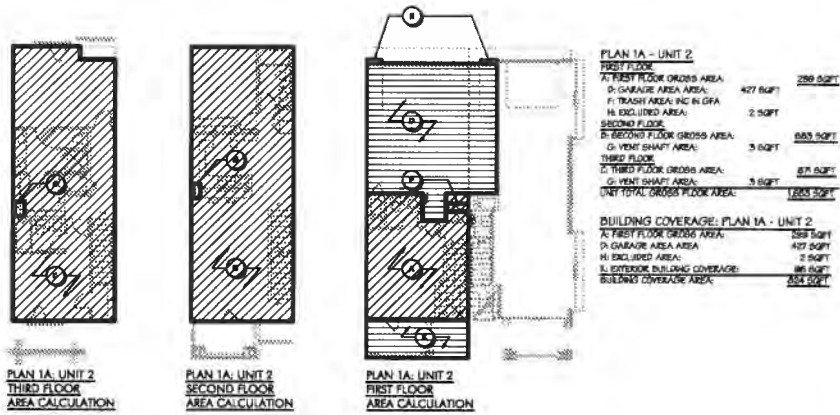
- FLOOR PLAN KEY NOTES: ①
1. Overhead garage door above
  2. Furnace & ducts
  3. Tank-less water heater
  4. Line of stair above
  5. Duct space
  6. Roof access ladder
  7. Trellis- see elevation
  8. Guardrail
  9. Decorative railing
  10. Lines of floor above/ below
  11. Optional elevator/ storage
  12. Attic access
  13. Attic furnace
  14. Meter locations
  15. Fireplace
  16. Trash / recycling containers

TOWNHOME - UNIT PLANS  
PLAN 1A - FLOOR PLAN  
SCALE: 1/4"=1'-0"

JUNE 8, 2012 PROJECT NO: 221.009

389 EL CAMINO, MENLO PARK, CA

MATTESON DEVELOPMENT PARTNERS, INC.

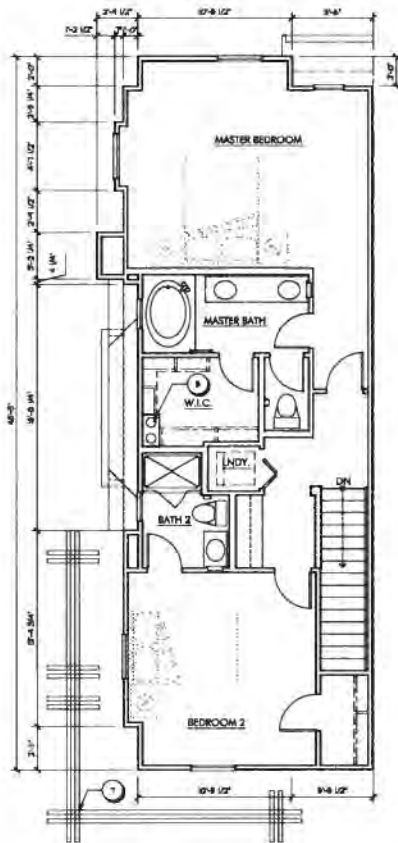


- CALCULATION PLAN KEY NOTES:**
- A. FIRST FLOOR GROSS AREA
  - B. SECOND FLOOR GROSS AREA
  - C. THIRD FLOOR GROSS AREA
  - D. GARAGE AREA
  - E. UTILITIES CLOSET/ ROOF ACCESS AREA
  - F. TRASH/ RECYCLING RECEPTACLE AREA
  - G. VENT SHAFT AREA
  - H. EXCLUDED AREAS PER 16.04.025 (C) (1)
  - J. PAU AREA IN GARAGE (INCLUDED IN GFA)
  - K. EXTERIOR BUILDING COVERAGE

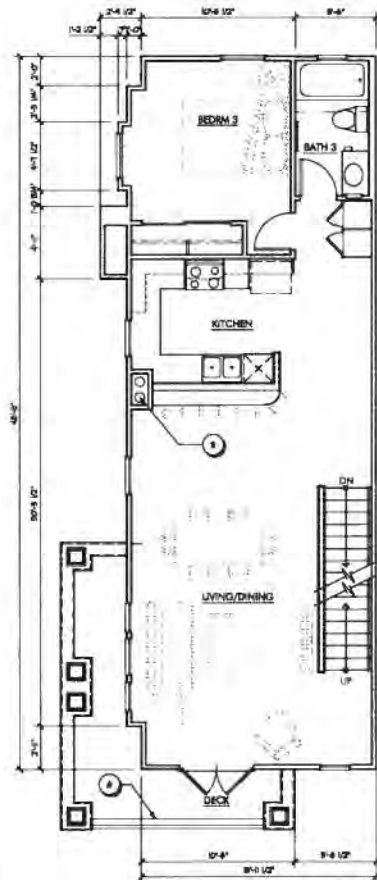
- LEGEND:**
- AREA COUNTED AS UNIT GROSS SQUARE FOOTAGE
  - AREA COUNTED AS BUILDING GROSS SQUARE FOOTAGE
  - AREA INCLUDED IN BUILDING COVERAGE BUT NOT COUNTED AS GROSS SQUARE FOOTAGE

TOWNHOME - AREA CALCULATIONS  
 PLAN 1A & 1B  
 SCALE: 1/8"=1'-0"  
 JUNE 8, 2012 PROJECT NO.: 221.00P

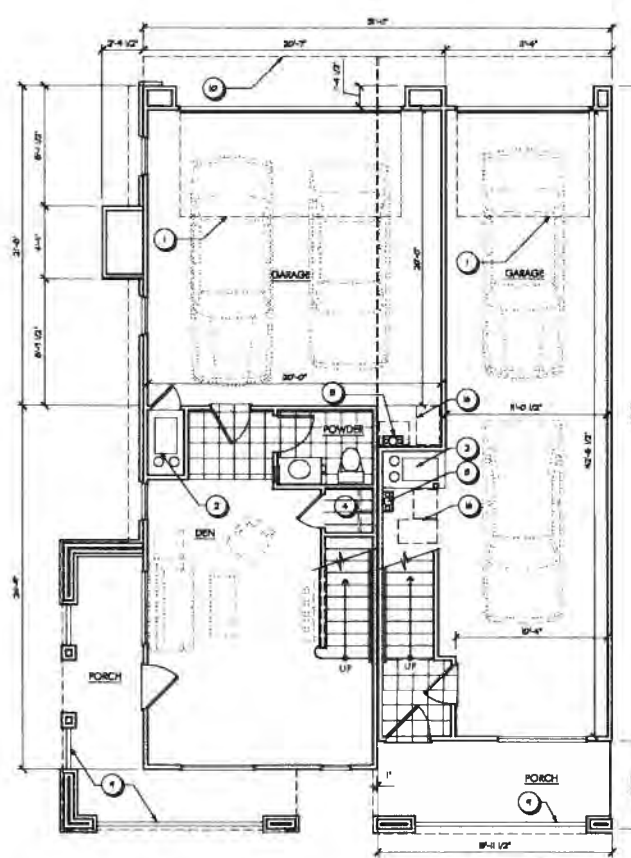




PLAN 1C UNITS 5, 9  
THIRD FLOOR



PLAN 1C - UNITS 5, 9  
SECOND FLOOR



PLAN 1C - UNITS 5, 9  
FIRST FLOOR

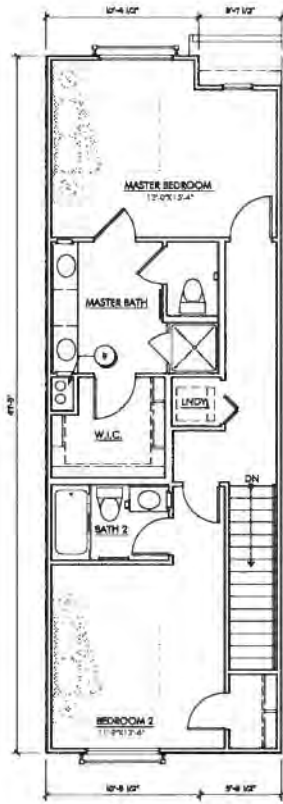
PLAN 1D - UNITS 6, 10  
FIRST FLOOR

- FLOOR PLAN KEY NOTES:**
1. Overhead garage door above
  2. Furnace & ducts
  3. Tank-less water heater
  4. Line of stair above
  5. Duct space
  6. Roof access ladder
  7. Trellis- see elevation
  8. Guardrail
  9. Decorative railing
  10. Lines of floor above/ below
  11. Optional elevator/ storage
  12. Attic access
  13. Attic furnace
  14. Meter locations
  15. Fireplace
  16. Trash / recycling containers

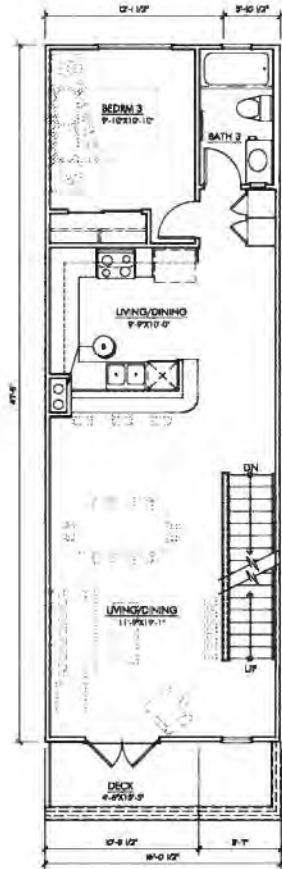
TOWNHOME - UNIT PLANS  
PLAN 1C & 1D - FLOOR PLAN  
SCALE: 1/4" = 1'-0"  
JUNE 8, 2012 PROJECT NO: 221.009



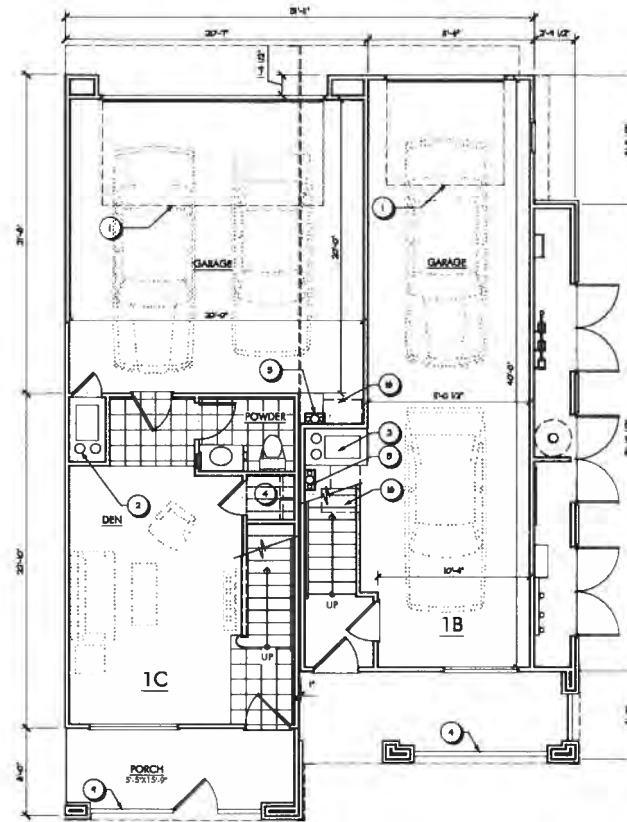
389 EL CAMINO, MENLO PARK, CA  
MATTESON DEVELOPMENT PARTNERS, INC.



PLAN 1C - UNITS 7, 11  
 PLAN 1D SIM - UNITS 6, 10  
 THIRD FLOOR



PLAN 1C - UNITS 7, 11  
 PLAN 1D SIM - UNITS 6, 10  
 SECOND FLOOR



PLAN 1C - UNITS 7, 11  
 FIRST FLOOR

PLAN 1B - UNITS 8, 12  
 FIRST FLOOR  
 SEE A3.1 C3

- FLOOR PLAN KEY NOTES:**
1. Overhead garage door above
  2. Furnace & ducts
  3. Tank-less water heater
  4. Line of stair above
  5. Duct space
  6. Roof access ladder
  7. Trellis-see elevation
  8. Guardrail
  9. Decorative railing
  10. Lines of floor above/ below
  11. Optional elevator/ storage
  12. Attic access
  13. Attic furnace
  14. Meter locations
  15. Fireplace
  16. Trash / recycling containers

TOWNHOME - UNIT PLANS  
 PLANS 1B & 1C - FLOOR PLAN  
 SCALE: 1/4"=1'-0"  
 JUNE 8, 2012 PROJECT NO: 231.009

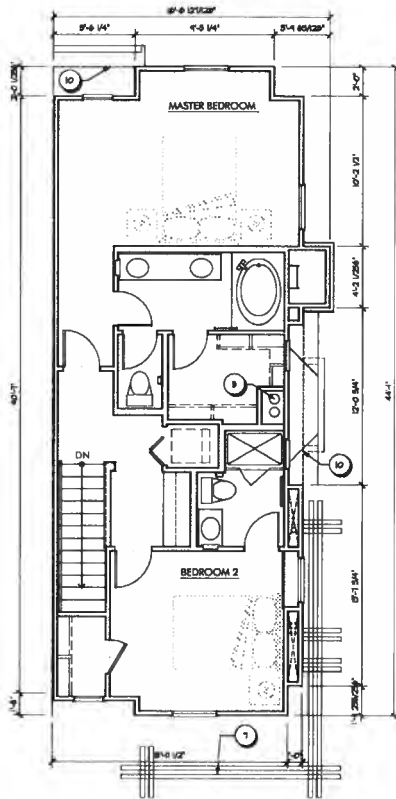
389 EL CAMINO, MENLO PARK, CA

MATTESON DEVELOPMENT PARTNERS, INC.

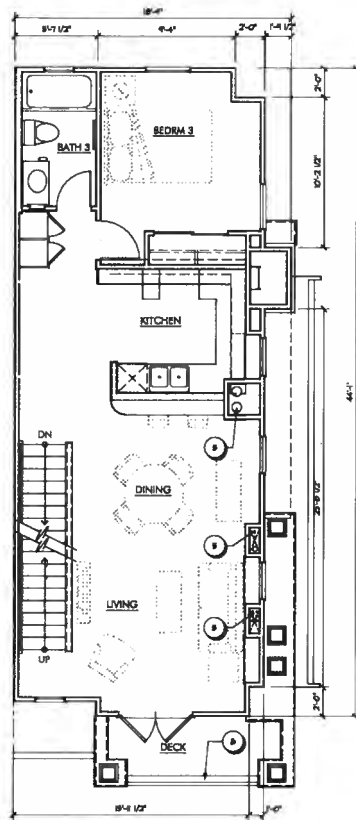


3885 OWENS DEVL.  
 PLEASANTON, CA 94588  
 925.751.7200  
 925.751.7201 Fax

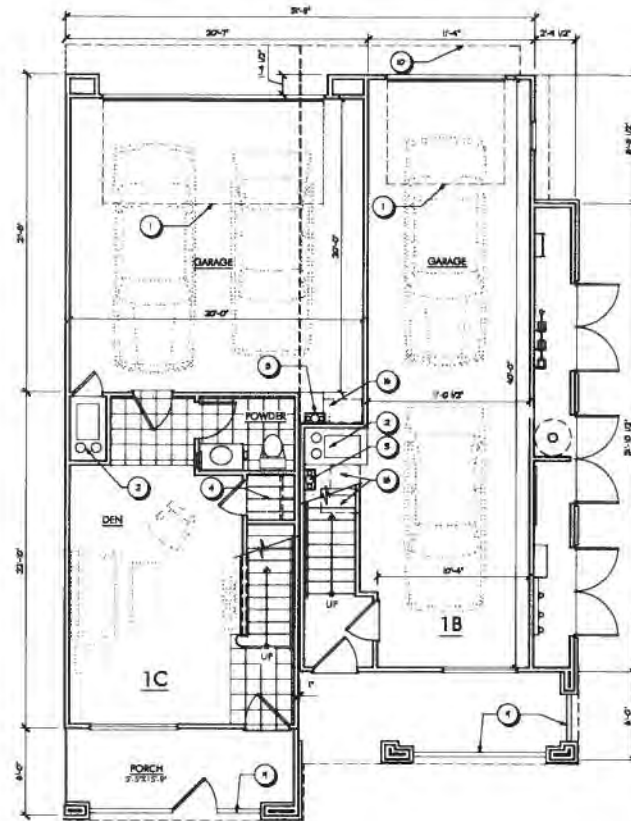
A3.1c2



PLAN 1B - UNITS 8, 12  
THIRD FLOOR



PLAN 1B - UNITS 8, 12  
SECOND FLOOR



PLAN 1C - 7, 11  
FIRST FLOOR  
SEE A3.1C2

PLAN 1B - UNITS 8, 12  
FIRST FLOOR

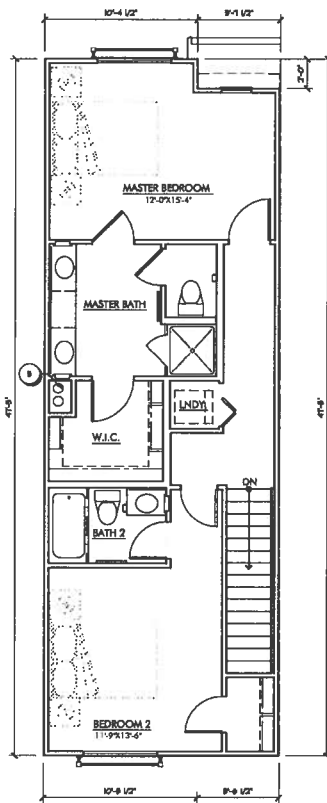
- FLOOR PLAN KEY NOTES:**
1. Overhead garage door above
  2. Furnace & ducts
  3. Tank-less water heater
  4. Line of stair above
  5. Duct space
  6. Roof access ladder
  7. Trellis- see elevation
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  12. Attic access
  13. Attic furnace
  14. Meter locations
  15. Fireplace
  16. Trash / recycling containers

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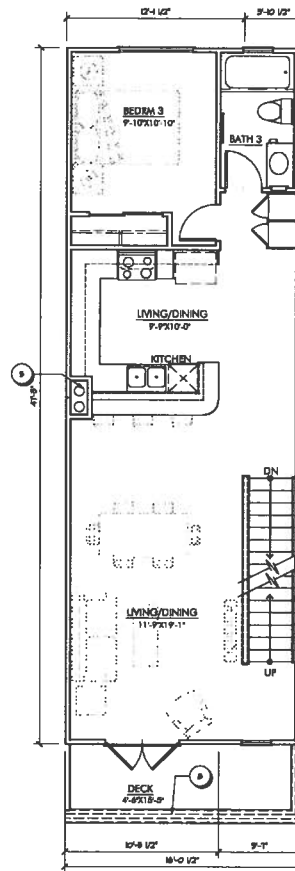
TOWNHOME - UNIT PLANS  
PLAN 1B & 1C - FLOOR PLAN  
SCALE: 1/4"=1'-0"

JUNE 8, 2012 PROJECT NO: 221.009

ARCHITECT



PLAN 1D - UNITS 6, 10  
THIRD FLOOR



PLAN 1D - UNITS 6, 10  
SECOND FLOOR

- FLOOR PLAN KEY NOTES: ①
1. Overhead garage door above
  2. Furnace & ducts
  3. Tank-less water heater
  4. Line of stair above
  5. Duct space
  6. Roof access ladder
  7. Trellis- see elevation
  8. Guardrail
  9. Decorative railing
  10. Lines of floor above/ below
  11. Optional elevator/ storage
  12. Attic access
  13. Attic furnace
  14. Meter locations
  15. Fireplace
  16. Trash / recycling containers

TOWNHOME - UNIT PLANS  
 PLAN 1D - FLOOR PLAN  
 SCALE: 1/4"=1'-0"

JUNE 8, 2012 PROJECT NO: 271.009

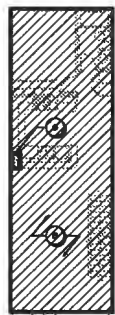
**ASHING**

389 EL CAMINO, MENLO PARK, CA

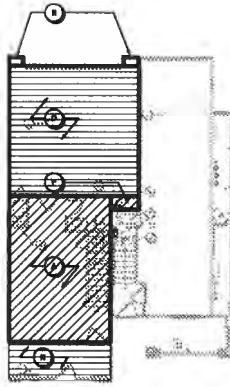
MATTESON DEVELOPMENT PARTNERS, INC.



PLAN 1C: UNITS 7 & 11  
THIRD FLOOR  
AREA CALCULATION



PLAN 1C: UNITS 7 & 11  
SECOND FLOOR  
AREA CALCULATION



PLAN 1C: UNITS 7 & 11  
FIRST FLOOR  
AREA CALCULATION

**PLAN 1C - UNITS 7 & 11**

**FIRST FLOOR**

A: FIRST FLOOR GROSS AREA:	442 SQFT	371 SQFT
D: GARAGE AREA AREA:	412 SQFT	
F: TRASH AREA, INC. IN GPA:	8 SQFT	
H: EXCLUDED AREA:	8 SQFT	

**SECOND FLOOR**

B: SECOND FLOOR GROSS AREA:	752 SQFT	
G: VENT SHAFT AREA:	3 SQFT	

**THIRD FLOOR**

C: THIRD FLOOR GROSS AREA:	740 SQFT	
G: VENT SHAFT AREA:	3 SQFT	

**UNIT TOTAL GROSS FLOOR AREA:** 1,864 SQFT

**BUILDING COVERAGE: PLAN 1C - UNITS 7 & 11**

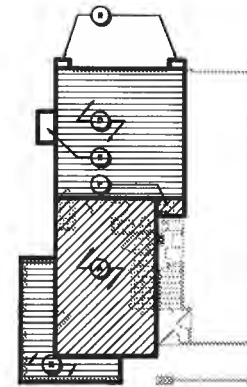
A: FIRST FLOOR GROSS AREA:	371 SQFT
D: GARAGE AREA AREA:	412 SQFT
H: EXCLUDED AREA:	8 SQFT
I: EXTERIOR BUILDING COVERAGE:	86 SQFT
<b>BUILDING COVERAGE AREA:</b>	<b>877 SQFT</b>



PLAN 1C: UNITS 5 & 9  
THIRD FLOOR  
AREA CALCULATION



PLAN 1C: UNITS 5 & 9  
SECOND FLOOR  
AREA CALCULATION



PLAN 1C: UNITS 5 & 9  
FIRST FLOOR  
AREA CALCULATION

**PLAN 1C - UNITS 5 & 9**

**FIRST FLOOR**

A: FIRST FLOOR GROSS AREA:	405 SQFT	
D: GARAGE AREA AREA:	412 SQFT	
F: TRASH AREA, INC. IN GPA:	30 SQFT	
H: EXCLUDED AREA:	30 SQFT	

**SECOND FLOOR**

B: SECOND FLOOR GROSS AREA:	814 SQFT	
G: VENT SHAFT AREA:	3 SQFT	
H: EXCLUDED AREA:	9 SQFT	

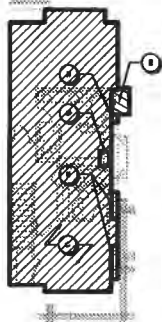
**THIRD FLOOR**

C: THIRD FLOOR GROSS AREA:	754 SQFT	
G: VENT SHAFT AREA:	3 SQFT	
H: EXCLUDED AREA:	9 SQFT	

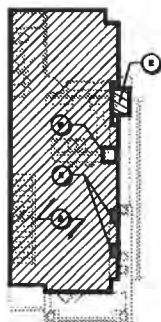
**UNIT TOTAL GROSS FLOOR AREA:** 2,704 SQFT

**BUILDING COVERAGE: PLAN 1C - UNITS 5 & 9**

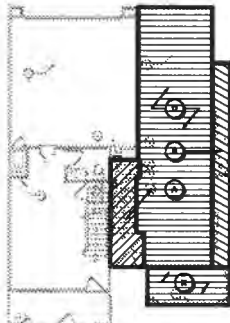
A: FIRST FLOOR GROSS AREA:	405 SQFT
D: GARAGE AREA AREA:	412 SQFT
H: EXCLUDED AREA:	30 SQFT
I: EXTERIOR BUILDING COVERAGE:	145 SQFT
<b>BUILDING COVERAGE AREA:</b>	<b>1,002 SQFT</b>



PLAN 1B: UNITS 8 & 12  
THIRD FLOOR  
AREA CALCULATION



PLAN 1B: UNITS 8 & 12  
SECOND FLOOR  
AREA CALCULATION



PLAN 1B: UNITS 8 & 12  
FIRST FLOOR  
AREA CALCULATION

**PLAN 1B - UNITS 8 & 12**

**FIRST FLOOR**

A: FIRST FLOOR GROSS AREA:	77 SQFT	
D: GARAGE AREA AREA:	467 SQFT	
E: UTILITY AREA:	69 SQFT	
(ADDED TO BUILDING COV)		

**SECOND FLOOR**

B: SECOND FLOOR GROSS AREA:	721 SQFT	
G: VENT SHAFT AREA:	8 SQFT	
H: EXCLUDED AREA:	8 SQFT	
I: UTILITY AREA:	12 SQFT	

**THIRD FLOOR**

C: THIRD FLOOR GROSS AREA:	690 SQFT	
G: VENT SHAFT AREA:	3 SQFT	
H: EXCLUDED AREA:	10 SQFT	
I: UTILITY AREA:	11 SQFT	

**UNIT TOTAL GROSS FLOOR AREA:** 1,485 SQFT

**BUILDING COVERAGE: PLAN 1B - UNITS 8 & 12**

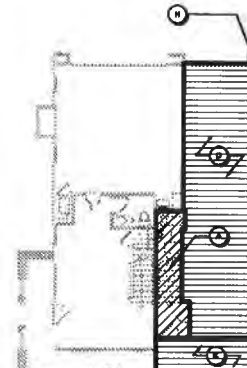
A: FIRST FLOOR GROSS AREA:	77 SQFT
D: GARAGE AREA AREA:	467 SQFT
E: UTILITY AREA:	69 SQFT
I: EXTERIOR BUILDING COVERAGE:	77 SQFT
<b>BUILDING COVERAGE AREA:</b>	<b>790 SQFT</b>



PLAN 1D: UNITS 6 & 10  
THIRD FLOOR  
AREA CALCULATION



PLAN 1D: UNITS 6 & 10  
SECOND FLOOR  
AREA CALCULATION



PLAN 1D: UNITS 6 & 10  
FIRST FLOOR  
AREA CALCULATION

**PLAN 1D - UNITS 6 & 10**

**FIRST FLOOR**

A: FIRST FLOOR GROSS AREA:	80 SQFT	
D: GARAGE AREA AREA:	497 SQFT	
H: EXCLUDED AREA:	2 SQFT	

**SECOND FLOOR**

B: SECOND FLOOR GROSS AREA:	756 SQFT	
G: VENT SHAFT AREA:	3 SQFT	

**THIRD FLOOR**

C: THIRD FLOOR GROSS AREA:	740 SQFT	
G: VENT SHAFT AREA:	3 SQFT	

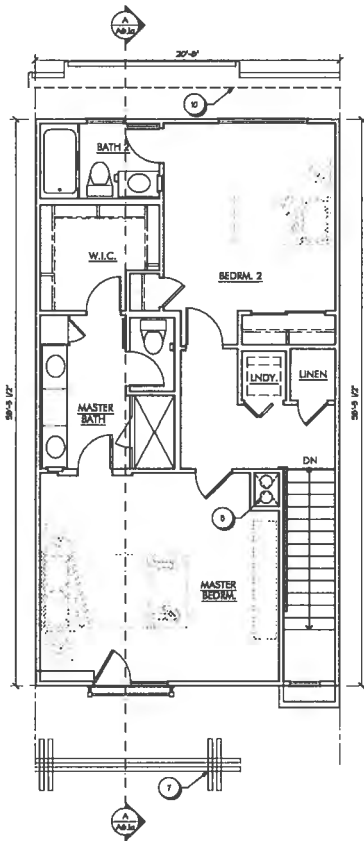
**UNIT TOTAL GROSS FLOOR AREA:** 1,969 SQFT

**BUILDING COVERAGE: PLAN 1D - UNITS 6 & 10**

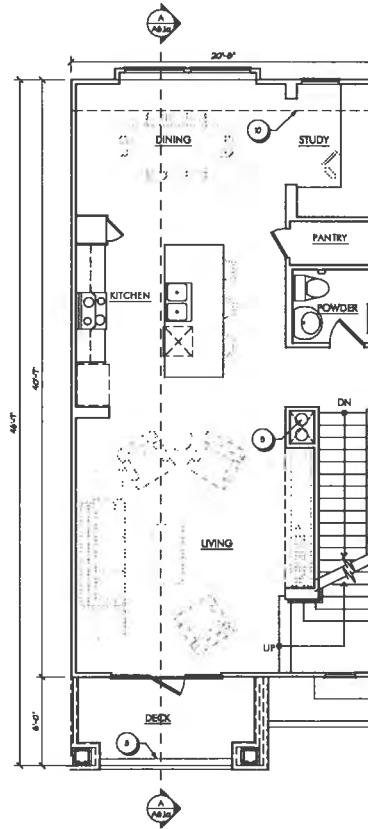
A: FIRST FLOOR GROSS AREA:	80 SQFT
D: GARAGE AREA AREA:	497 SQFT
H: EXCLUDED AREA:	2 SQFT
I: EXTERIOR BUILDING COVERAGE:	70 SQFT
<b>BUILDING COVERAGE AREA:</b>	<b>759 SQFT</b>

- LEGEND:**
- AREA COUNTED AS UNIT GROSS SQUARE FOOTAGE
  - AREA COUNTED AS BUILDING GROSS SQUARE FOOTAGE
  - AREA INCLUDED IN BUILDING COVERAGE BUT NOT COUNTED AS GROSS SQUARE FOOTAGE
- REVISION PLAN 1B & 1C NOTES:**
- A. FIRST FLOOR GROSS AREA
  - B. SECOND FLOOR GROSS AREA
  - C. THIRD FLOOR GROSS AREA
  - D. GARAGE AREA
  - E. UTILITIES CLOSET/ ROOF ACCESS AREA
  - F. TRASH/ RECYCLING RECEPTACLE AREA
  - G. VENT SHAFT AREA
  - H. EXCLUDED AREAS PER 14.04.325 (C) (1)
  - J. PAU AREA IN GARAGE (INCLUDED IN GPA)
  - K. EXTERIOR BUILDING COVERAGE

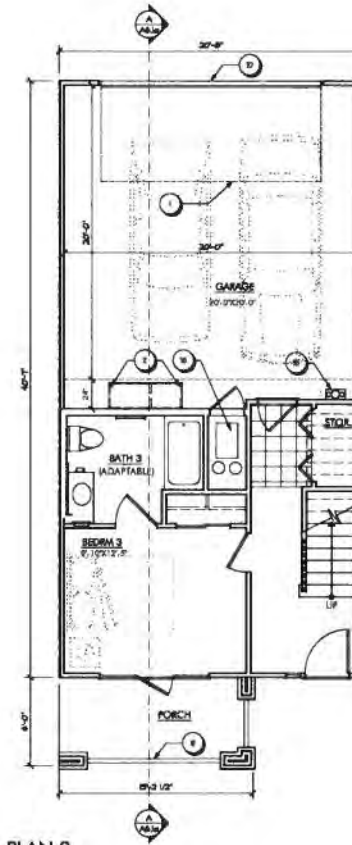
TOWNHOME - AREA CALCULATIONS  
PLAN 1B, 1C & 1D  
SCALE: 1/8" = 1'-0"  
JUNE 9, 2012 PROJECT NO: 221.009



PLAN 2  
THIRD FLOOR



PLAN 2  
SECOND FLOOR



PLAN 2  
FIRST FLOOR

- FLOOR PLAN KEY NOTES:**
1. Overhead garage door above
  2. Furnace & ducts
  3. Tank-less water heater
  4. Line of stair above
  5. Duct space
  6. Roof access ladder
  7. Trallis- see elevation
  8. Guardrail
  9. Decorative railing
  10. Lines of floor above/ below
  11. Optional elevator/ storage
  12. Attic access
  13. Attic furnace
  14. Meter locations
  15. Fireplace
  16. Trash / recycling containers

389 EL CAMINO, MENLO PARK, CA

MATTESON DEVELOPMENT PARTNERS, INC.

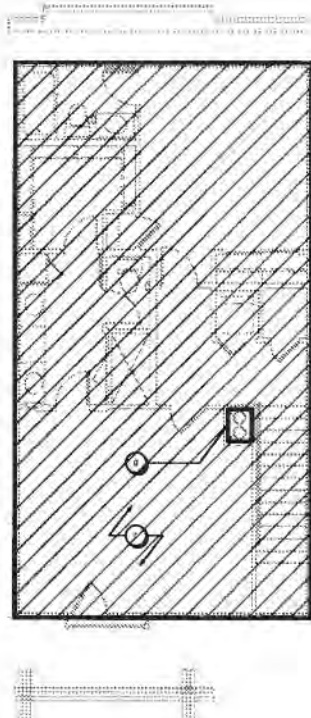
TOWNHOME - UNIT PLANS  
 PLAN 2 - FLOOR PLANS  
 SCALE: 1/4"=1'-0"

JUNE 8, 2012 PROJECT NO. 221 009

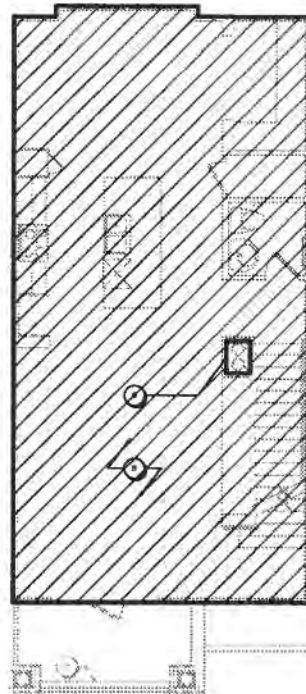
5065 OWENS DRIVE,  
 PLEASANTON, CA 94558  
 925.251.7200  
 925.251.7201 Fax

A3.2a

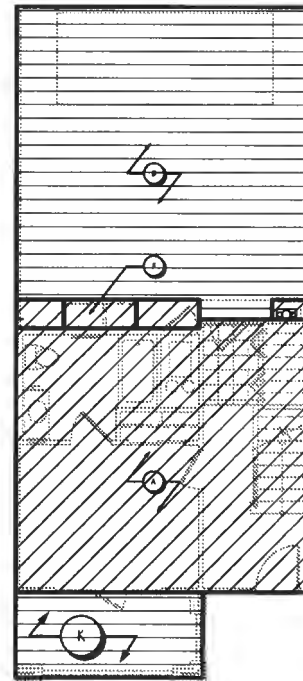
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PLAN 2 - UNIT 15  
THIRD FLOOR  
AREA CALCULATION



PLAN 2 - UNIT 15  
SECOND FLOOR  
AREA CALCULATION



PLAN 2 - UNIT 15  
FIRST FLOOR  
AREA CALCULATION

**PLAN 2 - UNIT 15**

FIRST FLOOR		
A: FIRST FLOOR GROSS AREA:	425 SQFT	411 SQFT
D: GARAGE AREA AREA:		
F: TRASH AREA INC. IN GFA:		
SECOND FLOOR		
B: SECOND FLOOR GROSS AREA:	4 SQFT	808 SQFT
G: VENT SHAFT AREA:		
THIRD FLOOR		
C: THIRD FLOOR GROSS AREA:	4 SQFT	780 SQFT
H: VENT SHAFT AREA:		
<b>UNIT TOTAL GROSS FLOOR AREA:</b>		<b>2,206 SQFT</b>

**BUILDING COVERAGE: PLAN 2 - UNIT 15**

A: FIRST FLOOR GROSS AREA:	411 SQFT
D: GARAGE AREA AREA:	425 SQFT
K: EXTERIOR BUILDING COVERAGE:	78 SQFT
<b>BUILDING COVERAGE AREA:</b>	<b>914 SQFT</b>

**CALCULATION PLAN KEY NOTES:** (A)

- A. FIRST FLOOR GROSS AREA
- B. SECOND FLOOR GROSS AREA
- C. THIRD FLOOR GROSS AREA
- D. GARAGE AREA
- E. UTILITIES CLOSET/ ROOF ACCESS AREA
- F. TRASH/ RECYCLING RECEPTACLE AREA
- G. VENT SHAFT AREA
- H. EXCLUDED AREAS PER 16.04.325 (C) (1)
- J. FALL AREA IN GARAGE (INCLUDED IN GFA)
- K. EXTERIOR BUILDING COVERAGE

**LEGEND:**

- AREA COUNTED AS UNIT GROSS SQUARE FOOTAGE
- AREA COUNTED AS BUILDING GROSS SQUARE FOOTAGE
- AREA INCLUDED IN BUILDING COVERAGE BUT NOT COUNTED AS GROSS SQUARE FOOTAGE

TOWNHOME - UNIT PLANS  
PLAN 2- AREA CALCULATIONS  
SCALE: 1/4"=1'-0"

JUNE 8, 2012 PROJECT NO.: 221.009

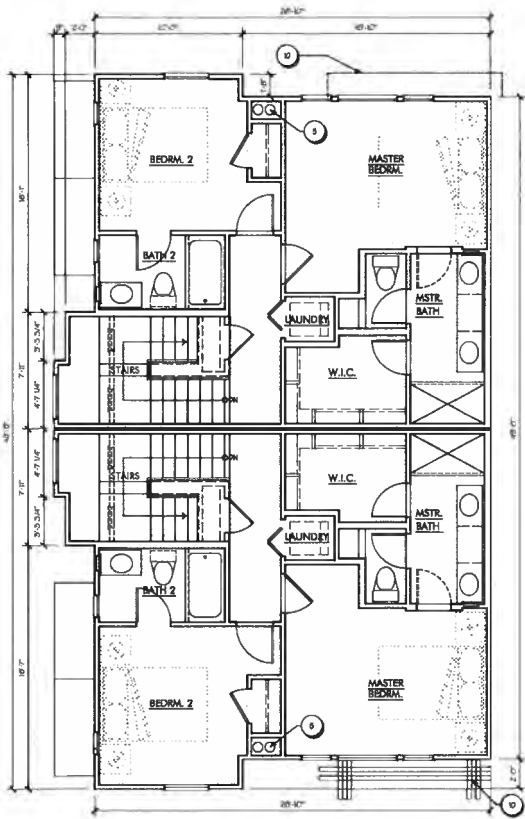
2843 COWAN DRIVE,  
F. SASANCO, CA 94068  
925.251.7200  
925.251.7201 FAX

A3.2b

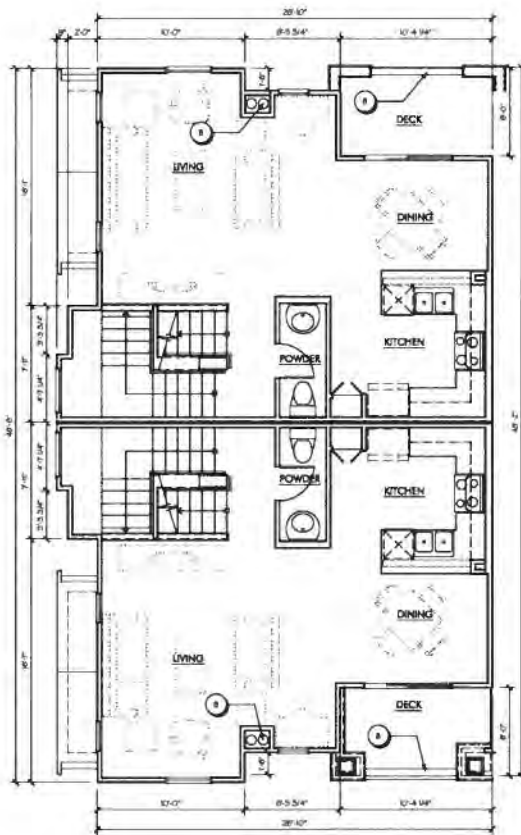
389 EL CAMINO, MENLO PARK, CA

MATTESON DEVELOPMENT PARTNERS, INC.

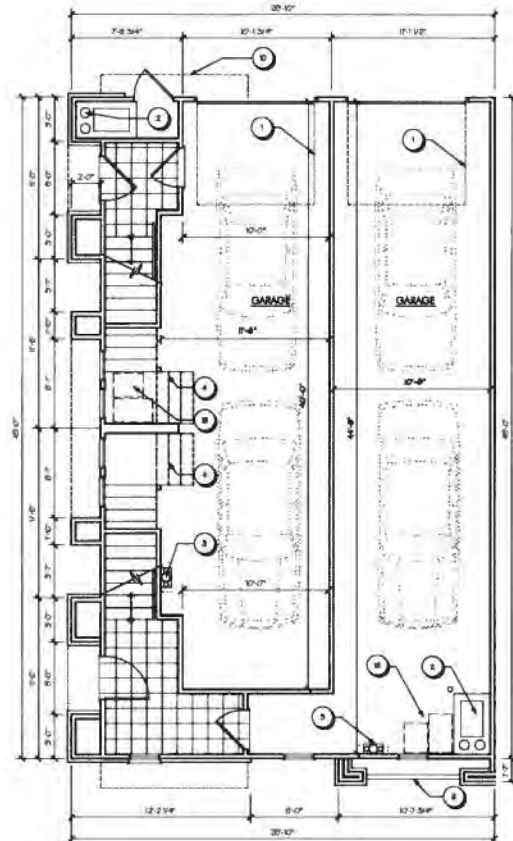




PLAN 3A & 3B  
THIRD FLOOR



PLAN 3A & 3B  
SECOND FLOOR



PLAN 3A  
FIRST FLOOR

PLAN 3B  
FIRST FLOOR

- FLOOR PLAN KEY NOTES: ①
1. Overhead garage door above
  2. Furnace & ducts
  3. Tank-less water heater
  4. Line of stair above
  5. Duct space
  6. Roof access ladder
  7. Trellis- see elevation
  8. Guardrail
  9. Decorative railing
  10. Lines of floor above/ below
  11. Optional elevator/ storage
  12. Attic access
  13. Attic furnace
  14. Meter locations
  15. Fireplace
  16. Trash / recycling containers

389 EL CAMINO, MENLO PARK, CA

MATTESON DEVELOPMENT PARTNERS, INC.

206

TOWNHOME - UNIT PLANS  
PLAN 3A & 3B - FLOOR PLANS  
SCALE: 1/4"=1'-0"

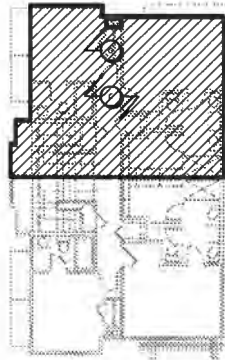
JUNE 8, 2012 PROJECT NO. 221-009



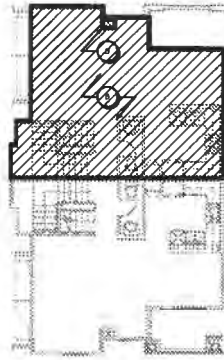
5865 OWENS DRIVE,  
PLAZAANTON, CA 94589  
925.251.7300  
925.251.7301 Fax

A3.3a

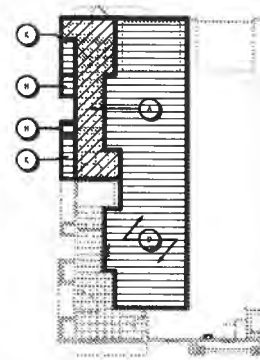




**PLAN 3A - UNIT 13  
THIRD FLOOR  
AREA CALCULATION**



**PLAN 3A - UNIT 13  
SECOND FLOOR  
AREA CALCULATION**



**PLAN 3A - UNIT 13  
FIRST FLOOR  
AREA CALCULATION**

**PLAN 3A - UNIT 13**

**FIRST FLOOR**

A: FIRST FLOOR GROSS AREA:	189 SQFT
D: GARAGE AREA AREA:	425 SQFT
H: EXCLUDED AREA:	10 SQFT

**SECOND FLOOR**

B: SECOND FLOOR GROSS AREA:	399 SQFT
G: VENT SHAFT AREA:	2 SQFT

**THIRD FLOOR**

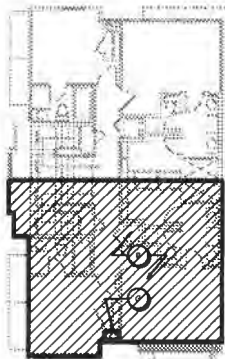
C: THIRD FLOOR GROSS AREA:	634 SQFT
G: VENT SHAFT AREA:	2 SQFT

**UNIT TOTAL GROSS FLOOR AREA:** 1242 SQFT

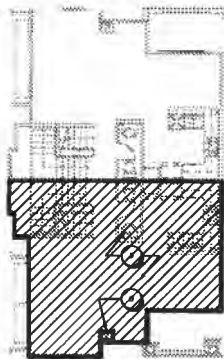
**BUILDING COVERAGE: PLAN 3A - UNIT 13**

A: FIRST FLOOR GROSS AREA:	189 SQFT
D: GARAGE AREA AREA:	425 SQFT
H: EXCLUDED AREA:	10 SQFT
K: EXTERIOR BUILDING COVERAGE:	22 SQFT

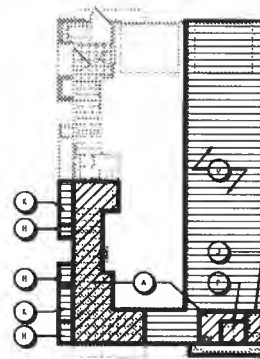
**BUILDING COVERAGE AREA:** 646 SQFT



**PLAN 3B - UNIT 14  
THIRD FLOOR  
AREA CALCULATION**



**PLAN 3B - UNIT 14  
SECOND FLOOR  
AREA CALCULATION**



**PLAN 3B - UNIT 14  
FIRST FLOOR  
AREA CALCULATION**

**PLAN 3B - UNIT 14**

**FIRST FLOOR**

A: FIRST FLOOR GROSS AREA:	189 SQFT
J: FAU AREA IN GARAGE (INCLUDED IN GFA):	12 SQFT
D: GARAGE AREA AREA:	492 SQFT
F: TRASH AREA INC. IN GFA:	16 SQFT
H: EXCLUDED AREA:	16 SQFT

**SECOND FLOOR**

B: SECOND FLOOR GROSS AREA:	594 SQFT
G: VENT SHAFT AREA:	2 SQFT

**THIRD FLOOR**

C: THIRD FLOOR GROSS AREA:	638 SQFT
G: VENT SHAFT AREA:	2 SQFT

**UNIT TOTAL GROSS FLOOR AREA:** 1490 SQFT

**BUILDING COVERAGE: PLAN 3B - UNIT 14**

A: FIRST FLOOR GROSS AREA:	189 SQFT
J: FAU IN GARAGE AREA:	12 SQFT
D: GARAGE AREA AREA:	492 SQFT
H: EXCLUDED AREA:	16 SQFT
K: EXTERIOR BUILDING COVERAGE:	39 SQFT

**BUILDING COVERAGE AREA:** 788 SQFT

**CALCULATION PLAN KEY NOTES:**

- A: FIRST FLOOR GROSS AREA
- B: SECOND FLOOR GROSS AREA
- C: THIRD FLOOR GROSS AREA
- D: GARAGE AREA
- E: UTILITY CLOSET/ WOOD ACCESS AREA
- F: TRASH/ RECYCLING RECEPTACLE AREA
- G: VENT SHAFT AREA
- H: EXCLUDED AREAS PER 14.04.325 (C) (1)
- J: FAU AREA IN GARAGE (INCLUDED IN GFA)
- K: EXTERIOR BUILDING COVERAGE

**LEGEND:**

- AREA COUNTED AS UNIT GROSS SQUARE FOOTAGE
- AREA COUNTED AS BUILDING GROSS SQUARE FOOTAGE
- AREA INCLUDED IN BUILDING COVERAGE BUT NOT COUNTED AS GROSS SQUARE FOOTAGE

TOWNHOME - UNIT PLANS  
PLAN 3A & 3B - AREA CALCULATIONS  
SCALE: 1/8" = 1'-0"

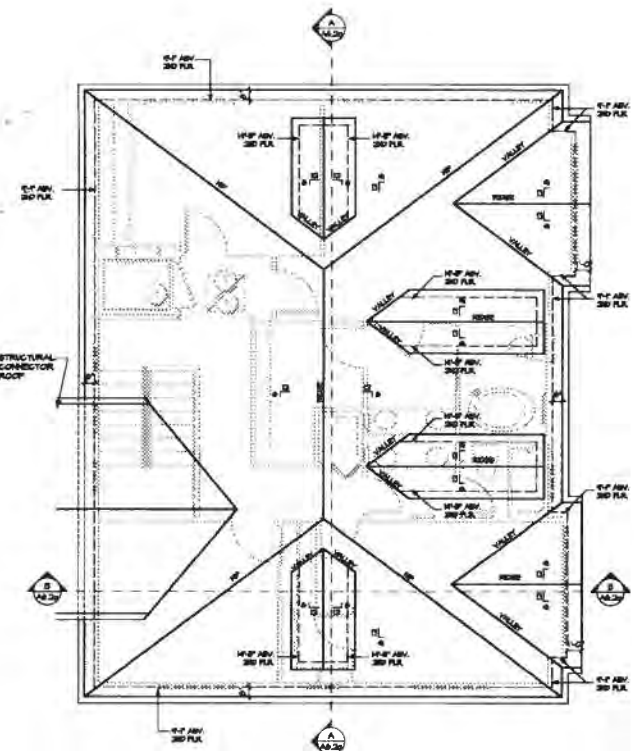


389 EL CAMINO, MENLO PARK, CA

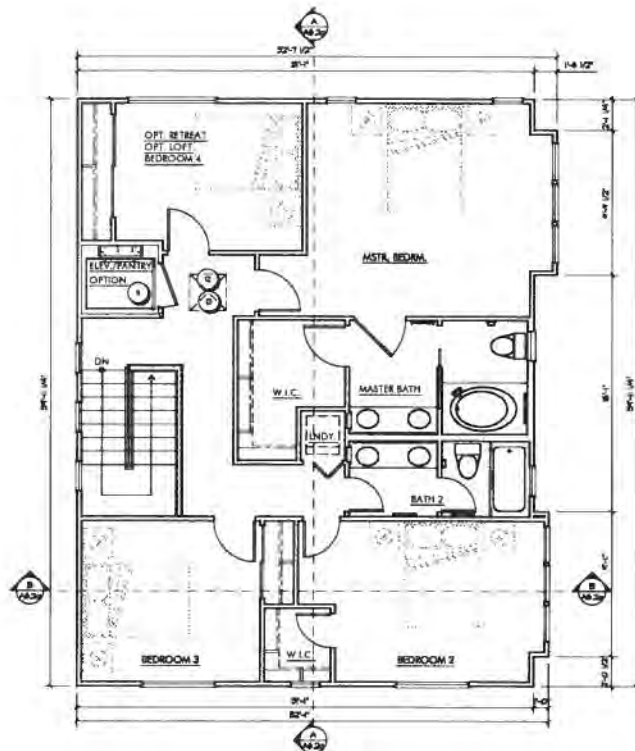
MATTESON DEVELOPMENT PARTNERS, INC.

3865 COWHIE DRIVE,  
FISHERMAN, CA 94038  
925.251.7300  
925.251.7201 Fax

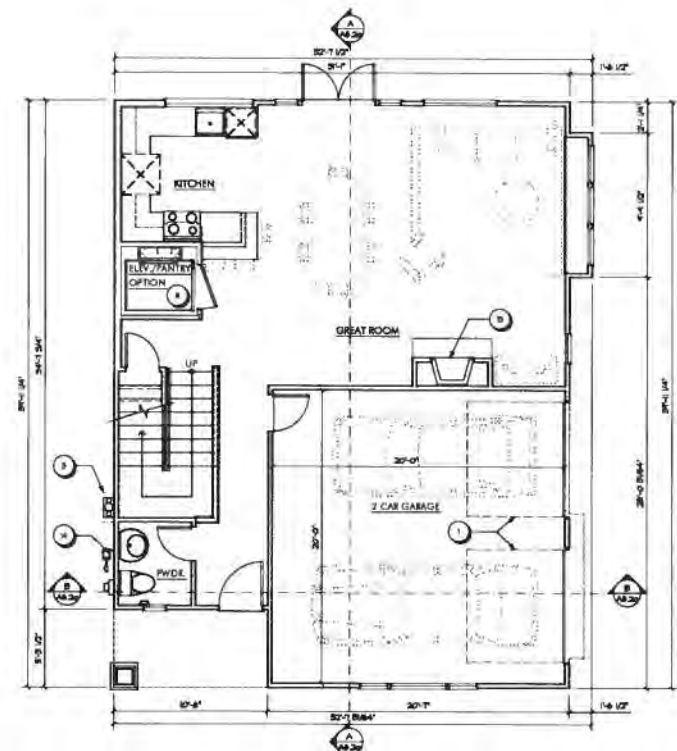
A3.3b



PLAN 4A  
ROOF PLAN



PLAN 4A  
SECOND FLOOR



PLAN 4A  
FIRST FLOOR

FLOOR PLAN KEY NOTES: ①

- |                                 |                                  |
|---------------------------------|----------------------------------|
| 1. Overhead garage door above   | 13. Attic furnace                |
| 2. Furnace & ducts              | 14. Meter locations              |
| 3. Tank-less water heater       | 15. Fireplace                    |
| 4. Line of stair above          | 16. Trash / recycling containers |
| 5. Duct space                   |                                  |
| 6. Roof access ladder           |                                  |
| 7. Trellis- see elevation       |                                  |
| 8. Guardrail                    |                                  |
| 9. Decorative railing           |                                  |
| 10. Lines of floor above/ below |                                  |
| 11. Optional elevator/ storage  |                                  |
| 12. Attic access                |                                  |

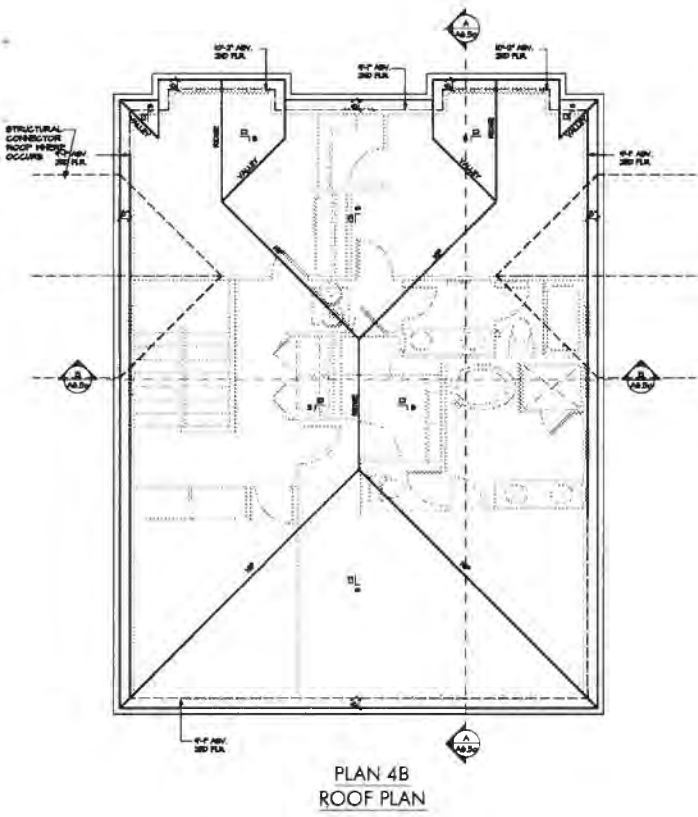
BUILDING D1- UNIT PLANS  
 PLAN 4A- FLOOR PLANS  
 SCALE: 1/4"=1'-0"  
 JUNE 8, 2012 PROJECT NO: 221.009



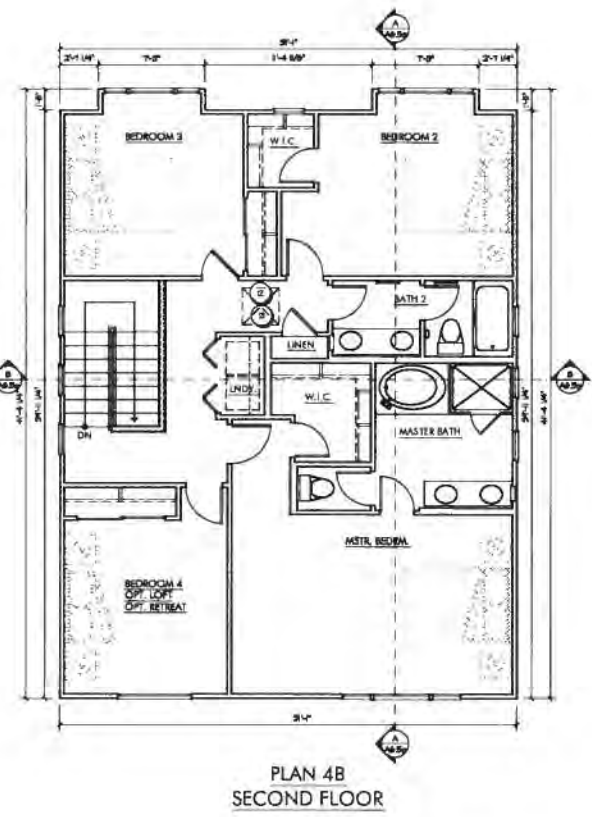
389 EL CAMINO, MENLO PARK, CA

MATTESON DEVELOPMENT PARTNERS, INC.

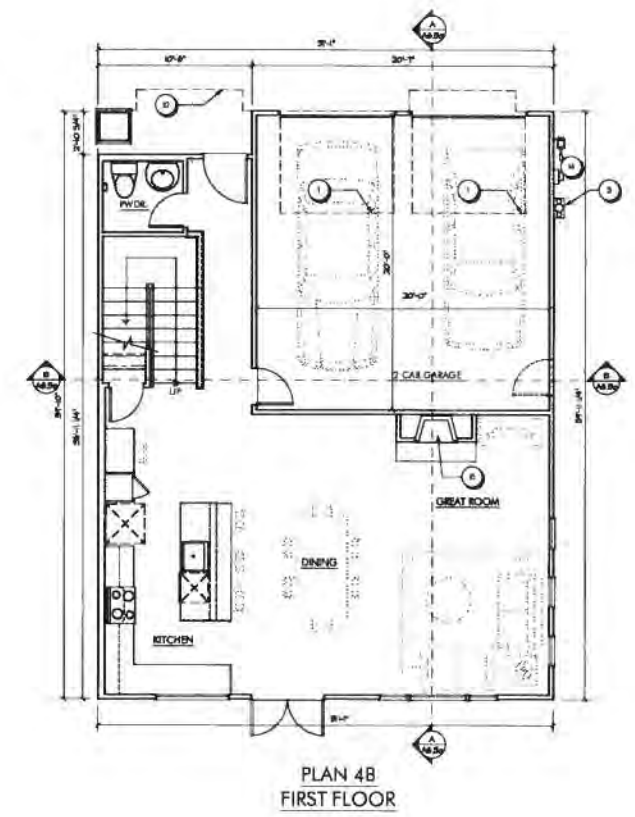
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PLAN 4B  
ROOF PLAN



PLAN 4B  
SECOND FLOOR



PLAN 4B  
FIRST FLOOR

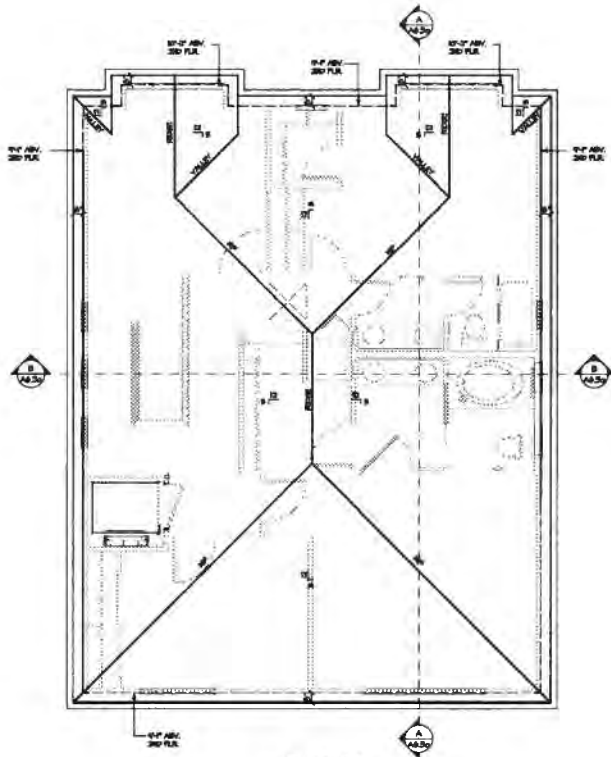
FLOOR PLAN KEY NOTES: ①

- |                                 |                                  |
|---------------------------------|----------------------------------|
| 1. Overhead garage door above   | 13. Attic furnace                |
| 2. Furnace & ducts              | 14. Meter locations              |
| 3. Tank-less water heater       | 15. Fireplace                    |
| 4. Line of stair above          | 16. Trash / recycling containers |
| 5. Duct space                   |                                  |
| 6. Roof access ladder           |                                  |
| 7. Trellis- see elevation       |                                  |
| 8. Guardrail                    |                                  |
| 9. Decorative railing           |                                  |
| 10. Lines of floor above/ below |                                  |
| 11. Optional elevator/ storage  |                                  |
| 12. Attic access                |                                  |

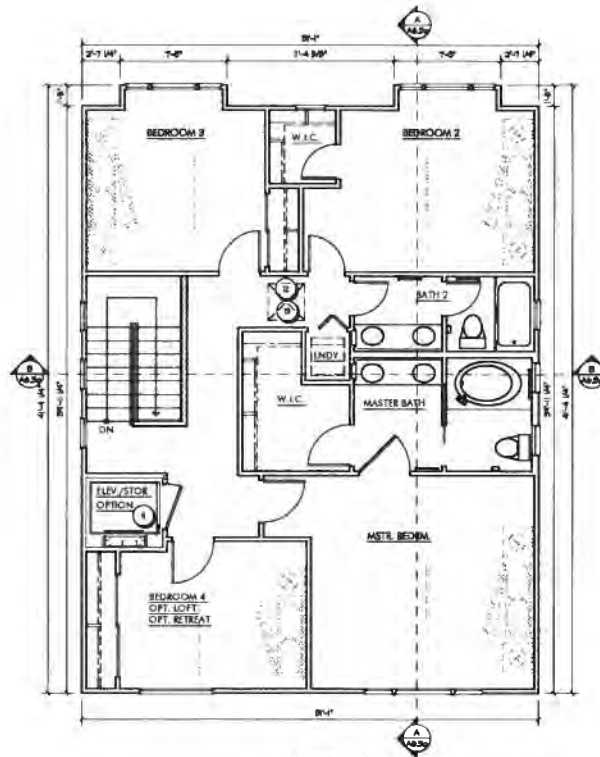
SINGLE FAMILY - UNIT D2, D3, & D4  
PLAN 4B - FLOOR PLANS  
SCALE: 1/4"=1'-0"

JUNE 8, 2012 PROJECT NO: 221 009

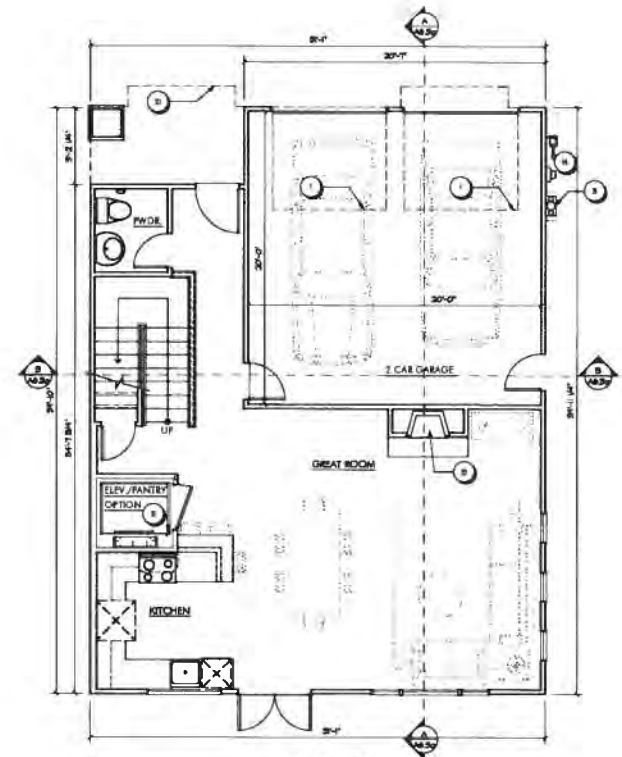
389 EL CAMINO, MENLO PARK, CA  
MATTESON DEVELOPMENT PARTNERS, INC.



PLAN 4C  
ROOF PLAN



PLAN 4C  
SECOND FLOOR



PLAN 4C  
FIRST FLOOR

FLOOR PLAN KEY NOTES: ①

- |                                 |                                  |
|---------------------------------|----------------------------------|
| 1. Overhead garage door above   | 13. Attic furnace                |
| 2. Furnace & ducts              | 14. Meter locations              |
| 3. Tank-less water heater       | 15. Fireplace                    |
| 4. Line of stair above          | 16. Trash / recycling containers |
| 5. Duct space                   |                                  |
| 6. Roof access ladder           |                                  |
| 7. Trellis- see elevation       |                                  |
| 8. Guardrail                    |                                  |
| 9. Decorative railing           |                                  |
| 10. Lines of floor above/ below |                                  |
| 11. Optional elevator/ storage  |                                  |
| 12. Attic access                |                                  |

SINGLE FAMILY - UNITS D5-DB  
PLAN 4C - FLOOR PLANS  
SCALE: 1/4"=1'-0"

JUNE 8, 2012 PROJECT NO: 221.004

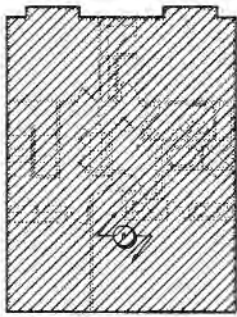


389 EL CAMINO, MENLO PARK, CA

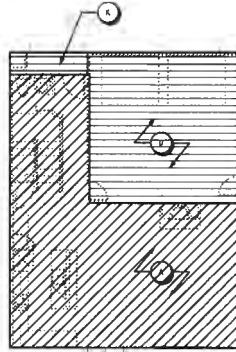
MATTESON DEVELOPMENT PARTNERS, INC.

5080 OWENS DRIVE,  
PLEASANTON, CA 94533  
925.251.7200  
925.251.7251 Fax

A3.4c



PLAN 4B - UNITS 19-21  
SECOND FLOOR  
AREA CALCULATION



PLAN 4B - UNITS 19-21  
FIRST FLOOR  
AREA CALCULATION

PLAN 4B - UNITS 19-21

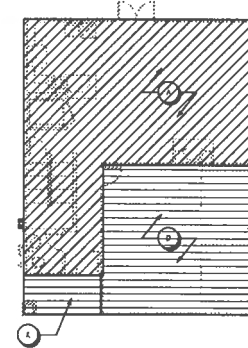
FIRST FLOOR	
A: FIRST FLOOR GROSS AREA:	797 SQFT
D: GARAGE AREA AREA:	413 SQFT
SECOND FLOOR	
B: SECOND FLOOR GROSS AREA:	1,262 SQFT
UNIT TOTAL GROSS FLOOR AREA:	2,254 SQFT

BUILDING COVERAGE: PLAN 4B - UNITS 19-21

A: FIRST FLOOR GROSS AREA:	797 SQFT
D: GARAGE AREA AREA:	413 SQFT
K: EXTERIOR BUILDING COVERAGE:	56 SQFT
BUILDING COVERAGE AREA:	1,241 SQFT



PLAN 4A - UNIT 18  
SECOND FLOOR  
AREA CALCULATION



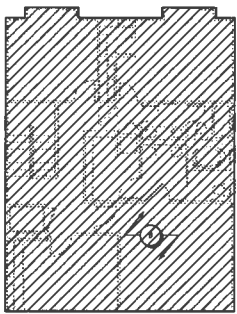
PLAN 4A - UNIT 18  
FIRST FLOOR  
AREA CALCULATION

PLAN 4A - UNIT 18

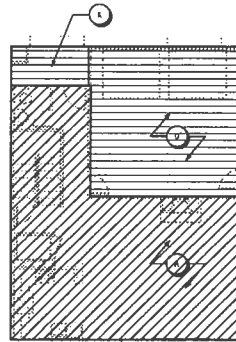
FIRST FLOOR	
A: FIRST FLOOR GROSS AREA:	788 SQFT
D: GARAGE AREA AREA:	413 SQFT
SECOND FLOOR	
B: SECOND FLOOR GROSS AREA:	1,266 SQFT
UNIT TOTAL GROSS FLOOR AREA:	2,254 SQFT

BUILDING COVERAGE: PLAN 4A - UNIT 18

A: FIRST FLOOR GROSS AREA:	788 SQFT
D: GARAGE AREA AREA:	413 SQFT
K: EXTERIOR BUILDING COVERAGE:	56 SQFT
BUILDING COVERAGE AREA:	1,287 SQFT



PLAN 4C - UNITS 22-25  
SECOND FLOOR  
AREA CALCULATION



PLAN 4C - UNITS 22-25  
FIRST FLOOR  
AREA CALCULATION

PLAN 4C - UNITS 22-25

FIRST FLOOR	
A: FIRST FLOOR GROSS AREA:	772 SQFT
D: GARAGE AREA AREA:	413 SQFT
SECOND FLOOR	
B: SECOND FLOOR GROSS AREA:	1,262 SQFT
UNIT TOTAL GROSS FLOOR AREA:	2,234 SQFT

BUILDING COVERAGE: PLAN 4B - UNITS 19-21

A: FIRST FLOOR GROSS AREA:	772 SQFT
D: GARAGE AREA AREA:	413 SQFT
K: EXTERIOR BUILDING COVERAGE:	56 SQFT
BUILDING COVERAGE AREA:	1,241 SQFT

CALCULATION PLAN KEY NOTES: (A)

- A FIRST FLOOR GROSS AREA
- B SECOND FLOOR GROSS AREA
- C THIRD FLOOR GROSS AREA
- D GARAGE AREA
- E UTILITIES CLOSET/ ROOF ACCESS AREA
- F TRASH/ RECYCLING RECEPTACLE AREA
- G VENT SHAFT AREA
- H EXCLUDED AREAS PER 16.04.325 (C) (1)
- J PAU AREA IN GARAGE (INCLUDED IN GPA)
- K EXTERIOR BUILDING COVERAGE

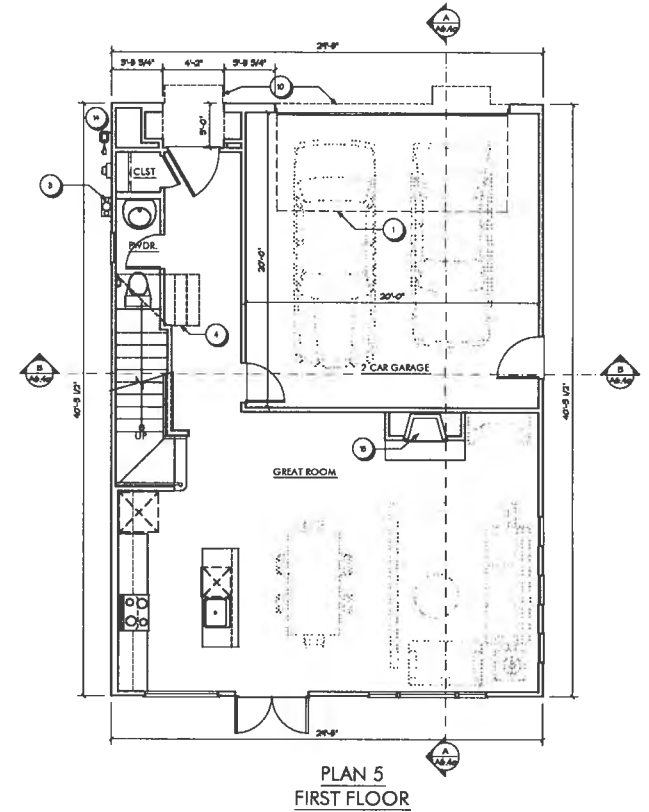
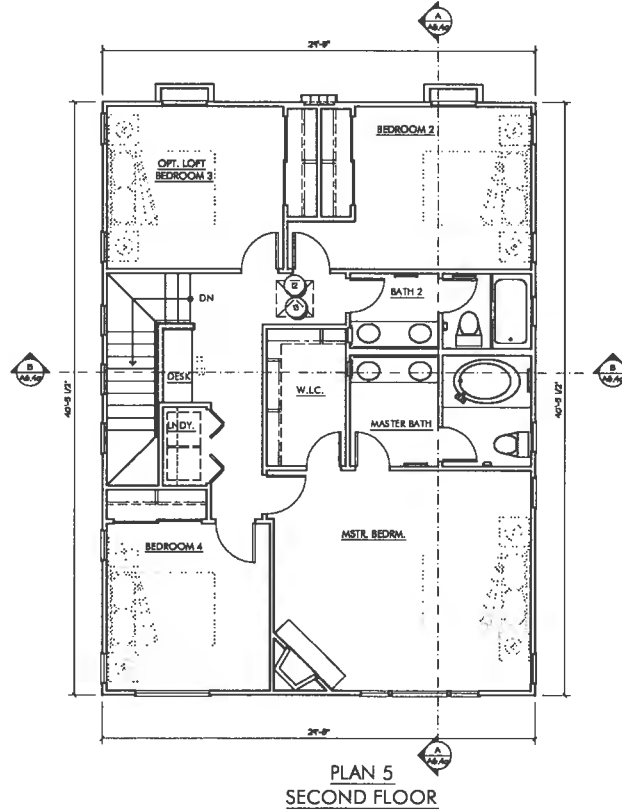
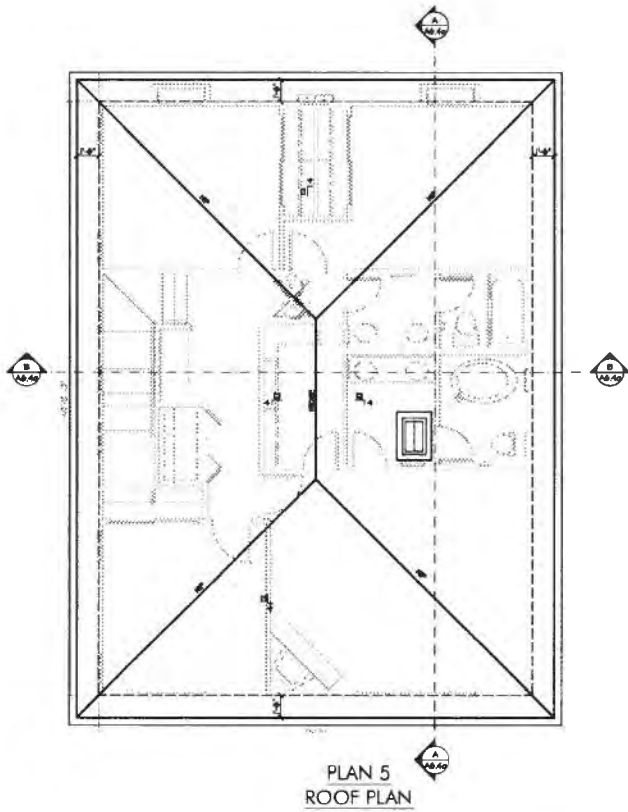
LEGEND:

- AREA COUNTED AS UNIT GROSS SQUARE FOOTAGE
- AREA COUNTED AS BUILDING GROSS SQUARE FOOTAGE
- AREA INCLUDED IN BUILDING COVERAGE BUT NOT COUNTED AS GROSS SQUARE FOOTAGE

BUILDINGS D1 - D8 - UNIT PLANS  
PLANS 4A-4C - AREA CALC'S  
SCALE: 1/8"=1'-0"

JUNE 8, 2012 PROJECT NO: 221.009





FLOOR PLAN KEY NOTES: ①

- |                                 |                                  |
|---------------------------------|----------------------------------|
| 1. Overhead garage door above   | 13. Attic furnace                |
| 2. Furnace & ducts              | 14. Meter locations              |
| 3. Tank-less water heater       | 15. Fireplace                    |
| 4. Line of stair above          | 16. Trash / recycling containers |
| 5. Duct space                   |                                  |
| 6. Roof access ladder           |                                  |
| 7. Trellis- see elevation       |                                  |
| 8. Guardrail                    |                                  |
| 9. Decorative railing           |                                  |
| 10. Lines of floor above/ below |                                  |
| 11. Optional elevator/ storage  |                                  |
| 12. Attic access                |                                  |

BUILDING E - UNIT PLANS  
PLAN 5 - FLOOR PLANS  
SCALE: 1/4"=1'-0"

JUNE 8, 2012 PROJECT NO: 221.009

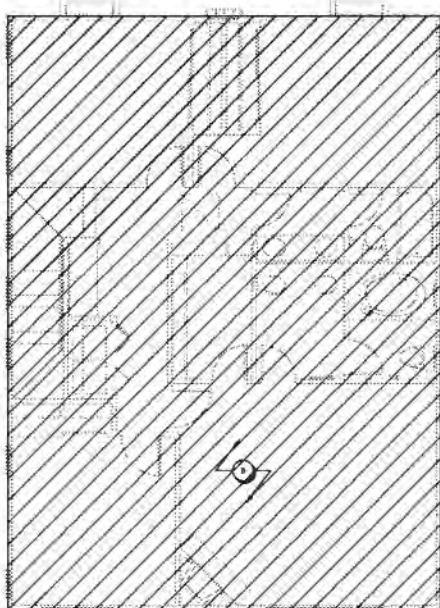


389 EL CAMINO, MENLO PARK, CA

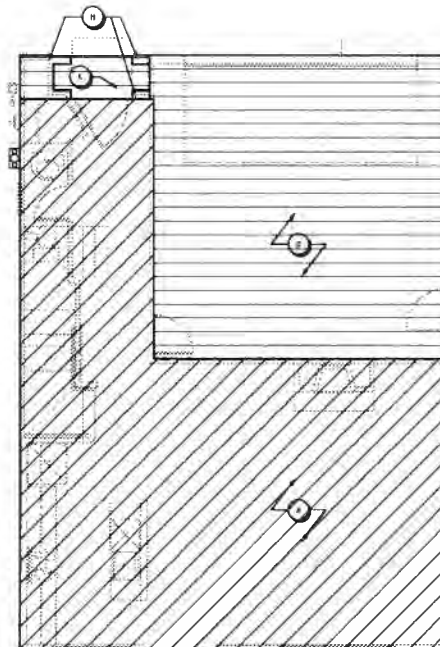
MATTESON DEVELOPMENT PARTNERS, INC.

5865 OWENS DRIVE,  
PLEASANTON, CA 94588  
925.251.7200  
925.251.7201 Fax

A3.5a



PLAN 5 - UNIT 26  
SECOND FLOOR  
AREA CALCULATION



PLAN 5 - UNIT 26  
FIRST FLOOR  
AREA CALCULATION

PLAN 5 - UNIT 26

FIRST FLOOR

A. FIRST FLOOR GROSS AREA:	747 SQFT
D. GARAGE AREA:	419 SQFT
H. EXCLUDED AREA:	10 SQFT

SECOND FLOOR

B. SECOND FLOOR GROSS AREA:	1,035 SQFT
UNIT TOTAL GROSS FLOOR AREA:	1,784 SQFT

BUILDING COVERAGE: PLAN 5 - UNIT 26

A. FIRST FLOOR GROSS AREA:	747 SQFT
D. GARAGE AREA AREA:	419 SQFT
H. EXCLUDED AREA:	10 SQFT
E. EXTERIOR BUILDING COVERAGE:	17 SQFT
BUILDING COVERAGE AREA:	1,193 SQFT

**CALCULATION PLAN KEY NOTES:** (A)

- A. FIRST FLOOR GROSS AREA
- B. SECOND FLOOR GROSS AREA
- C. THIRD FLOOR GROSS AREA
- D. GARAGE AREA
- E. UTILITIES CLOSET/ ROOF ACCESS AREA
- F. TRASH/ RECYCLING RECEPTACLE AREA
- G. VENT SHAFT AREA
- H. EXCLUDED AREA PER 16.04.225 (C) (1)
- J. PAU AREA IN GARAGE (INCLUDED IN GFA)
- E. EXTERIOR BUILDING COVERAGE

**LEGEND:**

- AREA COUNTED AS UNIT GROSS SQUARE FOOTAGE
- AREA COUNTED AS BUILDING GROSS SQUARE FOOTAGE
- AREA INCLUDED IN BUILDING COVERAGE BUT NOT COUNTED AS GROSS SQUARE FOOTAGE

BUILDING E - UNIT PLANS  
PLAN 5 - AREA CALCULATIONS  
SCALE: 1/4"=1'-0"

JUNE 8, 2012 PROJECT NO: 221,009



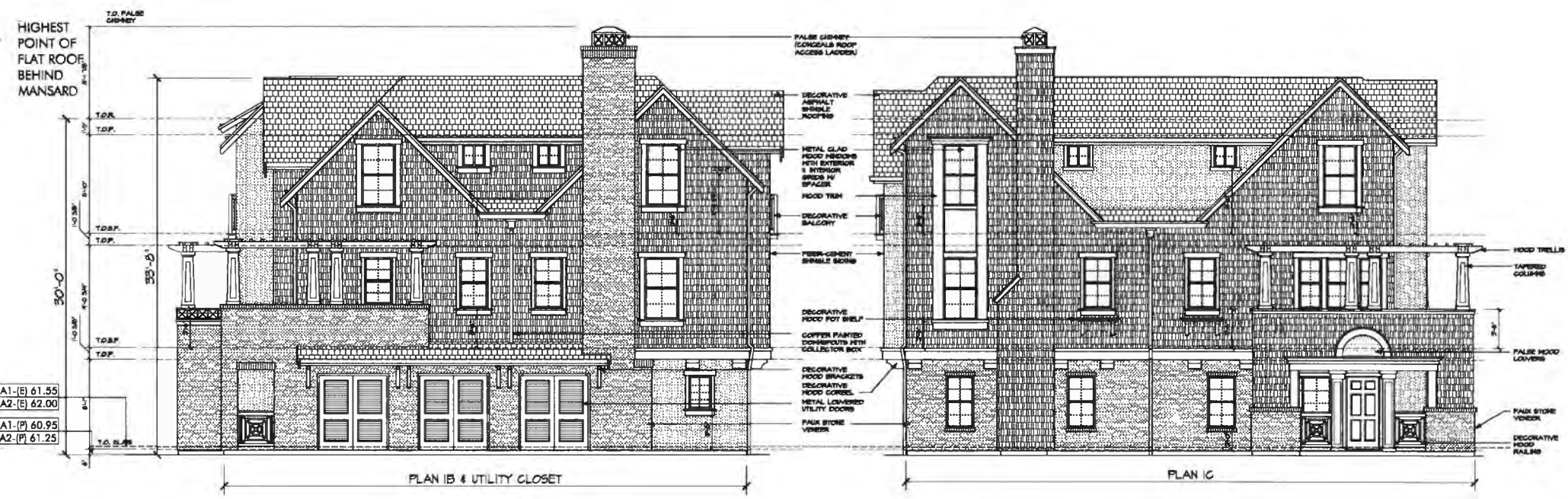
389 EL CAMINO, MENLO PARK, CA

MATTESON DEVELOPMENT PARTNERS, INC.









A1 & A2 WEST (LEFT)

A1 & A2 EAST (RIGHT) EL CAMINO REAL

BUILDING A1, A2 SIM.  
 REPRESENTIVE OF TOWNHOUSE  
 BUILDINGS ON LOT ZONED C4 WITH  
 MAXIMUM ROOF HEIGHT OF 30'

(E) = EXISTING AVERAGE NATURAL GRADE  
 (P) = PROPOSED AVERAGE GRADE

SIDE ELEVATIONS  
 BUILDING A1, A2 SIM.  
 C4 ZONE  
 SCALE: 1/4" = 1'-0"  
 JUNE 8, 2012 PROJECT NO: 221.009

389 EL CAMINO, MENLO PARK, CA  
 MATTESON DEVELOPMENT PARTNERS, INC.



A1 SOUTH (REAR)      (E) - EXISTING AVERAGE NATURAL GRADE  
 A2 NORTH                      (P) - PROPOSED AVERAGE GRADE

REAR ELEVATION  
 BUILDING A1, A2 SIM.  
 C4 ZONE  
 SCALE: 1/4" = 1'-0"  
 JUNE 8, 2012      PROJECT NO. 221.009  
 DAHLIN GROUP

389 EL CAMINO, MENLO PARK, CA  
 MATTESON DEVELOPMENT PARTNERS, INC.

5845 OWEN DRIVE,  
 REDWOOD CITY, CA 94068  
 925.251.7200  
 925.251.7201 Fax

A5.1c



FALSE GIBNEY W/ METAL CAP  
 (CONCEALS ROOF ACCESS LADDER)

DECORATIVE ASPHALT  
 SHINGLE ROOFING

HOOD TRIM  
 METAL CLAD HOOD  
 HIDEOUTS WITH  
 EXTERIOR & INTERIOR  
 BRICK W/ SPACES

FRESH-CEMENT  
 FINISH SIDING

COPPER PAINTED  
 DOWNSPOUTS WITH  
 COLLECTOR BOX

HOOD YELLS

TAPERED HOOD  
 COLLARS

BRICK TRIM

DECORATIVE  
 HOOD BRACKETS

METAL LOUVERED  
 UTILITY DOORS

PAVING STONE VENEER

(E) 61.80

(P) 61.20

HIGHEST POINT  
 OF FLAT ROOF  
 BEHIND MANSARD



PLAN 1A & UTILITY CLOSET

WEST RIGHT



PLAN B

EAST (LEFT-EL CAMINO REAL)

(E) - EXISTING AVERAGE NATURAL GRADE  
 (P) - PROPOSED AVERAGE GRADE

SIDE ELEVATION  
 BUILDING B  
 C4 ZONE  
 SCALE: 1/4" = 1'-0"

JUNE 8, 2012 PROJECT NO: 221.009

389 EL CAMINO, MENLO PARK, CA

MATTESSON DEVELOPMENT PARTNERS, INC.

5865 OWENS DRIVE,  
 PLEASANTON, CA 94588  
 925.251.7200  
 925.251.7201 FAX

A5.2b

1:\029-1144\389\2102.dwg (P:\0291144\389\2102.dwg) 8/1/2012 11:07:43 PM jgdm

HIGHEST POINT  
OF FLAT ROOF  
BEHIND MANSARD



SOUTH (REAR)

(E)=EXISTING AVERAGE NATURAL GRADE  
(P)=PROPOSED AVERAGE GRADE

REAR ELEVATION  
BUILDING B  
C 4 ZONE  
SCALE: 1/4"=1'-0"

JUNE 8, 2012 PROJECT NO: 221.009

389 EL CAMINO, MENLO PARK, CA

MATTESON DEVELOPMENT PARTNERS, INC.

389  
389  
925 251 7201 Fax

A5.2c

HIGHEST POINT OF FLAT ROOF BEHIND MANSARD



SOUTH (FRONT)

(E)=EXISTING AVERAGE NATURAL GRADE  
(P)=PROPOSED AVERAGE GRADE

FRONT ELEVATION  
BUILDING C  
C4 ZONE  
SCALE: 1/4"=1'-0"  
JUNE 8, 2012 PROJECT NO: 221.009

389 EL CAMINO, MENLO PARK, CA  
MATTESON DEVELOPMENT PARTNERS, INC.

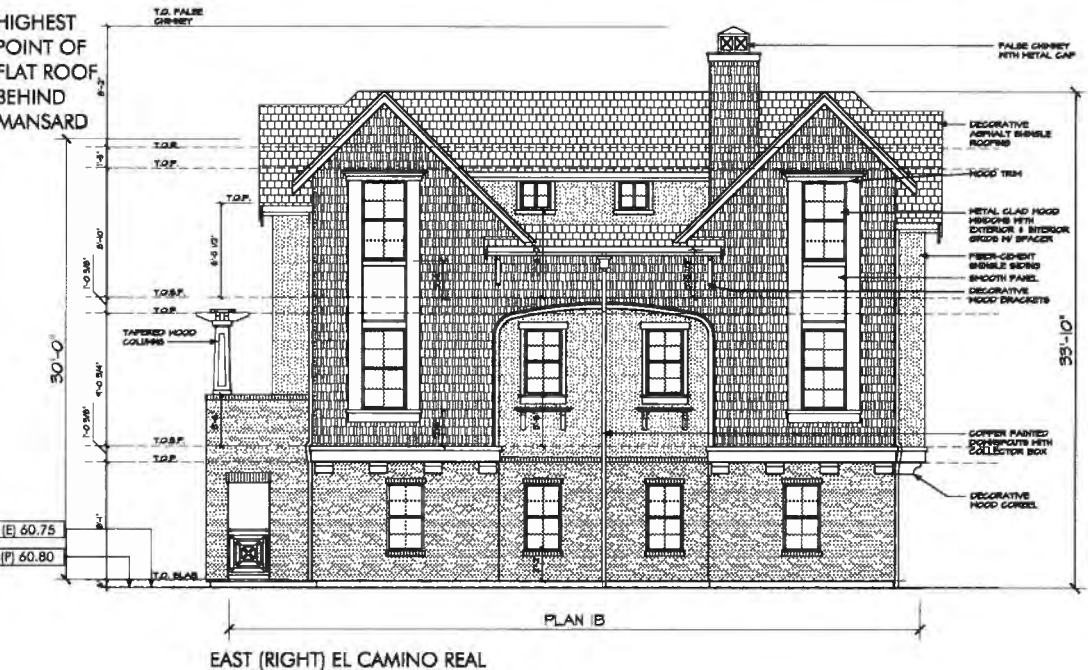


5665 OWENS DRIVE,  
PLEASANTON, CA 94588  
925.251.7200  
925.251.7201 Fax

A5.3a

21009-1000P-0120-0000-01-001-001.dwg, 01/10/2012 11:01:00 AM





(E)=EXISTING AVERAGE NATURAL GRADE  
(P)=PROPOSED AVERAGE GRADE

SIDE ELEVATIONS  
BUILDING C  
C4 ZONE  
SCALE: 1/4"=1'-0"

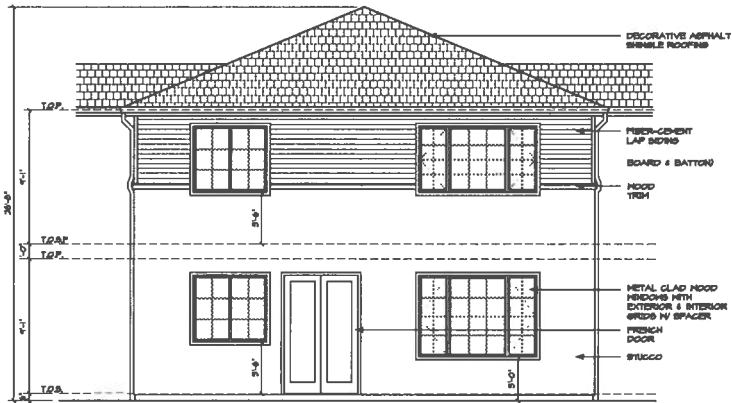
JUNE 8, 2012 PROJECT NO. 221 009

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MATTESON DEVELOPMENT PARTNERS, INC.

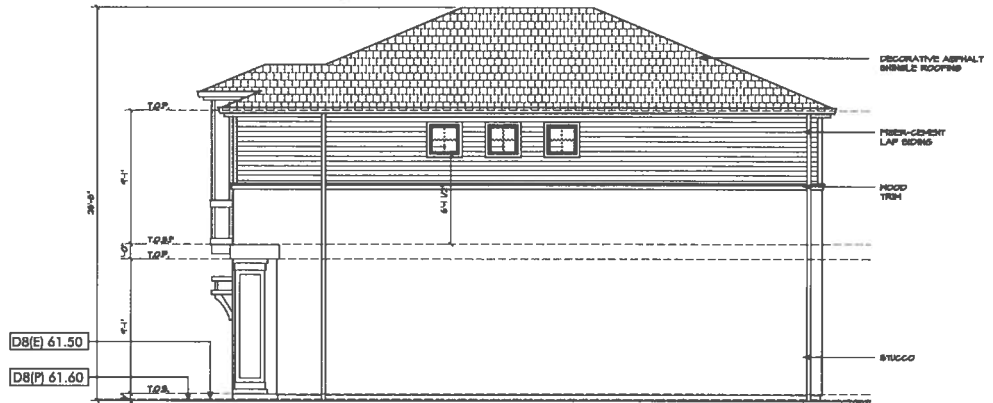






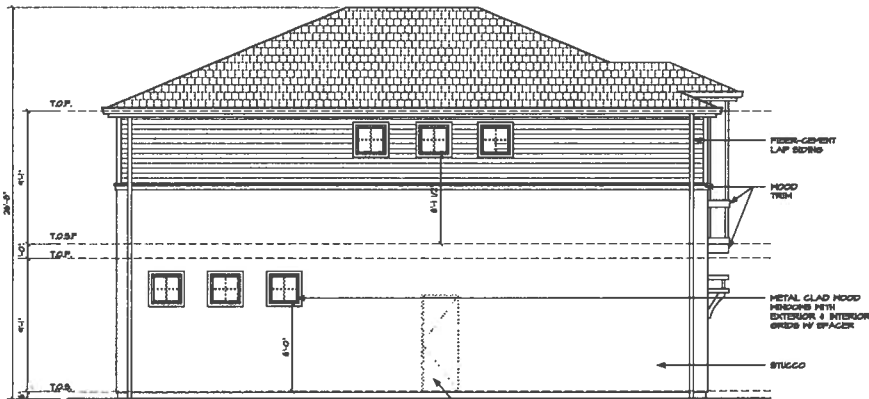


WEST (REAR)



NORTH (RIGHT)  
D8-SOUTH

(E) = EXISTING AVERAGE NATURAL GRADE  
(P) = PROPOSED AVERAGE GRADE



SOUTH (LEFT)  
D8 NORTH

DOOR TO SIDE YARD AT ALL BUILDINGS EXCEPT D4 & D6



EAST (FRONT)

ELEVATION STYLE A, B SIM.  
BUILDING D2 (D4, D6, & D8 SIM.)

SCALE: 1/4" = 1'-0"

JUNE 8, 2012 PROJECT NO: 221.009



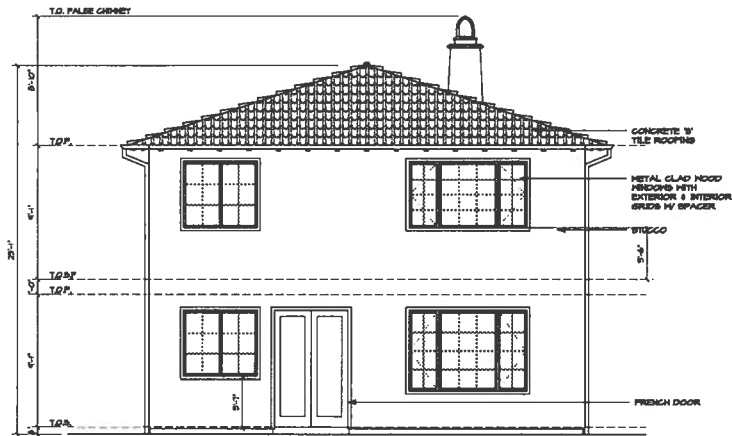
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MATTESON DEVELOPMENT PARTNERS, INC.

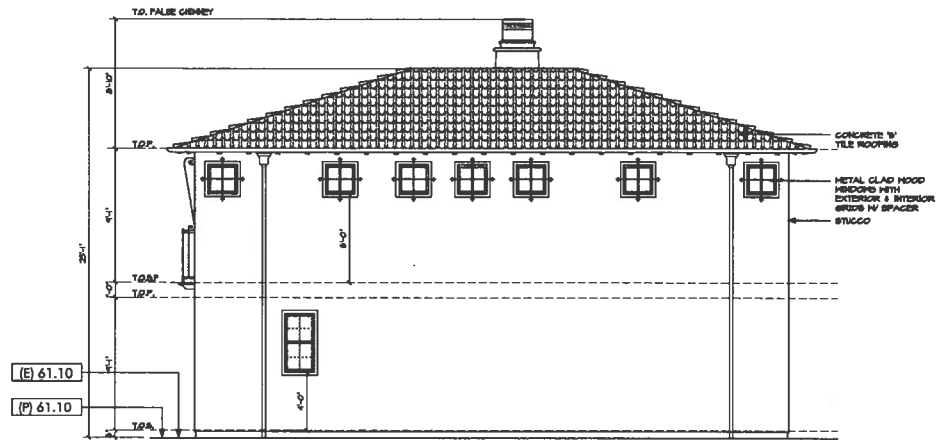
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PLEASANTON, CA 94588  
925.251.7200  
925.251.7201 Fax

A5.5a



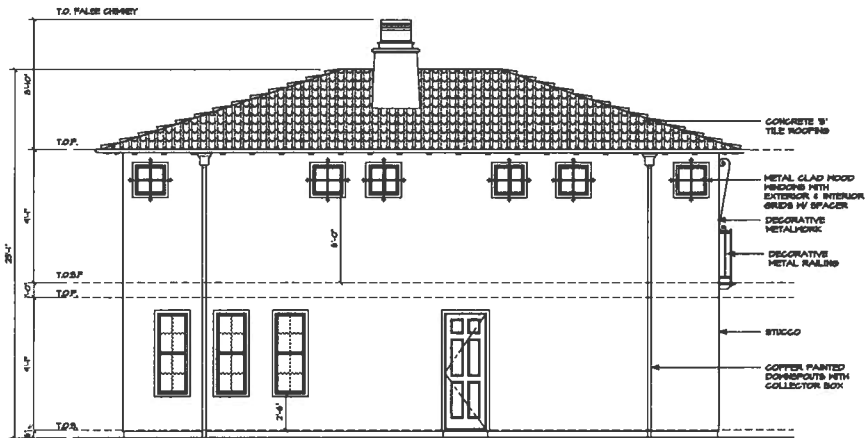


NORTH (REAR)



EAST (RIGHT)

(E)= EXISTING AVERAGE NATURAL GRADE  
(P)= PROPOSED AVERAGE GRADE



WEST (LEFT)



SOUTH (FRONT) - PARTRIDGE AVENUE

ELEVATIONS  
BUILDING E - PARTRIDGE AVENUE

SCALE: 1/4"=1'-0"

0 4 8  
JUNE 8, 2012 PROJECT NO: 221.009



389 EL CAMINO, MENLO PARK, CA

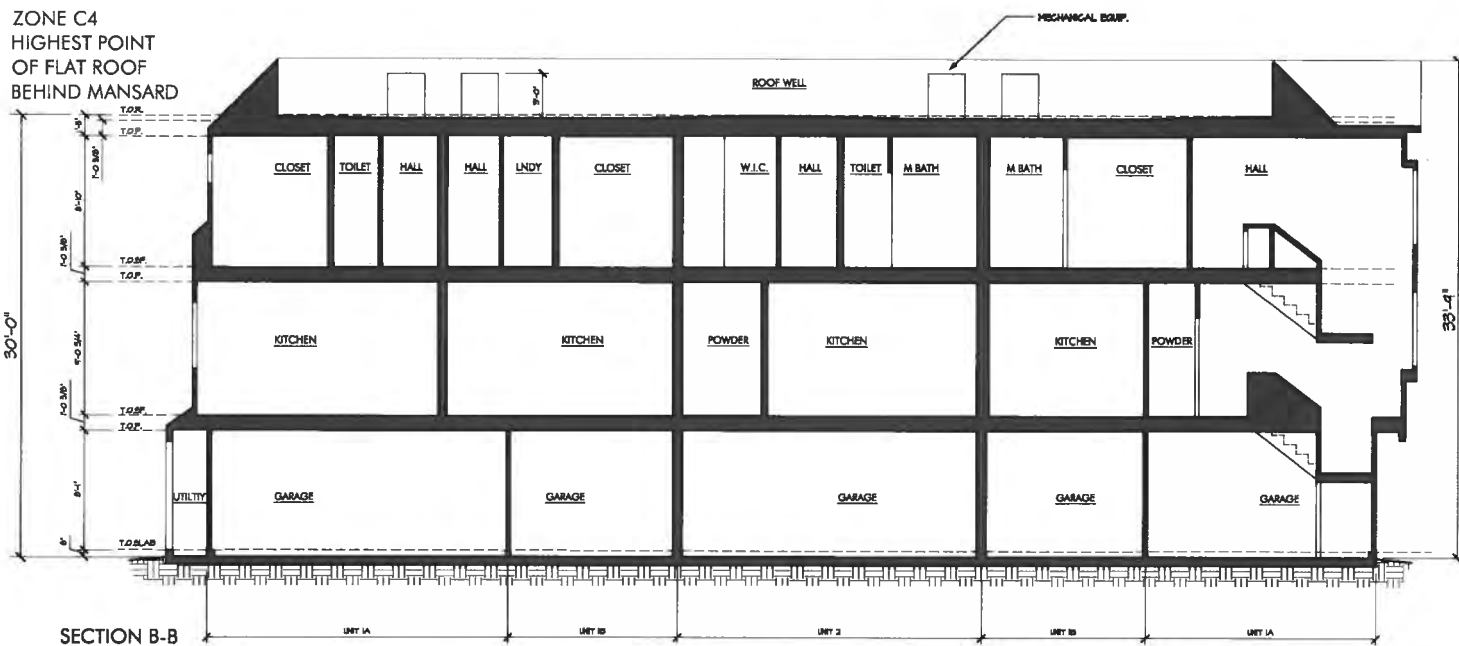
MATTESON DEVELOPMENT PARTNERS, INC.

226

5865 OWENS DRIVE,  
PLEASANTON, CA 94588  
925.251.7100  
925.251.7201 Fax

A5.6a





**BUILDING B**  
 REPRESENTATIVE OF TOWNHOMES  
 ON LOT ZONED C4 WITH  
 MAXIMUM ROOF HEIGHT OF 30'

SECTION BB  
 BUILDING B - MANSARD  
 30' MAX. ROOF HEIGHT [C4]  
 SCALE: 1/4"=1'-0"

JUNE 8, 2012 PROJECT NO: 221.009

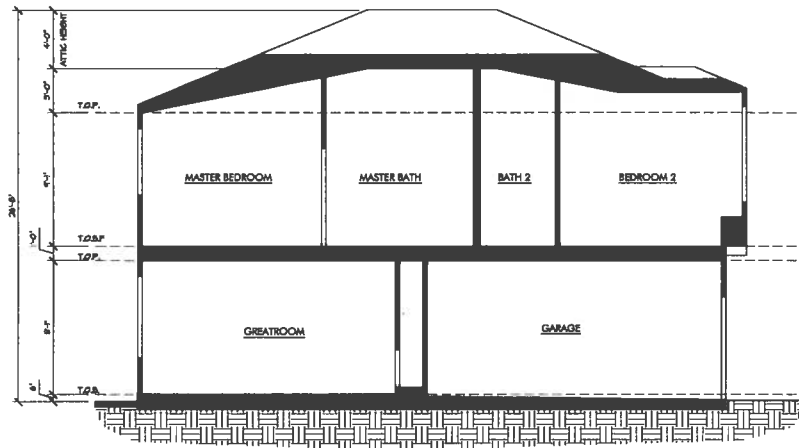
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MATTESON DEVELOPMENT PARTNERS, INC.

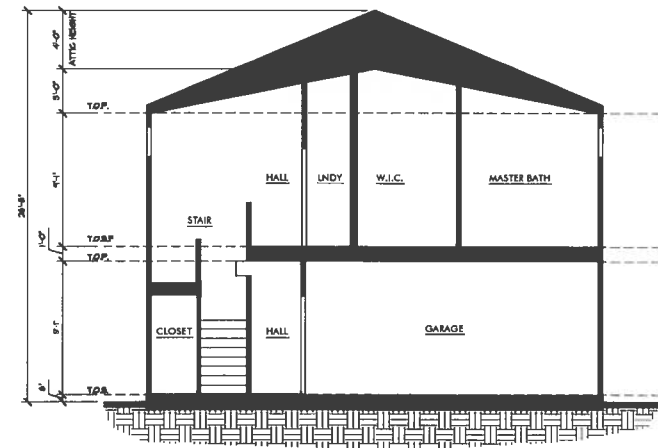
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ZONE R3  
 HIGHEST POINT OF  
 ROOF IS BELOW 35'  
 (30' FOR ZONE C4)



SECTION A-A



SECTION B-B

BUILDING D2  
 REPRESENTATIVE OF BUILDING Ds

SECTIONS AA & BB  
 BUILDING D2 (PLAN 4B)  
 35' MAX. ROOF HEIGHT (R3)  
 SCALE: 1/4" = 1'-0"

JUNE 8, 2012 PROJECT NO: 221.009



389 EL CAMINO, MENLO PARK, CA

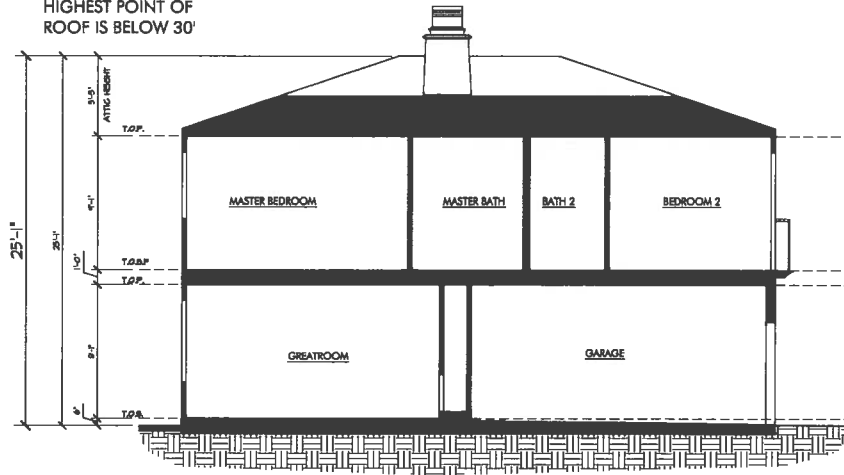
MATTESON DEVELOPMENT PARTNERS, INC.

5865 OWENS DRIVE,  
 PLEASANTON, CA 94508  
 925.251.7200  
 925.251.7201 Fax

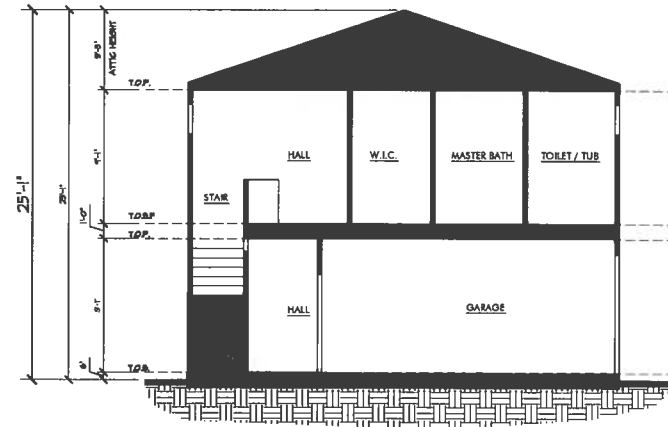
A6.3a



ZONE C4  
HIGHEST POINT OF  
ROOF IS BELOW 30'



SECTION A-A



SECTION B-B

BUILDING E  
PARTRIDGE AVENUE

SECTIONS AA & BB  
BUILDING E (PLAN 5)  
35' MAX. ROOF HEIGHT (R3)  
SCALE: 1/4"=1'-0"

JUNE 8, 2012 PROJECT NO: 221.009



389 EL CAMINO, MENLO PARK, CA

MATTESON DEVELOPMENT PARTNERS, INC.

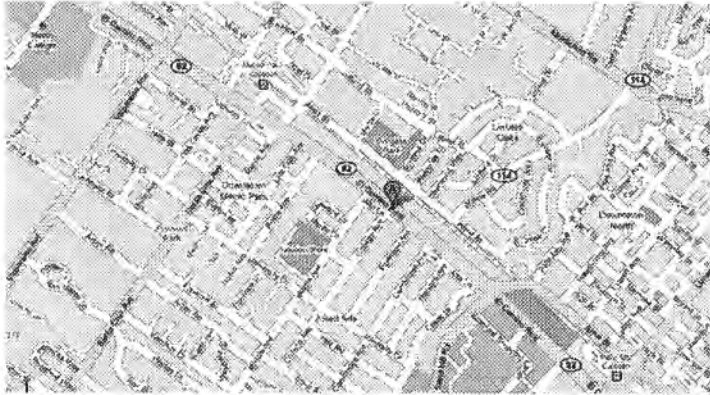
5845 OWENS DRIVE  
MENLO PARK, CA 94508  
714.321.7200  
714.251.7201 Fax

231 A6.4a

**SUSTAINABLE SITE:**

**INFILL DEVELOPMENT**

- SITE IS LOCATED ON EXISTING URBANIZED SITE (INFILL) RATHER THAN OPEN SPACE AND FARMLAND (GREENFIELDS)
- INFILL DEVELOPMENT REDUCES HARM TO THE ENVIRONMENT BY LIMITING SUBURBAN SPRAWL.
- THIS REDUCES THE NEED FOR CAR TRAVEL, THEREBY REDUCING AIR POLLUTION

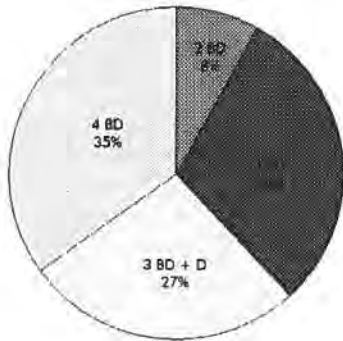


**PROXIMITY TO JOBS:**

LOCATED IN THE HEART OF DOWNTOWN MENLO PARK, CA.

**DIVERSITY OF HOUSING TYPES AND COMMUNITY CONNECTIVITY**

**TYPE OF HOUSING**



**WATER USE REDUCTION:**

- WATER SAVINGS 1.6 GALLONS PER FLUSH, LOW FLUSH TOILETS
- WATER SAVINGS 2.2 GALLONS PER MINUTE KITCHEN FAUCETS
- WATER SAVINGS 2.5 GALLONS PER MINUTE LAVATORY FAUCETS
- WATER SAVINGS 2.6 GALLONS PER MINUTE BATH, PRESSURE-BALANCING ANTI-SCALD VALVES
- USE OF WATER WISE DRAUGHT-TOLERANT NATIVE PLANT MATERIAL
- MOISTURE SENSING IRRIGATION-OVERRIDE SYSTEM

**LIGHT POLLUTION REDUCTION:**

- FULL CUTOFF-LUMINAIRES
- LOW REFLECTANCE SURFACES

**ENVIRONMENTAL POLLUTION REDUCTION:**

- LOW VOC ADHESIVES, SEALANTS, PAINTS, COATINGS, CARPETS & OTHER PRODUCTS
- STORAGE & COLLECTION OF RECYCLABLES. BUILDING'S RECYCLING BINS ARE CENTRALIZED & EASILY ACCESSIBLE.
- CONSTRUCTION ACTIVITY POLLUTION PREVENTION: DIVERSION OF MATERIALS FROM LANDFILL THROUGH REUSE & RECYCLING

**NATIVE LANDSCAPING:**

- USE OF NATIVE PLANTS FOSTERS SOIL HEALTH, REDUCES RUNOFF & POLLUTION, PREVENTS & REUSES PLANT WASTE, & CONSERVES WATER
- REQUIRES LITTLE OR NO IRRIGATION, REDUCING COST OF LANDSCAPING AS WELL AS WATER USE

**Development Density and Community Connectivity Scores with a mile**

1 SUPERMARKET
4 RESTAURANTS
1 PARKS
2 PHARMACIES
1 BUS STOP
<b>Scores with 1/2 mile</b>
1.3 RESTAURANTS
1 THEATER
1 BOOK STORE
4 FITNESS
7 BANES
5 PUBLIC PARK
10 HAIR SALON
2 SUPERMARKET
1 PUBLIC LIBRARY
3 PHARMACIES
1 HARDWARE STORE
5 CLOTHING STORE
2 LAUNDRIES/CLEANERS
7 DENTIST
5 POST OFFICE/DELIVERY
1 CAL TRAIN

GREEN SHEET

SEPTEMBER 21, 2011

PROJECT NO: 221.009



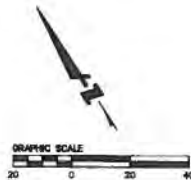
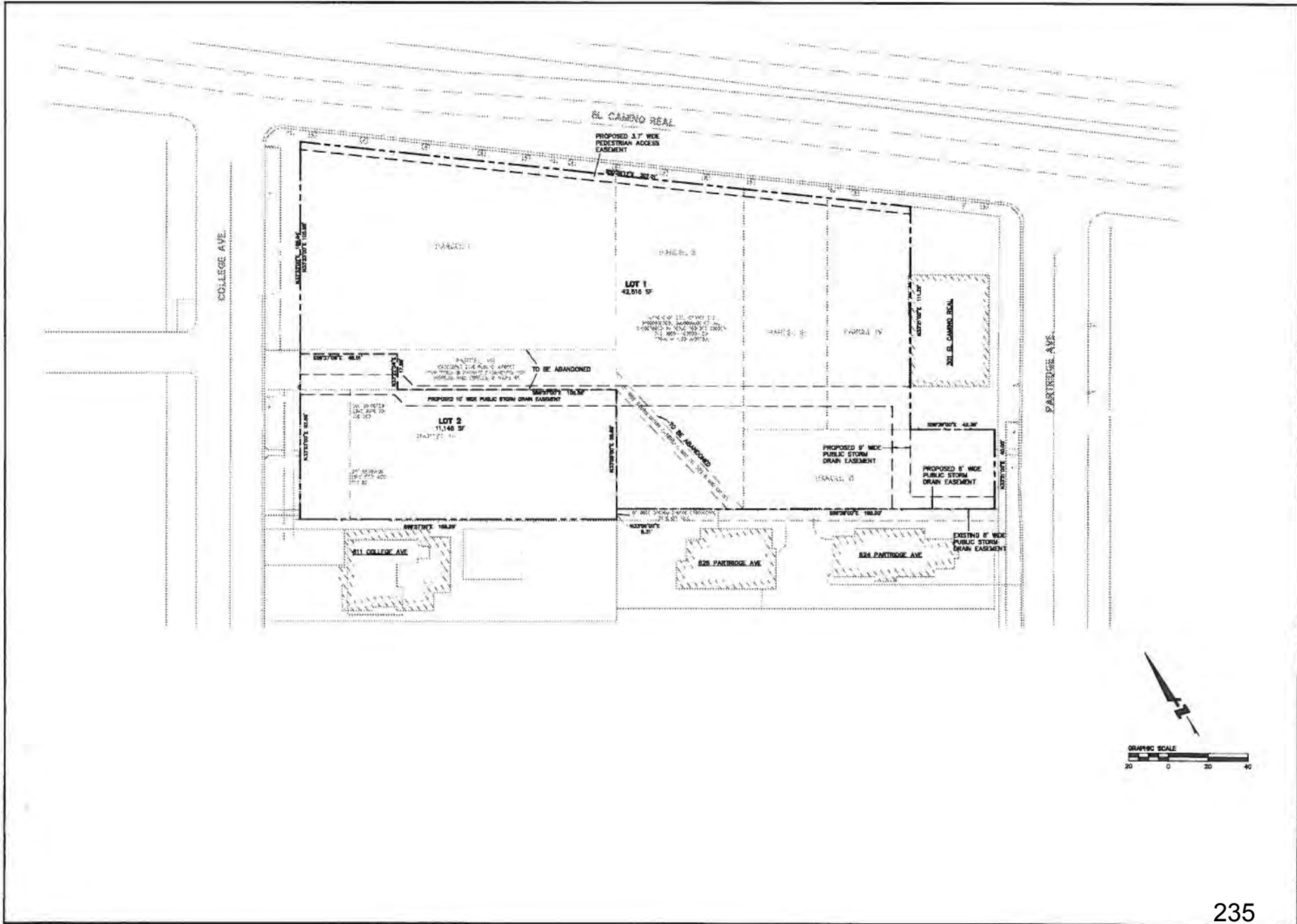
5845 CHIMES DRIVE  
PLEASANTON, CA 94588  
925.837.8776  
925.837.2445 Fax

389 EL CAMINO, MENLO PARK, CA  
WATTESON DEVELOPMENT PARTNER, INC.





DRAWING NAME: 389 EL CAMINO REAL TENTATIVE MAP - LOTS 1 & 2  
 DATE: 08/09/12  
 DRAWN BY: JAC



DBKF

**BKF**  
 ENGINEERING SURVEYING & PLANNING

200 SHORELINE DRIVE, SUITE 200  
 REDWOOD CITY, CA 94060  
 (650) 452-4300 (FAX)

CALIFORNIA

**389 EL CAMINO REAL  
 TENTATIVE MAP  
 PROPOSED LOTS**

SAN MATEO COUNTY

MENLO PARK

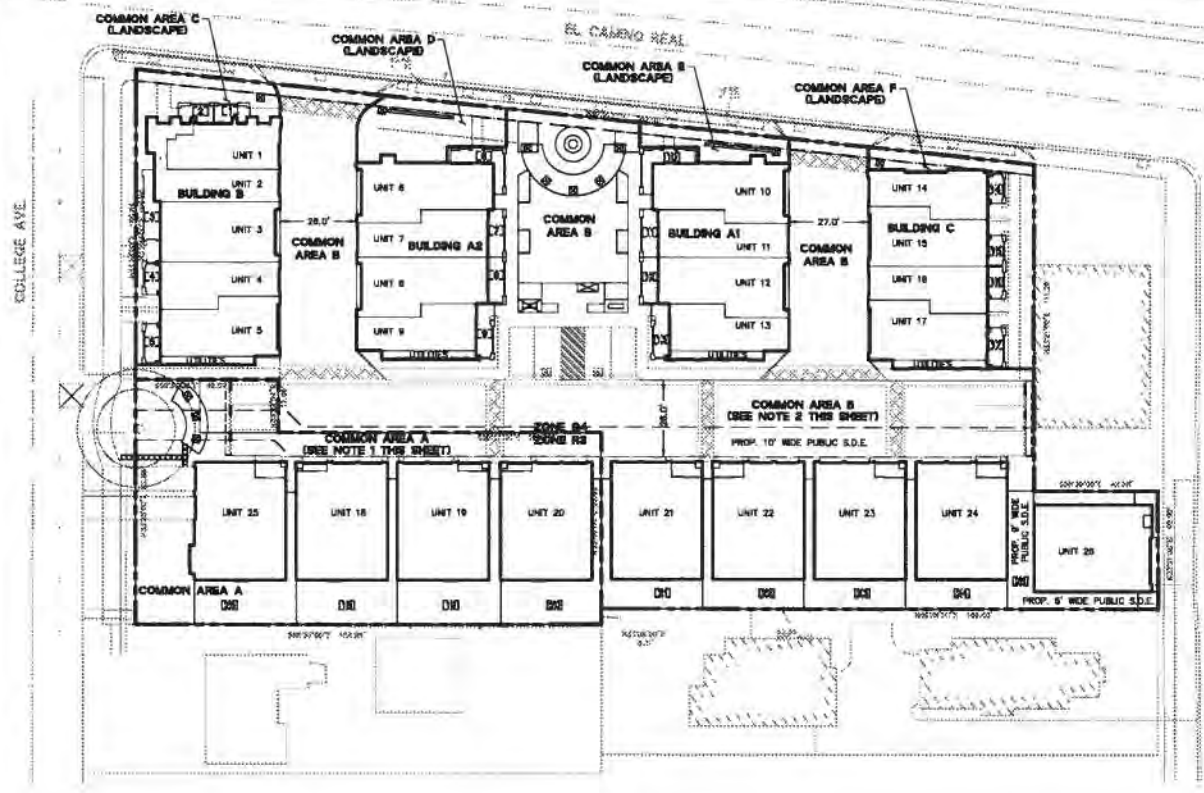
Date	No.	Revision
08/09/12		
Scale AS SHOWN		
Design C.A.P.		
Drawn J.W.P.		
Approved C.A.P.		
Job No. 2012004		

**TM-3**

**389 EL CAMINO REAL  
 TENTATIVE MAP  
 PROPOSED SITE PLAN**  
 SAN MATEO COUNTY

Revision	No.
Date	08/08/12
Scale	AS SHOWN
Design	LM
Drawn	JWW
Approval	LM
Job No.	20080004

DRAWING NAME: J:\Projects\080812\0812\TM-4.dwg  
 SHEET NO: 04 OF 04  
 PLOTTED BY: mecl  
 DATE: 08-08-12



**NOTES**

- 1) COMMON AREA A INCLUDES PRIVATE STREET, PRIVATE UTILITY EASEMENT, PRIVATE ACCESS EASEMENT AND EXCLUSIVE USE EASEMENTS AS IDENTIFIED.
- 2) COMMON AREA B INCLUDES PRIVATE STREETS, PRIVATE UTILITY EASEMENT, PRIVATE ACCESS EASEMENT, PRIVATE DRAINAGE EASEMENT AND EXCLUSIVE USE EASEMENTS AS IDENTIFIED.
- 3) UTILITIES AREAS FOR BUILDINGS A1, A2, B & C WILL PROVIDE UTILITY SERVICE TO ALL UNITS WITHIN THE BUILDING.
- 4) REMOVE AND REPLACE ALL FRONTAGE IMPROVEMENTS ALONG THE ENTIRE PROPERTY FRONTAGE ON COLLEGE AVENUE AND PARTRIDGE AVENUE PER CITY STANDARDS.
- 5) REMOVE AND REPLACE ALL FRONTAGE IMPROVEMENTS ALONG THE ENTIRE PROPERTY FRONTAGE ON EL CAMINO REAL PER CALTRANS STANDARDS.

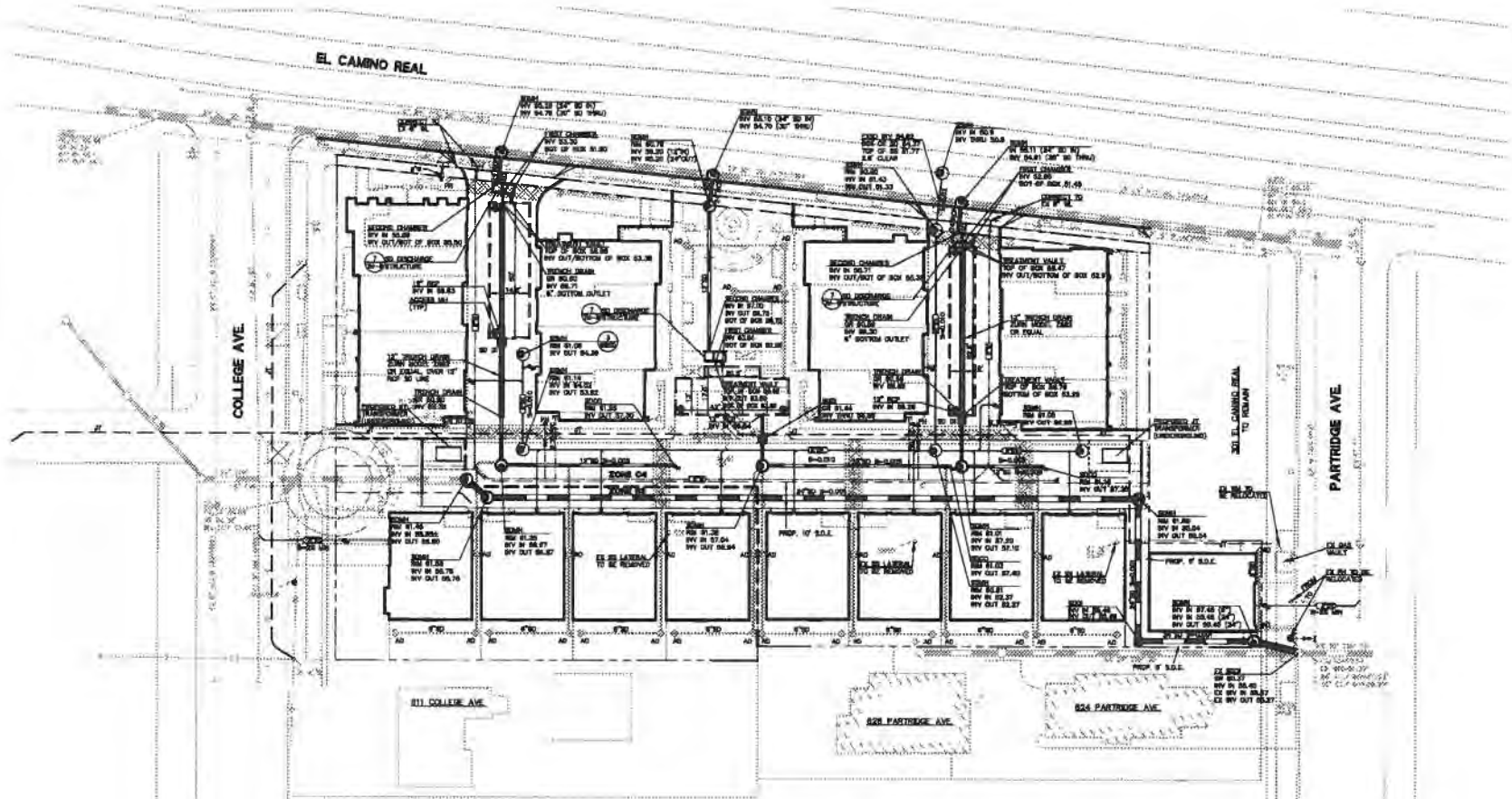
**LEGEND**

- EXCLUSIVE USE EASEMENT FOR THE CORRESPONDINGLY NUMBERED UNIT.





Drawn	Checked	Reviewed
Date: 08/24/12	No.	
Scale: AS SHOWN		
Design: CAH		
Drawn: JMS		
Approved: CAH		
Sheet Number:	Job No. 1200000	
<b>TM-7</b>		



**NOTES**

- 1) EXISTING UTILITIES SHOWN ARE BASED ON FIELD OBSERVATION AND RECORD DRAWINGS. THEY ARE NOT MEANT TO BE A FULL CATALOG OF ACTUAL CONDITIONS.
- 2) EXISTING UTILITIES SHOWN ARE TO REMAIN UNLESS OTHERWISE NOTED ON PLANS.
- 3) EXISTING FIRE HYDRANTS SHALL REMAIN. IF PROPOSED IMPROVEMENTS CONFLICT WITH EXISTING FIRE HYDRANTS, THE HYDRANT SHALL BE RELOCATED.
- 4) PROPOSED WATER AND SANITARY SEWER SYSTEMS SHALL CONFORM TO CALIFORNIA AND WEST BAY SANITARY DISTRICT STANDARD SPECIFICATIONS AND DETAILS, RESPECTIVELY.
- 5) REMOVE AND REPLACE ALL FRONTAGE IMPROVEMENTS ALONG THE ENTIRE PROPERTY FRONTAGE ON COLLEGE AVENUE AND PARTRIDGE AVENUE PER CITY STANDARDS.
- 6) REMOVE AND REPLACE ALL FRONTAGE IMPROVEMENTS ALONG THE ENTIRE PROPERTY FRONTAGE ON EL CAMINO REAL PER CALTRANS STANDARDS.

Draw File Name: J:\Projects\389ElCaminoReal\389ElCaminoReal-Tentative Map\389ElCaminoReal-Tentative Map.dwg  
Plot Date: 08-28-12  
Plotted By: msc















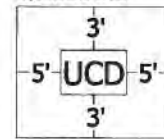
UTILITIES  
PLEASE CONFIRM  
TIE IN LOCATIONS

INTENT DRAWING  
NOT FOR CONSTRUCTION

**LEGEND:**

-  PROPOSED JOINT TRENCH
-  PROPOSED SERVICE TRENCH
-  EXISTING OVERHEAD TO BE REMOVED
-  4'-6" x 8'-6" x 7'-6" UCD TRANSFORMER (PG&E)
-  EXISTING POLE TO REMAIN
-  EXISTING POLE TO BE REMOVED

Working Space & easement requirements for #7 box:



Maintain a clear, level working space as shown, per PG&E drawing 051122.

Electric Conduit  
Minimum Bend Radius for New Construction Service

Conduit Diameter	Vertical Radius	Horizontal Radius
3"	24"	36"
4"	36"	54"
6"	54"	81"

Electric Conduit  
Minimum Bend Radius for New Construction Primary

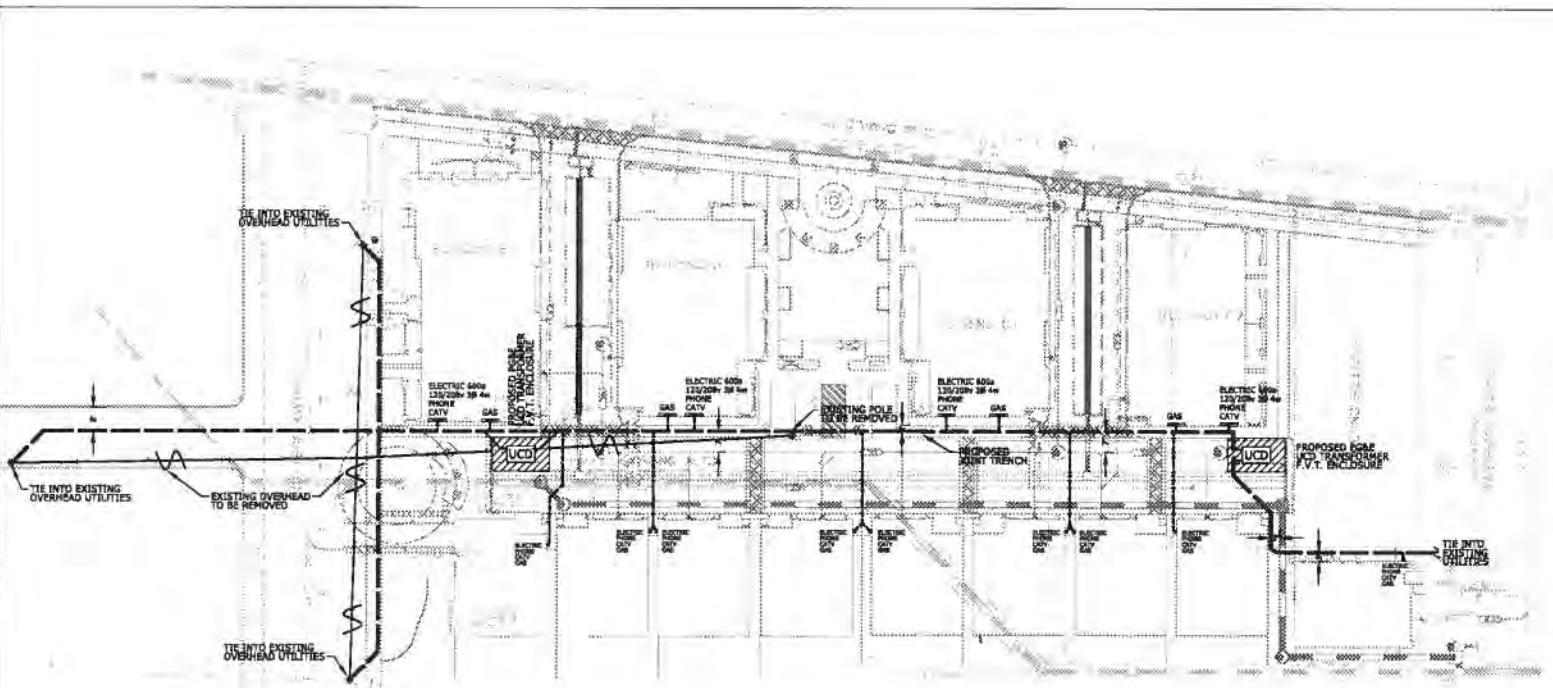
Conduit Diameter	Vertical Radius	Horizontal Radius
3"	48"	72"
4"	72"	108"
6"	108"	162"

**NOTE:**  
330° DEGREES MAX BENDS IN ANY CONDUIT RUN



*Sheet Index*

- JT-1 JOINT TRENCH TITLE SHEET
- JT-2 JOINT TRENCH INTENT

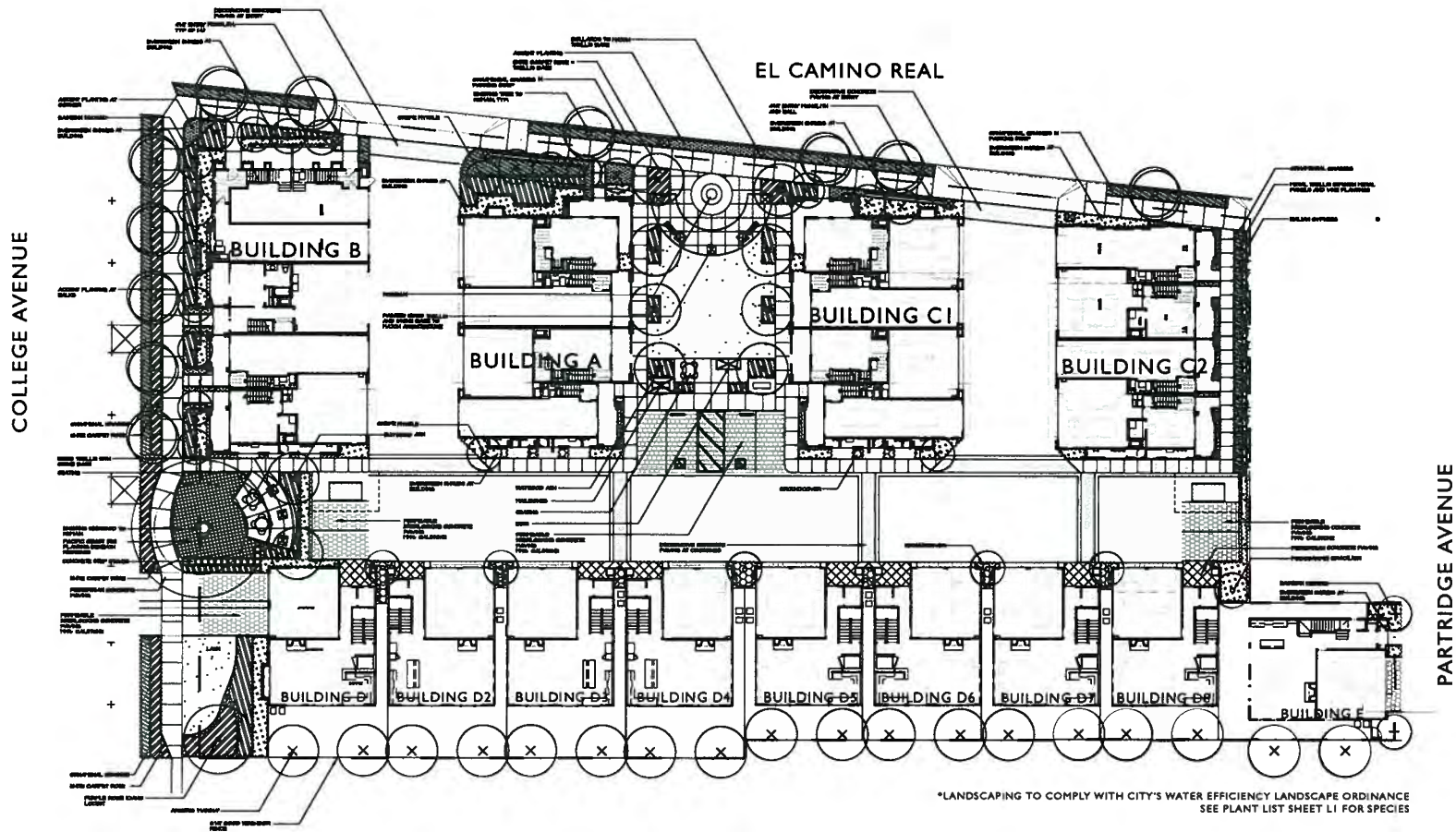


REGISTERED PROFESSIONAL ENGINEER  
 CALIFORNIA  
 JOINT TRENCH INTENT  
 389 EL CAMINO REAL  
 BKF ENGINEERS  
 Menlo Park  
 RGA  
 RGA DESIGN, LLC.  
 UTILITY CONSULTANTS & ENGINEERS - ARCHITECTURAL DESIGN  
 1400 CALIFORNIA AVENUE, SUITE 200, SAN CARLOS, CA 95050  
 TEL: (925) 554-9600 FAX: (925) 554-9877  
 PROJECT NO. 11-306  
 DATE 11-2011  
 BY S. HANDESTER  
 CHECKED BY B. CASTILLO  
 DESIGNED BY D. VOORHIES  
 DATE PLOTTED 9-21-2011  
 SHEET NO. JT-2  
 OF 2









MATTESON DEVELOPMENT PARTNERS, INC

JUNE 8, 2012



**GATES**  
+ ASSOC. ATEs

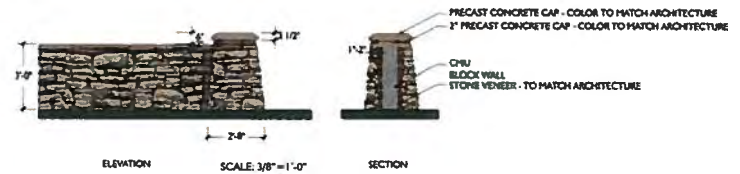
389 EL CAMINO REAL MENLO PARK, CALIFORNIA

CONCEPTUAL LANDSCAPE PLAN **L2**

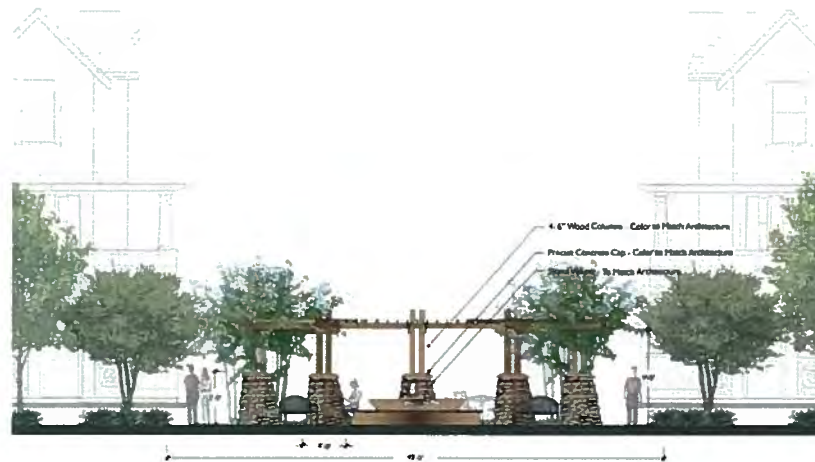
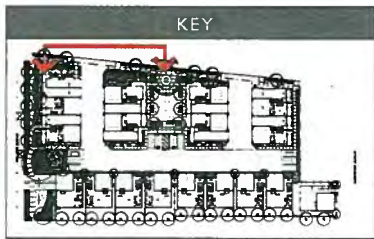


SCALE: 3/16" = 1'-0"

ENTRY WALLS ALONG EL CAMINO REAL



ELEVATION SCALE: 3/8" = 1'-0" SECTION  
 ENLARGEMENT  
 ENTRY WALLS ALONG EL CAMINO REAL



SCALE: 3/16" = 1'-0"  
 COMMON GREEN AT EL CAMINO REAL

MATTESON DEVELOPEMENT PARTNERS, INC

JUNE 2012



GATES  
 + ASSOCIATES

389 EL CAMINO REAL MENLO PARK, CALIFORNIA

ELEVATIONS L3



SCALE: 3/16" = 1'-0"

ENTRY WALLS ALONG EL CAMINO REAL

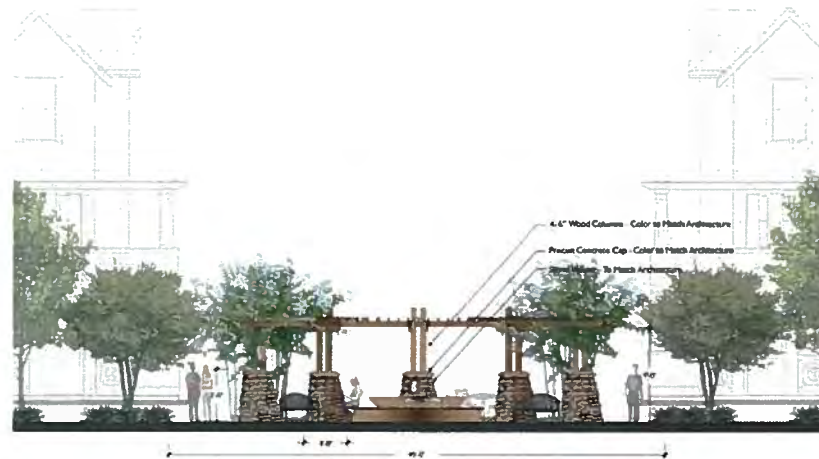
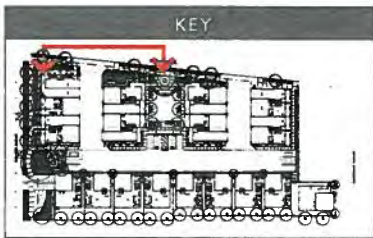


ELEVATION

SCALE: 3/8" = 1'-0"

SECTION

ENLARGEMENT  
ENTRY WALLS ALONG EL CAMINO REAL



COMMON GREEN AT EL CAMINO REAL

MATTESON DEVELOPEMENT PARTNERS, INC

JUNE 2012

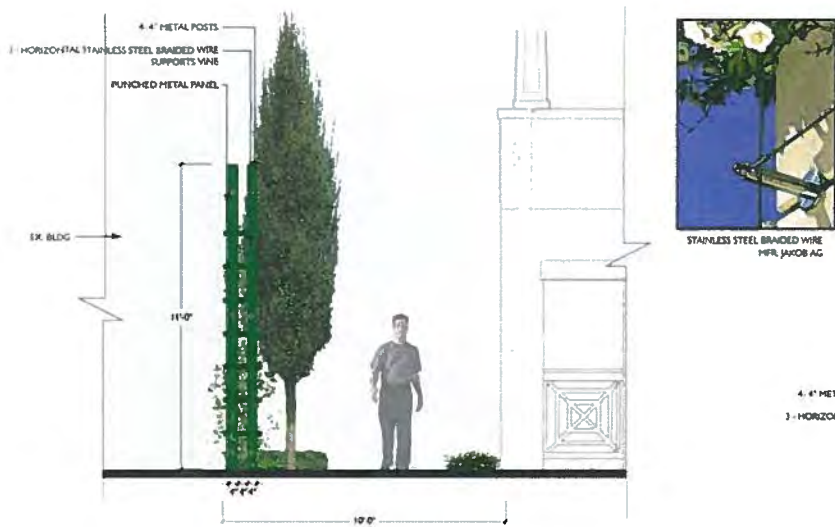


GATES  
+ ASSOCIATES

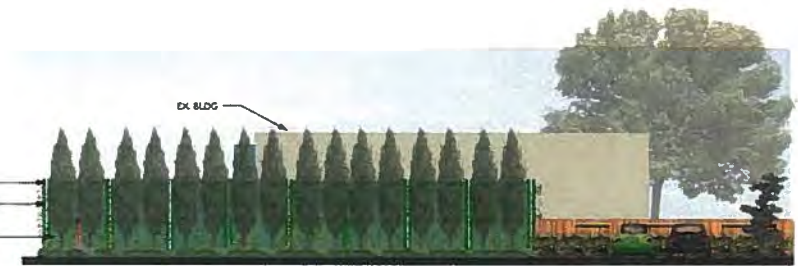
389 EL CAMINO REAL MENLO PARK, CALIFORNIA

ELEVATIONS L3

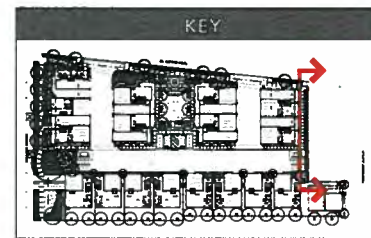
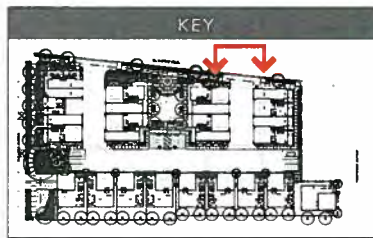




TRELLIS AT BUILDING C FACING EL CAMINO - VIEW FROM EL CAMINO  
SCALE: 1/2"=1'-0"



TRELLIS AT BUILDING C FACING EL CAMINO - ELEVATION  
SCALE: 1/4"=1'-0"












### EXISTING TREES

Number	Scientific Name	dbh HT (ft)	Notes/Action
1	Calocedrus	14" 39'-40'	
2	Cupressus sempervirens	36" 10'	To Be Removed
3	Crataegus	4" 29'-30'	
4	Crataegus	4" 29'-30'	
5	Crataegus	4" 29'-30'	
6	Crataegus	4" 29'-30'	
7	Platanus acerifolia	4" 10'-29'	
8	Platanus acerifolia	4" 10'-29'	
9	Platanus acerifolia	4" 10'-29'	To Be Removed
10	Platanus acerifolia	4" 10'-29'	To Be Removed
11	Platanus acerifolia	4" 10'-29'	To Be Removed
12	Platanus acerifolia	4" 10'-29'	To Be Removed
13	Platanus acerifolia	4" 10'-29'	To Be Removed
14	Platanus acerifolia	4" 10'-29'	To Be Removed
15	Platanus acerifolia	4" 10'-29'	To Be Removed
16	Platanus acerifolia	4" 10'-29'	To Be Removed
17	Platanus acerifolia	4" 10'-29'	To Be Removed
18	Platanus acerifolia	4" 10'-29'	To Be Removed
19	Platanus acerifolia	14" 30'	
20	Platanus acerifolia	14" 30'	
21	Platanus acerifolia	14" 30'	Diseased
22	Pithecoporus unclatus	2" 10'	Multi-trunked

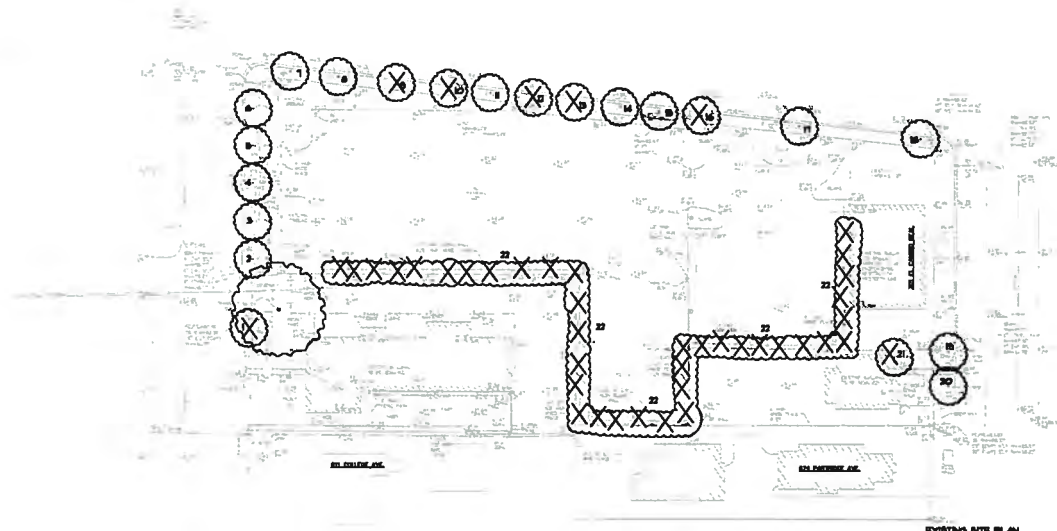
### TREE COUNT

TREES TO BE REMOVED: 8  
 PROPOSED TREES: 14

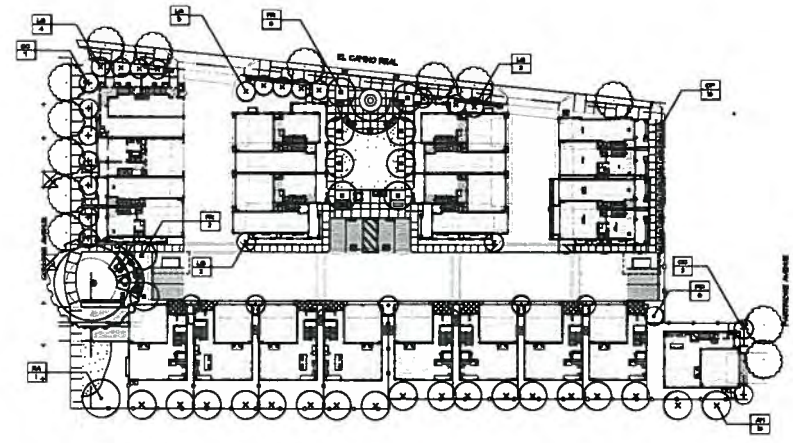
### TREE LEGEND

-  EXISTING TREE TO BE REMOVED
-  EXISTING TREE TO REMAIN
-  AM AREBUTUS THURNA
-  CC CERCIS CANADENSIS 'FORREST PANBY'
-  CP CUPRESSUS SEMPERVIRENS
-  LO LAENOSTROEPA INDICA 'HUSKODER'
-  PD PODOCARPUS GRACILIOR
-  PR PRUNUS 'RAYBROOK'
-  RA ROBINIA X APEKSWA 'PURPLE ROBE'

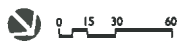
SEE SHEET L1 FOR COMPLETE PLANT LIST



EXISTING SITE PLAN



PROPOSED SITE PLAN



MATTESON DEVELOPMENT PARTNERS, INC

JUNE 8, 2012



GATES  
+ ASSOCIATES

389 EL CAMINO REAL MENLO PARK, CALIFORNIA

TREE PLAN L5



MATTESON DEVELOPEMENT PARTNERS, INC

JUNE 8, 2012



GATES  
+ ASSOCIATES

389 EL CAMINO REAL MENLO PARK, CALIFORNIA

SITE FURNITURE L6





Effective: January 1, 2009

West's Annotated California Codes Currentness

Government Code (Refs & Annos)

Title 7. Planning and Land Use (Refs & Annos)

Division 1. Planning and Zoning (Refs & Annos)

Chapter 4.3. Density Bonuses and Other Incentives (Refs & Annos)

→ § 65915. Applicants seeking density bonus; incentives or concessions for lower income housing units and child care facilities; conditions, agreements and submission requirements; duties of local officials

(a) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall provide the applicant with incentives or concessions for the production of housing units and child care facilities as prescribed in this section. All cities, counties, or cities and counties shall adopt an ordinance that specifies how compliance with this section will be implemented. Failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(b)(1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and incentives or concessions, as described in subdivision (d), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(B) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

(D) Ten percent of the total dwelling units in a common interest development as defined in Section 1351 of the Civil Code for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), the applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), or (D) of paragraph (1).

(3) For the purposes of this section, "total units" or "total dwelling units" does not include units added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(c)(1) An applicant shall agree to, and the city, county, or city and county shall ensure, continued affordability of all low- and very low income units that qualified the applicant for the award of the density bonus for 30 years or a longer period of time if

required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Rents for the lower income density bonus units shall be set at an affordable rent as defined in Section 50053 of the Health and Safety Code. Owner-occupied units shall be available at an affordable housing cost as defined in Section 50052.5 of the Health and Safety Code.

(2) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of the moderate-income units that are directly related to the receipt of the density bonus in the common interest development, as defined in Section 1351 of the Civil Code, are persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

(A) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy, as defined in subparagraph (B), and its proportionate share of appreciation, as defined in subparagraph (C), which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.

(B) For purposes of this subdivision, the local government's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(C) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the local government's initial subsidy to the fair market value of the home at the time of initial sale.

(d)(1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.

(B) Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

(C) Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section, that shall include legislative body approval of the means of compliance with this section.

(e)(1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. An applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(f) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable residential density as of the date of application by the applicant to the city, county, or city and county. The applicant may elect to accept a lesser percentage of density bonus. The amount of density bonus to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26

15	27.5
17	30.5
18	32
19	33.5
20	35

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

(3) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19



25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g)(1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

Percentage Very Low Income	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27





23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

(D) The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government prior to the time of transfer.

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of the transfer.

(F) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.

(G) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(H) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.



(h)(1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a child care facility that will be located on the premises of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:

(A) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility.

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).

(B) Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or a city and county shall not be required to provide a density bonus or concession for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

(4) "Child care facility," as used in this section, means a child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and schoolage child care centers.

(i) "Housing development," as used in this section, means a development project for five or more residential units. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 1351 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. [FN1] The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) The granting of a concession or incentive shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. This provision is declaratory of existing law.

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.



(2) Approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable, financially sufficient, and actual cost reductions.

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code).

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) "Development standard" includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

(2) "Maximum allowable residential density" means the density allowed under the zoning ordinance and land use element of the general plan, or if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

(p)(1) Upon the request of the developer, no city, county, or city and county shall require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivision (b), that exceeds the following ratios:

(A) Zero to one bedroom: one onsite parking space.

(B) Two to three bedrooms: two onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(2) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide "onsite parking" through tandem parking or uncovered parking, but not through onstreet parking.

(3) This subdivision shall apply to a development that meets the requirements of subdivision (b) but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d).



CREDIT(S)

(Added by Stats.1979, c. 1207, p. 4748, § 10, eff. Oct. 2, 1979. Amended by Stats.1982, c. 1263, § 2, eff. Sept. 22, 1982; Stats.1983, c. 634, § 1; Stats.1984, c. 1333, § 2; Stats.1989, c. 842, § 3; Stats.1990, c. 31 (A.B.1259), § 3, eff. March 26, 1990; Stats.1991, c. 1091 (A.B.1487), § 64; Stats.1998, c. 689 (S.B.1362), § 6; Stats.1999, c. 968 (S.B.948), § 7; Stats.2000, c. 556 (A.B.2755), § 1; Stats.2002, c. 1062 (A.B.1866), § 3; Stats.2003, c. 430 (A.B.305), § 1; Stats.2004, c. 724 (A.B.2348), § 5; Stats.2004, c. 928 (S.B.1818), § 1; Stats.2005, c. 496 (S.B.435), § 2; Stats.2008, c. 454 (A.B.2280), § 1.)

[FN1] So in enrolled bill.

Current with urgency legislation through Ch. 14, and 16-17 of 2011 Reg.Sess.

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## PLANNING COMMISSION EXCERPT MINUTES

Regular Meeting  
June 25, 2012 at 7:00 p.m.  
City Council Chambers  
701 Laurel Street, Menlo Park, CA 94025

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**CALL TO ORDER** – 7:01 p.m.

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

**INTRODUCTION OF STAFF** – Momoko Ishijima, Planner; Jean Lin, Associate Planner; Kyle Perata, Assistant Planner; Thomas Rogers, Associate Planner, Leigh Prince, City Attorney

### D. PUBLIC HEARING

- 3. Use Permit, Architectural Control, Major Subdivision, Below Market Rate Housing Agreement, and Environmental Review/389 El Camino Real, LLC/389 El Camino Real:** Request to demolish the existing single-family house at 612 Partridge Avenue and residential triplex at 603-607 College Avenue and construct 26 residential units and associated site improvements on the subject parcels in the C-4(ECR) (General Commercial Applicable to El Camino Real) and R-3 (Apartment) zoning districts. The application includes the following requests:

Staff Comment: Planner Lin said the project request was to demolish an existing single-family residence and residential triplex and construct 26 residential units including 17 attached townhouses and nine 9 detached single family residences on a 1.23 acre site in the R-3 (Apartment) and C-4 El Camino Real and General Commercial Applicable to El Camino Real. She said the Planning Commission was the reviewing and recommending body to the City Council as the final decision making body on the project. She outlined the six areas of review and recommendation. She said the City Council would consider the project at its July 31, 2012 meeting. She said staff had received four additional pieces of correspondence from Rochelle Hutter, Hobart Street, Rico and Ann Rosales, August Circle, Sam Sinnott, architect, and Sohala Khalily, owner of Yogurt Stoppe, El Camino Real. She said all four letters expressed the need to redevelop the project site and supported the proposed project. She said Matt Matteson, the applicant, Glenn Simmons, the project architect and Ethan McAllister, the project engineer were present to address any questions on the proposed project. She said Adam Weinstein, David Clure, and Carolyn Parks from LSA Associates and Paul Stannis, traffic consultant from BKS, were available to answer any questions on the

EIR. She said Leigh Prince, City Attorney and staff were also available to answer questions.

Public Comment: Mr. Matteson, applicant, said the original objective was to develop an economically feasible project that would contribute to Menlo Park's housing stock and within that to redevelop the vacant site with a mixture of attached and detached residences that would be compatible with both El Camino Real and the surrounding neighborhood, to develop a project sensitive to the Allied Arts neighborhood, encourage infill development in a way that would create a more vibrant mix of housing on El Camino Real and areas nearby, provide housing and particularly affordable housing, enhance the visual character of El Camino Real, build a project that everyone was proud of, take advantage of El Camino Real as a transit corridor and design a project in such a way that it would encourage residents to use it and the project's proximity for transit services as well as local retail shopping and downtown Menlo Park. He said in summary the project included 26 residences, 17 of which were attached townhomes and nine were detached single-family residences along the rear property line that adjoin other single-family residential neighbors, two of which were located on corners with access for one from Partridge Avenue and the other from College Avenue. He said the latter were designed to blend with neighborhood and not look like the rest of the development. He said each residence has a two-car garage and guest parking spaces to screen vehicles.

Mr. Matteson presented a visual presentation on the project features. He said revised plans had moved the sidewalk and trellis away from the heritage redwood tree, and had greatly increased the amount of landscaping. He said in working with the neighborhood task force that there would be more extensive landscaping on the College Avenue side of the project.

Mr. Matteson said the project had three below market rate homes for lower income households and would be spread out in three different buildings and would be indistinguishable from other units. He reviewed the cost of the three below market rate units to build and subtracted the allowable purchase price. He said in total the subsidies provided equaled \$1,452,000 for the three units. He said the provision of three below market rate housing units triggered the state density bonus law and qualified the building of 27 residential units. He said their application was for 26 units. He said the traffic studies were done on 27 units as were some of the other environmental studies. He said the application of the state density bonus law allowed the request of development standard waivers. He said they had had 13 requests which had now been reduced to six requests for waivers. He said also they were also by statute eligible for one incentive and their request was to increase the base FAR from 55% to 75%. He said that would bring the project to an overall FAR of 87%.

Mr. Matteson said they had a complete application and plans before the Downtown Specific Plan was finalized so they were exempt but he thought a comparison was helpful. He said the project was consistent with the Plan but it was a little bit less dense and impactful. He said the base FAR in the new zone under the Specific Plan was

110% compared to their plan's 87%. He said under the Plan density was allowed at 25 residences per acre and their proposal was at 21 residences per acre. He said the Plan would allow for 38 feet in height and their project averaged at 30 feet in height or less. He said minimum parking under the Plan was 42 spaces and their project has 69 spaces. He said the Plan required a minimum of 30% open space and their project had a combined 34.1% when common ground and yards were counted.

Mr. Matteson said there had been a few changes to their plans since the last study session. He said they went to the Menlo Park Fire District to get their approval on their plans. He said the District requested they modify the juncture of the sidewalks and driveways to accommodate the weight and turning radiuses of their longest truck. He said that was done in an aesthetically pleasing way and the District had approved. He said they have moved the sidewalk on College Avenue away from the heritage Redwood tree roots. He said the housing units with dens on the first floor had been modified to allow for a half-bath that reduced the garage size, which were larger than they needed to be. He said sidewalks on El Camino Real and College Avenue went from five to six feet. He said Partridge Avenue has four foot wide sidewalks and that would be maintained. He said the project was a transition from lower density to what would probably be much higher density on the east side of El Camino Real. He said the mix of styles would attract a mix of property owners including young couples, small families, and empty nesters. He said five of the units had the capacity for elevators. He said they were pleased to increase the housing supply near local merchants. He said they have worked on the project for two years with City staff and neighbors. He said the Financial Impact Study showed that they would be paying \$1.1 million in fees to the City and other local agencies and they were providing \$1.45 million in BMR subsidies.

Commissioner Bressler asked how soon construction would begin. Mr. Matteson said it would take six to eight months to do detailed construction plans and he suspected by next spring.

Commissioner O'Malley asked if they had financing for the project. Mr. Matteson said that was no problem.

Mr. John Boyle, former City Council member, said that there was a blight problem along El Camino Real. He said the project developers had worked extensively with neighbors, and he thought there was a good outcome. He said the solution was attractive and something he would be proud of for Menlo Park. He said it was good for the City and local merchants. He said he and others initially wanted some retail but that did not really work at this site. He said having another 100 people to shop locally was a benefit that would add to vibrancy downtown, increase sales tax revenue, add to the housing stock and provide BMR housing.

Mr. Karl Hutter, Menlo Park, said he thought the developer's presentation was excellent. He said the closed car dealerships along El Camino Real did not reflect well on the City. He encouraged the Commission to recommend the project.

Ms. Wendy McPerson, Menlo Park, said she lived about six houses away from the project, and she supported it. She said she spent a good part of the 1990s on the Housing Commission and they had worked hard to get residential zoning along El Camino Real. She said there were many young people and young families who want to live along transportation corridors. She said she thought this would be a great project.

Mr. Howie Dallmar, Menlo Park, said he was a long time friend of the Matteson family, and he knew they would build a quality project. He said he supported the project and noted that it was a thoughtful and responsible project. He said the developer had met with the neighbors, listened to their concerns, made changes and earned the support of the majority of the neighbors. He said the project would add to the housing stock and provide BMR housing. He said he thought everyone would be proud of this project.

Ms. Kimberly Glenn, Menlo Park, said she deliberately does not take visitors down El Camino Real because of the vacant lots. She said they moved from Marin 22 years ago specifically to Menlo Park, which they considered the jewel between Atherton and Palo Alto. She said the City had disappointingly degraded over the years. She said she loved Menlo Park and would like to see this project move forward.

Ms. Deborah Fitz, Menlo Park, said she completely supported the project and asked the Commission to recommend the approval to the City Council.

Chair Ferrick closed the public hearing.

Commission Comment: Commissioner Bressler asked if this density bonus would apply to development under the Specific Plan. Planner Rogers said that as a state law it would apply to all development. Commissioner Bressler said the City computes building costs and asked what the construction number per square foot was. Planner Rogers said the City used a spreadsheet for information that has a \$200 per square foot construction cost but that was not as important as the comparative ratio as to how they look at remodels. He said the number was not an exact replica of construction costs.

Commissioner Riggs said if one was building a home where there was an existing home you might budget \$300 per foot. He said if you were building a home where there had been a used car lot there would be a need to bring in services and connection fees which would significantly exceed \$300 per square foot.

Commissioner Bressler said the developer was indicating that it would cost about \$530 per square foot to build these units based on the number offered for the BMR units.

Chair Ferrick said there were six items to vote upon and asked if the Commission wanted to structure the discussion.

Commissioner O'Malley said he would like to take action on all of the items listed noting the project had been discussed ad infinitum. He said it would be hard to find shortcomings with the project as there was considerable support.



Commissioner Eiref asked if any of the Commissioners had any objections.

Commissioner Kadvany said the presentation was excellent and the project had been a long time coming. He said he wanted to discuss each item as he was not comfortable on how the density bonus law was implemented in Menlo Park or at least he wanted to discuss that process.

1. **Use Permit.** A use permit to construct three or more residential units in the R-3 zoning district, and to construct residential units in the C-4(ECR) zoning district.

Chair Ferrick moved to recommend the approval of the use permit to the City Council. Commissioner Yu seconded the motion.

Chair Ferrick said she was pleased to see this project and liked that it fit within what the City has approved in its Specific Plan. Commissioner Bressler said the project fit under what was proposed under the Specific Plan and it would be hard to object to the project in that regard. He said it was important that the project get built quickly so people had an opportunity to see a slightly smaller development on El Camino Real than what the Plan would permit as that was an important part of accessing the Specific Plan.

Commission Action: M/S Ferrick/Yu to recommend approval to the City Council as recommended in the staff report.

1. 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.
2. Approve the Use Permit for construction of three or more units in the R-3 zoning district and new construction of residential units in the C-4(ECR) zoning district.

Motion carried 7-0.

2. **Architectural Control.** Design review for the proposed residential buildings and site improvements.

Commissioner Riggs moved to recommend approval to the City Council of the architectural control. He said he had been less than pleased with the initial proposals' scale and aesthetics. He said the turnaround since then in terms of the project scale and aesthetics was an obvious credit to the developer and neighbors and behind the scene work from staff. He said the buildings on College and Partridge Avenues were like anchor buildings in retail terminology as they set a wonderful stage. He said this

project would set the bar pretty high in terms of internal site planning, mixes of architectural treatment, details, and materials. He said this was an excellent project and it was wonderful to have an example to refer to in the future. Commissioner O'Malley seconded the motion.

Commissioner Bressler said putting condominiums on El Camino Real was not his preference but he supported the project moving ahead so people could see what this would look like as opposed to what development could occur under the Specific Plan.

Commissioner Kadvany said he agreed with the quality and that this was an exemplary project but returning to the beginning of the project he did not agree with the assumption of bringing housing to El Camino Real. He said speakers had asked that the project not look like Redwood City or Mountain View along El Camino Real and he thought they were talking in part about housing coming all the way out on the ground level along El Camino Real. He said El Camino Real was a state highway and not designed for residential. He said the number of parking spaces was somewhat higher than it could be but it was like a suburban cul de sac with separated two-car garages. He said the setbacks were generous near College Avenue but going toward Planet Auto narrowed, and that the City was not getting the setback needed on El Camino Real. He said he agreed that there would be a lot of high perceived value of the project that would motivate other builders and other projects.

Commissioner Eiref said it was unfair to encumber one project with the vision for what was 10 acres of vacant space. He said hopefully they would see different approaches to using this land. He said with the Specific Plan in place and this project kicking off there was an opportunity to think about where they should go with the rest of the land. He said it was an excellent opportunity to change the momentum and perception of what was happening on El Camino Real.

Commissioner Yu said she was supportive of the project and that it was not meant to summarize every ideal for El Camino Real. She said the housing was setting a nice aesthetic bar. She said there had been a great process and the proponents cared about the community. She said it set a nice tone for being the first project on El Camino Real since the adoption of the Specific Plan, but it did not have to encapsulate all of the City's hopes and dreams.

Commission Action: M/S Riggs/O'Malley to recommend to the City Council to approve the architectural control.

3. Adopt the following findings, as per Section 16.68.020 of the Zoning Ordinance, pertaining to architectural control approval:
  - a. The general appearance of the structures is in keeping with the character of the neighborhood;

- b. The development will not be detrimental to the harmonious and orderly growth of the City;
  - c. The development will not impair the desirability of investment or occupation in the neighborhood; and,
  - d. The development provides adequate parking as required in all applicable City Ordinances and has made adequate provisions for access to such parking.
4. Approve the proposed design of the new buildings and site improvements.

Motion carried 7-0.

3. **Major Subdivision.** Tentative Map for seven existing legal lots to be merged into two lots; the public street easement for Alto Lane would be abandoned; and 26 residential condominium units would be created.

Commissioner Riggs moved to recommend approval of the major subdivision to the City Council. Chair Ferrick seconded the motion.

Commissioner Kadvany wished he had understood earlier the significance that the City was giving the developer Alto Lane. Recognized by the Chair, Planner Lin said that the City was abandoning Alto Lane but it was important to recognize that the lane only served the triplexes currently on the property. She said when those triplexes were demolished the lane would serve no purpose. Commissioner Kadvany said that while it was the right thing for the City to do, he would have liked the City's beneficence to have been more apparent at the beginning of the process and that might have helped with some of the issues. Commissioner Riggs said his context was the alleys of the Willows which the City did not seem to want to own. He said for that reason he did not see Alto Lane as having any intrinsic value although its abandonment provided land to the developer.

Commission Action: M/S Riggs/Ferrick to recommend the City Council approve the Major Subdivision.

- 5. Make findings that the proposed major subdivision is technically correct and in compliance with all applicable State regulations, City General Plan, Zoning and Subdivision Ordinances, and the State Subdivision Map Act.
- 6. Approve the request for a Tentative Map to merge seven lots into two lots, abandon the public street easement for Alto Lane, and create 26 residential condominium units.

Motion carried 7-0.

4. **Below Market Rate Housing Agreement.** A Below Market Rate (BMR) Housing Agreement to provide for the development of three on-site low-income BMR units in accordance with the City's BMR Program and the provisions of Government Code Section 65915, the State Density Bonus Law.

Commissioner O'Malley moved to recommend to the City Council approval of the Below Market Rate Housing Agreement as recommended in the staff report. Chair Ferrick seconded the motion. She noted that the Housing Commission had analyzed the BMR Housing Agreement and supported.

Commissioner Riggs said the Planning Commission had about a two-hour session about a year ago on the state density bonus law and was something they were made aware of and subsequently that knowledge was useful for the consideration of this project.

Commissioner Kadvany asked about density and intensity of units per acre. Planner Rogers said that some cities in addition to maximum standards have minimum density standards. He said in the absence of that the BMR state density bonus was based on a percentage of the units the developer was opting for so there was no mechanism by which the City could require minimum density.

Chair Ferrick suggested that the motion for the BMR be combined with a motion for the state density bonus law which was listed next on the approval. Commissioner O'Malley agreed as the maker of the motion to include also a recommendation to the City Council to approve the incentive and six development standard waivers requested under the state density bonus law. Chair Ferrick seconded.

Commissioner Kadvany said that the state density bonus law was the item he wanted to address.

Commissioner O'Malley retracted the modification to the motion.

Commission Action: M/S O'Malley/Ferrick to recommend that the City Council approve the Below Market Rate Housing Agreement.

7. Approve the Below Market Rate Housing Agreement to provide three on-site BMR units in accordance with the City's Below Market Rate Housing Program and State Density Bonus Law (Attachment E).

Motion carried 7-0.

5. **State Density Bonus Law.** The application is being submitted subject to the State Density Bonus Law, which permits exceptions to the City's Zoning Ordinance requirement, to allow one incentive and six development standard waivers.

Commissioner Kadvany said he had mentioned, earlier this evening the origins of the project with driveways off Partridge and College Avenue as he believed that project had struck great fear into neighbors that there would be considerable traffic increase on those streets. He said neighbors, rightly so, began mobilizing. He said as originally proposed having a retail use on El Camino Real with ingress/egress from College and Partridge Avenues, he could understand neighbors' concern. He said however that the processes bifurcated with the neighborhood group working with the developer, contrasted with what was happening in the public meetings. He said neighbors were very concerned about traffic and the project went from a project with 3,000 square feet of retail to zero retail. He said that made sense for the neighbors and from then on out that group was setting the premises for the developer. He said in the meantime at the Planning Commission the next phase of the project seen was under the state density bonus law. He said that seemed to remove any decision making power or design influence the Commission had. He said the Commission spent a lot of time with the City Attorney trying to understand what the law implied and what influence the Commission could have on this project. He said the project changed through the persistence of the neighbors. He agreed with one of the letters received that the project was organized around cars, garages and was suburban. He said there was never really an opportunity to discuss including some portion as retail. He said in terms of process that the process disappeared. He said because residents were worried about cars then the focus was on parking. He said he was pleased there were real below market rate homes through this project but he did not like the state density bonus law hijacking the process so the Commission could not focus on the project in a meaningful way.

Chair Ferrick said the state density bonus law was a mechanism and it happened to apply to this project.

Commissioner Riggs moved to recommend to the City Council approval of the one incentive and six development standard waivers allowable under the state density bonus law. Commissioner O'Malley seconded the motion.

Commissioner Kadvany said this project could have probably been built under the Specific Plan.

Commission Action: M/S Riggs/O'Malley to recommend the following action to the City Council.

8. Apply the State Density Bonus Law to allow one incentive and six development standard waivers.

Motion carried 5-2 with Commissioners Bressler and Kadvany dissenting.

6. **Environmental Review.** The project is analyzed for potential environmental impacts in the focused EIR.

Commissioner Kadvany said there was a letter from the Department of Transportation stating they thought the project was overparked, suggesting more facilities for bicycles, and decoupling spaces. He said the reply was on page 16 and it indicated that residents could utilize on street parking along El Camino Real, College Avenue and Partridge Avenue but failed to point out there was no overnight street parking. He thanked LSA for a well organized and thorough environmental document.

Commission Action: M/S Riggs/Yu to recommend the following action to the City Council.

9. Adopt a Resolution of the City Council of the City of Menlo Park, State of California, Certifying the Final Environmental Impact Report (EIR), Adopting the Statement of Overriding Considerations and Adopting the Mitigation Monitoring and Reporting Program for the 389 El Camino Real Project for the 389 El Camino Real Project (Attachment I).

Motion carried 7-0.

Commissioner Bressler said he thought the overhead and process cost for this project had been huge. He said he had an expectation that with some of that cost not being there for the Specific Plan that this would result in projects for Menlo Park to enjoy. Commissioner Riggs said he agreed with that comment. He said he wanted to thank staff for the staff reports that made this process very functional for the Commission and City. Chair Ferrick said she applauded the developer and neighbors for bringing divergent viewpoints to a good compromise.

## **ADJOURNMENT**

The meeting adjourned at 10:28 p.m.

Staff Liaison: Thomas Rogers, Associate Planner

Recording Secretary: Brenda Bennett

Approved by Planning Commission on July 23, 2012



## COMMUNITY DEVELOPMENT DEPARTMENT

Council Meeting Date: July 31, 2012  
Staff Report #: 12-120

Agenda Item #:E-2

**PUBLIC HEARING: Consider a Request for a General Plan Map Amendment, Rezoning, Tentative Subdivision Map, and Mitigated Negative Declaration for the 3.9-acre Site Located at 50 Terminal Avenue and 1467 Chilco Street**

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### RECOMMENDATION

Staff recommends that the City Council concur with the recommendation of the Planning Commission and approve the following actions related to the project located at 50 Terminal Avenue and 1467 Chilco Street:

1. **Environmental Review:** Make findings regarding the Mitigated Negative Declaration;
2. **Tentative Parcel Map:** Make findings and approve the Tentative Parcel Map (Attachment A) to subdivide the existing parcel into three parcels consisting of the following:
  - Parcel 1: portion of the Onetta Harris Community Center parking lot (approximately 0.57 acre)
  - Parcel 2: school site and vacant land (approximately 2.88 acres)
  - Parcel 3: fire station site (approximately 1.03 acres)

In addition, the Tentative Parcel Map would establish new easements and abandon existing easements;

3. **General Plan Map Amendment:** Adopt a resolution (Attachment B) to change the site's General Plan designations as follows:
  - Parcel 1: The portion of this parcel with Assessor's Parcel Number 055-321-010 will change from Low Density Residential to Public Facilities
  - Parcel 2: Change from Medium Density Residential and Public Facilities to Low Density Residential
  - Parcel 3: Change from Medium Density Residential to Public Facilities;

4. **Rezoning:** Introduce an ordinance (Attachment C) to change the site's Zoning designations as follows:
  - Parcel 1: The portion of this parcel with Assessor's Parcel Number 055-321-010 will change from R-1-U (Single Family Urban Residential) district to P-F (Public Facilities) district
  - Parcel 2: Change from U (Unclassified) and P-F (Public Facilities) districts to R-1-U (Single Family Urban Residential) district
  - Parcel 3: Change from U (Unclassified) district to P-F (Public Facilities) district.

## **BACKGROUND**

The City currently owns the entire project site. The City has been leasing the western portion of the site to the California Family Foundation (which operates Beechwood School) and the eastern portion to the Menlo Park Fire Protection District for use as a fire station. The central portion of the site has remained vacant. In 2001, Peninsula Habitat for Humanity (Habitat) initiated a proposal to develop the vacant portion and an adjacent single-family parcel (297 Terminal Avenue) with a housing project, although this proposal subsequently encountered difficulties with financing and neighborhood concerns. In 2011, this project was formally withdrawn, and the City commenced the purchase of 297 Terminal Avenue, as required by the Exclusive Negotiating Rights Agreement (ENRA) with Habitat.

Beechwood School, a non-profit private school serving Kindergarten through 8th grades, currently operates out of pre-fabricated portable buildings on its main campus at the western portion of the site. The School has expressed interest in expanding their existing campus to incorporate the vacant land, and replacing the existing portables with permanent buildings. Site-specific plans for the new school campus are in the early stages and no specific development has been proposed. Additional site-specific analysis would be required for any future development. On April 17, 2012, the City Council approved a contract to sell the portion of the site shown as Parcel 2, along with a parcel at 297 Terminal Avenue, to the California Family Foundation for Beechwood School.

The Menlo Park Fire Protection District (MPFPD) has a long-term lease with the City for the eastern portion of the subject property fronting on Chilco Street. In 1996, the MPFPD obtained approval of a use permit to construct a new fire station at this site, including a maintenance shop and a special operations building. Construction of the fire station (Station 77) was completed in 1998. Station 77 currently serves the Belle Haven neighborhood and nearby industrial land uses to the north of the railroad tracks, and will continue to operate at this location in the foreseeable future.

On June 25, 2012, the Planning Commission held a public hearing to consider recommendations on the actions required for project approval. The approved excerpt



minutes for this meeting are included as Attachment D. After considering public comments and project materials, including the Mitigated Negative Declaration, the Planning Commission unanimously recommended that the City Council take all required actions and approve the project.

## **ANALYSIS**

### **Site and Surrounding Context**

The subject site is a narrow strip of land approximately 100 feet in width located between the northwestern terminus of Terminal Avenue and west of Chilco Street in the Belle Haven neighborhood of Menlo Park. The site is surrounded by the Onetta Harris Community Center/Kelly Park complex to the west, the San Mateo County Transportation Authority/Joint Powers Authority railroad tracks (also known as the Dumbarton Rail Corridor) to the north, and a mix of one- and two-story single-family residences to the east and south. Generally, single-family residences and residentially-oriented uses (i.e., schools, community center, parks, and religious assembly) dominate the area south of the railroad tracks, while industrial land uses dominate the areas north of the railroad tracks.

### **Subdivision**

The subject site is currently owned by the City of Menlo Park as one parcel, with the western portion leased to Beechwood School, and the eastern portion leased to the Menlo Park Fire Protection District. A Tentative Parcel Map (see Attachment A) is proposed to subdivide the existing parcel into three parcels consisting of the following:

- Parcel 1: The eastern portion of the Onetta Harris Community Center parking lot, consisting of approximately 0.57 acre;
- Parcel 2: The existing school site and vacant land, consisting of approximately 2.88 acres; and,
- Parcel 3: The fire station site, consisting of approximately 1.03 acres.

The proposed subdivision would establish formal property lines between the community center, school, and fire station uses. Additionally, the Tentative Parcel Map proposes to establish new easements and abandon existing easements. The affected easements consist of utility and ingress/egress easements, and their creation or abandonment are intended to better serve the proposed parcels. The proposed subdivision would meet the relevant requirements of each of the respective proposed zoning designations, as described in more detail below. Staff has reviewed the Tentative Parcel Map and has found the map to be in compliance with State and City subdivision regulations.

### **General Plan Amendment and Rezoning**

The majority of subject site is currently in the U (Unclassified) zoning district, with a General Plan land use designation of Medium Density Residential. Currently, there are

no permitted uses and no development regulations specified for the U (Unclassified) district in the Zoning Ordinance, and both the existing private school and fire station have been allowed to operate on the site through approval of use permits. The map of the proposed General Plan amendment is included as an exhibit of Attachment B, and the proposed rezoning map is included as an exhibit of Attachment C.

The zoning designations of properties adjacent to the subject site include the R-1-U (Single Family Urban Residential) district to the south, P-F (Public Facilities) district to the west, U (Unclassified) district to the north, and R-3 (Apartment) district to the east.

### ***Parcel 1***

This area currently encompasses the eastern portion of the Onetta Harris Community Center parking lot, and no changes to its present use are proposed. The proposed subdivision will establish a formal property line between the community center and the school site. While the majority of the proposed Parcel 1 area is currently in the P-F (Public Facilities) zoning district with a corresponding General Plan land use designation of Public Facilities, a small triangular portion in the southeast corner is in the R-1-U (Single Family Urban Residential) zoning district with a General Plan land use designation of Low Density Residential. In an effort to ensure consistency between this area's land use designations and its existing public use, this small triangular area will be rezoned to the P-F (Public Facilities) zoning district with a corresponding change in its General Plan land use designation to Public Facilities to reflect its existing and continuing use as part of the community center.

According to the Zoning Ordinance, all public facilities used and operated by the City of Menlo Park are permitted uses in the P-F district, where the only development regulation is a maximum floor area ratio of 30 percent. The existing and continued use of this parcel as a city-owned public parking lot is therefore permitted under the proposed P-F district. While there are currently no buildings on this parcel, the construction of any future buildings would have to comply with the maximum floor area ratio.

### ***Parcel 2***

Parcel 2 consists of the existing school site and the vacant portion of the lot immediately adjacent to the east of the school site. While the majority of the proposed Parcel 2 area is currently in the U (Unclassified) district with a General Plan land use designation of Medium Density Residential, a small triangular portion near the school site's entrance is currently in the P-F (Public Facilities) district, with a General Plan land use designation of Public Facilities. The proposed land use designation changes will rezone the entirety of Parcel 2 to the R-1-U (Single Family Urban Residential) zoning district, with a corresponding General Plan land use designation of Low Density Residential.

According to the Zoning Ordinance, single-family residences are listed as a permitted use in the R-1-U district, and private schools are listed as a conditional use and permitted only through approval of a use permit. Any future development of this parcel will need to comply with the development regulations of the R-1-U district. A comparison between the R-1-U district's development standards and the existing development is provided below:

	<b>EXISTING DEVELOPMENT</b>	<b>R-1-U DEVELOPMENT STANDARDS</b>
Lot area	125,452 sf	7,000 sf min.
Lot width	100 ft.	65 ft. min.
Lot depth	1,257 ft.	100 ft. min.
Setbacks		
Front	70 ft.	20 ft. min.
Rear	760 ft.	20 ft. min.
Side (left)	12 ft.	10 ft. min.
Side (right)	10 ft.	10 ft. min.
Building coverage	8,880 sf 0.07 %	43,908 sf max. 35 % max.
FAL (Floor Area Limit)	8,880 sf	32,413 sf max.
Building height	< 30 ft.	30 ft. max.

The existing school site would be in compliance with the R-1-U district's development regulations. Furthermore, the rezoning of this parcel to the R-1-U district will ensure that any future development will be compatible to the existing single-family residential neighborhood with respect to building height, setbacks, and massing.

### **Parcel 3**

Parcel 3, which would consist of the existing fire station, is currently in the U (Unclassified) zoning district, with a General Plan land use designation of Medium Density Residential. This parcel will be rezoned to the P-F (Public Facilities) district with a corresponding change in the General Plan land use designation to Public Facilities. According to the Zoning Ordinance, all uses of existing facilities by any public utility or governmental agencies such as the Menlo Park Fire Protection District are conditionally permitted uses. With the exception of a maximum floor area ratio of 30 percent and any conditions imposed pursuant to a use permit, there are no development regulations specified under the P-F district. The existing fire station is currently developed with a total 12,211 square feet of buildings resulting in a floor area ratio of 27 percent, and is therefore in compliance with the development regulations of the proposed P-F district. Although no new development is anticipated on the fire station site, any future development would need to comply with the development regulations of the P-F district.

The proposed General Plan map amendments and rezoning are intended to make the land use designations more consistent with existing uses on the site and the potential future expansion of the school site. These uses are compatible with the adjacent single-family residences and the community center.

## **ENVIRONMENTAL REVIEW**

An Initial Study and Mitigated Negative Declaration, collectively referred to as the MND, were prepared and circulated for public review in compliance with the California Environmental Quality Act (CEQA). The public review period began on June 6, 2012 and ended on June 25, 2012. No comments were submitted regarding the MND. The MND is available for review at the Planning Division office and library reference desk during business hours.

The MND analyzes the potential environmental impacts of the project across a wide range of impact areas. The MND determined that the project would have no impact on agricultural resources and mineral resources. The project would have a less than significant impact without the need for mitigation on the following areas: aesthetics, air quality, biological resources, cultural resources, geology and soils, greenhouse gas emissions, land use and planning, noise, population and housing, public services, recreation, transportation/traffic, and utilities and service systems. A potentially significant impact was identified in the area of hazards and hazardous materials, and hydrology and water quality; however, with the incorporation of mitigation, the project's impact would be reduced to a less than significant level. These mitigation measures are briefly discussed under the Mitigation Measures heading below.

### **Hazards and Hazardous Materials**

Petroleum hydrocarbon was detected in the vacant portion of the site. The City undertook remediation of this area, however, a small amount of petroleum hydrocarbon-affected soil and groundwater still exists near the West Bay Sanitary District's sewer line. Based on communications with the San Mateo County Health Department, further review by the County to evaluate any residual contaminants would be required for any proposed change in land use or proposed soil or groundwater removal activity at or in close proximity to the affected area. The proposed subdivision and related actions would help facilitate redevelopment of the vacant portion of the parcel, although no specific development is proposed at this time.

### **Hydrology**

The eastern portion of the subject site, which includes the vacant land and the existing fire station are located within the 100-year flood plain of San Francisco Bay. A 100-year flood is a storm event which has a one-percent chance of occurring during any given year. The proposed General Plan amendment and rezoning would allow single-family residences as well as any future school expansion to be constructed within the 100-year flood hazard area, although there is currently no application for either development within this area. Any future development of structures within the floodplain would be subject to FEMA regulations, which generally requires that new structures be elevated above the base flood elevation.

### ***Mitigation Measures***

The MND identified the following mitigation measures to ensure that impacts from future development pursuant to the proposed General Plan map amendments and rezoning at the project site will not be significant:

HAZ-1: Any future activities that would disturb the soil or groundwater from the affected portion of the site must be submitted to the San Mateo County Environmental Health Division for review to ensure that residual contaminants will not pose a risk to public health and the environment.

HYDRO-1: Any new buildings erected within the 100-year flood hazard area must be elevated above the base flood level of 7.0 feet. Alternatively, the site could be elevated above the base flood elevation with fill dirt to bring the site out of the flood hazard area, in addition to applying for a Letter of Map Amendment from FEMA.

With the implementation of mitigation measures HAZ-1 and HYDRO-1 above, the potential impacts from the proposed project would be less than significant.

### **CORRESPONDENCE**

Since the June 25, 2012 Planning Commission public hearing, the City has not received any additional correspondence.

### **IMPACT ON CITY RESOURCES**

On April 17, 2012, the City Council approved the sale of the portion of the subject property that would become Parcel 2, along with the parcel at 297 Terminal Avenue, to California Family Foundation for a total of \$1,255,000. These two parcels were originally considered for the withdrawn Habitat housing proposal. The expired Exclusive Negotiating Rights Agreement (ENRA) with Habitat for the Terminal site states that the Agency would agree to purchase 297 Terminal Avenue from Habitat for \$481,590, if the review process for a housing development terminated without resulting in an executed Disposition and Development Agreement (DDA). The purchase was approved by the Council in July 2011. Since the purchase price for the purchase of 297 Terminal Avenue came from the BMR Fund, those funds would be repaid from the sale proceeds. The balance of the sale proceeds would go to the General Fund.

The City previously estimated total costs of \$45,000 for the subdivision, property appraisal, legal services, and staff time for the sale of the property. As of April 2012, the former Community Development Agency and City have expended or committed approximately \$30,000 of that total.

## **POLICY ISSUES**

Staff believes that the proposed changes to the site's General Plan and Zoning designations would make the land use designations consistent with the current and anticipated future uses of the site.

## **CONCLUSION**

The proposed subdivision would provide a clearer delineation for current and anticipated future uses. Staff believes that the proposed changes to the site's General Plan and zoning designations would make the land use designations consistent with the current and anticipated future uses of the site. Staff recommends that the City Council conduct the following actions:

### Environmental Review

1. Make the following findings relative to the environmental review of the proposal and adopt the Mitigated Negative Declaration:
  - a. A Mitigated Negative Declaration has been prepared and circulated for public review in accordance with current State CEQA Guidelines;
  - b. The Planning Commission and City Council have considered the Mitigated Negative Declaration prepared for the proposal and any comments received during the public review period (no comments received); and
  - c. Based on the Initial Study prepared for the Mitigated Negative Declaration, there is no substantial evidence that the proposed project will have a significant effect on the environment.

### Subdivision

2. Make findings that the proposed subdivision is technically correct and in compliance with all applicable State regulations, City General Plan, Zoning and Subdivision Ordinances, and the State Subdivision Map Act.

### General Plan Map Amendments

3. Adopt a Resolution of the City Council of the City of Menlo Park, Amending the General Plan to Change the Land Use Designation for Properties Located at 50 Terminal Avenue and 1467 Chilco Street (Attachment B)

### Rezoning

4. Introduce an Ordinance of the City of Menlo Park, Rezoning Properties Located at 50 Terminal Avenue and 1467 Chilco street (Attachment C)

Signature on file  
Thomas Rogers  
Senior Planner

Signature on file  
Arlinda Heineck  
Community Development Director

## **PUBLIC NOTICE**

Public notification consisted of publishing a legal notice in the local newspaper and notification by mail of owners and occupants within a 300-foot radius of the subject property.

## **ATTACHMENTS**

- A. Tentative Parcel Map, prepared by MacLeod and Associates, dated June 4, 2012
- B. Draft Resolution of the City Council of the City of Menlo Park, Amending the General Plan to Change the Land Use Designation for Properties Located at 50 Terminal Avenue and 1467 Chilco Street
- C. Draft Ordinance of the City of Menlo Park, Rezoning Properties Located at 50 Terminal Avenue and 1467 Chilco Street
- D. Planning Commission – Approved Excerpt Minutes from the Meeting of June 25, 2012

**Note:** Attached are reduced versions of maps and diagrams submitted by the applicants. The accuracy of the information in these drawings is the responsibility of the applicants, and verification of the accuracy by City Staff is not always possible. The original full-scale maps, drawings and exhibits are available for public viewing at the Community Development Department.

## **EXHIBITS TO BE PROVIDED AT MEETING**

None

## **DOCUMENTS AVAILABLE FOR REVIEW AT CITY OFFICES AND WEBSITE**

- [Planning Commission Staff Report for the meeting of June 25, 2012](#)
- [Mitigated Negative Declaration and Initial Study](#)





**DRAFT – July 31, 2012**

**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK  
AMENDING THE GENERAL PLAN TO CHANGE THE LAND USE  
DESIGNATION FOR PROPERTY LOCATED AT 50 TERMINAL AVENUE AND  
1467 CHILCO STREET**

WHEREAS, the Planning Commission of the City of Menlo Park has considered the adoption of an amendment to the General Plan to change the land use designation for certain properties located at 50 Terminal Avenue and 1467 Chilco Street (Assessor's Parcel Numbers 055-260-170, 055-280-021, and 055-321-010) to Low Density Residential and Public Facilities; and

WHEREAS, the provisions of the Government Code, 65350, et. seq. have been complied with; and

WHEREAS, the City Council of the City of Menlo Park has considered the comments of the Planning Commission in regard to amending the General Plan.

NOW THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the City Council of the City Menlo Park that the General Plan Amendment to change the land use designation for the project site particularly described in Exhibit "A", be adopted.

This resolution shall take effect upon the effective date of Ordinance No. \_\_\_ Rezoning Properties Located at 50 Terminal Avenue and 1467 Chilco Street. In the event such ordinance does not become effective within ninety (90) days of the adoption of this resolution, this resolution shall be void and of no legal effect.

I, Margaret Roberts, City Clerk of the City of Menlo Park, do hereby certify that the above and foregoing Resolution was duly and regularly passed and adopted at a meeting by said Council on the thirty-first day of July, 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

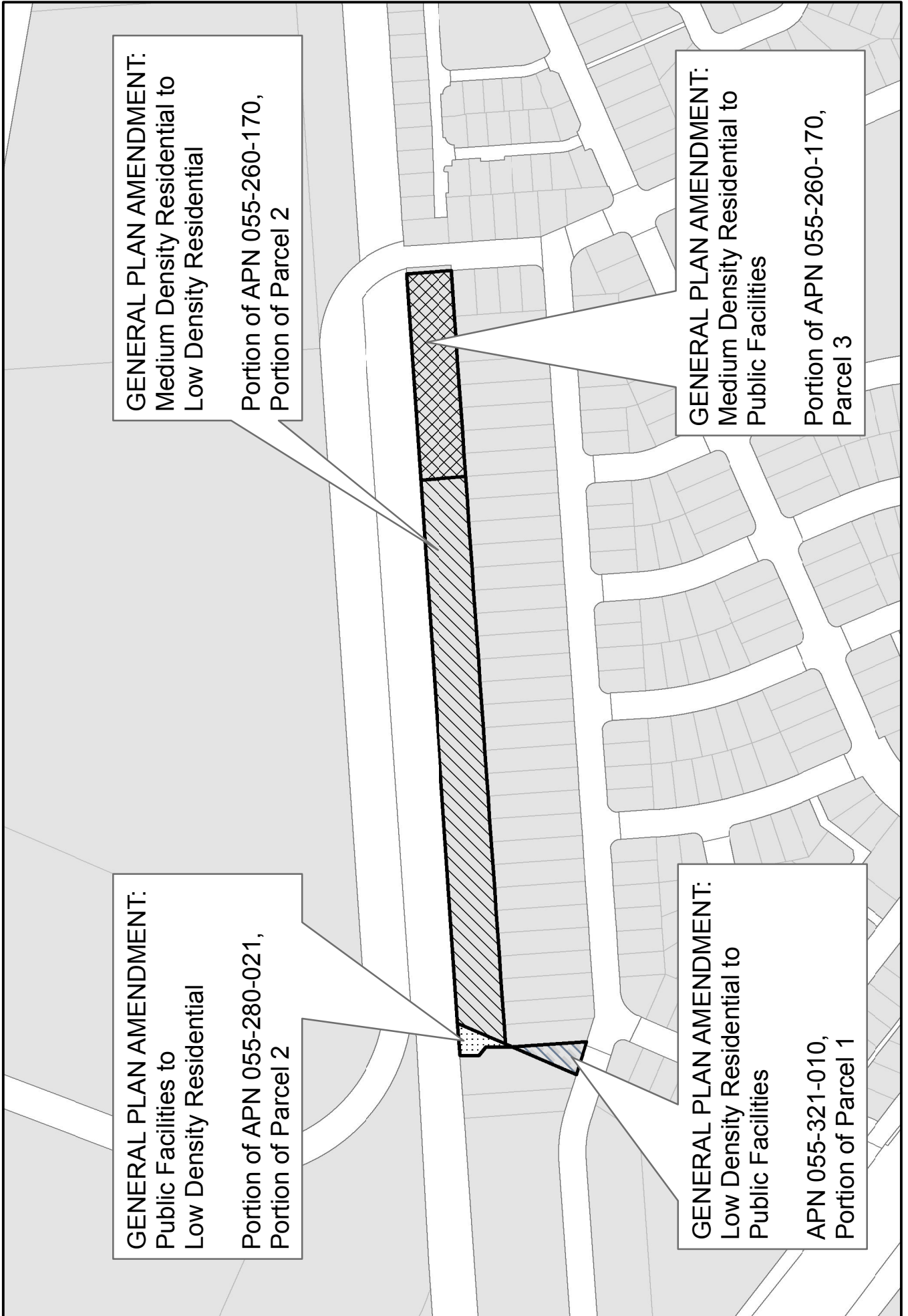
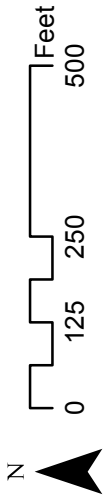
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City, this thirty-first day of July, 2012.

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Margaret S. Roberts, MMC  
City Clerk

# CITY OF MENLO PARK

50 Terminal Avenue & 1467 Chilco Avenue



***DRAFT – July 31, 2012***

**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY OF MENLO PARK REZONING  
PROPERTIES LOCATED AT 50 TERMINAL AVENUE AND 1467  
CHILCO STREET**

The City Council of the City of Menlo Park does ordain as follows:

**SECTION 1.** The zoning map of the City of Menlo Park is hereby amended such that certain real properties with the addresses of 50 Terminal Avenue and 1467 Chilco Street (Assessor’s Parcel Numbers 055-260-170, 055-280-021, and 055-321-010) are rezoned to the R-1-U (Single Family Urban Residential) and P-F (Public Facilities) districts as more particularly described and shown in Exhibit “A.”

**SECTION 2.** This ordinance shall become effective thirty (30) days after the date of its adoption. Within fifteen (15) days of its adoption, the ordinance shall be posted in three (3) public places within the City of Menlo Park, and the ordinance, or a summary of the ordinance prepared by the City Attorney, shall be published in a local newspaper used to publish official notices for the City of Menlo Park prior to the effective date.

INTRODUCED on the thirty-first day of July, 2012.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said Council on the \_\_ day of \_\_\_\_, 2012, by the following vote:

AYES:

NOES:

ABSENT:

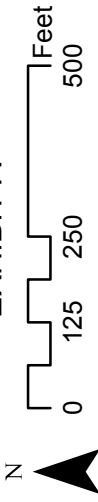
ABSTAIN:

APPROVED:

\_\_\_\_\_  
Kirsten Keith  
Mayor, City of Menlo Park

ATTEST:

\_\_\_\_\_  
Margaret S. Roberts, MMC  
City Clerk



# CITY OF MENLO PARK

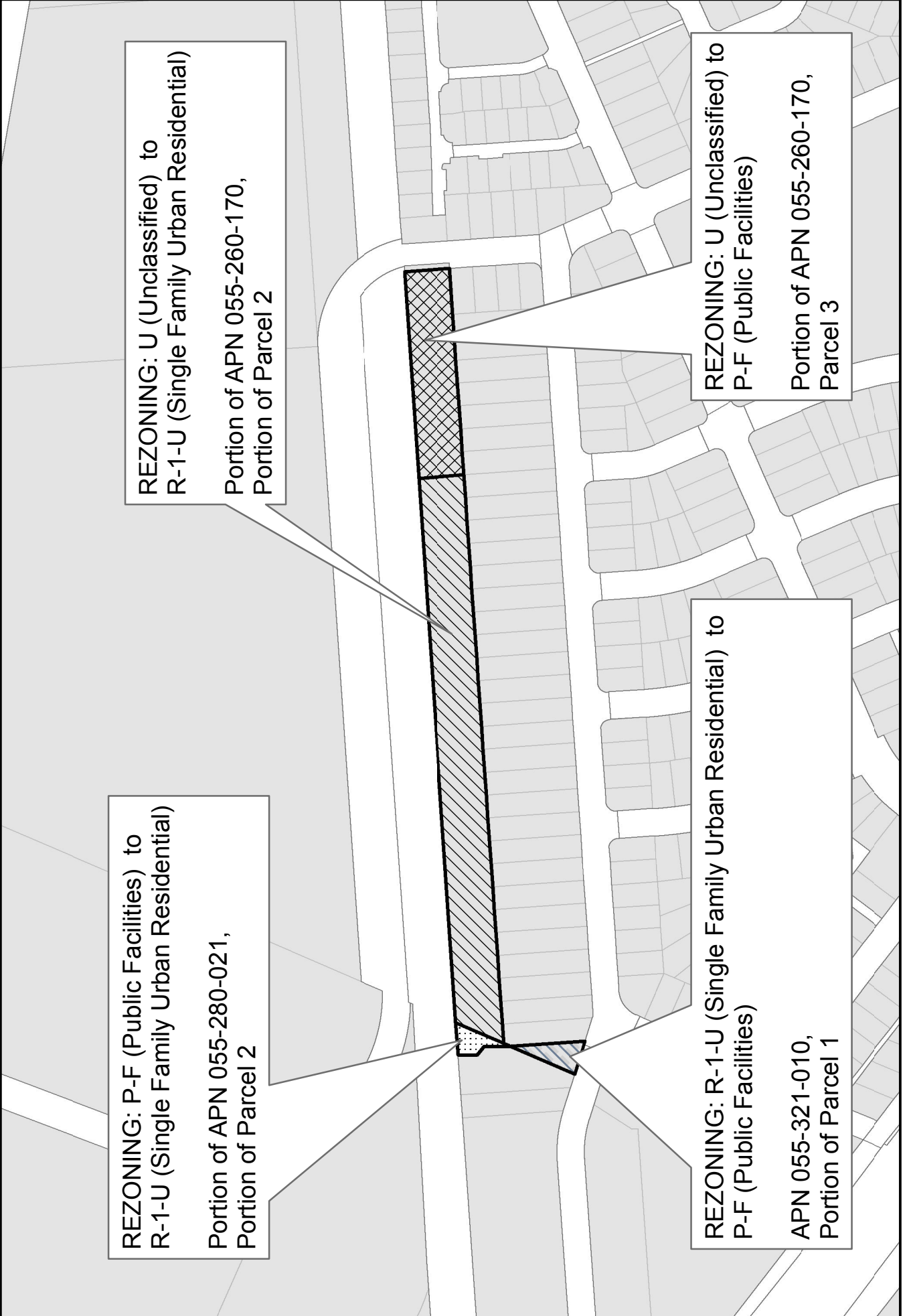
50 Terminal Avenue & 1467 Chilco Avenue

REZONING: P-F (Public Facilities) to  
R-1-U (Single Family Urban Residential)  
Portion of APN 055-280-021,  
Portion of Parcel 2

REZONING: U (Unclassified) to  
R-1-U (Single Family Urban Residential)  
Portion of APN 055-260-170,  
Portion of Parcel 2

REZONING: R-1-U (Single Family Urban Residential) to  
P-F (Public Facilities)  
APN 055-321-010,  
Portion of Parcel 1

REZONING: U (Unclassified) to  
P-F (Public Facilities)  
Portion of APN 055-260-170,  
Parcel 3





## PLANNING COMMISSION EXCERPT MINUTES

Regular Meeting  
 June 25, 2012 at 7:00 p.m.  
 City Council Chambers  
 701 Laurel Street, Menlo Park, CA 94025

**CALL TO ORDER** – 7:01 p.m.

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

**INTRODUCTION OF STAFF** – Momoko Ishijima, Planner; Jean Lin, Associate Planner; Kyle Perata, Assistant Planner; Thomas Rogers, Associate Planner, Leigh Prince, City Attorney

### D. PUBLIC HEARING

4. **General Plan Amendment, Rezoning, Tentative Map, Environmental Review/ City of Menlo Park/ 50 Terminal Avenue and 1467 Chilco Street:** Request for a General Plan map amendment, rezoning, and subdivision of a 3.9-acre site that is currently occupied by a private school and a fire station. The site will be rezoned from the U Unclassified district to the R-1-U Single Family Urban Residential and PF Public Facilities districts, with a corresponding change in the General Plan land use designation from Medium Density Residential to Low Density Residential and Public Facilities. A Tentative Map is proposed to subdivide the site and a portion of the adjacent community center parking lot into three parcels. A Mitigated Negative Declaration will be prepared, which analyzes the project's potential environmental impacts.

**Staff Comment:** Planner Lin said staff had no additional comments. She said Ms. Marilyn Anderson, the principal of Beechwood School, was present and available to answer questions about the school.

**Questions of Staff:** Commissioner Kadvany said that there were no comments from the Menlo Park Fire District or the Onetta Harris Community Center. Planner Lin said that City staff has been in contact with the Fire District and that the Initial Study and Mitigated Negative Declaration had been distributed to the Fire District for their review, but they made no comments. She said the Tentative Map was included with that mailing.

Commissioner O'Malley said he understood that Beechwood School would purchase all of Parcel 2 but questioned why the area was being rezoned to R-1-U zoning district. He

asked if that occurred whether the entire parcel would be the school. He asked if that was the case why it was rezoned residential. Planner Lin said the expectation was that Beechwood School would purchase the entirety of Parcel 2. She said it is a private school and in the R-1-U district a private school was considered a conditional use. She said if they were to expand the school they would apply for a use permit. Commissioner O'Malley asked if in the future they no longer wanted to operate the school whether the parcel could be used for residential development. Planner Lin said that was correct. Commissioner O'Malley asked if there was a contract for the school to purchase the parcel. Planner Lin said the City Council had approved a contract for Beechwood School to purchase the parcel.

Commissioner Eiref asked if the parcel was being sold or valued in any way that made it attractive as an educational environment for school as opposed to residential, and if it would be kept as school. Planner Rogers said the value of the land was not for the Planning Division's discretion nor germane to the action before the Commission. He said it was the City Council's discretion as to the property. He said there was a valuation procedure and that probably recognized the constrained nature of this parcel in regard to width and access. He said there had been a residential project proposed for this site that received a lot of neighbor opposition.

Responding to a question from Commissioner Riggs as to why the site was zoned R-1-U and not PF, Planner Rogers said the PF zoning could be more restrictive and also more freeing in some ways and could allow for some less harmonious government uses. He said this was a solution that seemed to offer the most protection for the residential neighborhood if a school was not there and also provided flexibility of development parameters for the school itself.

Chair Ferrick opened the public hearing. There being no speakers, she closed the public hearing.

Commission Comment: Chair Ferrick asked if it was the City or school that determined the zoning. Planner Lin said the City.

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

### Environmental Review

1. Make the following findings relative to the environmental review of the proposal and adopt the Mitigated Negative Declaration:
  - a. A Mitigated Negative Declaration has been prepared and circulated for public review in accordance with current State CEQA Guidelines;

- b. The Planning Commission has considered the Mitigated Negative Declaration prepared for the proposal and any comments received during the public review period; and
- c. Based on the Initial Study prepared for the Mitigated Negative Declaration and any comments received on the document, there is no substantial evidence that the proposed project will have a significant effect on the environment.

#### Subdivision

2. Make findings that the proposed subdivision is technically correct and in compliance with all applicable State regulations, City General Plan, Zoning and Subdivision Ordinances, and the State Subdivision Map Act.

#### General Plan Map Amendments

3. Adopt a Resolution of the City Council of the City of Menlo Park, Amending the General Plan to Change the Land Use Designation for Properties Located at 50 Terminal Avenue and 1467 Chilco Street

#### Rezoning

4. Introduce an Ordinance of the City of Menlo Park, Rezoning Properties Located at 50 Terminal Avenue and 1467 Chilco Street

Motion carried 7-0.

### **ADJOURNMENT**

The meeting adjourned at 10:28 p.m.

Staff Liaison: Thomas Rogers, Associate Planner

Recording Secretary: Brenda Bennett

Approved by Planning Commission on July 23, 2012

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## PUBLIC WORKS DEPARTMENT

Council Meeting Date: July 31, 2012  
Staff Report #: 12-109

Agenda Item #: E-3

**PUBLIC HEARING: Introduce an Ordinance Adopting San Mateo County's Prohibition on the Use of Polystyrene Based Disposable Food Service Ware By Food Vendors Ordinance By Adding Chapter 7.14 to Title 7 of the Menlo Park Municipal Code**

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### RECOMMENDATION

Staff recommends that the City Council introduce an ordinance adopting San Mateo County's Prohibition on the Use of Polystyrene Based Disposable Food Service Ware by Food Vendors Ordinance by adding to Chapter 7.14 to Title 7 of the Menlo Park Municipal Code (Attachment A).

### BACKGROUND

Polystyrene is a petroleum-based lightweight material that can be formed into many different products. One of the more common uses of this product is to use expanded polystyrene beads for disposable food service containers, such as plates, cups, bowls, trays, and clamshell containers used to take out food. These containers are often referred to as "Styrofoam" or plastics labeled "Number Six." Once these containers become soiled with food, they tend to be non-reusable, have a low recycling value, and are not biodegradable.

Used polystyrene food containers are a significant litter problem in local cities and a major source of marine pollution. Supporters of ordinances and legislation to ban polystyrene containers state that these containers have hazardous chemicals that may leach into food and drink and may cause cancer. They also state that small pieces of this type of plastic can break off and be ingested by wildlife resulting in reduced appetite and nutrient absorption that can lead to starvation.

To address this problem, many communities are encouraging or requiring the use of disposable compostable food ware. Compostable food ware products are made from recyclable and renewable materials, such as paper, cardboard, corn starch, potato starch and sugar cane.

In 2011, San Mateo County implemented a polystyrene food ware ban for restaurants in the unincorporated portions of the county. County supervisors have encouraged other cities in the county to adopt their polystyrene ban ordinance. In a study session in March 2012, staff presented the City Council with policy options to regulate disposable polystyrene food ware distributed by food vendors. The options included:

1. Not considering an ordinance to regulate polystyrene food ware;
2. Adopting the County's polystyrene food ware ordinance by reference; and
3. Developing a stand alone ordinance that would prohibit the distribution of other types of polystyrene food ware products not covered under the County's model ordinance.

The Council generally supported the idea to consider the County's polystyrene food ware ordinance, and provided direction to engage the community in considering the ordinance. Staff has completed an outreach campaign to educate food establishments about alternatives to polystyrene and to ask for input regarding a potential polystyrene ban.

## **ANALYSIS**

### **San Mateo County's Disposable Polystyrene Food Ware Ordinance**

The San Mateo County's disposable polystyrene food ware ordinance may be adopted by reference (See Attachment B). This would allow the City to use existing ordinance language and educational material provided by the County. In addition, outreach and enforcement would be implemented by County environmental health inspectors at no cost to the City, saving staff time and resources for Menlo Park.

The County's ordinance would prohibit food vendors, including restaurants, delis, cafes, markets, fast-food establishments, vendors at fairs, and food trucks from dispensing prepared food in containers made out of either oriented hard polystyrene (plastic Number Six) or expanded polystyrene (Styrofoam). However, it would not prohibit the use of other oriented polystyrene products such as straws, cup lids, and utensils, or the use of oriented or expanded polystyrene for pre-packaged foods (e.g., pre-packaged meats or eggs in markets).

The penalty for not complying with the ordinance is \$100 for the first violation, \$200 for the second violation, and \$500 for the third violation. To date, the County has not issued any violations. The ordinance also includes a hardship exemption if a food vendor is unable to find a reasonably priced alternative product.

In addition, the County may elect to regulate additional polystyrene disposable food ware products, such as straws and cup lids, in the future. If this occurs, food vendors in Menlo Park would be required to comply with any amendments or revisions made to the County's ordinance. This provision provides uniform enforcement for the County's inspectors, and cities that have adopted the County's ordinance that have included this provision.

If the Council does not agree to incorporate future changes to the County's ordinance, Council can rescind the ordinance, and adopt a stand alone ordinance for Menlo Park. However, this will require additional staff time and resources to enforce.

### **Ordinance Compliance with State Mandates**

By prohibiting the use of polystyrene food ware containers and encouraging the use of alternative disposable food ware products that are made of high value recyclable or

compostable materials, the City can reduce landfill waste to meet State waste management goals and comply with stormwater permit mandates to avoid financial penalties. It is also consistent with the City's Climate Action Plan strategies towards reducing waste sent to landfills.

The City is currently required to divert 50% of community waste from the landfill, and the State has also set a new goal to achieve 75% diversion by 2020. Expanded polystyrene (Styrofoam) is not accepted in the City's curbside recycling program and the only current disposal option is the landfill. There are some facilities that take Styrofoam for recycling, but they generally require the material not be contaminated with food (typically these facilities will take Styrofoam used for packaging). The closest Styrofoam recycling facility is in Lodi, California. Black hard oriented polystyrene (labeled as Number Six) is also not accepted in the City's curbside recycling program, and the market value for plastics labeled Number Six is lower than other types of plastics, such as Number One and Two.

Under the Federal Clean Water Act, the City is also responsible for protecting water quality that is discharged into storm drains. The City is issued a permit every five years from the San Francisco Bay Regional Water Board. The permit includes specific regulations that the City must comply with in order to avoid a \$10,000 per day of noncompliance fine. The City's current permit includes a new mandate that requires municipalities to reduce litter in stormdrains by 40% by 2014. This goal can be met through a variety of measures, including the implementation of a policy that prohibits the distribution of polystyrene food ware by food vendors.

By adopting San Mateo County's ordinance, Menlo Park could receive up to an eight percent credit toward the 40% litter reduction mandate, saving staff time and city resources that would otherwise go towards implementing other alternative measures, such as additional parking enforcement. Adopting an ordinance also has positive environmental effect as it limits opportunities for polystyrene litter to end up in waterways and wildlife habitats.

If the City of Menlo Park does not choose to pursue an ordinance, disposable polystyrene food ware will remain legal unless it is banned by another regulatory agency. A statewide ban is under consideration (Senate Bill 568). This bill would prohibit a food vendor from dispensing prepared food in polystyrene foam (Styrofoam) food containers starting January 1, 2016. The bill does not target hard oriented polystyrene containers (plastic labeled as Number Six). Additionally, SB 568 would allow a food vendor to dispense Styrofoam food containers after January 1, 2016, in a city or county if the city or county elects to adopt an ordinance establishing a specified recycling program for polystyrene foam food containers. If the City of Menlo Park waited for the Senate Bill to pass, it would not be able to get credit for litter reduction toward the stormwater permit requirements. SB 568 has been under review for the past two years, and has had multiple amendments. In addition, it is not clear that the State has identified an enforcement plan or funding for enforcement if the policy is adopted statewide.

### **Costs for Alternative Disposable Food Ware Products**

Costs for some alternative disposable food ware products will be higher, particularly bioplastics that are made out of vegetable oil, fats, or starches. The cost increase ranges from zero to six cents per unit depending on the type of product used. Paper, bagasse (sugar cane byproduct) and wheat straw products are typically less expensive than bioplastics.

It is also important to note that adopting a region wide polystyrene food ware policy helps create consistency and a level pricing field for all food establishments in the City and County. Cities that have adopted a polystyrene food ware ordinance include Burlingame, Half Moon Bay, Redwood City, Millbrae, Foster City, Palo Alto, Portola Valley, San Bruno, San Carlos and South San Francisco.

In addition, there is an existing bulk-purchasing program in Los Altos, which offers free membership to any food vendor, and provides a 25% discount on alternative food ware product orders over \$250. This information is posted on the City's website.

### **Community Engagement**

Residents and food establishments were notified about the proposed potential polystyrene food ware ordinance through surveys, brochures, letters, press releases, newspaper ads, Green Ribbon Citizens' Committee (GRCC) posts, flyers posted in the community (municipal buildings and coffee shops), postcards sent through direct mail, Facebook, Twitter, city's website, community websites (Nextdoor.com and Patch.com), Chamber of Commerce newsletters, two public meetings, and staff site visits to establishments that requested more information or were known to use polystyrene disposable food ware containers.

In April 2012, 250 surveys were sent to food vendors in Menlo Park asking what types of food ware they used, their concerns about using alternatives, general feedback on a Polystyrene food ware ordinance, and their willingness to use alternative products. Environmental Programs staff received 25 surveys back, and a majority of food vendors were supportive of the ordinance. The results indicated that 40% of businesses are currently using polystyrene, but are willing to use alternative products, 28% were opposed to using alternatives, and 32% already use alternative food ware.

Sixty percent of the businesses stated that the main barrier for using alternative products is cost. Some food vendors were concerned with the quality and durability of alternative products, especially when it comes to hot foods. Most businesses requested information, which staff followed up on. There was also some support to coordinate a bulk purchasing program. Food vendors who requested one-on-one outreach were able to look at alternative product samples for comparison, and received information about the Los Altos bulk-purchasing program as well as specific information about the ordinance. The four businesses that received a visit from Environmental Programs staff in June were supportive of Menlo Park adopting a polystyrene food ware ordinance.

In May 2012, two public meetings were held in order to obtain public input. One resident and a representative from the Chamber of Commerce attended the meeting. No food vendor representatives attended. Staff also received comments from the public at the

City's document destruction and e-scrap recycling event, and the majority of the attendees were supportive of adopting an ordinance.

If Council adopts the ordinance, enforcement would begin on November 1, 2012. Based on survey results, a three-month transition period would provide businesses enough time to utilize their existing inventory. Businesses will be mailed postcards with information about the compliance start date, and the County has agreed to work with food vendors that may still have polystyrene inventory after the effective date.

### **IMPACT ON CITY RESOURCES**

By adopting San Mateo County's disposable polystyrene food ware ordinance by reference, the City will save staff time and resources that would otherwise be needed to develop, implement and enforce a similar ordinance. Staff time may be needed for supplemental outreach when necessary, including website updates, directing calls to the County, and sending out postcards to notify businesses about the enforcement date. These activities have been included in the Fiscal Year 2012-13 Solid Waste Management Program budget.

### **POLICY ISSUES**

Adopting the proposed disposable polystyrene food ware ordinance would set a new policy for the city, and would not conflict with any existing policy, goals, or priorities. Instead, it would help the City meet State stormwater permit requirements and waste diversion mandates.

### **ENVIRONMENTAL REVIEW**

A polystyrene ordinance is not subject to the California Environmental Quality Act (CEQA) because it is not a "project" which would have a direct physical change or a reasonably foreseeable indirect physical change on the environment pursuant to CEQA Guidelines section 15378. (See 15378(b)(2) [exemption for policymaking].)

Signature on file  
Rebecca Fotu  
Environmental Programs Manager

Signature on file  
Charles Taylor  
Public Works Director

**PUBLIC NOTICE:** Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

### **ATTACHMENTS:**

- A. Draft Menlo Park Disposable Polystyrene Food Ware Ordinance
- B. San Mateo County's Prohibition on the Use of Polystyrene Based Disposable Food Service Ware By Food Vendors Ordinance

**ORDINANCE NO. XXX****AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENLO PARK  
ADDING CHAPTER 7.14 TO TITLE 7 OF THE MUNICIPAL CODE:  
PROHIBITION ON THE USE OF POLYSTYRENE BASED DISPOSABLE  
FOOD SERVICE WARE BY FOOD VENDORS**

WHEREAS, the City of Menlo Park, ("City") wishes to adopt a prohibition on the use of polystyrene based disposable food service ware by food vendors; and

WHEREAS, the City of Menlo Park wishes to adopt by reference San Mateo County's Ordinance for the prohibition.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MENLO PARK DOES ORDAIN AS FOLLOWS:

SECTION 1: FINDINGS AND DETERMINATIONS. The following conditions justify adding a section to Chapter 7 of the Municipal Code:

- a. The City of Menlo Park wishes to adopt by reference San Mateo County's ordinance prohibiting food vendors from using polystyrene based disposable food service ware in accordance; and
- b. The City Council finds that polystyrene is a petroleum-based, lightweight plastic material commonly used as food service ware by retail food vendors operating in the City of Menlo Park. Polystyrene, often referred to by the trademark Styrofoam, has also become a problematic environmental pollutant given its non-biodegradable, non-recyclable and nearly non-reusable nature; and
- c. The City Council finds that polystyrene-based, single-use food service ware consistently constitutes a substantial portion of the trash and litter found on the streets, streams, creeks and storm drains within the City of Menlo Park, which increases clean up costs; and
- d. The City Council finds that effective ways to reduce the negative environmental impacts of disposable food service ware include using biodegradable or compostable materials made from renewable resources such as paper, cardboard, corn starch, potato starch, and/or sugarcane; and
- e. The City Council finds that adopting such an ordinance will assist in complying with Municipal Stormwater (NPDES) permit requirements that are regulated and enforced by the San Francisco Bay Regional Water Board; and
- f. The City Council does, accordingly, find and declare that it should restrict the use of polystyrene-based food service ware.

SECTION 2: AMENDMENT OF CODE. Menlo Park's Municipal Code is hereby amended to add Chapter 7.14 to Title 7 to read as follows:

**Chapter 7.14.  
PROHIBITION ON THE USE OF POLYSTYRENE BASED  
DISPOSABLE FOOD SERVICE WARE BY FOOD VENDORS**

Sections:

- 7.14.010 Adoption of the San Mateo County Code Chapter 4.107 by Reference
- 7.14.020 Authorization of Enforcement by San Mateo County Personnel

**7.14.010. Adoption of the San Mateo County Code Chapter 4.107 by Reference**

Chapter 4.107 of Title 4 of the San Mateo County ordinance code, titled "Prohibition of the Use of Polystyrene Based Disposable Food Service Ware by food Vendors", and any amendment thereto, are hereby adopted by this reference and made part of the Menlo Park Municipal Code, and are, accordingly, effective in the City of Menlo Park. Certified copies of Chapter 4.107 of Title 4, as adopted hereby, and any subsequent amendment, shall be deposited with the City Clerk, and shall be at all times maintained by the Clerk for use and examination by the public.

**7.14.020. Authorization of Enforcement by San Mateo County Personnel**

The County of San Mateo, its officers, employees and agents are hereby authorized to enforce, on behalf of the City of Menlo Park, Chapter 4.107 "Prohibition of the Use of Polystyrene Based Disposable Food Service Ware by food Vendors" of Title 4 of the San Mateo County ordinance code, and any amendments thereto, within the jurisdiction areas of the city. Such enforcement authority includes, but it is not limited to, the collection of fees and fines, expending such revenue in the enforcement of the prohibition on the use of polystyrene-based disposable food service ware by food vendors, holding hearings, suspending permits, and issuing administrative fines.

SECTION 3: SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council does hereby declare that it would have adopted the ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 4: CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) DETERMINATION. This ordinance is not subject to CEQA because it is not a "project" which would have a direct physical change or a reasonably foreseeable indirect physical change on the environment pursuant to CEQA Guidelines section 15378. (See 15378(b)(2) [exemption for policymaking].) And, even if it were a project subject to CEQA review, this project would be exempt from CEQA pursuant to section 15307 [exemptions for actions to protect natural resources], and section 15308 [exemptions for actions to protect the environment].

SECTION 5: EFFECTIVE DATE AND PUBLISHING. This ordinance shall take effect and be in force on November 1, 2012. Within fifteen (15) days of its adoption this ordinance shall be posted in three (3) public places within the City of Menlo Park, and the ordinance, or a summary

of the ordinance prepared by the City Attorney, shall be published in a local newspaper used to publish official notices for the City of Menlo Park prior to the effective date.

INTRODUCED on the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2012, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

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Kirsten Keith  
Mayor

ATTEST:

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Margaret S. Roberts, MMC  
City Clerk



## **Chapter 4.107 PROHIBITION ON THE USE OF POLYSTYRENE BASED DISPOSABLE FOOD SERVICE WARE BY FOOD VENDORS**

### **4.107.010 Findings and purpose.**

The Board of Supervisors finds and determines that:

- (a) Polystyrene is a petroleum-based, lightweight plastic material commonly used as food service ware by retail food vendors operating in the County of San Mateo. Polystyrene, often referred to by the trademark Styrofoam, has also become a problematic environmental pollutant given its non-biodegradable, and nearly non-reusable nature.
- (b) Polystyrene-based, single-use food service ware constitutes a substantial portion of the litter within the County of San Mateo.
- (c) Effective ways to reduce the negative environmental impacts of disposable food service ware include reusing or recycling food service ware and using compostable materials made from renewable resources such as paper, cardboard, corn starch, potato starch, and/or sugarcane.
- (d) This Board does, accordingly, find and declare that it should restrict the use by food vendors of polystyrene-based disposable food service ware.

### **4.107.020 Definitions.**

For purposes of this chapter, the following terms have the following meanings:

- (a) "Disposable food service ware" means single-use disposable products used in the restaurant and food service industry for serving or transporting prepared, ready-to-consume food or beverages. This includes but is not limited to plates, cups, bowls, trays and hinged or lidded containers, also known as clamshells. This does not include straws, utensils, or cup lids nor does it include disposable packaging for unprepared foods.
- (b) "Food vendor" means any vendor, business, organization, entity, group or individual, including a licensed retail food establishment that provides prepared food at a retail level.
- (c) "Polystyrene-based" means and includes expanded polystyrene, which is a thermoplastic petrochemical material utilizing a styrene monomer and processed by any number of techniques including , but not limited to fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion-blow molding (extruded foam polystyrene). The term "polystyrene" also includes polystyrene that has been expanded or blown using a gaseous blowing agent into a solid foam (expanded polystyrene (EPS)), and clear or solid polystyrene known as oriented polystyrene.
- (d) "Prepackaged food" means any properly labeled processed food, prepackaged to prevent any direct human contact with the food product upon distribution from the manufacturer, and prepared at an approved source.
- (e) "Prepared food" means food or beverages, which are serviced, packaged, cooked,

chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared. Prepared food does not include eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration.

#### **4.107.030 Prohibited use polystyrene-based disposable food service ware.**

No food vendor shall use polystyrene-based disposable food service ware when providing prepared food.

#### **4.107.040 Exemptions.**

- (a) Prepackaged food is exempt from the provisions of this chapter.
- (b) Polystyrene coolers and ice chests intended for reuse are exempt from the provisions of this chapter.
- (c) Food vendors at the San Francisco International Airport are exempt from the provisions of this chapter.

#### **4.107.050 Request For An Exemption.**

Any food vendor may seek an exemption from the requirements of this chapter upon demonstrating that strict application of the requirements would cause undue hardship.

- (a) An "undue hardship" shall be found in:
  - (1) Situations unique to the food vendor where a suitable alternative does not exist for a specific application; and/or
  - (2) Situations where no reasonably feasible available alternative exists to a specific and necessary container prohibited by this chapter.
- (b) The application process for exemption shall be as follows:
  - (1) The food vendor seeking an exemption shall submit a written exemption request to the Environmental Health Division.
  - (2) A written exemption request shall include all information and documentation necessary for the Director of the Environmental Health Division to make a finding that imposition of this chapter would cause an undue hardship as defined in Section 4.107.050(a).
  - (3) The Director of the Environmental Health Division may require the applicant to provide additional information in order to make a determination regarding the exemption application.
  - (4) Exemption decisions are effective immediately and are final and not subject to appeal.
  - (5) The Director of the Environmental Health Division or his/her designee may grant an exemption for a period of up to one year upon a finding that the food vendor seeking the exemption has demonstrated that strict application of the specific requirement would cause undue hardship as defined in 4.107.050 (a).
- (c) If a food vendor granted an exemption wishes to have the exemption extended, it

must re-apply for the exemption prior to the expiration of the one year exemption period and demonstrate continued undue hardship. Extensions may be granted for intervals not to exceed one year.

#### **4.107.060 Administrative fine.**

- (a) Grounds for Fine. A fine may be imposed upon findings made by the Director of the Environmental Health Division, or his or her designee, that any food vendor has used polystyrene-based disposable food service ware in violation of this Chapter.
- (b) Amount of Fine. Upon findings made under subsection (a), the food vendor shall be subject to an administrative fine as follows:
  - (1) A fine not exceeding one hundred dollars (\$100) for a first violation;
  - (2) A fine not exceeding two hundred dollars (\$200) for a second violation;
  - (3) A fine not exceeding five hundred dollars (\$500) for the third and subsequent violations;
  - (4) Each day that a food vendor uses polystyrene-based disposable food service ware when providing prepared food shall constitute a separate violation.
- (c) Fine Procedures. Notice of the fine shall be served on the food vendor. The notice shall contain an advisement of the right to request a hearing before the Director of the Environmental Health Division or his or her designee contesting the imposition of the fine. The grounds for the contest shall be either that (1) the food vendor did not use polystyrene-based disposable food service ware when providing prepared food or (2) the food vendor would have been granted an exemption under 4.107.050 if the food vendor had applied for such exemption. Said hearing must be requested within ten days of the date appearing on the notice of the fine. The decision of the Director of the Environmental Health Division shall be based upon a finding that one of the above listed grounds for a contest have been met and shall be a final administrative order, with no administrative right of appeal.
- (d) Failure to Pay Fine. If said fine is not paid within 30 days from the date appearing on the notice of the fine or of the notice of determination of the Director of the Environmental Health Division or his or her designee after the hearing, the fine shall be referred to a collection agency.

#### **4.107.070 Severability.**

If any provision of this chapter or the application of such provision to any person or in any circumstances shall be held invalid, the remainder of this chapter, or the application of such provision to person or in circumstances other than those as to which it is held invalid, shall not be affected thereby.

#### **4.107.080 Enforcement of this chapter when adopted.**

The Environmental Health Division is hereby directed to enforce Chapter 4.107 of Title 4 within an incorporated area of the County of San Mateo if the governing body of that incorporated area does each of the following:

- (a) Adopts, and makes part of its municipal code:
  - (1) Chapter 4.107 of Title 4 in its entirety by reference; or
  - (2) An ordinance that contains each of the provisions of Chapter 4.107 of Title 4;
- (b) Authorizes, by ordinance or resolution, the Environmental Health Division to enforce the municipal code adopted pursuant to subsection (a) of this section, such authorization to include, without limitation, the authority to hold hearings and issue administrative fines within the incorporated area of the public entity.

**SECTION 2.** This Ordinance shall be effective as of July 1, 2011.

\* \* \* \* \*



## ADMINISTRATIVE SERVICES

Council Meeting Date: July 31, 2012

Staff Report #: 12-117

Agenda Item #: F-1

**REGULAR BUSINESS: Consider Second Reading and Adoption of an Ordinance to amend Menlo Park Municipal Code Section 3.16.030 to increase the Transient Occupancy Tax rate from 10% to 12% effective January 1, 2013, and Adopt a Resolution of the City Council calling and giving notice of a Municipal Election to be held November 6, 2012, for the submission to the voters of the ordinance to amend the Municipal Code to increase the Transient Occupancy Tax rate; direct the City Attorney to prepare an Impartial Analysis and direct the City Attorney and the City Clerk to prepare necessary documents to place the measure on the ballot; set the dates for filing written arguments and authorize designated members of the City Council to submit and sign an Argument in favor of the proposition; and request the Board of Supervisors to consolidate the Municipal Election to be held with the General Election on November 6, 2012**

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### RECOMMENDATION

Staff recommends that the City Council waive the second reading and adopt the proposed Ordinance (Attachment A) to amend Menlo Park Municipal Code Section 3.16.030 to increase the TOT rate from 10% to 12% effective January 1, 2013, and adopt a Resolution (Attachment B) calling and giving notice of a Municipal Election to be held November 6, 2012, for the submission to the voters of the proposed ordinance to amend the Municipal Code to increase the Transient Occupancy Tax ("TOT") rate; direct the City Attorney to prepare an Impartial Analysis and direct the City Attorney and the City Clerk to prepare necessary documents to place the measure on the ballot; set the dates for filing written arguments and authorize designated members of the City Council to submit and sign an Argument in favor of the proposition; and request the Board of Supervisors to consolidate the Municipal Election to be held with the General Election on November 6, 2012.

### BACKGROUND

The City Council introduced an ordinance on June 12, 2012, to amend Menlo Park Municipal Code Section 3.16.030 to increase the TOT rate from 10% to 12% effective January 1, 2013. The proposed ordinance as introduced is attached as Attachment A.

Additional background information is provided in the information item presented to the City Council on April 17, 2012, staff report #12-058.

## **ANALYSIS**

### **Ordinance Increasing TOT Rate**

An increase in the TOT rate requires an amendment to the Menlo Park Municipal Code. Section 3.16.030 of the Municipal Code specifies the TOT rate of 10%. Adoption of an ordinance to increase a tax rate requires a 2/3 vote (four members) of the City Council and a majority of the City's voters at a Regular Municipal Election. The proposed Ordinance must be adopted at the meeting of July 31<sup>st</sup> in order to place the Ordinance on the ballot for consideration by the voters at the November 6, 2012, General Municipal Election.

### **Resolution Calling Municipal Election on Adoption of Ordinance**

Proposition 218 requires that any general tax increase shall only be effective if approved by a majority vote of the electorate at an election consolidated with a regularly scheduled general election where members of the City Council are to be elected.

The Council will need to adopt a Resolution (Attachment B) calling for an election, consolidating the election, directing the City Attorney to prepare an Impartial Analysis, and designating one or more of its members to write and sign a ballot argument in favor of the measure, if so determined by the City Council in order to get this measure on the ballot for the November General Municipal Election.

The Resolution must specify the wording of the question to be submitted to the voters. The following are two alternative forms of the ballot question for consideration by the Council:

Alternative 1: In order to continue to maintain current levels of city services, such as police, emergency preparedness, libraries, youth programs, and maintenance of recreation facilities, streets, storm drains and parks, shall the City of Menlo Park adopt an ordinance to increase the transient occupancy tax on hotel guests from 10% to 12% effective January 1, 2013?

Alternative 2: Shall the City of Menlo Park adopt an ordinance to increase the transient occupancy tax on hotel guests from 10% to 12% effective January 1, 2013?

To the extent the City Council is not satisfied with either of these alternatives, the Council may modify the wording of the ballot question, provided, however, it may not exceed a total of 75 words.

Elections Code section 9280 allows the City Council to direct the City Attorney to prepare an Impartial Analysis of the measure showing the effect of the measure on the existing law and on the operation of the measure. The Impartial Analysis would be printed preceding the arguments for and against the measure in the voter pamphlet and

shall not exceed 500 words in length. The filing deadline for the impartial analysis is the same as the date for filing primary arguments.

In addition, Elections Code section 9282 provides for the submission of written arguments in favor of, and in opposition to, the measure. The City Council may authorize one or more of its members to submit an argument in favor of the ballot measure. Any voter or bona fide group of voters may also submit an argument in favor of or against the ballot measure. If more than one argument for or against any measure is submitted, the elections official (Menlo Park City Clerk) shall select one of the arguments using specific criteria as outlined in Elections Code section 9287. The Members authorized by the Council to submit an argument in favor of the ballot measure have priority over any other argument in favor of the measure. The authors of the argument in favor of the ballot measure are entitled to write a rebuttal to the argument against the measure, or to authorize someone else to write the rebuttal.

If the City Council wants to submit an argument in favor of the ballot measure, the Council should decide which members would be authorized to write the argument by the Council. To avoid a Brown Act violation, the Council could appoint a subcommittee of the Council to write the ballot argument and authorize the Mayor to sign the ballot argument for the City Council.

The City must have the written Primary Arguments and the City Attorney's impartial analysis to San Mateo County Elections office by August 17, 2012 and the Rebuttal Arguments by August 27, 2012. With the deadline of August 17, 2012 to San Mateo County Elections office, staff is requesting the City Council set a submittal deadline to the City of Menlo Park for the Impartial Analysis and the Primary Arguments of August 9, 2012 and the Rebuttal Arguments by August 20, 2012. This will provide the City time to have the submittals translated into the required languages, and provide to the County in a timely manner.

The attached resolution calls for an election, places the approval of the tax increase on the ballot and consolidates the election with the General Municipal Election. Further, it calls for the preparation of an Impartial Analysis, sets the dates for the filing of primary and rebuttal arguments related to the measure, and specifies who is authorized to submit an argument in favor of the measure on behalf of the Council. Finally, the resolution orders the measure be placed on the November 6, 2012 ballot.

### **Distribution of Voter Information Regarding TOT Ballot Measure**

Once a measure has qualified for the ballot, there are rules against the use of public resources for campaign activities. However, the dissemination of information and fact-based analysis of the ballot measure is allowed and appropriate. Staff has developed a timetable for the delivery of communications to the general public, including postings on the City's website. An example of an "informational handout" - still in draft form - is attached to this report. Articles, presentations and other written pieces are planned. In addition, staff will be working with the Council and other community leaders who may assist in articulating the City's views on the measure to various groups and organizations within Menlo Park.

## IMPACT ON CITY RESOURCES

The projection of TOT revenues for the City for the current fiscal year is \$2.9 million. Each additional one percent increase in the City's TOT rate would increase the City's current TOT annual revenue budget by approximately \$290,000, assuming hotel usage and room rates meet the 2011-12 projections and remain similar in the future. In estimating TOT revenue for the 2012-13 budget, it was assumed that the ordinance would take effect January 1, 2013, providing a conservative estimate of \$280,000 increase in TOT for the fiscal year. No changes to future revenue projections for the 2012-13 fiscal year will be made until the results of the ballot measure are known. The cost to add an additional ballot measure on the ballot in the November 2012 general election is estimated to be in the range of \$10,000-\$15,000.

## POLICY ISSUES

The TOT is a general tax, and as such may be imposed for general governmental purposes. As a tax on hotel and motel occupants, it is not a tax that falls on local residents, but is paid by visitors to assist in the continuance of city-provided services that include roads, parks, public safety and library services. Pursuant to State law, any increase of the TOT rate must be approved by a 2/3 vote (four members) of the City Council and a majority of the City's voters at a Regular Municipal Election.

## ENVIRONMENTAL REVIEW

Environmental Review is not required.

Signature on file  
William L. McClure  
City Attorney

Signature on file  
Carol Augustine  
Finance Director

**PUBLIC NOTICE:** Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

- ATTACHMENT:**
- A. Ordinance to increase the TOT rate from 10% to 12% effective January 1, 2013
  - B. Resolution calling and giving notice of a Municipal Election to be held November 6, 2012, for the submission to the voters of the proposed TOT rate increase and associated actions
  - C. Voter information for TOT Ballot Measure (Draft)



ORDINANCE NO.

**ORDINANCE OF THE CITY OF MENLO PARK AMENDING SECTION 3.16.030 [IMPOSITION] OF CHAPTER 3.16 [TRANSIENT OCCUPANCY TAX] OF TITLE 3 [REVENUE AND FINANCE] OF THE MENLO PARK MUNICIPAL CODE TO INCREASE THE TAX RATE TO 12%**

The City Council of the City of Menlo Park does ORDAIN as follows:

SECTION 1. The City Council of the City of Menlo Park hereby finds and determines that:

- A. The citizens of the City of Menlo Park wish to increase the Transient Occupancy Tax imposed on all transients for the privilege of occupancy in any hotel to twelve percent (12%) beginning on January 1, 2013.

SECTION 2. The first sentence of Section 3.16.030 [Imposition] of Chapter 3.16 [Transient Occupancy Tax] of Title 3 [Revenue and Finance] of the Menlo Park Municipal Code is hereby amended to read as follows:

**3.16.030 Imposition.** For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of twelve percent (12%) of the rent charged by the operator beginning January 1, 2013.

SECTION 3. If any section of this ordinance, or part hereof, is held by a court of competent jurisdiction in a final judicial action to be void, voidable or enforceable, such section, or part hereof, shall be deemed severable from the remaining sections of this ordinance and shall in no way affect the validity of the remaining sections hereof.

SECTION 4. If a majority of voters voting thereon at the General Municipal Election on November 6, 2012, approve this Ordinance amending Chapter 3.16, the effective date of this ordinance shall be ten days after the date the City Council declares the results of the election. Within fifteen (15) days of its adoption this ordinance shall be posted in three (3) public places within the City of Menlo Park, and the ordinance, or a summary of the ordinance prepared by the City Attorney, shall be published in a local newspaper used to publish official notices for the City of Menlo Park prior to the effective date.

INTRODUCED on the twelfth day of June, 2012.

\*\*\*\*\* The remainder of this page left blank intentionally \*\*\*\*\*

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said Council on the thirty-first day of July, 2012, by the following vote:

AYES:

NOES: ABSENT:

ABSTAIN:

APPROVED:

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Kirsten Keith  
Mayor

ATTEST:

---

Margaret S. Roberts, MMC  
City Clerk

**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL CALLING AND GIVING NOTICE OF A MUNICIPAL ELECTION TO BE HELD NOVEMBER 6, 2012, FOR THE SUBMISSION TO THE VOTERS OF AN ORDINANCE TO AMEND THE MUNICIPAL CODE TO INCREASE THE TRANSIT OCCUPANCY TAX RATE FROM 10% TO 12% EFFECTIVE JANUARY 1, 2013; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS AND DIRECTING THE CITY ATTORNEY AND THE CITY CLERK TO PREPARE NECESSARY DOCUMENTS TO PLACE THE MEASURE ON THE BALLOT; SETTING THE DATES FOR FILING WRITTEN ARGUMENTS AND AUTHORIZING DESIGNATED MEMBERS OF THE CITY COUNCIL TO SUBMIT AND SIGN AN ARGUMENT IN FAVOR OF THE PROPOSITION; AND REQUESTING THE BOARD OF SUPERVISORS TO CONSOLIDATE THE MUNICIPAL ELECTION TO BE HELD WITH THE GENERAL ELECTION ON NOVEMBER 6, 2012**

WHEREAS, on July 31, 2012, the City Council adopted Ordinance No. \_\_\_\_ to amend Menlo Park Municipal Code Section 3.16.030 to increase the Transit Occupancy Tax rate from 10% to 12% effective January 1, 2013, which ordinance is subject to voter approval at the November 6, 2012, general municipal election; and

WHEREAS, it is desirable that the Municipal Election for the ballot proposition for the increase in the Transit Occupancy Tax rate be consolidated with the City Municipal General Election and the General Election to be held on the same date and that within the City the precincts, polling places and election officers of the two elections be the same; and that the County Election Department of County of San Mateo canvass the returns of the Municipal Election; and that the election be held in all respects as if there were only one election.

NOW, THEREFORE BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF MENLO PARK DOES DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. Pursuant to the laws of the State of California relating to general law cities there is called and ordered to be held in the City of Menlo Park, California, on Tuesday, November 6, 2012, a Municipal Election for consideration of the ballot measure described above.

SECTION 2. Pursuant to the California Elections Code and Proposition 218, the City Council hereby orders the proposition to approve the increase in the City's Transit Occupancy Tax rate as adopted by the Council pursuant to Ordinance No. \_\_\_ to be placed on the ballot and does order submitted to the voters at the Municipal Election the following question:

<Ballot question to be inserted based on Council direction.>	<b>YES</b>	
	<b>NO</b>	

SECTION 3. The City Council authorizes a sub-committee of the City Council comprised of \_\_\_\_\_ to file a written argument In Favor of the measure and a rebuttal argument to be signed by the Mayor on behalf of the City Council and to add additional signatories to the written argument selected by the sub-committee. Any individual voter who is eligible to vote on the measure or bona fide association of citizens or combination of voters and associations may also submit a written argument for or against the measure. Such argument, whether In Favor or Against, shall not exceed 300 words and be accompanied by the printed names(s) and signature(s) of the person(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers, in accordance with Article 4, Chapter 3, Division 9 of the Election Code of the State of California. Primary arguments in Favor or Against the Measure must be submitted to the City Clerk by August 9, 2012. Rebuttal arguments must be submitted to the City Clerk by August 20, 2012 and shall not exceed 250 words.

SECTION 4. The City Council directs the City Clerk to transmit a copy of the measure to the City Attorney, and directs the City Attorney to prepare an impartial analysis of the measure showing the effect of the measure on existing law and the operation of the measure. The analysis shall be printed preceding the arguments In Favor and Against the measure. The analysis shall not exceed 500 words in length. The impartial analysis shall be filed by the date set by the City Clerk for the filing of primary arguments.

SECTION 5. The boundaries of the City have not changed since the City of Menlo Park's previous election held November 2, 2010.

SECTION 6. The measure requires a simple majority to pass.

SECTION 7. Pursuant to the requirements of §10403 of the Elections Code, the Board of Supervisors of the County of San Mateo is hereby requested to consent and agree to the consolidation of a Municipal Election with the General Election on Tuesday, November 6, 2012.

SECTION 8. The County Election Department is authorized to canvass the returns of the Municipal Election. The election shall be held in all respects as if there were only one election and only one form of ballot shall be used.

SECTION 9. The Board of Supervisors is requested to issue instructions to the County Election Department to take any and all steps necessary for the holding of the consolidated election.

SECTION 10. The City of Menlo Park recognizes that the additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs associated with the election.

SECTION 11. The City Clerk is hereby directed to file a certified copy of this Resolution with the Board of Supervisors and the County Election Department of the County of San Mateo.

SECTION 12. The ballots to be used at the election shall be in form and content as required by law.

SECTION 13. The full text of the Ordinance shall not be printed in the Voter Information Pamphlet, but a statement shall appear under the Impartial Analysis informing voters that the information may be obtained from the City Clerk's office and the City's website.

SECTION 14. The City Clerk is authorized, instructed and directed to procure and furnish any and all official ballots, notices and printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election and to take all other necessary actions to place the measure on the November 6, 2012 ballot.

SECTION 15. The polls for the election shall be open at seven o'clock a.m. on the day of the election and shall remain open continuously from that time until eight o'clock p.m. on the same day when the polls shall be closed.

SECTION 16. In all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 17. The notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 18. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of resolutions.

I, Margaret S. Roberts, City Clerk of Menlo Park, do hereby certify that the above and foregoing Council Resolution was duly and regularly passed and adopted at a meeting by said Council on the thirty-first day of July, 2012, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this thirty-first day of July, 2012.

Margaret S. Roberts, MMC  
City Clerk

# Transient Occupancy Tax (TOT)

From the City of Menlo Park Administrative Services Department

AUGUST, 2012

*This informational handout is brought to you by the City of Menlo Park and provides voters an explanation of the proposed measure to increase the TOT (often called "Hotel Tax") on the November 6, 2012 ballot.*

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## INTRODUCTION

Like so many Bay Area communities, the City of Menlo Park has been challenged in maintaining essential city services our residents enjoy and expect. The City has suffered through the collapse of the national economy and taken critical steps to stabilize its financial condition. In order to position the City toward a more sustainable and long term financial strategy, many difficult decisions have already been implemented including reductions in employee costs, careful consideration of fees and finding innovative solutions to providing City services. So far, many of these cost reductions have had limited impact to residents and services.

However, just as the City finances were stabilizing, the State of California eliminated Redevelopment Agencies (RDAs). Menlo Park's RDA provided nearly \$2 million worth of services annually in the Belle Haven area; most importantly, the Police Narcotics Task Force and the Housing related services. Although the City was able to make cuts elsewhere in order to preserve Police services, the Housing Division was eliminated. Additional State budget cuts have also been absorbed by the City, including \$200,000 annually for child care in Belle Haven and State revenue cuts for the City's library. At this point, it is not possible to make up for the lost revenue without further reducing services.

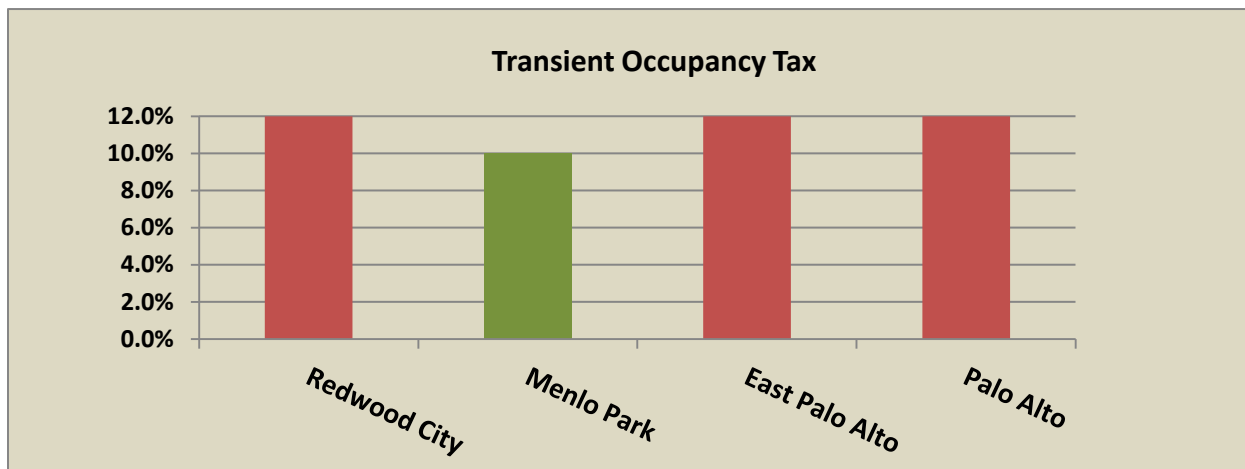
A TOT increase has been suggested as a means of sustaining City services. Presently, the TOT is set at 10% and is paid for by hotel/motel guests. The proposal is to set the TOT to 12%. Factors to consider for the proposed increase in TOT include:

- Surrounding communities hotel taxes are already at 12%, making this increase a valid market correction for Menlo Park
- The TOT is not a tax that falls on local residents. In fact, Menlo Park's voter-approved Utility Users Tax is a tax of local residents, and continues to be held below the rate originally approved by voters and less than that of surrounding communities
- Despite very difficult economic times, the City continues to spend over \$2 million each year on infrastructure maintenance – something many surrounding communities have foregone in order to save money for services.

## FREQUENTLY ASKED QUESTIONS

- 1. What is a TOT, and who pays it?** The Transient Occupancy Tax (TOT) is a general tax imposed on occupants of rooms in a hotel, motel, inn or other lodging facility for stays of 30 days or less. The tax is established as a percentage of the cost of the lodging. Over 400 cities and all but 3 counties in California impose a TOT, with rates ranging from 3.5% to 19%. In Menlo Park, the TOT is 10% and generated approximately \$2.9 million (or 7.6% of General Fund Revenues) in 2011-12. As a general tax, the TOT may be imposed for general governmental services including police, parks, planning and public works.
- 2. Why is the City proposing to raise this tax?** The City has managed through the recent recession with General Fund revenues that decreased approximately 8½%. Although expenditures have been reduced and revenues are now stabilizing, the State dealt the City a severe financial blow with the dissolution of redevelopment agencies earlier this year. The impact of eliminating this source of funding for programs and capital projects in the redevelopment area of Menlo Park – a budget of \$2.8 million in 2010-11 – has been widely discussed, and various budget strategies have been considered in order to keep the City moving forward in a fiscally sustainable manner. The City Council needed to determine which activities previously funded from redevelopment revenues would be retained, and how they would be funded in the 2012-13 budget and going forward. Maintaining key services for all of Menlo Park required elimination of the Housing Division, which included cutting 3 full-time positions.

The TOT rates imposed in neighboring cities and most of San Mateo County have increased in recent years to 12%. As a tax on hotel and motel rentals, the TOT is not a tax that falls on local residents, but is paid by visitors to assist in the continuance of city-provided services that include roads, parks, public safety and library services. As such, an increase in the tax was deemed to be an appropriate budget strategy, especially when compared to strategies that would reduce municipal services or increase costs to residents. The effective date for the increased rate would be January 1, 2013, increasing General Fund revenue \$290,000 in the remaining 6 months of the current fiscal year, and over \$580,000 in subsequent fiscal years.

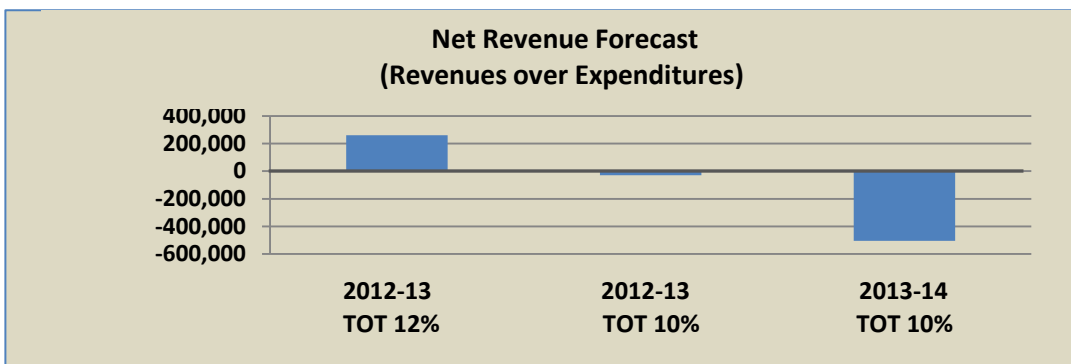




3. **How is this tax different from the one that was on the June 5<sup>th</sup> ballot?** Similar to Menlo Park's ballot measure, San Mateo County's Measure U would have increased the Transit Occupancy Tax (TOT) imposed *within unincorporated San Mateo County* from 10% to 12%. As such, the measure would not impact the City of Menlo Park's hotels. Arguments for and against that tax can be read on [the County Office of Elections' website](#). Although a majority of Menlo Park voters who cast a vote on Measure U voted in favor of the increase, the ballot measure failed countywide.
4. **It appears that revenues are recovering in Menlo Park; why are expenditures going up next year?** Government revenues always lag behind the private sector and revenues remain at depressed levels. Investment returns, based on the City's risk-averse investment portfolio, have dropped nearly \$2 million over the past four years. Despite rising pension, healthcare and utility costs, the City has been able to make the necessary reductions without adversely affecting its long-term fiscal health.

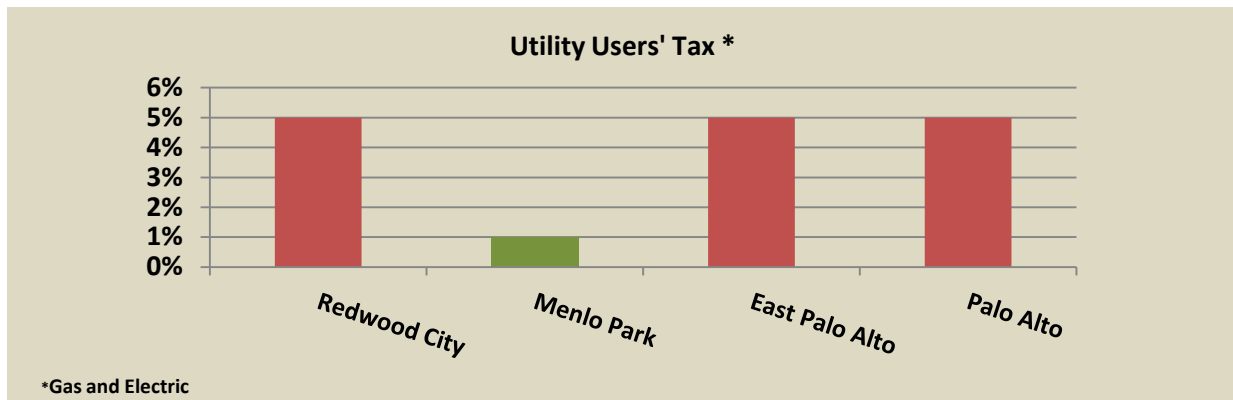
However, with the dissolution of redevelopment agencies (RDAs) by the State, the Council had to decide which activities previously funded by the City's RDA (a budget of \$2.8 million in 2011-12) could be continued. Maintaining public safety services in the redevelopment area and throughout the City was imperative, so other programs had to be reduced. The City's Housing Division was eliminated as a result of the budget cuts that needed to be made. At a time when previous cutbacks were creating underlying stress points in the organization and emerging needs could not be adequately addressed, the General Fund assumed (in the 2012-13 budget) over \$1.2 million of expenditures previously funded from redevelopment revenues.

5. **Why doesn't the City just cut its budget?** Even prior to the loss of RDA revenues, the City made significant progress in cutting staff positions (about 16) and squeezing expenditure budgets in each budget cycle of the last four years. See the Additional Information section (C), for a list of budget reduction strategies implemented to help maintain services and balance budgets during the recent recession. Further expenditure reductions will result in the reduction or elimination of services.



6. **Why doesn't the City just raise the UUT?** The Utility User Tax (UUT), approved in fiscal year 2006-07, is a general tax imposed by the City on the consumption of utility services, including electricity, gas, water, and telecommunications. The tax is levied on the consumer of the utility services and collected by the utility as a part of its regular billing procedure. The maximum tax rates as initially approved by voters are 3.5% on electric, gas and water utilities, and 2.5% on telephone and cell phone usage. However, a lower rate of 1% has been maintained on all utilities since April 1, 2007, through deliberate Council action with the adoption of each fiscal year budget. A 1% increase in the rate would yield approximately \$1.1 million in General Fund revenues. The surrounding cities of Palo Alto and Redwood City each have UUT rates of 5% on all utilities in addition to a 12% TOT.

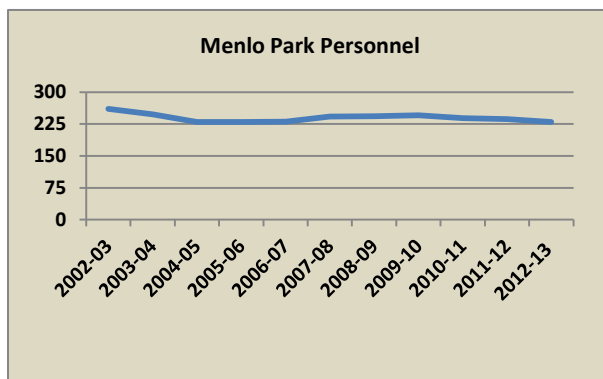
Although the UUT could be raised (up to the maximum rates) by Council action – no municipal vote would be required – the UUT is a tax on all Menlo Park residents and businesses. To avoid this burden to their constituents, the Council determined that an increase in the tax paid by visitors to Menlo Park, comparable to the tax paid in neighboring cities, was a more appropriate budget strategy at this time.



7. **What about unfunded pension and retiree health obligations?** The unfunded liability of the CalPERS pension system is not a very useful indicator of the health of the Plan. What is important is the City's ability to make the required annual contributions. Although pension costs are anticipated to rise in future years due to increased benefits in prior periods and extremely low yields on the system's current investments, the City has already taken significant steps to limit this cost increase:
- All employees continue to pay the entire employee share of pension contributions
  - A two-tier system is now in place for both safety and non-safety employees (i.e. future employees retire later with a lower pension benefit),
  - Non-safety employees share the cost of future pension rate increases 50/50 with the City
  - Safety employees are paying 3% of the employer share of pension contributions.

As the market rebounds, the increased value of the assets in the pension system will reduce the plan's unfunded liability.

The retiree health benefits program previously offered to employees has been eliminated for new hires, & existing retiree health obligations are fully funded to date.



8. **Does this rate increase require a simple majority vote?** Yes; although a 2/3 vote of the City Council was required to place the measure on the ballot, as a general tax (imposed for general governmental purposes), an increase in the TOT can be approved with a simple majority of the City's voters.

9. **What will happen if the tax rate is not adjusted as proposed?** If the increase in the TOT rate is not approved by the voters, the City Council will reconsider other budget strategies in order to provide a balanced General Fund budget for the current fiscal year and a sustainable budget for the City's future. Such strategies include not only cost reductions related to City services and hours of operation, but other revenue increases in the form of taxes and charges for certain services. Budget strategies that have been considered (but not implemented) in past budget cycles are included in the Additional Information section (D), below.

## ADDITIONAL INFORMATION

- A. Map of TOT charged in San Mateo County
- B. List of other cities and TOT/UUT rates
- C. Listing of previous year budget net cost reductions
- D. Other budget strategies considered for the 2012-13 budget

## BALLOT MEASURE

< Reproduce actual ballot measure text as currently proposed.>

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# PUBLIC WORKS DEPARTMENT

Council Meeting Date: July 31, 2012  
Staff Report #: 12-122

Agenda Item #: F-2

**REGULAR BUSINESS:**      **Approve the Charter and General Composition of the Specific Plan Parking Management Advisory Task Force and Direct that Appointments to the Task Force and Initiation of its Work be Timed to Coincide with the First Phase of Changes in the Downtown Area as Stated in the Specific Plan**

---

## RECOMMENDATION

Staff recommends that the City Council approve the charter and general composition of the Specific Plan Parking Management Advisory Task Force, and direct that appointments to the Task Force and initiation of its work be timed to coincide with the first phase of changes in the Downtown area as stated in the Specific Plan.

## BACKGROUND

As part of approval of the El Camino Real/Downtown Specific Plan, the Council directed the creation of an advisory task force for implementation of the Parking Management Plan contained within the Specific Plan. The Parking Management Plan is focused on the downtown area and is important to the downtown business owners, patrons, and residents. The Specific Plan includes the potential for future development downtown which could result in the removal of some parking spaces for public space improvements. In order to provide additional parking, the Specific Plan includes the potential for the development of parking in up to two parking garages. The Specific Plan also encourages a variety of parking management techniques to best manage parking. These include items such as time restriction modifications, pay for parking, and the development of employee parking areas. The specific use of each of the measures and the timing of implementation of the measures was not precisely determined in the Specific Plan.

Separately, the City has also recently completed a parking study of downtown and implemented many parking management measures to resolve issues from residents, business owners, and patrons as well as issues identified from the data collected during the study. The recently implemented measures include free one-hour parking on Santa Cruz Avenue close to the businesses for short trips (with additional 15-minute pockets for shorter visits), free two-hour parking in the parking plazas for medium length trips, and on-site pay parking for longer than two hours in two of the parking plazas for longer stays.

## ANALYSIS

### Proposed Charter

The main purpose of the Task Force is to review and provide input through a discrete set of activities necessary to develop and implement a Downtown Parking Management

Plan as recommended in the Specific Plan. The foundation of the Parking Management Plan will be a future parking study to evaluate multiple aspects of downtown parking. Given the long-term nature of the Specific Plan, the Task Force would assist staff in determining the scope of the study. The study would need to be approved by Council, and once the study is commenced, the Task Force would participate in a full community engagement process to shape the potential solutions that would be incorporated into a Parking Management Plan. The Parking Management Task Force would be disbanded at the conclusion of the parking study.

As indicated above, the Task Force's purpose would be to develop the scope of a Parking Management study. The Task Force would also need to work toward successful implementation of the Specific Plan's guiding principles and encourage wider participation from their designated groups (i.e. other Commissioner's or Downtown business and property owners). The Task Force would not be involved in the day-to-day operations of the parking downtown or modifications to the current parking management techniques, nor would the Task Force preempt the existing review, recommendation, and decision roles of the Transportation Commission, Planning Commission, or City Council.

The timing for appointment of the Task Force is critical for providing a successful outcome. The intent of the Task Force is to implement the Parking Management Plan with the Specific Plan. The timing for implementation will depend on how the Downtown area changes, as allowed by the Specific Plan. These changes will happen over the life of the Specific Plan, and significant changes aren't anticipated to occur in the short term. The most important part of any Task Force is continuity over time, in particular with regard to membership. If the changes to Downtown occur over a longer period of time, it is likely that many changes to the Task Force membership would occur, which could break the continuity and create challenges for implementation of the Plan. In an effort to link the Task Force to the practical application of their scope of work outcomes, staff recommends that the appointment of the Task Force be completed at a later date, when there is a stronger need for implementation of parking management techniques. The Task Force formation could be evaluated by Council at the one year anniversary date of the adoption of the Specific Plan, which will provide more information regarding current and future changes based on the Specific Plan.

Once the Task Force is formed, the first step would include an educational component of past and current parking issues and changes in Downtown. Staff would also bring speakers with parking expertise in a variety of areas and topics to provide a solid level of information to understand the pros and cons of the various implementation techniques. This information would provide a solid foundation for discussion of the scope of the future analysis for parking.

### **Proposed Task Force Membership**

The parking in Downtown is important to the businesses as well as patrons and residents. It is critical and appropriate for members of the Task Force to represent the Downtown Businesses and the public at large. In an effort to provide for these needs the following representatives for the Task Force are proposed:

- Two Chamber of Commerce Representatives of which one would need to be a Downtown Business or Property owner;

- One Resident at-large in the City;
- One Transportation Commissioner; and
- One Planning Commissioner.

The representatives from the Chamber of Commerce, Transportation Commission, and Planning Commission would be appointed by their respective Commissions or Boards. The Resident at-large member would be appointed by the City Council in a process similar to City Commission appointments. The Resident appointment would occur after the other appointments have been made, allowing the City Council to help balance the interests and viewpoints of the Task Force.

The above members of the Task Force would represent the various interests in Downtown and provide for a well-rounded approach for the development of the scope of a future parking analysis. The Task Force would meet on a quarterly basis with additional meetings as necessary during certain steps in the process that require more discussion.

### **IMPACT TO CITY RESOURCES**

The Transportation Division within Public Works will oversee the Task Force. There are sufficient resources to prepare agendas, provide speakers, and basic data analysis. If a parking management implementation study is approved by Council, it will need to be approved as part of the Capital Improvement Project (CIP) process as additional funding and resources will be necessary.

### **POLICY ISSUES**

The El Camino Real/Downtown Specific Plan has established policy objectives, and the Task Force would be charged with the successful implementation of those goals. There would be no policy changes as a result of this action of the City Council establishing the charter and composition of the Task Force.

### **ENVIRONMENTAL REVIEW**

The formation of the Task Force is not a project subject to review under the California Environmental Qualities Act (CEQA).

Signature on file  
Charles Taylor  
Public Works Director

Signature on file  
Arlinda Heineck  
Community Development Director

**PUBLIC NOTICE:** Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

**ATTACHMENTS:** None

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<b>Council Action Advised by August 3, 2012</b>
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May 3, 2012

**TO: Mayors, City Managers and City Clerks**

**RE: DESIGNATION OF VOTING DELEGATES AND ALTERNATES  
 League of California Cities Annual Conference – September 5 - 7, San Diego**

The League's 2012 Annual Conference is scheduled for September 5 - 7 in San Diego. An important part of the Annual Conference is the Annual Business Meeting (*at the General Assembly*), scheduled for noon on Friday, September 7, at the San Diego Convention Center. At this meeting, the League membership considers and takes action on resolutions that establish League policy.

In order to vote at the Annual Business Meeting, your city council must designate a voting delegate. Your city may also appoint up to two alternate voting delegates, one of whom may vote in the event that the designated voting delegate is unable to serve in that capacity.

**Please complete the attached Voting Delegate form and return it to the League's office no later than Wednesday, August 15, 2012. This will allow us time to establish voting delegate/alternates' records prior to the conference.**

Please note the following procedures that are intended to ensure the integrity of the voting process at the Annual Business Meeting.

- **Action by Council Required.** Consistent with League bylaws, a city's voting delegate and up to two alternates must be designated by the city council. When completing the attached Voting Delegate form, please attach either a copy of the council resolution that reflects the council action taken, or have your city clerk or mayor sign the form affirming that the names provided are those selected by the city council. Please note that designating the voting delegate and alternates **must** be done by city council action and cannot be accomplished by individual action of the mayor or city manager alone.
- **Conference Registration Required.** The voting delegate and alternates must be registered to attend the conference. They need not register for the entire conference; they may register for Friday only. To register for the conference, please go to our website: [www.cacities.org](http://www.cacities.org). In order to cast a vote, at least one person must be present at the Business Meeting and in possession of the voting delegate card. Voting delegates and alternates need to pick up their conference badges before signing in and picking up

-over-

the voting delegate card at the Voting Delegate Desk. This will enable them to receive the special sticker on their name badges that will admit them into the voting area during the Business Meeting.

- **Transferring Voting Card to Non-Designated Individuals Not Allowed.** The voting delegate card may be transferred freely between the voting delegate and alternates, but *only* between the voting delegate and alternates. If the voting delegate and alternates find themselves unable to attend the Business Meeting, they may *not* transfer the voting card to another city official.
- **Seating Protocol during General Assembly.** At the Business Meeting, individuals with the voting card will sit in a separate area. Admission to this area will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate. If the voting delegate and alternates wish to sit together, they must sign in at the Voting Delegate Desk and obtain the special sticker on their badges.

The Voting Delegate Desk, located in the conference registration area of the San Diego Convention Center, will be open at the following times: Wednesday, September 5, 9:00 a.m. – 6:30 p.m.; Thursday, September 6, 7:00 a.m. – 4:00 p.m.; and September 7, 7:30–10:00 a.m. The Voting Delegate Desk will also be open at the Business Meeting on Friday, but not during a roll call vote, should one be undertaken.

The voting procedures that will be used at the conference are attached to this memo. Please share these procedures and this memo with your council and especially with the individuals that your council designates as your city's voting delegate and alternates.

Once again, thank you for completing the voting delegate and alternate form and returning it to the League office by Wednesday, August 15. If you have questions, please call Mary McCullough at (916) 658-8247.

Attachments:

- 2012 Annual Conference Voting Procedures
- Voting Delegate/Alternate Form

## Annual Conference Voting Procedures 2012 Annual Conference

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to League policy.
2. **Designating a City Voting Representative.** Prior to the Annual Conference, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the Voting Delegate Form provided to the League Credentials Committee.
3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the Voting Delegate Desk in the conference registration area. Voting delegates and alternates must sign in at the Voting Delegate Desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the Business Meeting.
4. **Signing Initiated Resolution Petitions.** Only those individuals who are voting delegates (or alternates), and who have picked up their city's voting card by providing a signature to the Credentials Committee at the Voting Delegate Desk, may sign petitions to initiate a resolution.
5. **Voting.** To cast the city's vote, a city official must have in his or her possession the city's voting card and be registered with the Credentials Committee. The voting card may be transferred freely between the voting delegate and alternates, but may not be transferred to another city official who is neither a voting delegate or alternate.
6. **Voting Area at Business Meeting.** At the Business Meeting, individuals with a voting card will sit in a designated area. Admission will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate.
7. **Resolving Disputes.** In case of dispute, the Credentials Committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the Business Meeting.



CITY: \_\_\_\_\_

**2012 ANNUAL CONFERENCE  
VOTING DELEGATE/ALTERNATE FORM**

**Please complete this form and return it to the League office by Wednesday, August 15, 2012. Forms not sent by this deadline may be submitted to the Voting Delegate Desk located in the Annual Conference Registration Area. Your city council may designate one voting delegate and up to two alternates.**

In order to vote at the Annual Business Meeting (General Assembly), voting delegates and alternates must be designated by your city council. Please attach the council resolution as proof of designation. As an alternative, the Mayor or City Clerk may sign this form, affirming that the designation reflects the action taken by the council.

**Please note:** Voting delegates and alternates will be seated in a separate area at the Annual Business Meeting. Admission to this designated area will be limited to individuals (voting delegates and alternates) who are identified with a special sticker on their conference badge. This sticker can be obtained only at the Voting Delegate Desk.

**1. VOTING DELEGATE**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**2. VOTING DELEGATE - ALTERNATE**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**3. VOTING DELEGATE - ALTERNATE**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**PLEASE ATTACH COUNCIL RESOLUTION DESIGNATING VOTING DELEGATE AND ALTERNATES.**

**OR**

**ATTEST: I affirm that the information provided reflects action by the city council to designate the voting delegate and alternate(s).**

Name: \_\_\_\_\_ E-mail \_\_\_\_\_

Mayor or City Clerk \_\_\_\_\_ Phone: \_\_\_\_\_  
(circle one) (signature)

Date: \_\_\_\_\_

**Please complete and return by Wednesday, August 15<sup>th</sup>, to:**

League of California Cities  
**ATTN: Mary McCullough**  
1400 K Street  
Sacramento, CA 95814

**FAX: (916) 658-8240**  
E-mail: [mmccullough@cacities.org](mailto:mmccullough@cacities.org)  
(916) 658-8247



# ADMINISTRATIVE SERVICES DEPARTMENT

Council Meeting Date: July 31, 2012

Staff Report #: 12-118

Agenda Item #: F-4

**REGULAR BUSINESS:** Provide direction to the Voting Delegate related to the resolutions to be voted on at the League of California Cities Annual Conference

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## RECOMMENDATION

Staff recommends the Council provide direction to the Voting Delegate related to the resolutions to be voted on at the League of California Cities Annual Conference.

## BACKGROUND

The League of California Cities (League) annual conference is to be held in San Diego from September 5-7, 2012. The Policy Committees of the League meet quarterly throughout the year and bring forward resolutions to be considered during the annual business meeting on Friday, September 7, 2012 at 12:00 p.m. at the San Diego Convention Center. There are five resolutions that will be considered during the meeting.

## ANALYSIS

The League's Annual Conference Resolution Packet (Attachment A) includes information and procedures, guidelines for annual conference resolutions, location of meetings, key to actions taken on resolutions, and the 2012 annual conference resolutions. League staff has provided an analysis on each resolution. The titles for the resolutions are below with a short summary.

### *RESOLUTION 1:*

Resolution encouraging California Cities to oppose the California Desert Protection Act of 2011

The California Desert Protection Act of 2011 (S. 138) is legislation proposed by Senator Dianne Feinstein which would provide for conservation, enhanced recreation opportunities, and development of renewable energy in the California Desert Conservation Area. The Measure would:

- Create two new national monuments: the 941,000 acres Mojave Trails National Monument along Route 66 and the 134,000 acres Sand to Snow National

Monument, which connects Joshua Tree National Park to the San Bernardino Mountains.

- Add adjacent lands to Joshua Tree National Park, Death Valley National Park and Mohave National Preserve;
- Protect nearly 76 miles of waterways;
- Designate five new wilderness areas;
- Designate approximately 250,000 acres of Bureau of Land Management wilderness areas near Fort Irwin;
- Enhance recreational opportunities; and,
- Designate four existing off-highway vehicle areas in the California Desert as permanent.

S. 138 is a re-introduction of S2921, the California Desert Protection Act of 2010 which is now dead. S. 138 was introduced in January 2011 and was referred to the Senate Committee on Energy and Natural Resources. The measure has not yet been set for hearing by the Committee.

*RESOLUTION 2:*

Resolution requesting consideration of suspension of implementation or revision of the California Global Warming Solutions Act (AB 32 of 2006)

This resolution encourages California cities to:

- Adopt resolutions requesting the suspension of the implementation of some, if not all, the regulations promulgated under the California Global Warming Solutions Act (AB 32) until such time as the legal and regulatory inconsistencies can be resolved;
- Asks cities to request the California Air Resources Board (CARB) and other applicable state agencies examine the impact of the regulations promulgated pursuant to AB 32, and for potential conflict with other existing regulations at both the State and Federal level including, but not limited to, the potential for gains in one area to jeopardize progress in another; and,
- Asks cities to request the CARB and other applicable state agencies examine the overall economic impact of the regulations promulgated pursuant to AB 32 and their interaction with other existing regulations with emphasis upon the potential for job and other economic activity “flight” from California; and,
- Asks cities to request the State to encourage the resolution of internal conflicts between and among existing Federal programs by supporting items, including but not limited to:
  - Reopening the Federal Clean Air Act;
  - New Source Review Reform; and,

- Efforts to regulate greenhouse gas emissions under a comprehensive federal program.

*RESOLUTION 3:*

Resolution calling upon the Governor and Legislature to enact legislation that would correct inefficiencies in the audit system, distribution system and inequities in the formulas for distributing court ordered arrest and citation fines, fees and assessments generated by local government

This Resolution urges the League of California Cities, through legislative or administrative means, to clarify the authority for cities to audit the distribution of court imposed fines, fees, penalty assessments and administrative costs for criminal and traffic violations.

It also urges the League to seek legislative changes to the "Priority Distribution" statutory formula so that cities receive the total cost of issuing, processing and testifying in court on criminal cases and traffic violations. The current statutory formula allows reductions to the base fine but maintains the same level of penalty assessments, based upon the full penalty charge.

Finally, any reductions that may occur in fines, fees, assessments or costs determinations should be equally distributed from the total fine imposed, not just from the city base fine.

This Resolution raises several policy questions:

- Should cities have the authority to request audits and receive reports from a county or the state on the local share of revenue resulting from criminal and traffic violation penalties?
- Should cost-recovery be a driving factor in setting monetary penalties for criminal or traffic violations?
- Should reductions (as ordered by a judge) to the fines owed by violators be taken just out of the base fine, or should the base fine and related penalty assessments be reduced proportionately?

*RESOLUTION 4:*

Resolution of the League of California Cities raising public awareness and supporting tougher laws related to internet crimes against children

This Resolution seeks to increase public awareness of the prevalence of internet crimes against children. To help promote this goal, the Resolution requests the League of California Cities advocate for legislation that creates tougher laws for child pornographers and provides additional, more permanent funding for Internet Crimes Against Children (ICAC) Task Forces.

*RESOLUTION 5:*

Resolution calling for an emergency management mission for California cities

This Resolution seeks to create a clear statement of support for emergency preparedness in the League of California Cities existing policy and guiding principles. Specifically, it requests that the League encourages cities to actively pursue employee and resident emergency preparedness and to engage residents in 25 emergency preparedness programs that promote creating a family plan, that includes provisions for supplies of food and water, in the promotion of self-reliance, with the ultimate goal of creating “disaster resilient” cities.

The Council should discuss and provide direction to the voting delegate on how to vote on the resolutions at the annual business meeting.

**IMPACT ON CITY RESOURCES**

There is no fiscal impact for the proposed action.

**POLICY ISSUES**

Providing information to the voting delegate does not present a change to existing policy.

**ENVIRONMENTAL REVIEW**

The proposed action does not require environmental review.

Signature on file  
Margaret S. Roberts, MMC  
City Clerk

**PUBLIC NOTICE:** Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

**ATTACHMENTS:**

- A. Annual Conference Resolution Packet





1400 K Street, Suite 400 • Sacramento, California 95814  
Phone: 916.658.8200 Fax: 916.658.8240  
[www.cacities.org](http://www.cacities.org)

July 12, 2012

TO: Mayors, City Managers and City Clerks  
League Board of Directors

RE: Annual Conference Resolutions Packet  
Notice of League Annual Meeting

Enclosed please find the 2012 Annual Conference Resolutions Packet.

**Annual Conference in San Diego.** This year's League Annual Conference will be held September 5 - 7 at the San Diego Convention Center in San Diego. The conference announcement has previously been sent to all cities and we hope that you and your colleagues will be able to join us. More information about the conference is available on the League's Web site at [www.cacities.org/ac](http://www.cacities.org/ac). We look forward to welcoming city officials to the conference.

**Annual Luncheon/Business Meeting - Friday, September 7, 12:00 p.m.** The League's Annual Business Meeting will be held at the San Diego Convention Center.

**Resolutions Packet.** At the Annual Conference, the League will consider the five resolutions introduced by the deadline, Saturday, July 7, 2012, midnight. These resolutions are included in this packet. We request that you distribute this packet to your city council.

We encourage each city council to consider the resolutions and to determine a city position so that your voting delegate can represent your city's position on each resolution. A copy of the resolutions packet is posted on the League's website for your convenience: [www.cacities.org/resolutions](http://www.cacities.org/resolutions).

The resolutions packet contains additional information related to consideration of the resolutions at the Annual Conference. This includes the date, time and location of the meetings at which resolutions will be considered.

**Voting Delegates.** Each city council is encouraged to designate a voting delegate and two alternates to represent their city at the Annual Business Meeting. A letter asking city councils to designate their voting delegate and two alternates has already been sent to each city. Copies of the letter, voting delegate form, and additional information are also available at: [www.cacities.org/resolutions](http://www.cacities.org/resolutions).

**Please Bring This Packet to the Annual Conference  
September 5 - 7 — San Diego**

## I. INFORMATION AND PROCEDURES

**RESOLUTIONS CONTAINED IN THIS PACKET:** The League bylaws provide that resolutions shall be referred by the president to an appropriate policy committee for review and recommendation. Resolutions with committee recommendations shall then be considered by the General Resolutions Committee at the Annual Conference.

This year, five resolutions have been introduced for consideration by the Annual Conference and referred to the League policy committees.

**POLICY COMMITTEES:** Three policy committees will meet at the Annual Conference to consider and take action on resolutions referred to them. The committees are Environmental Quality, Public Safety, and Revenue & Taxation. These committees will meet on Wednesday, September 5, 2012, at the San Diego Marriott Marquis & Marina Hotel in San Diego. Please see page iii for the policy committee meeting schedule. The sponsors of the resolutions have been notified of the time and location of the meetings.

Two other policy committees may also be meeting: Administrative Services and Employee Relations. Administrative Services will meet pending League Board (July 19 & 20) action to determine whether the committee will review any November General election ballot initiatives. Employee Relations will meet if the Legislature acts on pension reform in August. If pension reform is passed, the committee will meet to discuss the details of the proposal. For now, please plan to attend the meeting at the Annual conference. If for some reason this changes, League staff will send an email notifying the committee.

Three policy committees will not be meeting at the annual conference. These committees are: Community Services; Housing, Community & Economic Development; and Transportation, Communication, & Public Works.

**GENERAL RESOLUTIONS COMMITTEE:** This committee will meet at 1:00 p.m. on Thursday, September 6, at the San Diego Convention Center, to consider the reports of the three policy committees regarding the five resolutions. This committee includes one representative from each of the League's regional divisions, functional departments and standing policy committees, as well as other individuals appointed by the League president. Please check in at the registration desk for room location.

**ANNUAL LUNCHEON/BUSINESS MEETING/GENERAL ASSEMBLY:** This meeting will be held at 12:00 p.m. on Friday, September 7, at the San Diego Convention Center.

**PETITIONED RESOLUTIONS:** For those issues that develop after the normal 60-day deadline, a resolution may be introduced at the Annual Conference with a petition signed by designated voting delegates of 10 percent of all member cities (48 valid signatures required) and presented to the Voting Delegates Desk at least 24 hours prior to the time set for convening the Annual Business Session of the General Assembly. This year, that deadline is 12:00 p.m., Thursday, September 6. If the petitioned resolution is substantially similar in substance to a resolution already under consideration, the petitioned resolution may be disqualified by the General Resolutions Committee.

Resolutions can be viewed on the League's Web site: [www.cacities.org/resolutions](http://www.cacities.org/resolutions).

Any questions concerning the resolutions procedures may be directed to Meg Desmond at the League office: [mdesmond@cacities.org](mailto:mdesmond@cacities.org) or (916) 658-8224.

## **II. GUIDELINES FOR ANNUAL CONFERENCE RESOLUTIONS**

Policy development is a vital and ongoing process within the League. The principal means for deciding policy on the important issues facing cities and the League is through the League's eight standing policy committees and the board of directors. The process allows for timely consideration of issues in a changing environment and assures city officials the opportunity to both initiate and influence policy decisions.

Annual conference resolutions constitute an additional way to develop League policy. Resolutions should adhere to the following criteria.

### **Guidelines for Annual Conference Resolutions**

1. Only issues that have a direct bearing on municipal affairs should be considered or adopted at the Annual Conference.
2. The issue is not of a purely local or regional concern.
3. The recommended policy should not simply restate existing League policy.
4. The resolution should be directed at achieving one of the following objectives:
  - (a) Focus public or media attention on an issue of major importance to cities.
  - (b) Establish a new direction for League policy by establishing general principals around which more detailed policies may be developed by policy committees and the Board of Directors.
  - (c) Consider important issues not adequately addressed by the policy committees and Board of Directors.
  - (d) Amend the League bylaws (requires 2/3 vote at General Assembly).

**III.**  
**LOCATION OF MEETINGS**

**Policy Committee Meetings**  
**Wednesday, September 5, 2012**  
**San Diego Marriott Marquis & Marina Hotel**  
**333 W. Harbor Drive, San Diego**

**POLICY COMMITTEES MEETING AT ANNUAL CONFERENCE TO**  
**DISCUSS AN ANNUAL CONFERENCE RESOLUTION**

<b>9:00 a.m. – 10:30 a.m.</b>	<b>Environmental Quality;</b>
	<b>Revenue and Taxation</b>
<b>10:30 a.m. – 12:00 p.m.</b>	<b>Public Safety</b>

**TENTATIVE POLICY COMMITTEE MEETINGS AT ANNUAL CONFERENCE**  
**TO DISCUSS OTHER ISSUES**

<b>9:00 a.m. – 10:30 a.m.</b>	<b>Administrative Services</b>
<b>10:30 a.m. – 12:00 p.m.</b>	<b>Employee Relations</b>

**Note:** These policy committees will **NOT** meet at the Annual Conference:  
Community Services  
Housing, Community & Economic Development  
Transportation, Communication & Public Works



**General Resolutions Committee**  
**Thursday, September 6, 2012, 1:00 p.m.**  
**San Diego Convention Center**



**Annual Business Meeting and General Assembly Luncheon**  
**Friday, September 7, 2012, 12:00 p.m.**  
**San Diego Convention Center**

**IV.  
KEY TO ACTIONS TAKEN ON RESOLUTIONS**

Resolutions have been grouped by policy committees to which they have been assigned. **Please note that one resolution has been assigned to more than one committee. This resolution is noted by this sign (♦).**

Number	Key Word Index	Reviewing Body Action		
		1	2	3

1 - Policy Committee Recommendation to General Resolutions Committee  
2 - General Resolutions Committee  
3 - General Assembly

**ENVIRONMENTAL QUALITY POLICY COMMITTEE**

		1	2	3
3	Desert Protection Act			
4	Global Warming			

**PUBLIC SAFETY POLICY COMMITTEE**

		1	2	3
♦1	Fines and Forfeitures			
2	Internet Crimes Against Children			
5	Emergency Management Mission for California Cities			

**REVENUE AND TAXATION POLICY COMMITTEE**

		1	2	3
♦1	Fine and Forfeitures			

**Please note:** These committees will ***NOT*** meet at the annual conference: Community Services; Housing, Community & Economic Development; and Transportation, Communication & Public Works

Information pertaining to the Annual Conference Resolutions will also be posted on each committee's page on the League website: [www.cacities.org](http://www.cacities.org). The entire Resolutions Packet will be posted at: [www.cacities.org/resolutions](http://www.cacities.org/resolutions).

## **KEY TO ACTIONS TAKEN ON RESOLUTIONS (Continued)**

### **KEY TO REVIEWING BODIES**

1. Policy Committee
2. General Resolutions Committee
3. General Assembly

### **Action Footnotes**

- \* Subject matter covered in another resolution
- \*\* Existing League policy
- \*\*\* Local authority presently exists

### **KEY TO ACTIONS TAKEN**

- A - Approve
- D - Disapprove
- N - No Action
- R - Refer to appropriate policy committee for study
- a - Amend
- Aa - Approve as amended
- Aaa - Approve with additional amendment(s)
- Ra - Amend and refer as amended to appropriate policy committee for study
- Raa - Additional amendments and refer
- Da - Amend (for clarity or brevity) and Disapprove
- Na - Amend (for clarity or brevity) and take No Action
- W - Withdrawn by Sponsor

**Procedural Note:** Resolutions that are approved by the General Resolutions Committee, as well as all qualified petitioned resolutions, are reported to the floor of the General Assembly. In addition, League policy provides the following procedure for resolutions approved by League policy committees but *not* approved by the General Resolutions Committee:

Resolutions initially recommended for approval and adoption by all the League policy committees to which the resolution is assigned, but subsequently recommended for disapproval, referral or no action by the General Resolutions Committee, shall then be placed on a consent agenda for consideration by the General Assembly. The consent agenda shall include a brief description of the basis for the recommendations by both the policy committee(s) and General Resolutions Committee, as well as the recommended action by each. Any voting delegate may make a motion to pull a resolution from the consent agenda in order to request the opportunity to fully debate the resolution. If, upon a majority vote of the General Assembly, the request for debate is approved, the General Assembly shall have the opportunity to debate and subsequently vote on the resolution.

V.  
**2012 ANNUAL CONFERENCE RESOLUTIONS**

**RESOLUTIONS REFERRED TO ENVIRONMENTAL QUALITY POLICY COMMITTEE**

**3. RESOLUTION ENCOURAGING CALIFORNIA CITIES TO OPPOSE THE CALIFORNIA DESERT PROTECTION ACT OF 2011**

Source: City of Needles

Referred To: Environmental Quality Policy Committee

Recommendation to General Resolutions Committee:

**WHEREAS**, in 1993 Senator Diane Feinstein introduced the California Desert Protection Act of 1994 which became federal law and was passed by the United States Congress on October 8, 1994, and

**WHEREAS**, this act established the Death Valley and Joshua Tree National Parks and the Mojave National Preserve in the California desert; and

**WHEREAS**, this act designated 69 wilderness areas as additions to the National Wilderness Preservation System within the California Desert Conservation Area (CDCA), the Yuma District, the Bakersfield District, and the California Desert District of the Bureau of Land Management permits grazing in such areas; and

**WHEREAS**, the Act abolished Death Valley National Monument, established in 1933 and 1937, and incorporated its lands into a new Death Valley National Park administered as part of the National Park System. Grazing of domestic livestock was permitted to continue at no more than the then-current level. The Act also required the Secretary of the Interior to study the suitability of lands within and outside the boundaries of the park as a reservation for the Timbisha Shoshone Tribe; and

**WHEREAS**, the Act abolished Joshua Tree National Monument, established in 1936, and incorporated its lands into Joshua Tree National Park; and

**WHEREAS**, the Act established the Mojave National Preserve, consisting of approximately 1,419,800 acres (5,746 km<sup>2</sup>; 2,218.4 sq mi), and abolished the East Mojave National Scenic Area, which was designated in 1981. The preserve was to be administered in accordance with National Park System laws. Hunting, fishing and trapping were permitted as allowed by federal and state laws, with certain exceptions. Mining claims were governed by the National Park System laws, and grazing was permitted to continue at no more than the then-current level; and

**WHEREAS**, the Act required the Secretary of the Interior to ensure that American Indian people have access to the lands designated under the Act for traditional cultural and religious purposes, in recognition of their prior use of these lands for these purposes. Upon the request of an Indian tribe or religious community, the Secretary must temporarily close specific portions to the general public to protect the privacy of traditional cultural and religious activities; and

**WHEREAS**, flights by military aircraft over the lands designated by the Act were not restricted or precluded, including over flights that can be seen or heard from these lands; and

**WHEREAS**, Congress found that federally owned desert lands of southern California constitute a public wildland resource of extraordinary and inestimable value for current and future generations; these desert wildlands have unique scenic, historical, archeological, environmental, ecological, wildlife, cultural,

scientific, educational and recreational values; the California desert public land resources are threatened by adverse pressures which impair their public and natural values; the California desert is a cohesive unit posing difficult resource protection and management challenges; statutory land unit designations are necessary to protect these lands; and

**WHEREAS**, Senator Dianne Feinstein, author of the 1994 California Desert Protection Act has introduced legislation “California Desert Protection Act of 2011” that will set aside new land in the Mojave Desert for conservation, recreation and other purposes; and

**WHEREAS**, the proposed legislation will take AN ADDITIONAL 1.6 million acres of Bureau of Land Management land out of potential development, including mining exploration, by designating two new “National Monuments”, one adjacent to the Mojave National Preserve which will take 1.5 million acres out of BLM multiple use in addition to 800,000 acres out of private ownership and one adjacent to the Joshua Tree National Park; and

**WHEREAS**, this legislation will result in just about every square inch of the desert spoken for, either for military use, national parks, wilderness and special conservation areas, Indian reservations and other types of land management (half of the lands under BLM management are protected under wilderness or special conservation area restrictions); and

**WHEREAS**, projects, such as California mandated solar energy development, that would disturb or destroy habitat must make up for that loss by purchasing private habitat at ratios of at least three acres for every one acre disturbed; and

**WHEREAS**, at that rate, even in the nation’s largest county, San Bernardino, just three solar projects on federal land will require an amount of private land acquisition of 22,000 acres, or roughly 34 square miles, land will come off of the county’s tax rolls and we will literally run out of mitigation land after a handful of projects; and

**WHEREAS**, the Federal Energy Policy Act of 2005 requires that 10,000 megawatts of renewable energy be generated on public land in the west. To meet California’s mandate of having 33 percent of our energy come from renewable sources, it requires more that 20,000 megawatts of production and they are looking mainly at public lands. If we approve that much solar, the result would be a regulatory lockdown on the rest of the Desert by the Federal Fish and Wildlife Service and the State Department of Fish and Game; and

**WHEREAS**, the Desert Protection Act of 1994 encompassed 1.5 million acres or 2,218.4 square miles plus an additional 800,000 acres of private land or 1,250 square miles; Fort Irwin, 1,000 square miles; 29 Palms Marine Base, 931.7 square miles and they have also applied for an additional 420,000 acres in 2008, or 659.375 square miles totaling 6,059.48 square miles; and

**WHEREAS**, the California Desert Protection Act of 2011 will take OVER 2,300 square miles, not including the acreage of wilderness located outside any of the above mentioned areas (this total mileage would roughly encompass Rhode Island, Delaware, and Connecticut); and

**WHEREAS**, these public lands have long supported a range of beneficial uses and efforts have been made to protect the desert inhabitants. Let’s not destroy the desert or our ability to use and enjoy it.

**NOW, THEREFORE, BE IT RESOLVED**, by the General Assembly of the League of California Cities assembled at the Annual Conference in San Diego, September 7, 2012, that the



League encourages California cities to adopt resolutions in opposition to the California Desert Protection Act of 2011.

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**League of California Cities Staff Analysis**

Staff: Kyra Ross, Legislative Representative, (916) 658-8252  
Committee: Environmental Quality Policy Committee

**Summary:**

This resolution encourages California cities to oppose the California Desert Protection Act of 2011.

**Background:**

The California Desert Protection Act of 2011 (S. 138) is legislation proposed by Senator Dianne Feinstein which would provide for conservation, enhanced recreation opportunities, and development of renewable energy in the California Desert Conservation Area. The Measure would:

- Create two new national monuments: the 941,000 acres Mojave Trails National Monument along Route 66 and the 134,000 acres Sand to Snow National Monument, which connects Joshua Tree National Park to the San Bernardino Mountains.
- Add adjacent lands to Joshua Tree National Park, Death Valley National Park and Mohave National Preserve;
- Protect nearly 76 miles of waterways;
- Designate five new wilderness areas;
- Designate approximately 250,000 acres of Bureau of Land Management wilderness areas near Fort Irwin;
- Enhance recreational opportunities; and,
- Designate four existing off-highway vehicle areas in the California Desert as permanent.

S. 138 is a re-introduction of S. 2921, the California Desert Protection Act of 2010 which is now dead. S. 138 was introduced in January 2011 and was referred to the Senate Committee on Energy and Natural Resources. The measure has not yet been set for hearing by the Committee.

**Fiscal Impact:**

Unknown. No direct fiscal impact to city general funds.

**Existing League Policy:**

The League’s Mission Statement is “to expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.”

Specific to this Resolution, existing policy offers no specific policy on this issue.

The League’s Strategic Priorities for 2012, as adopted by the League Board of Directors, include:

2) Promote Local Control for Strong Cities: Support or oppose legislation and proposed constitutional amendments based on whether they advance maximum local control by city governments over city revenues, land use, redevelopment and other private activities to advance the public health, safety and welfare of city residents.

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**4. RESOLUTION REQUESTING CONSIDERATION OF SUSPENSION OF IMPLEMENTATION OR REVISION OF THE CALIFORNIA GLOBAL WARMING SOLUTIONS ACT (AB 32 of 2006)**

Source: City of Needles

Referred to: Environmental Quality Policy Committee

Recommendation to General Resolutions Committee:

**WHEREAS**, in 2006 the California Legislature adopted the California Global Warming Solutions Act, commonly referred to as AB 32 (Health & Safety Code §§38500 et seq.); and

**WHEREAS**, AB 32 aims to reduce California's greenhouse gas emissions (GHGs) to 1990 levels by 2020 (Health & Safety Code §38550) and to 80 percent below 1990 levels by 2050; and

**WHEREAS**, the California Air Resources Board (CARB) is the government agency charged with determining how the AB 32 goals will be reached (Health & Safety Code §38510); and

**WHEREAS**, CARB's implementation of AB32 aims to reduce California's GHG emissions by 169 million metric tons of carbon dioxide equivalent (MMT<sub>CO2E</sub>) through a variety of strategies, including sector-specific regulations, market mechanisms, voluntary measures, fees, incentives and other policies and programs; and

**WHEREAS**, there are portions of the state that have been designated as nonattainment for the national ambient air quality standards (NAAQS) for Ozone and PM, nonattainment for state ambient air quality standards (SAAQS) for Ozone, PM, Sulfates and Hydrogen Sulfide, and identified by CARB pursuant to as overwhelmingly impacted by transported air pollution from upwind air basins; and

**WHEREAS**, areas designated nonattainment are mandated under the provisions of the Federal Clean Air Act (FCAA) to require pursuant to New Source Review (NSR) rules, Best Available Control Technology (BACT) and offsetting emissions reductions (Offsets) on major new or modified stationary sources of those nonattainment air pollutants and their precursors (42 U.S.C. §§7502(c)(5), 7503) regardless of whether or not the area so designated has any control or not over the pollution causing the nonattainment finding; and

**WHEREAS**, the United States Environmental Protection Agency (USEPA) has requested that a program be developed to implement the Prevention of Significant Deterioration (PSD) which will require additional analysis for new or modified sources of attainment pollutants including but not limited to greenhouse gases, which will also necessitate emissions reductions and BACT in some cases for attainment pollutants; and

**WHEREAS**, due in part to the limited number of existing sources of air pollutants and the overwhelming impact of transport some or a majority of the cities have few if any available emissions reductions available to provide such offsets; and

**WHEREAS**, many technologies used to attain BACT levels of air pollution control are based upon the combustion of fossil fuels which also causes emissions of GHGs; and

**WHEREAS**, there are a variety of Federal regulations promulgated and proposed by the USEPA regarding greenhouse gasses that have the potential to conflict both directly and in their implementation with regulatory measures to implement AB32 as adopted and proposed by CARB; and

**WHEREAS**, there are a variety of other mandates and regulations at the State level (municipal waste diversion, renewable energy mandate etc.) which have the potential to conflict both directly and in due to their implementation with regulatory measures to implement AB32 as adopted and proposed by CARB; and

**WHEREAS**, such conflicts severely impede the cities or state as well as regulated industry efforts to comply with both the applicable Federal regulations and regulations implementing AB32; and

**WHEREAS**, the existing and proposed regulations on both the State and Federal level result in an overall regulatory structure that is inconsistent and confusing making it virtually impossible or incredibly slow to start any new large scale projects within the State at a time where California infrastructure and its economy are in most need of refurbishment; and

**WHEREAS**, the existing and proposed regulations and unclear guidelines will also make it more difficult for smaller, pollution transport impacted air districts like the MDAQMD, to properly implement and enforce the regulations;

**NOW, THEREFORE, BE IT RESOLVED**, by the General Assembly of the League of California Cities assembled at the Annual Conference in San Diego, September 7, 2012, that the League encourages the existing 482 California cities to adopt resolutions requesting a suspension of the implementation of some, if not all, the regulations promulgated under the California Global Warming Solutions Act (AB 32 of 2006) until such time as the legal and regulatory inconsistencies can be resolved; and

**BE IT FURTHER RESOLVED**, that California cities request the California Air Resources Board and other applicable state agencies examine the impact of the regulations promulgated pursuant to AB 32 and for potential direct and indirect conflict with other existing regulations at both the State and Federal level including but not limited to the potential for gains in one area to jeopardize progress in another; and

**BE IT FURTHER RESOLVED**, that California cities request the California Air Resources Board and other applicable state agencies examine the overall economic impact of the regulations promulgated pursuant to AB 32 and their interaction with other existing regulations with emphasis upon the potential for job and other economic activity "flight" from California; and

**BE IT FURTHER RESOLVED**, that California cities request the State of California by and through its Governor, Legislature, and applicable state agencies should encourage the resolution of internal conflicts between and among existing Federal programs by supporting items including but not limited to: reopening the Federal Clean Air Act, New Source Review Reform, and efforts to regulate GHGs under a comprehensive Federal program.

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## League of California Cities Staff Analysis on Resolution No. 4

Staff: Kyra Ross, Legislative Representative, (916) 658-8252  
Committee: Environmental Quality Policy Committee

### **Summary:**

This resolution encourages California cities to:

- 1.) Adopt resolutions requesting the suspension of the implementation of some, if not all, the regulations promulgated under the California Global Warming Solutions Act (AB 32) until such time as the legal and regulatory inconsistencies can be resolved;
- 2.) Asks cities to request the California Air Resources Board (CARB) and other applicable state agencies examine the impact of the regulations promulgated pursuant to AB 32, and for potential conflict with other existing regulations at both the State and Federal level including, but not limited to, the potential for gains in one area to jeopardize progress in another; and,
- 3.) Asks cities to request the CARB and other applicable state agencies examine the overall economic impact of the regulations promulgated pursuant to AB 32 and their interaction with other existing regulations with emphasis upon the potential for job and other economic activity “flight” from California; and,
- 4.) Asks cities to request the State to encourage the resolution of internal conflicts between and among existing Federal programs by supporting items, including but not limited to:
  - a. Reopening the Federal Clean Air Act;
  - b. New Source Review Reform; and,
  - c. Efforts to regulate greenhouse gas emissions under a comprehensive federal program.

### **Background:**

AB 32 passed in 2006 and requires the State to reduce greenhouse gas emissions to 1990 levels by 2020. As the implementing agency, CARB developed and passed a Scoping Plan in 2008, outlining emission reduction measures to help the state meet its statutory reduction of greenhouse gas emissions. Since 2008, a number of measures outlined in the Scoping Plan have been implemented. Measures of interest to cities include: voluntary local government 15% reduction in greenhouse gas emissions; regional transportation-related greenhouse gas targets; landfill methane control; and green building codes.

At the same time, many of California’s 15 air basins are facing ongoing challenges to meeting federal air quality standards. It’s important to note that regulation of air quality in California is separated into two levels of regulation. CARB regulates air pollution from cars, trucks, buses and other sources, often referred to as “mobile sources”. Local air districts regulate businesses and industrial facilities. Local air districts are the bodies that regulate ozone, PM 2.5 and PM 10. Ground level ozone (ozone), more commonly referred to as smog, is a pollutant that forms on hot summer days (not to be confused with the ozone that forms in the upper atmosphere or stratosphere). Ozone is not directly emitted by one source but comes from a combination of volatile organic compounds and nitrogen oxides. In the presence of sunlight, especially on hot summer days, this mixture forms ozone. Particulate Matter (PM) is made up of fine solid or liquid such as dust, fly ash, soot, smoke, aerosols, fumes, mists, and condensing vapors. US EPA has set health based standards for particles smaller than 10 microns (PM 10) and particles smaller than 2.5 microns (PM 2.5). When these particles become airborne, they can be suspended in the air for long periods of time. Both PM 10 and PM 2.5 have been determined to cause serious adverse health effects.

According to an April 2012 report by the California Air Pollution Control Officer’s Association “California’s Progress Toward Clean Air”:

*Despite significant improvements, air quality remains a major source of public health concern in large metropolitan areas throughout California. The San Joaquin and South Coast Air Basin*

*continue to face significant challenges in meeting the federal health-based standards for ozone and fine particles, despite their regional and state-level controls on mobile and stationary sources that are the most stringent in the nation. In 2007, both regions sought extension for meeting the 1997 8-hour federal ambient air quality standard for ozone. A comparable challenge faces each region with respect to attainment of the 1997 PM<sub>2.5</sub> standard. Due to continued progress in health research, the federal EPA lowered the ambient concentration for the 8-hour ozone and 24-hour PM<sub>2.5</sub> standards in 2008 and 2006, respectively. The net effect of these stricter standards is to raise the performance bar for California air basins. This will extend the timeframe for attainment in highly polluted regions as well as increase the number of basins with non-attainment status. Challenges also exist for air districts across California who are in attainment with the federal standards, as they continue to strive for attainment of the State's health-based ozone and PM standards, which are more stringent than the standards adopted by the US EPA.*

According to the Sponsor, areas designated nonattainment are mandated under the provision of the federal Clean Air Act to require (pursuant to New Source Review Rules) Best Available Control Technology (BACT) and offsetting emissions reduction on major new or modified stationary sources of those nonattainment air pollutants and their precursors regardless of whether or not the area so designated has any control and not over the pollution causing the nonattainment finding.

The Sponsor also notes that there are a variety of other mandates and regulations at the state level that have the potential to conflict both directly and indirectly with the implementation of AB 32 measures being proposed and implemented by CARB. Two measures pointed out by the Sponsor are the existing mandate for local jurisdictions to divert 50% of solid waste from landfills (Public Resources Code 41780) and the state Renewable Portfolio Standard (RPS) that requires all retail sellers (Investor Owned Utilities, electric service providers, and community choice aggregators) and all publicly owned utilities to procure at least 33% of electricity delivered to their retail customers from renewable resources by 2020.

**Fiscal Impact:**

Unknown. No direct fiscal impact to city general funds.

**Existing League Policy:**

Specific to this Resolution, existing policy states:

**Air Quality**

- The League believes cities should have the authority to establish local air quality standards and programs that are stricter than state and federal standards. The League opposes efforts to restrict such authority.
- The League opposes legislation redirecting the funds authorized by Health and Safety Code Section 44223, which are currently used by local governments for locally based air quality programs.
- The League opposes air quality legislation that restricts the land use authority of cities.

**Climate Change**

- The League recognizes that climate change is both immediate and long term, with the potential for profound environmental, social and economic impacts to the planet and to California.
- Through the Global Warming Solutions Act of 2006 (AB 32 (Nuñez) Chapter 488, Statutes of 2006) California has embarked on a plan that requires the reduction of greenhouse gas emissions to 1990 levels by 2020. Although uncertainty remains about the pace, distribution and magnitude of the effects of climate change, the League recognizes the need for immediate actions to mitigate the sources of greenhouse gas emissions and has adopted the following principles:
  1. Action Plans for Mitigating Greenhouse Gas Emissions. Encourage local governments to complete

an inventory of greenhouse gas emissions, set appropriate reduction targets, and create greenhouse gas emission reduction action plans.

2. Smart Growth. Consistent with the League's Smart Growth policies, encourage the adoption of land use policies designed to reduce sprawl, preserve open space, and create healthy, vibrant, and sustainable communities.
3. Green Technology Investment Assistance. Support tax credits, grants, loans and other incentives to assist the public, businesses, and local agencies that invest in energy efficient equipment and technology, and fuel efficient, low emission vehicles.
4. Energy and Water Conservation and Efficiency. Encourage energy efficiency, water efficiency, and sustainable building practices in new and existing public, residential and commercial buildings and facilities. This may include using the U.S. Green Building Council's LEED program or similar systems.
5. Increase the Use of Clean Alternative Energy. Promote the use and purchase of clean alternative energy through the development of renewable energy resources, recovery of landfill methane for energy production and waste-to-energy technologies.
6. Reduction of Vehicle Emissions in Public Agency Fleets. Support the reduction of vehicle emissions through increased fuel efficiency, use of appropriate alternative fueled vehicles, and/or low emission vehicles in public agency fleets. Encourage the use of appropriate alternative fueled vehicles, and/or low emission vehicles in private fleets.
7. Climate Change Impacts. Encourage all levels of government to share information to prepare for climate change impacts.
8. Coordinated Planning. State policy should encourage and provide incentive for cities to coordinate and share planning information with neighboring cities, counties, and other governmental entities so that there are agreed upon regional blueprints and strategies for dealing with greenhouse gas emissions.
9. Water Supply for New Development. Encourage exchange of water supply information between state and local agencies, including information on the impacts of climate change on state and local water supplies.
10. Recycles Content and Green Purchasing Policies. Encourage the adoption and implementation of recycled content and green procurement policies, if fitness and quality are equal, including the adoption of an Environmental Management System and authorization of local agencies to consider criteria other than only cost in awarding contracts for services.

Additionally, the League's Mission Statement is "to expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians."

Finally, the League's Strategic Priorities for 2012, as adopted by the League Board of Directors, include:

In addition, the Strategic Priorities for 2012, as adopted by the League Board of Directors, are to:

1) Support Sustainable and Secure Public Employee Pensions and Benefits: Work in partnership with state leaders and other stakeholders to promote sustainable and secure public pensions and other post-employment benefits (OPEBs) to help ensure responsive and affordable public services for the people of our state and cities.

2) Promote Local Control for Strong Cities: Support or oppose legislation and proposed constitutional amendments based on whether they advance maximum local control by city governments over city revenues,

land use, redevelopment and other private activities to advance the public health, safety and welfare of city residents.

3) Build Strong Partnerships for a Stronger Golden State: Collaborate with other public and private groups and leaders to reform the structure and governance, and promote transparency, fiscal integrity, and responsiveness of our state government and intergovernmental system.

### **RESOLUTIONS REFERRED TO PUBLIC SAFETY POLICY COMMITTEE**

**◆1 A RESOLUTION CALLING UPON THE GOVERNOR AND LEGISLATURE TO ENACT LEGISLATION THAT WOULD CORRECT INEFFICIENCIES IN THE AUDIT SYSTEM, DISTRIBUTION SYSTEM AND INEQUITIES IN THE FORMULAS FOR DISTRIBUTING COURT ORDERED ARREST AND CITATION FINES, FEES AND ASSESSMENTS GENERATED BY LOCAL GOVERNMENT.**

Source: City of Glendora  
Referred to: Revenue & Taxation Policy Committee  
Recommendation to General Resolutions Committee:

**WHEREAS,** the primary purpose of criminal and traffic laws is to improve safety for the public, where the cost involved to implement enforcement falls primarily upon local law enforcement agencies throughout the State; and

**WHEREAS,** if State laws are to be effectively enforced then local cities must have a fair revenue structure to pay the cost of making arrests and issuing citations for criminal and traffic violators; and

**WHEREAS,** the significant inequity in the amount cities receive in relation to the full cost of a citation and/or arrest results in an unfair distribution of revenue to cities that are generated by court fines, fees, surcharges, penalties and assessments levied on offenders; and

**WHEREAS,** the current inefficiencies in the system makes it practically impossible for cities to insure transparency and effectively audit, administer and manage public funds that are generated by cities and distributed by the State and County; and

**WHEREAS,** to adequately protect and serve the public during this time of declining revenue and deteriorating services the inequities in the system needs to be changed; and

**WHEREAS,** court-ordered debt collection and revenue distribution is a complex system where there are few audits, if ever, done to determine if cities are receiving their fair share of disbursements; and

**WHEREAS,** once a debt has been collected, in whole or in part, distributing the money is not simple as there are over 150 ways collection entities are required to distribute revenue collected from traffic and criminal court debts. Depending on the fine, fee, surcharge or penalty assessment imposed by the court has more than 3,100 separate court fines, fees, surcharges, penalties and assessments levied on offenders that appear in statutes spanning 27 different state code sections; and

**WHEREAS,** the current system makes it practically impossible for cities to effectively administer and manage public funds that are generated by cities. Because of the complex system cities cannot determine if they are receiving their fair share of the fines collected; and

**WHEREAS**, Counties and the State have statutory responsibility and power to conduct their audits, while cities do not currently have clear legal standing to demand access to court records for purposes of conducting audits in a thorough and transparent manner which further shrouds the understanding of when and how revenue is distributed; and

**WHEREAS**, in December 2011 at the request of the Glendora Police Department the Los Angeles Superior Court conducted a sample audit of 15 Glendora Police Department-issued citations from 2010. The results of the sample audit revealed the City of Glendora received about 12% (\$253) of the \$2,063 in paid fines for the 12 of the 15 citations submitted. Three (3) of the citations in the audit were sent to collection or warrants. Based on those results, the city received an average of \$21, while the State and County received an average of \$172 for each of the 12 citations. The percentage breakdown for the city was 12.25% as compared to the State and County's share of 86.75%; and

**WHEREAS**, issuing a typical vehicle code violation citation can involve up to an hour of the issuing officer's time and the time of a records clerk tasked with entering citations into the database costing approximately \$82 per hour. If the citation is challenged the cost increases another \$135 to cover the cost of court time and handling of the notices associated with such an appeal. Therefore, the cost incurred to issue a citation currently is between \$82 and \$217, while the sample audit reveals the city is receiving about \$21 in cost recovery; and

**WHEREAS**, officials with Superior Court openly admit that similar results would be expected for almost every jurisdiction in the State issuing citations due to the complexity and "Priority of Distribution" they must follow from the State of California. "Priority Distribution" is triggered when a court reduces a fine for a citation. This process prohibits Judges from reducing penalty assessments and thus the only discretion Judges have in reducing fines, fees and costs is to reduce the base fine, or city portion, of the total fine. This process has a significant impact on the amount of money cities issuing the citation will receive. Rarely is the reduction in the fine taken from other stakeholders. Cities are one of the lowest priorities on the distribution list and often find themselves receiving significantly less share-or no share after deducting State and County fees and surcharges; and now there let it be

**RESOLVED** by the General Assembly of the League of California Cities, assembled in San Diego on September 7, 2012, that the League of California Cities calls upon the State Legislature and Governor to:

1. Create an efficient system to provide cities with a clear authority to audit the distribution of fines, fees, assessments and administrative costs for criminal and traffic violations;
2. Enact legislation that changes the "Priority Distribution" mandate so cities receive the total cost of issuing, processing and testifying in court on criminal cases and traffic violations; and
3. That any reduction in fines, fees, assessments or costs should be equally distributed from the total fine imposed, not just from the city base fine.

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**Background Information on Resolution No. 1**

**Source:** City of Glendora



**Background:**

Court-ordered debt collection and revenue distribution is a complex system where there are few audits, if ever, done to determine if cities are receiving their fair share of disbursements. The current system makes it practically impossible for cities to effectively administer and manage public funds that are generated by cities. Because of the complex system cities cannot determine if they are receiving their fair share of the fines collected.

Once a debt has been collected, in whole or in part, distributing the money is not simple as there are over 150 ways collection entities are required to distribute revenue collected from traffic and criminal court debts, depending on the fine, fee, surcharge or penalty assessment imposed by the court and California has more than 3,100 separate court fines, fees, surcharges, penalties and assessments levied on offenders that appear in statutes spanning 27 different government code.

County and state have statutory responsibility and power to conduct their audits, while cities do not currently have clear legal standing to demand access to court records for purposes of conducting audits in a thorough and transparent manner which further shrouds the understanding of when and how revenue is distributed.

At the request of the City of Glendora, in December 2011, the Los Angeles Superior Court conducted a sample audit of 15 Glendora Police Department-issued citations from 2010. The results of the sample audit revealed the Glendora received about 12% (\$253) of the \$2,063 in paid fines for the 12 of the 15 citations submitted. Three (3) of the citations in the audit had been sent to collection or warrants. Based on those results, the city received an average of \$21, while the state and county received an average of \$172 for each of the 12 citations. The percentage breakdown for the city was 12.25% as compared to the state and county's share of 86.75.%

Issuing a typical vehicle code violation citation can involve up to an hour of the issuing officer's time and the records clerk tasked with entering citations into the database costing approximately \$82 per hour. If the citation is challenged the cost increases another \$135 to cover the cost of court time and handling of the notices associated with such an appeal. Therefore, the cost incurred to issue a citation that is currently between \$82 about \$217, while the sample audit reveals the city is receiving about \$21 in cost recovery.

Officials with Superior Court openly admit that similar results would be expected for almost every jurisdiction in the state because when a court reduces a fine it triggers a process called "Priority Distribution." This process prohibits Judges from reducing penalty assessments imposed by the county and state and thus the only discretion that Judges have in reducing fines is to reduce the Base Fine (City Portion) of the total fine. This mandate has a significant impact on the amount of money cities issuing the citation receive. Rarely is the reduction in the fine taken from other stakeholders. Cities are one of the lowest priority on the distribution so often they find themselves receiving significantly less share-or no share after deducting state and county fees and surcharges.

The primary cost to implement enforcement falls upon local law enforcement agencies throughout the state. This Resolution calls upon the State Legislature and Governor to create an efficient system to provide cities with a clear authority to audit the distribution of fines, fees, assessments and administrative costs for criminal and traffic violations. In addition, legislation should be developed and passed that changes the "Priority Distribution" mandate so the cities receive the total cost of issuing, processing and testifying in court on criminal cases and traffic violations and that any reduction in fines, fees, assessments or costs should be equally distributed from the total fine imposed.

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## **League of California Cities Staff Analysis on Resolution No. 1**

Staff: Dorothy Holzem, Assoc. Legislative Representative, (916) 658-8214  
Committee: Public Safety Policy Committee

Staff: Dan Carrigg, Legislative Representative, (916) 658-8222  
Committee: Revenue and Taxation Policy Committee

### **Summary:**

This Resolution urges the League of California Cities, through legislative or administrative means, to clarify the authority for cities to audit the distribution of court imposed fines, fees, penalty assessments and administrative costs for criminal and traffic violations.

It also urges the League to seek legislative changes to the “Priority Distribution” statutory formula so that cities receive the total cost of issuing, processing and testifying in court on criminal cases and traffic violations. The current statutory formula allows reductions to the base fine but maintains the same level of penalty assessments, based upon the full penalty charge.

Finally, any reductions that may occur in fines, fees, assessments or costs determinations should be equally distributed from the total fine imposed, not just from the city base fine.

This Resolution raises several policy questions:

- 1) Should cities have the authority to request audits and receive reports from a county or the state on the local share of revenue resulting from criminal and traffic violation penalties?
- 2) Should cost-recovery be a driving factor in setting monetary penalties for criminal or traffic violations?
- 3) Should reductions (as ordered by a judge) to the fines owed by violators be taken just out of the base fine, or should the base fine and related penalty assessments be reduced proportionately?

### **Background:**

In California, criminal offenders may have additional penalty assessments made to their base fines. These penalty assessments are based on the concept of an “abusers fee,” in which those who break certain laws will help finance programs related to decreasing those violations. For example, drug and alcohol offenses and domestic violence offenses are enhanced by special assessments on fines that directly fund county programs designed to prevent the violations. All other criminal offenses and traffic violations are subject to penalty assessments that are used to fund specific state programs.

According to the Resolution sponsor, the City of Glendora, the court-ordered collection of penalty fines and additional assessments, as well as the subsequent revenue distribution, is a complex system where few audits are conducted to determine if cities are receiving their share of collections. The current system makes it practically impossible for cities to effectively administer and manage public funds that are generated by cities.

The League recently held in-depth policy discussions related to audit authority in light of the misconduct charges against the City of Bell in 2011. The League convened a technical working group to review audit legislation and administrative efforts by the State Controller’s Office. Following the work of this group, the League Board adopted principles supporting transparent, accurate financial and performance information. (See “Existing Policy” section below.) However, these principles did not address expanding cities’ audit authority over the state, counties, or other public agencies.

The sponsors state that there are over 150 ways collection entities are required to distribute revenue collected from traffic and criminal court debts. Depending on the fine, fee, surcharge or penalty assessment imposed, there are more than 3,100 separate court fines, fees, surcharges, penalties and assessments levied on offenders that appear in statutes spanning 27 different state code sections.

Generally, the base fines for criminal and traffic citations are significantly lower than the additional penalty assessments levied by the state and counties. In some instances, the penalty assessment for state and local programs can be three or four times the amount collected by the city or county agency that issued the citation through their local enforcement authority. The amount each program account receives is based on a statutory formula. For example, if a driving under the influence (DUI) fine is \$1000, specific dollar amounts proportionate to the base fine are added under six different code sections for a total price tag of \$3,320 for the offense.

Some examples of program accounts receiving penalty assessment revenues include Peace Officer Standards and Training (POST), victim witness protection and services, court security, court construction, forensic laboratories for DNA identification, and automated fingerprint identification. The impact of programs largely funded, if not solely funded, by penalty assessment revenue casts a wide net of stakeholders including counties, sheriffs, district attorneys, public defenders, fish and game wardens, victim advocates, and access to the judicial system advocates. Cities are also partial benefactors of penalty assessment funded programs related to law enforcement.

For the last three decades, this policy area has been under great scrutiny and study but with little reform taking place. The recommendations from past studies and reports to consolidate penalty assessment accounts or their collections efforts, which would require legislative action, have likely not gained traction because of the inevitable loss of revenue for the specific programs and the affected interest groups.

In 1986, the Legislature enacted Senate Concurrent Resolution 53, requiring the Legislative Analyst Office (LAO) to study the statutory penalty assessments that are levied by the courts on offenders and the state programs that the funds support. The completed 1988 study found a complicated system of collection and distribution of penalty funds. The LAO was unable to fully identify the source offenses that generated penalty revenues because of limitations in most county collection systems.

In 2005, the California Research Bureau issued a report for the Assembly Public Safety Committee on county penalty assessments that drew similar conclusions. They stated the complexity of the system means poor revenue collection, disproportionate justice for debtors, and undermines the usefulness of fines as a punishment or deterrent. They recommended efforts to streamline and consolidate collections, funding, and appropriations.

After some delay, the state created the Administrative Office of the Court's Court-Ordered Debt Task Force, which is charged with evaluating and exploring means to streamline the existing structure for imposing and distributing criminal and traffic fines and fees. This Task Force has been asked to present preliminary recommendations to the Legislature regarding the priority in which court-ordered debt should be satisfied and the use of comprehensive collection programs. Currently, the League of California Cities has two appointments to the Task Force. However, the Task Force has been put on hiatus and has not met for approximately 12 months due to significant state cuts to the court budget in recent years.

Currently, legislation was introduced this year to address the issue of cities not recouping the costs of issuing citations. The response has been to increase the base fine and not change penalty assessments. Assembly Bill 2366 (Eng) would increase the base fine of "fix-it" tickets from \$10 to \$25 dollars. This has largely been successful in the legislative fiscal committees because with every increase to the base fine for the issuing agency, so increases the state and county share of penalty assessments proportionately.

Lastly, in most instances when the legislature takes into consideration a fine increase, be it for manufacturer product responsibility or criminal acts, the legislature focuses on how the increased fine will alter behavior, not on recovering the costs of enforcing that violation.

**Fiscal Impact:**

Unknown. Potential additional revenue received by cities, if any, would vary based on total citations issued and collected.

**Existing League Policy:**

Related to this Resolution, existing policy offers:

- Cities and the League should continue to emphasize efficiency and effectiveness, encouraging and assisting cities to achieve the best possible use of city resources.
- The League supports efforts to preserve local authority and accountability for cities, state policies must ensure the integrity of existing city revenue sources for all cities, including the city share and situs allocation, where applicable, of property tax, sales tax, vehicle license fee, etc.

*Audit Principles Adopted by the League Board*

- Given the State already has substantial authority to examine local government financial practices, and recognizes the significant resources required by auditors and local governments to complete audits, additional authority should only be granted to a State agency when there are documented insufficiencies in its existing authority.
- Governmental financial audits and performance audits ensure financial integrity and promote efficient, effective and accountable local government.
- Transparent, accurate financial and performance information is necessary for citizens to have confidence that their interests are being served, and for decision makers to be accountable for ensuring that public funds are spent appropriately and effectively.
- Public trust is inspired when auditors perform their work with independence, objectivity and integrity, remaining free from personal, external and organizational impairments to that independence, both in fact and in appearance.
- Public confidence in government is maintained and strengthened when financial and performance information is collected, managed and reported in accordance with nationally recognized professional accounting and auditing standards.

The League’s Mission Statement is “to expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.”

In addition, the Strategic Priorities for 2012, as adopted by the League Board of Directors, are to:

1) Support Sustainable and Secure Public Employee Pensions and Benefits: Work in partnership with state leaders and other stakeholders to promote sustainable and secure public pensions and other post-employment benefits (OPEBs) to help ensure responsive and affordable public services for the people of our state and cities.

2) Promote Local Control for Strong Cities: Support or oppose legislation and proposed constitutional amendments based on whether they advance maximum local control by city governments over city revenues,

land use, redevelopment and other private activities to advance the public health, safety and welfare of city residents.

3) Build Strong Partnerships for a Stronger Golden State: Collaborate with other public and private groups and leaders to reform the structure and governance, and promote transparency, fiscal integrity, and responsiveness of our state government and intergovernmental system.

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**2. RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES RAISING PUBLIC AWARENESS AND SUPPORTING TOUGHER LAWS RELATED TO INTERNET CRIMES AGAINST CHILDREN**

Source: San Diego County Division  
Referred To: Public Safety Policy Committee  
Recommendation to General Resolutions Committee:

**WHEREAS**, technology has brought significant changes to our society over the past two decades, many of which have had a positive effect on our quality of life while some have threatened the safety and well-being of our young children; and

**WHEREAS**, the internet has made victimization of children easier than ever before; and

**WHEREAS**, the internet has also significantly increased the availability of child pornography, with more than 6.5 million images being shared via the internet , compared to only a few hundred photos less than a generation ago; and

**WHEREAS**, some see viewing child pornography as a “victimless crime,” however these images are never completely eradicated from the internet and the victims continue to have their horrific photos viewed over and over again by pedophiles for sexual gratification; and

**WHEREAS**, in 2007 the National Center for Missing and Exploited Children reported it had identified 9.6 million images and videos of child pornography and believed there were millions more not identified; and

**WHEREAS**, in the 2006 Butner Redux Study, 98 percent of convicted child pornographers had molested children before their capture; and

**WHEREAS**, the United States is the number one producer and consumer of child pornography in the world, with more than 624,000 child pornography users identified nationwide.

**NOW THEREFORE BE IT RESOLVED** by the General Assembly of the League of California Cities assembled at the Annual Conference in San Diego, September 7, 2012, that the League of California Cities:

1. Desires to increase public awareness and educate others about the critical issue of internet crimes against children statewide.
2. Requests the League advocate for the State Legislature to adopt tougher laws for child pornographers.

3. Requests the League advocate for additional and more permanent funding for Internet Crimes Against Children Task Forces (ICAC) statewide.

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### **Background Information on Resolution No. 2**

**Source:** San Diego County Division

**Background:**

Technology has brought significant changes to our society over the past two decades. While most have had a positive effect on our quality of life, many have threatened the safety and well-being of our young children.

The internet has made victimization of children much easier than ever before. Today, pedophiles can network with one another online, encourage one another to commit crimes against children, and share tips on evading law enforcement. Worse yet, they often use the internet – social media sites, in particular – to find and prey on young children. Many times, these innocent children are lured away from their homes by these perpetrators and never seen again.

The internet has also significantly increased the availability of child pornography. More than 6.5 million child abuse images are being shared via the internet today. Before this technology was in place, the number of photos available numbered in the few hundreds.

While some see viewing child pornography as a “victimless crime,” nothing could be further from the truth. One study showed that 98 percent of convicted child pornographers had molested children before being captured (Butner Redux Study, 2006).

Additionally, these images can never be completely eradicated from the internet once they are placed online. Therefore, victims continue to suffer the irrevocable damage of knowing their horrific photos are being viewed over and over again for sexual gratification by pedophiles.

Many believe these horrendous crimes happen mostly in other countries. Sadly, the United States is the number one producer and consumer of child pornography in the world, and American children are the primary victims. More than 624,000 child pornography users have been identified nationwide and thousands of these reside in San Diego County.

While the internet is exploited by these predators to harm children, it ironically is the same tool used by law enforcement to track down and arrest these criminals.

Your help is urgently needed to secure resources for this effort, increase public awareness, work to support tougher laws and educate others on this critical issue. While San Diego has one of the nation’s 61 ICAC task forces, its six trained investigators are overwhelmed with cases due to funding shortfalls.

With your help, these predators can be taken off the street and our children will be safer. Here is what needs to be done:

**Change state law.** The current "wobbler" (misdemeanor and felony) wording should be eliminated. All child pornography charges should be made a straight felony.

**Strengthen sentencing.** State sentencing on child pornography cases needs to be more in line with

federal sentencing.

**Toughen discovery statutes.** State discovery statutes should be amended to comply with the Adam Walsh Act. Child pornography is contraband that is easily reproduced and should be treated as such.

**Change pornography evidence rules.** Stop the practice of giving copies of child pornography evidence to the defense. Instead, provide the defense a secure area where they can view the evidence but not take possession of it.

**Strike current law about possession/distribution of child pornography.** Currently, state law allows for a defendant's conviction for possession and distribution of child pornography to be set aside if he/she has complied with all probation conditions, pursuant to Penal Code Section 1203.4.

**Strengthen disclosure laws.** If applying for any job other than public office, licensure by any state or local agency, or for contracting with the state lottery, a convicted possessor of child pornography does not need to disclose their prior conviction. That allows people who have been convicted of possessing or dealing in photos of child exploitation to get closer to children. PC 1203.4 already has exceptions for convictions of PC 286(c), 288, 288a(c), 2813.5, 289m, felony 261.5(d) and 42001(b) of the Vehicle Code. These convictions may not be set aside per PC 1203.4 and must always be disclosed. PC 311.1, 311.2, 311.3, 311.4, 311.10 and 311.11 should be added to the list of charges to which this type of relief does not apply.

**Update reporting laws.** The existing mandatory reporting law should be updated to include librarians and computer technicians.

**Provide permanent funding for ICAC.** Significantly more permanent funding is needed for Internet Crimes Against Children Task Forces (ICAC's). They are tasked with investigating crimes against children involving electronic devices. The crimes include child pornography, child molestation and peer-to-peer bullying. ICAC task force's are severely undersized and underfunded to keep up with the magnitude of the growing problem.

**Increase public awareness.** Public awareness of the issue needs be heightened particularly to parents and children as well as all public officials and the community in order to protect our children against these unspeakable crimes.

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## **League of California Cities Staff Analysis on Resolution No. 2**

Staff: Dorothy Holzem, Assoc. Legislative Representative, (916) 658-8214  
Committee: Public Safety Policy Committee

### **Summary:**

This Resolution seeks to increase public awareness of the prevalence of internet crimes against children. To help promote this goal, the Resolution requests the League of California Cities advocate for legislation that creates tougher laws for child pornographers and provides additional, more permanent funding for Internet Crimes Against Children (ICAC) Task Forces.

### **Background:**

According to the Resolution sponsors, the U.S. Census Bureau (2005) estimates that there are over 24.5 million internet users in the United States between the ages of 10 and 17. They cite that the rapid growth of internet accessibility has brought forth helpful tools for our children and youth. Unfortunately, it has also brought with it the increased potential for online victimization including unwanted exposure to sexual material, unwanted sexual solicitations, and online harassment.

The Internet Crimes Against Children (ICAC) Program was created to help federal, state and local law enforcement agencies enhance their investigative responses to offenders who use the internet, online communication systems, or computer technology to sexually exploit children. The program is funded by the United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention. The program is a national network of 61 coordinated task forces representing over 3,000 federal, state, and local law enforcement and prosecutorial agencies. These agencies are engaged in proactive investigations, forensic investigations, and criminal prosecutions.

In FY 2009, ICAC Program received \$25 million under the Omnibus Appropriation Act to support ICAC task forces, training, and technical assistance. The ICAC Program received an additional \$50 million through the **American Reinvestment and Recovery Act** to support ICAC task forces, training, technical assistance, and research. In each of the past two fiscal years, the program received \$30 million nationally.

Existing California law addresses the policy area extensively in the areas of solicitation, pornography, and harassment with additional penalties often levied when the victim is a minor less than 14 years of age. Internet-based crimes against minors have been a popular topic in recent legislative proposals especially as new web-based technology is brought into the market. Legislation has included both increased penalties and greater protections or remedies for victims.

**Fiscal Impact:**

Unknown. No direct fiscal impact to city general funds.

**Existing League Policy:**

Related to this Resolution, existing policy offers:

The League believes that the children of California must be recognized as our state’s most valuable resource. Their development, education, and well-being are key to our state’s future. Further, it is essential that each child have the support needed to become a productive citizen in the world of the 21<sup>st</sup> Century.

The League supports the promotion of public safety through stiffer penalties for violent offenders.

The League’s Mission Statement is “to expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.”

In addition, the Strategic Priorities for 2012, as adopted by the League Board of Directors, are to:

- 1) **Support Sustainable and Secure Public Employee Pensions and Benefits:** Work in partnership with state leaders and other stakeholders to promote sustainable and secure public pensions and other post-employment benefits (OPEBs) to help ensure responsive and affordable public services for the people of our state and cities.
  
- 2) **Promote Local Control for Strong Cities:** Support or oppose legislation and proposed constitutional amendments based on whether they advance maximum local control by city governments over city revenues, land use, redevelopment and other private activities to advance the public health, safety and welfare of city residents.
  
- 3) **Build Strong Partnerships for a Stronger Golden State:** Collaborate with other public and private groups and leaders to reform the structure and governance, and promote transparency, fiscal integrity, and responsiveness of our state government and intergovernmental system.

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**5. A RESOLUTION CALLING FOR AN EMERGENCY MANAGEMENT MISSION FOR CALIFORNIA CITIES**

Source: League Public Safety Policy Committee

Referred To: Public Safety Policy Committee

Recommendation to General Resolutions Committee:

**WHEREAS**, emergency management is a basic responsibility of city government and a fundamental duty of all city employees; and

**WHEREAS**, prepared, disaster resilient communities save lives, prevent injuries, protect property, promote economic stability, and rapid recovery; and

**WHEREAS**, employees who have a family plan and supplies will be more likely to stay at work or come to work after an emergency incident; and

**WHEREAS**, the National Incident Management System (NIMS) provides guidelines and requirements to ensure a national coordinated emergency response system, including training requirements; and

**WHEREAS**, the Standardized Emergency Management System (SEMS) provides the foundation for California cities to ensure a state-wide coordinated, standardized emergency response system. SEMS is intended to be flexible and adaptable to the needs of all emergency responders in California; and

**WHEREAS**, emergency managers are responsible for promoting and encouraging personal, family and community preparedness and readiness. It is critical to focus on and support public education and training to ensure that the public understands that government entities may need time to recover from disaster situations, and to spread the message that disaster resilience, or the ability to recover from a disaster situation, requires participation from the whole community; and

**WHEREAS**, The League of California Cities (League) recognizes that cities, counties and the state do not have the reserves to support residents with food, water, and other necessary supplies after an “emergency event”. Now, therefore let it be

**RESOLVED**, at the League General Assembly, assembled at the League Annual Conference on September 7, 2012, in San Diego, that the League encourages cities to actively pursue employee and resident emergency preparedness. In addition, the League encourages cities to actively engage residents in emergency preparedness programs that promote creating a family plan, including having supplies of food and water, in the promotion of self-reliance.

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**League of California Cities Staff Analysis on Resolution No. 5**

Staff: Dorothy Holzem, Assoc. Legislative Representative, (916) 658-8214

Committee: Public Safety Policy Committee

**Summary:**

This Resolution seeks to create a clear statement of support for emergency preparedness in the League of California Cities existing policy and guiding principles. Specifically, it requests that the League encourages cities to actively pursue employee and resident emergency preparedness and to engage residents in

emergency preparedness programs that promote creating a family plan, that includes provisions for supplies of food and water, in the promotion of self-reliance, with the ultimate goal of creating “disaster resilient” cities.

**Background:**

This resolution was brought to the Public Safety Policy Committee by that committee’s Emergency and Disaster Preparedness Subcommittee to create a clear statement of support for emergency response, management, and recovery efforts as a community. While the League has extensive policy that supports related activities, there is no explicit statement of support in the existing policy or guiding principles.

In addition, numerous articles in *Western City Magazine*, the League’s monthly publication, have featured case studies and best practices about emergency response and disaster preparedness. This topic has been a key component of the Public Safety Committee’s work program for the last five years.

**Fiscal Impact:**

Unknown. This Resolution does not seek to create new requirements for the League or cities. Possible costs to cities that take steps to educate community members about disaster preparedness could be off-set by future limited damage and loss of life or injury due to those preparedness efforts.

**Existing League Policy:**

Related to this Resolution, existing policy provides:

The League supports the 2-1-1 California telephone service as a non- emergency, human and community services and disaster information resource.

The League supports “Good Samaritan” protections that include both medical and non-medical care when applicable to volunteer emergency, law enforcement, and disaster recovery personnel. The League also supports providing “Good Samaritan” protections to businesses that voluntarily place automated external defibrillators (AEDs) on their premises to reduce barriers to AED accessibility

The League supports activities to develop and implement statewide integrated public safety communication systems that facilitate interoperability and other shared uses of public safety spectrum with local state and federal law enforcement, fire, emergency medical and other public safety agencies.

The League supports a single, efficient, performance-based state department (the California Emergency Management Agency) to be responsible for overseeing and coordinating emergency preparedness, response, recovery and homeland security activities.

The League supports disaster recovery legislation that includes mitigation for losses experienced by local government.

The League’s Mission Statement is “to expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.”

In addition, the Strategic Priorities for 2012, as adopted by the League Board of Directors, are to:

1) **Support Sustainable and Secure Public Employee Pensions and Benefits:** Work in partnership with state leaders and other stakeholders to promote sustainable and secure public pensions and other post-employment benefits (OPEBs) to help ensure responsive and affordable public services for the people of our state and cities.

2) **Promote Local Control for Strong Cities:** Support or oppose legislation and proposed constitutional amendments based on whether they advance maximum local control by city governments over city revenues,

land use, redevelopment and other private activities to advance the public health, safety and welfare of city residents.

3) Build Strong Partnerships for a Stronger Golden State: Collaborate with other public and private groups and leaders to reform the structure and governance, and promote transparency, fiscal integrity, and responsiveness of our state government and intergovernmental system.

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**RESOLUTION REFERRED TO REVENUE AND TAXATION POLICY COMMITTEE**

- ◆1 **A RESOLUTION CALLING UPON THE GOVERNOR AND LEGISLATURE TO ENACT LEGISLATION THAT WOULD CORRECT INEFFICIENCIES IN THE AUDIT SYSTEM, DISTRIBUTION SYSTEM AND INEQUITIES IN THE FORMULAS FOR DISTRIBUTING COURT ORDERED ARREST AND CITATION FINES, FEES AND ASSESSMENTS GENERATED BY LOCAL GOVERNMENT.**

Resolution #1 also referred to Public Safety Policy Committee. **Please see Public Safety Policy Committee section for the resolution, background and staff analysis information.**

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## PUBLIC WORKS DEPARTMENT

Council Meeting Date: July 31, 2012

Staff Report #: 12-103

Agenda Item #: I-1

**INFORMATION ITEM: Draft Environmental Impact Report for Single Use Carryout Bag Ordinance Released - Public Comment Due By August 6, 2012**

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### RECOMMENDATION

This is an information item and does not require Council action.

### BACKGROUND

In March 2012, Council provided direction to partner with San Mateo County to consider regulating disposable shopping bags at retail establishments. An Environmental Impact Report (EIR) is required as part of the decision making process, and San Mateo County offered to fund and develop the EIR for partnering cities. Cities would then be required to commit staff time and resources to engage their community in the process. To date, 24 cities in San Mateo and Santa Clara Counties have joined the region wide effort.

In Menlo Park, a seven month community engagement process was kicked off at Menlo Park's Block Party in June. The process includes education about the impacts of disposable shopping bags, encouragement of reusable bags, and soliciting feedback about the potential shopping bag ordinance. Staff has already received hundreds of written comments from Menlo Park residents, and will continue to attend city events and engage the public and retailers until the shopping bag ordinance is considered by Council (estimated to occur in January 2013).

### ANALYSIS

On June 22, 2012, San Mateo County released the Draft EIR for a single-use carryout bag ordinance. If adopted, the ordinance would ban plastic bags and charge a ten cent fee for paper bags at retail establishments that would increase to twenty five cents in 2015. This ordinance would not include bags distributed by restaurants or bags distributed to protect products such as prescription medication or produce.

Residents and businesses can find a copy of the Draft EIR at the City Administration building or on the City's website. No significant impacts or mitigation measures were identified in the Draft EIR. The Executive Summary is attached to this report (Attachment A). Public comments regarding the Draft EIR must be made in writing to the San Mateo County Planning Department ([envhealth@smcgov.org](mailto:envhealth@smcgov.org)) by 5:00 p.m. on August 6, 2012. The City of Menlo Park held an informational meeting regarding the Draft EIR on July 25, and directed that written comments be mailed or emailed to the County. Once the EIR is certified by the County Board of Supervisors, the City Council can consider adopting the County's ordinance.

## **IMPACT ON CITY RESOURCES**

There is no cost to the City for the development of the EIR. Community engagement activities for the shopping bag ordinance are included in the Environmental Program operating budget for Fiscal Year 2012-2013. If the ordinance is adopted by Council, San Mateo County will provide enforcement and education to Menlo Park retailers at no cost to the City.

## **POLICY ISSUES**

Single-use carryout plastic bags have been found to contribute substantially to the litter stream and have adverse effects on marine wildlife. A policy prohibiting the distribution of single use carryout plastic bags, and charging a minimum fee for single use paper bags would assist the City in meeting new Regional Water Board mandates to reduce trash in storm drains by 40% by 2014, and further State legislation goals to divert 75% of trash from landfills by 2020.

If the City implements a single use carryout bag policy, Menlo Park will receive a 12% credit towards the 40% trash reduction in storm drains mandate from the Regional Water Board.

## **ENVIRONMENTAL REVIEW**

An Environmental Impact Report is required.

Signature on File  
Rebecca Fotu  
Environmental Programs Manager

Signature on File  
Charles Taylor  
Public Works Director

**PUBLIC NOTICE:** Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

## **ATTACHMENTS:**

- A. Draft EIR Executive Summary of Major Findings

## EXECUTIVE SUMMARY

This section summarizes the characteristics of the proposed ordinance and the significant environmental impacts, mitigation measures, and residual impacts associated with the proposed Single Use Bag Ban Ordinance.

### PROJECT SYNOPSIS

#### Project Sponsor

County of San Mateo Health System  
Environmental Health Services  
2000 Alameda de las Pulgas, Suite 100  
San Mateo, CA 94403  
Contact: Dean D. Peterson, Director  
(650) 372-6200

#### Project Characteristics

The proposed Single Use Bag Ban Ordinance ("Proposed Ordinance") would regulate the use of paper and plastic single-use carryout bags within the participating municipalities. Participating municipalities include the County of San Mateo and 24 cities in San Mateo and Santa Clara Counties (see full list of participating municipalities in Section 2.0, *Project Description*). For the purposes of this Program EIR, the geographical limits of unincorporated San Mateo County and all of the participating municipalities listed above shall be known as the "Study Area". The Proposed Ordinance would apply to all retail establishments located within the limits of the Study Area, including those selling clothing, food, and personal items directly to the customer. It would not apply to restaurants. The Proposed Ordinance would (1) prohibit the free distribution of single-use carryout paper and plastic bags and (2) require retail establishments to charge customers for recycled paper bags and reusable bags at the point of sale. The minimum charge would be ten cents (\$0.10) per paper bag until December 31, 2014 and twenty-five cents (\$0.25) per paper bag on or after January 1, 2015.

The intent of the Proposed Ordinance is to reduce the environmental impacts related to the use of single-use carryout bags, and to promote a shift toward the use of reusable bags. It is anticipated that by prohibiting single-use plastic carryout bags and requiring a mandatory charge for each paper bag distributed by retailers, the Proposed Ordinance would provide a disincentive to customers to request paper bags when shopping at regulated stores and promote a shift to the use of reusable bags by retail customers, while reducing the number of single-use plastic and paper bags within the Study Area.

Single-use plastic carryout bags are defined as bags made from petroleum or bio-based plastic that are less than 2.25 mils thick (0.00225 inches). The Proposed Ordinance would prohibit retailers from distributing both petroleum and bio-based single-use carryout plastic bags at the point of sale. The Proposed Ordinance would not prohibit the distribution of plastic "product bags", as defined, which includes bags without handles provided to a customer (1) to transport prepared food, produce, bulk food or meat from a department within a store to the point of sale; (2) to hold prescription medication dispensed from a pharmacy; or (3) to segregate food or

merchandise that could damage or contaminate other food or merchandise when placed together in a reusable bag or recycled paper bag. The Proposed Ordinance would not apply to restaurants and other food service providers, allowing them to provide plastic bags to customers for prepared take-out food intended for consumption off of the food provider's premises.

As noted above, the Proposed Ordinance would require regulated retailers to impose a mandatory charge for each paper carryout bag provided. Retail establishments would be required to keep a complete and accurate record (including documents of the purchase and sale of any recycled paper bag or reusable bag) for a minimum period of three years from the date of purchase and sale. The record must be available for inspection during regular business hours by any County employee authorized to enforce this part at no cost to the County. The charge would be retained by the affected stores to compensate the stores for increased costs related to compliance with the Proposed Ordinance, actual costs associated with providing recyclable paper carryout bags or reusable bags, and costs associated with a store's educational materials or education campaign encouraging the use of reusable bags.

## PROJECT OBJECTIVES

The County of San Mateo's and the participating cities' objectives for the Proposed Ordinance include:

- Reducing the amount of single-use plastic bags in trash loads (e.g., landfills), in conformance with the trash load reduction requirements of the NPDES Municipal Regional Permit
- Reducing the environmental impacts related to single-use plastic carryout bags, such as impacts to biological resources (including marine environments), water quality and utilities (solid waste)
- Deterring the use of paper bags by customers in the respective jurisdictions
- Promoting a shift toward the use of reusable carryout bags by retail customers in the respective jurisdictions
- Avoiding litter and the associated adverse impacts to stormwater systems, aesthetics and the marine environment (San Francisco Bay and the Pacific Ocean)

## ALTERNATIVES

As required by CEQA, the EIR examines a range of alternatives to the proposed project that feasibly attain most of the basic project objectives. These alternatives are described and evaluated in Section 6.0, *Alternatives*. Studied alternatives include:

- *Alternative 1: No Project* - The no project alternative assumes that the Single Use Bag Ban Ordinance would not occur. The existing retail establishments would continue to provide single-use bags free of charge to the customers.





- **Alternative 2: Ban on Single-Use Plastic Bags at all Retail Establishments -** *This alternative would prohibit all retail establishments in the Study Area from providing single-use plastic bags to customers at the point of sale, including restaurants and other retailers not covered by the Proposed Ordinance.*
- **Alternative 3: Mandatory Charge of \$0.25 for Paper Bags -** *This alternative would continue to prohibit retail establishments (except restaurants) in the Study Area from providing single-use plastic bags to customers at the point of sale, but would increase the mandatory charge for single-use paper bags from \$0.10 to \$0.25.*
- **Alternative 4: Ban on Both Single-use Plastic and Paper Carryout Bags -** *This alternative would prohibit all retail establishments (except restaurants) in the Study Area from providing single-use plastic and paper carryout bags to customers at the point of sale.*

## **SUMMARY OF SIGNIFICANT IMPACTS AND MITIGATION MEASURES**

Table ES-1 includes a brief description of the environmental issues relative to the Proposed Ordinance, the identified significant environmental impacts, proposed mitigation measures, and residual impacts. Impacts are categorized by classes. Class I impacts are defined as significant, unavoidable adverse impacts which require a statement of overriding considerations to be issued pursuant to the *CEQA Guidelines* §15093 if the project is approved. Class II impacts are significant adverse impacts that can be feasibly mitigated to less than significant levels and which require findings to be made under Section 15091 of the *CEQA Guidelines*. Class III impacts are considered less than significant impacts, and Class IV impacts are beneficial impacts.

<b>Table ES-1 Summary of Significant Environmental Impacts, Mitigation Measures, and Residual Impacts</b>		
<b>Impact</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>AIR QUALITY</b>		
<b>Impact AQ-1</b> With a shift toward reusable bags, the Proposed Ordinance is expected to substantially reduce the number of single-use carryout bags, thereby reducing the total number of bags manufactured and the overall air pollutant emissions associated with bag manufacture, transportation and use. Therefore, air quality impacts related to alteration of processing activities would be Class IV, <i>beneficial</i> .	Mitigation is not required.	The impact would be beneficial without mitigation.
<b>Impact AQ-2</b> With an expected increase in the use of recyclable paper bags, the Proposed Ordinance would generate air pollutant emissions associated with an incremental increase in truck trips to deliver recycled paper and reusable carryout bags to local retailers. However, emissions would not exceed BAAQMD operational significance thresholds. Therefore, operational air quality impacts would be Class III, <i>less than significant</i> .	Mitigation is not required.	Impacts would be less than significant without mitigation.
<b>BIOLOGICAL RESOURCES</b>		
<b>Impact BIO-1</b> Although the Proposed Ordinance would incrementally increase the number of recycled paper and reusable bags within the Study Area, the reduction in the amount of single-use plastic bags would be expected to reduce the overall amount of litter entering the coastal and bay habitat, thus reducing litter-related impacts to sensitive wildlife species and sensitive habitats. This is a Class IV, <i>beneficial</i> , effect.	Mitigation is not required.	The impact would be beneficial without mitigation.
<b>GREENHOUSE GAS EMISSIONS</b>		
<b>Impact GHG-1</b> The Proposed Ordinance would increase the number of recyclable paper bags used in the Study Area. Implementation of the Proposed Ordinance would incrementally increase GHG emissions compared to existing conditions. However, emissions would not exceed thresholds of significance. Impacts	Mitigation is not required.	The impact would be less than significant without mitigation.



<b>Table ES-1 Summary of Significant Environmental Impacts, Mitigation Measures, and Residual Impacts</b>		
<b>Impact</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
would be Class III, <i>less than significant</i> .		
<b>Impact GHG-2</b> The Proposed Ordinance would not conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of GHGs. Impacts would be Class III, <i>less than significant</i> .	Mitigation is not required.	The impact would be less than significant without mitigation.
<b>HYDROLOGY/WATER QUALITY</b>		
<b>Impact HWQ-1</b> The Proposed Ordinance would incrementally increase the number of recycled paper and reusable bags used in the Study Area, but the reduction in the overall number of single-use plastic bags used in the Study Area would reduce the amount of litter and waste entering storm drains. This would improve local surface water quality, a Class IV, <i>beneficial</i> , effect.	Mitigation is not required.	The impact would be beneficial without mitigation.
<b>Impact HWQ-2</b> A shift toward reusable bags and potential increase in the use of recyclable paper bags could potentially increase the use of chemicals associated with their production, which could degrade water quality in some instances and locations. However, bag manufacturers would be required to adhere to existing regulations, including NPDES Permit requirements, AB 258, and the California Health and Safety Code. Therefore, impacts to water quality from altering bag processing activities would be Class III, <i>less than significant</i> .	Mitigation is not required.	Impacts would be less than significant without mitigation.
<b>UTILITIES AND SERVICE SYSTEMS</b>		
<b>Impact U-1</b> The increase of reusable bags within the Study Area as a result of the Proposed Ordinance would incrementally increase water demand due to washing of reusable bags by a negligible amount. However, sufficient water supplies are available to meet the demand created by reusable bags. Therefore, water supply impacts would be Class III, <i>less than significant</i> .	Mitigation is not required.	Impacts would be less than significant without mitigation.
<b>Impact U-2</b> Water use associated with washing reusable bags would increase negligibly in the Study Area resulting in an increase in wastewater	Mitigation is not required.	Impacts would be less than significant without mitigation.

<b>Table ES-1 Summary of Significant Environmental Impacts, Mitigation Measures, and Residual Impacts</b>		
<b>Impact</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
generation. Projected wastewater flows would remain within the capacity of the wastewater collection and treatment system of the Study Area, and would not exceed applicable wastewater treatment requirements of the RWQCB. Impacts would be Class III, <i>less than significant</i> .		
<b>Impact U-3</b> The Proposed Ordinance would alter the solid waste generation associated with increased paper bag use in the Study Area. However, projected future solid waste generation would remain within the capacity of regional landfills. Impacts would therefore be Class III, <i>less than significant</i> .	Mitigation is not required.	Impacts would be less than significant without mitigation.





## ADMINISTRATIVE SERVICES

Council Meeting Date: July 31, 2012  
Staff Report #: 12-116

Agenda Item #I-2

**INFORMATION ITEM: Quarterly Financial Review of General Fund Operations  
as of June 30, 2012**

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This is an information item and does not require Council action.

### BACKGROUND

This report is the fourth quarterly financial update for the 2011-12 fiscal year. The quarterly report schedule (Attachment) provides a comparison of the fund's year-to-date revenues and expenditures with the 2011-12 adjusted budget, as well as a comparison of the prior year-to-date operations. The report's format provides a "snapshot" of General Fund activity on a *cash basis* through June 30, 2012. Because the City's cash flows of revenues and expenditures are not evenly paced throughout the year, this report is useful only when presented in conjunction with the prior year data and accompanied by a thorough analysis of major deviations from the prior year.

It should be noted that work continues on closing the financial books of the 2011-12 fiscal year. At each fiscal year end, the accounting records remain open for revenue and expenditure accruals in all funds, so that transactions are recorded in the appropriate accounting period. **This means that expenses incurred prior to the fiscal year end are still being recorded, as are accounts receivable for revenues attributable to the 2011-12 fiscal year.** In addition, analysis of this "first close" of the fiscal year will result in adjustments and/or reallocation of resources amongst City funds. The amounts reported for year-to-date transactions as of June 30<sup>th</sup> for each year (columns G and H) provide only cash-basis information for the City's General Fund for the year end, so that they can be comparable only on that basis.

Due largely to the dissolution of the Community Development Agency and the assumption of many of the costs associated with redevelopment activities in the General Fund at mid-year, the 2011-12 adjusted budget for the General Fund reflects a draw on reserves of nearly \$1 million. Though revenues have improved over the prior fiscal year, there are significant differences in both revenues and expenditures between the two years, warranting the analysis provided in this report.

## ANALYSIS

### Overview

The report developed to apprise Council of the year-to-date status of the General Fund is shown as an attachment to this staff report. Revenues are categorized in the familiar budgetary format, except that revenues from "Use of Money & Property" have been broken down into the two components of "Interest Earnings" and "Rental Income". Expenditures are shown by Department.

The first two columns of the report show the budget and actual amounts of General Fund revenues and expenditures as of June 30, 2011. The format then provides comparisons with this prior fiscal year: three columns of budgetary comparison, three columns of year-to-date comparison, a comparison of actual year-to-date with the prior year audited amounts, and two columns of actual-to-budget comparisons. These various perspectives are helpful because although the cashflows associated with the City's revenues are irregular throughout the year, they are usually consistent with the prior year's cash flows.

The budget-to-actual comparisons shown compare actual transactions of the fourth quarter of each year as compared to the *adjusted* budget as it stood on June 30th, including the carry-over of (expenditure) commitments funded in the prior year's budget (encumbrances) and budget adjustments made year-to-date. For fiscal year 2010-11, General Fund encumbrances from the prior year amounted to an additional \$432,183; in 2011-12, \$419,900 of commitments was carried forward to the expenditure budgets. To the extent that General Fund operations do not vary greatly from year to year, this Budget-to-Actual comparative report provides a useful update on the performance of revenues and the level of expenditures for the fiscal year-to-date.

This format allows for "below the line" items that warrant specific accounting treatment or are one-time items not generally impacting the General Fund operating budget. Encumbrances, for example, are not part of the fund's annual adopted budget. In addition, the El Camino Real/Downtown Specific Plan is shown "below the line" to indicate that funding is provided from reserves accumulated in prior years. Note that the payoff of the CalPERS Safety Side Fund, a \$6.5 million extraordinary item in fiscal year 2010-11, is *not included* in this schedule of General Fund operations, as this expenditure is a one-time payment that has no comparable payment in the current fiscal year. However, the payoff was included as a 2010-11 expenditure in the audited financial reports for the year.

The current year budget was adjusted significantly with the Mid-year Financial Summary presented in late February. At that time, although revenue budgets were adjusted upward by 1.5 percent, expenditure budgets also had to be adjusted upward. Despite the identification of cost reductions in nearly every department, the overriding impact of the dissolution of the Community Development Agency on the City's General Fund resulted in an increase in the fund's expenditure budget by nearly 2.1 percent (\$783,000). However, year-to-date receipts and expenditures indicate that revenues for 2011-12 will be slightly above the adjusted budget, and expenditures will be significantly below the adjusted budget for the year. In fact, budgetary savings in every department

should allow for an overall addition to General Fund reserves of more than \$1.2 million. This very preliminary estimate does not include the anticipated distribution of unencumbered redevelopment fund balances to other taxing entities (including the City), which will be attributed to the 2011-12 fiscal year and included in the City's audited financial reports as of June 30, 2012.

Again, **transactions (both revenues and expenditures) continue to be posted to the fiscal year's accounting records** – a process that will continue through September in preparation for the annual audit and compilation of the City's 2011-12 Comprehensive Annual Financial Report (CAFR).

### **Revenues**

General Fund revenues actually received as of June 30, 2012 exceeded the same period 2010-11 cash receipts by approximately \$1.1 million. This is the second year of increased revenues, and it is clear that revenue trends at the end of 2011-12 are much more favorable than in prior years. General Fund revenues as a whole are anticipated to be only slightly lower than in fiscal year 2007-08, despite a severe decline in revenues from the City's investment portfolio (\$2 million) since that time. When compared with the prior fiscal year, the sharpest revenue increases on a cash basis are reflected in the categories of Charges for Services (nearly \$600,000) and Licenses and Permits (\$439,000). TOT (Transient Occupancy Tax, or Hotel Tax) revenue also fared well. With a \$368,000 increase over the prior year, this category increased by the highest percentage. Property taxes, up 2.8 percent, also remained strong, growing over \$350,000 over the 2010-11 year-to-date amount.

Although several income categories declined, these reductions were largely anticipated. Most notably, interest revenues on the City's portfolio continued downward. As higher yielding investments mature, they are replaced with government securities that provide lower risk, but historically low interest returns. Intergovernmental revenue also experienced significant decline, as the San Carlos Dispatch contract expired in November 2011 (related costs also decreased) and grants and other State revenue declined. The decrease in transfers from other funds is due to the cessation of transfers from redevelopment funds to cover administrative overhead costs.

Overall, General Fund revenues are expected to exceed the adjusted budget for 2011-12, by approximately \$250,000.

### **Expenditures**

As previously noted, the budgets shown from both fiscal years are adjusted for commitments that were funded in the previous fiscal year. Each fiscal year's expenditures include payroll costs incurred through the last week in June. Payroll expenditures comprise roughly 68.2 percent of the General Fund adjusted budget for 2011-12, approximately 3.7 percent lower than actually experienced in the prior year.

The rate of overall expenditures in relation to the budget (last two columns of the report) has decreased in most departments. The exception to this declined rate of spending is Community Development, where multi-year Planning projects were completed, as

anticipated, towards the end of fiscal year. The comparison indicates that expenditure savings (budget less actual expenditures) at the 2011-12 fiscal year end should be higher than the \$1.3 million expenditure savings experienced in the prior year.

Departments continue to process invoices for goods and services received prior to the end of the 2011-12 fiscal year. In the following weeks, every effort will be made to finalize these prior fiscal year costs so that an accurate picture of the General Fund operations for 2011-12 can be provided to the Council early in October. The City's external auditors are scheduled to begin their audit of the City's books at about that time.

## **POLICY ISSUES**

This fourth quarterly financial review, as with previous quarterly reports, provides only a cash-based "snapshot" of General Fund activity, for a consistent comparison to the prior fiscal year. Staff is in the process of capturing all transactions related to the 2011-12 fiscal year, so that a preliminary "actual" picture of revenues and expenditures – including accruals of the year's activity beyond cash receipts and payments – can provide a valid *economic* comparison with the prior year.

The City's Finance/Audit Committee helped to design the format of this quarterly report to be readily understood and provide meaningful insight as to how current fiscal year transactions are tracking with the annual budget. However, the committee reviews this same analysis on a more frequent basis and is extremely familiar with the format; suggestions for improving the usefulness of this report to the Council are welcomed.

Signature on file  
Carol Augustine  
Finance Director

## **ATTACHMENT:**

A. Comparative General Fund Budget-to-Actual Report as of June 30, 2012



City of Menlo Park - General Fund  
Budget-to-Actual Report, FY 2011-12  
As of June 30, 2012

	A		B	C	D	E	F	G	H	(H-G)/G	G/C	G/D	H/E	Notes
	Adjusted Budget as of 6/30/11	Audited Actual FY 2010-11												
Property Tax	\$12,760,000	\$12,811,324			\$12,760,000	\$13,021,000	% Budget Change 6/30/12 to Audited Actual FY 10-11	Actual YTD 6/30/2011	Actual YTD 6/30/2012	% Actual Change	% of Actual YTD 6/30/2011 to Audited Actual FY 10-11	Actual-to-Budget 6/30/2011	Actual-to-Budget 6/30/2012	
Sales Tax	5,945,000	5,988,055			5,945,000	6,203,000	1.64%	\$12,476,953	\$12,828,145	2.81%	97.39%	97.78%	98.52%	1
Transient Occupancy Tax	2,435,000	2,453,981			2,435,000	2,920,000	3.59%	5,613,867	5,733,255	2.13%	93.75%	94.43%	92.43%	2
Utility Users' Tax	1,204,000	1,122,940			1,204,000	1,135,900	18.99%	1,731,052	2,099,554	21.29%	70.54%	71.09%	71.90%	
Franchise Fees	1,701,000	1,677,016			1,701,000	1,768,000	1.15%	1,022,022	1,001,525	-2.01%	91.01%	84.89%	88.17%	
Charges for Services	5,056,787	5,246,251			5,056,787	6,045,515	5.43%	1,467,931	1,569,368	6.91%	87.53%	86.30%	88.77%	3
Licenses and Permits	3,169,610	3,239,561			3,169,610	3,371,465	15.23%	3,243,547	3,682,491	13.53%	100.12%	100.19%	93.69%	4
Interest Income	652,000	212,238			652,000	315,000	4.07%	405,812	282,719	-30.33%	191.21%	-7.60%	89.75%	5
Rental Income	357,000	363,520			357,000	366,188	48.42%	363,520	370,751	1.99%	100.00%	101.83%	101.25%	
Intergovernmental Revenue	1,809,977	1,946,156			1,809,977	1,140,552	0.73%	1,846,893	1,130,542	-38.79%	94.90%	102.04%	99.12%	6
Fines & Forfeitures	994,000	953,195			994,000	980,000	-41.39%	939,684	1,004,828	6.93%	98.58%	94.54%	102.53%	
Operating Transfers In/ Other Revenue	710,302	730,505			710,302	589,559	2.81%	735,255	606,040	-17.57%	100.65%	103.51%	102.80%	
<b>Total Revenues:</b>	<b>\$36,794,676</b>	<b>\$36,744,741</b>			<b>\$36,794,676</b>	<b>\$37,856,179</b>	<b>3.02%</b>	<b>\$34,912,958</b>	<b>\$35,973,034</b>	<b>3.04%</b>	<b>95.01%</b>	<b>94.89%</b>	<b>95.03%</b>	
Public Safety	14,187,502	13,927,896			14,187,502	14,158,619	1.66%	13,893,901	13,721,711	-1.24%	99.76%	97.93%	96.91%	
Public Works	4,887,240	4,517,248			4,887,241	4,993,031	10.53%	4,432,403	4,440,401	0.18%	98.12%	90.69%	88.93%	
Community Services Department	6,389,861	6,169,153			6,389,862	6,651,453	7.82%	6,074,702	6,239,070	2.71%	98.47%	95.07%	93.80%	
Library Department	1,993,798	1,914,900			1,993,801	2,033,990	6.22%	1,903,250	1,857,695	-2.39%	99.39%	95.46%	91.33%	7
Community Development	2,633,687	2,503,578			2,583,688	3,357,601	34.11%	2,394,702	3,147,923	31.45%	95.65%	92.69%	93.76%	8
Administrative Services	4,969,821	4,677,762			5,019,815	5,234,128	11.89%	4,602,274	4,349,051	-5.50%	98.39%	91.68%	83.09%	
Operating Transfers Out	2,267,950	2,267,950			2,267,950	2,377,800	4.84%	2,267,950	2,377,800	4.84%	100.00%	100.00%	100.00%	
<b>Total Expenditures:</b>	<b>\$37,329,859</b>	<b>\$35,978,487</b>			<b>\$37,329,859</b>	<b>\$38,806,622</b>	<b>7.86%</b>	<b>\$35,569,182</b>	<b>\$36,133,651</b>	<b>1.59%</b>	<b>98.86%</b>	<b>95.28%</b>	<b>93.11%</b>	
<b>Preliminary addition/draw on General Fund Reserves</b>	<b>(\$535,183)</b>	<b>\$766,254</b>			<b>(\$535,183)</b>	<b>(\$950,443)</b>		<b>(\$656,224)</b>	<b>(\$160,617)</b>					
Carry-over encumbrances and Reappropriations from prior year subtracted from adjusted budget.	432,183				432,183	419,900								
<b>Net addition to/draw on General Fund Reserves</b>	<b>(\$103,000)</b>				<b>(\$103,000)</b>	<b>(\$530,543)</b>								
Subtract El Camino Real/Downtown Specific Plan	103,000				103,000	225,980								
<b>Net Operating Revenue</b>	<b>\$0</b>				<b>\$0</b>	<b>(\$304,563)</b>								

NOTES: Notes must be considered for proper analysis of the data contained herein; refer to 4th Quarter Staff Report dated July 31, 2012

- (1) Sales Tax receipts are based on State of California estimated allocation and are a adjusted quarterly.
- (2) Transient Occupancy Tax receipts through March 31; increase from prior year due to higher occupancy rates and room prices.
- (3) Includes \$250,000 from the County of San Mateo for administering the Successor Agency of the dissolved RDA.
- (4) Licenses and Permits increase from prior year due to increased activity in business licenses and building permits.
- (5) Interest Income actual YTD columns do not reflect decrease in unrealized gains on investments: (FY09-10= -\$298,323 FY 10-11= -\$1,193 = NET -\$299,516).
- (6) Intergovernmental Revenue reduced due to discontinuation of San Carlos Dispatch contract on Nov 1, 2011 and State and Federal Grants.
- (7) Expenditures include payroll paid through June for both periods.
- (8) Excludes expenses for the comprehensive plan.

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## ADMINISTRATIVE SERVICES

Council Meeting Date: July 31, 2012  
Staff Report #: 12-119

Agenda Item #: I-3

**INFORMATION ITEM: Review of the City's Investment Portfolio as of June 30, 2012**

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This is an information item and does not require Council action.

### BACKGROUND

The City's investment policy requires a quarterly investment report, which includes all financial investments of the City and provides information on the investment type, value and yield for all securities. The report also provides a Council update on the cash balances of the City's various funds.

### ANALYSIS

#### Investment Portfolio as of June 30, 2012

Various reports are prepared monthly by Cutwater Asset Management, the City's investment advisory firm, and are attached to this staff report. The "Recap Of Securities Held" confirms that the historical (book) value of the total portfolio at the end of June was slightly over \$97 million. The portfolio includes the General Fund, Water Fund, Special Revenue Funds, Successor Agency Funds, Capital Project Fund and Measure T General Obligation (GO) bond proceeds. Funds are invested in accordance with the City Council policy on investments using safety, liquidity and yield as selection criteria. Approximately \$50.2 million (51.5 percent) is invested in the State investment pool, the Local Agency Investment Fund (LAIF). LAIF is considered a safe investment and it provides the liquidity of a money market fund. Of the remaining \$47.2 million, \$22.2 million (22.8 percent) is invested in short-term Federal agency issues (U.S. Instrumentality), \$5 million (5.1 percent) in U.S. Treasury securities, \$10 million (10.3 percent) in medium-term corporate notes, and \$10 million (10.3 percent) in high-grade commercial paper. All the mentioned securities are prudent short-term investments, since they generally bear a higher interest rate than LAIF, provide investment diversification and remain secure investment instruments.

At the end of June, the fair value (market value) of the City's securities was over \$160,000 *higher* than the amortized historical cost which is referred to as an unrealized gain. This is a significant *decrease* in the unrealized gain from the beginning of the



fiscal year (\$404,000). This will be reflected as a downward adjustment to investment revenues in the Comprehensive Annual Financial Report for June 30, 2012. Fair value fluctuates from one period to another depending on the supply and demand for bonds and securities at a particular point in time. Therefore, there is often a difference between the historical cost (the value at the time of purchase) and the fair value (the value of the same security at a specific date), creating an unrealized gain or loss. Several years ago, the unrealized gain on the City's portfolio was over \$2 million, but in the current economy, the number of securities in the City's portfolio that have yields higher than what is currently available in the market has diminished; the only one remaining will mature in less than a year. This leads to a lower market value for the investments, hence the significantly decreased unrealized gain. Since the City's portfolio is fairly short-term in nature and the City generally holds the securities to maturity in order to avoid market risk, the information on the unrealized gain is significant only because that is how it will be reported in the Comprehensive Annual Financial Report for June 30, 2012.

### **Current Market Conditions**

During the last quarter, the growth of the U.S. economy has slowed. Retail sales increased by 5.3% on a year-over-year basis, suggesting an increase in consumer spending, while business and government spending has been reduced. Personal consumption grew at a 2.5 percent annual rate even though households have reduced purchases of durable goods and the job market has softened. The unemployment rate was at 8.2 percent and 80,000 jobs were added in June 2012 which is below the consensus forecast of 90,000. In May, the CPI showed consumer prices increased 2.3 percent on a year-over-year basis while overall CPI inflation decreased to 1.7 percent on a year-over-year basis. With the increased concern of a European financial crisis and the slowing of the Chinese economy, the concerns of the U.S. economy reaching a "fiscal cliff" have grown. This uncertainty has created continued volatility in the financial markets and the resulting treasury rates suggest that the pace of U.S. economic recovery has slowed.

The Federal Open Market Committee (FOMC) met on June 20<sup>th</sup> to discuss monetary policy. With the economic recovery slowing down, the FMOc determined that the federal funds rate would remain at the current level until late 2014. It was also decided to extend Operation Twist (selling short-term securities of 3 years or less to purchase long-term securities) for another year. Therefore, it is expected that the low yields on U.S. Treasuries and other safe investments will continue for at least another two years. The FMOc meets again on July 31<sup>st</sup>.

### **Investment Yield**

The annualized rate of return for the City's portfolio shown on the performance summary as of June 30, 2012, prepared by Cutwater, is 0.73 percent, net of fees. This rate of return is higher than the rate of the 2-year Treasury-Note (12-month trailing) of

0.28 percent and the rate of return earned through LAIF over the past quarter of 0.36 percent.

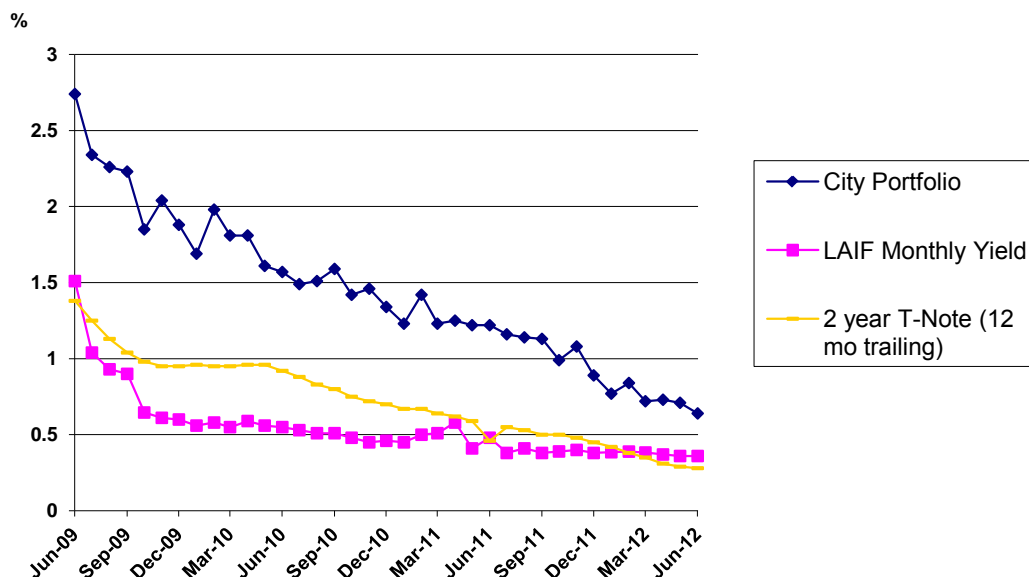
Over the second quarter of 2012, investment yields saw slight increases for short-term bonds when compared to the prior quarter. However, investment yields on longer-term bonds have decreased. Therefore, investment opportunities in Treasuries continue to be unattractive and only offer a higher yield than LAIF for bonds with durations of well over 2 years. Overall, yields on Treasury bill investments of over 6 months duration decreased over the past year due in part to, the FMOC's continuing plan of purchasing longer-term Treasury securities. The difference can be seen by the change in U.S. Treasuries rates:

Term	June 30,	March 31,	June 30,
	<u>2011</u>	<u>2012</u>	<u>2012</u>
3-month	0.01	0.07	0.08
6-month	0.10	0.13	0.15
2-year	0.46	0.33	0.30
5-year	1.76	1.04	0.72
10-year	3.16	2.21	1.65
30-year	4.37	3.34	2.75

Currently, 51 percent of the portfolio resides in the City's LAIF account yielding 0.36 percent for the quarter ending June 30, 2012. Since the City does not need all of its funds to be liquid, investments in U.S. Treasury, agency, corporate notes and commercial paper are made in an effort to enhance yields. The higher yields earned on holdings purchased through early 2008 maintained the portfolio's annualized return at a yield above one percent through November 2011. Because all holdings have a term of less than five years, these investments have matured or have been called so that only one such instrument (at a par value of \$1 million) remains in the portfolio. Considering that the Fed's Fund rate will remain low until at least 2014, staff is continuing to commit City funds for the short term until rates eventually start to increase.

The maximum holding permitted by LAIF in a single agency account is \$50 million. Recall that as of January 31<sup>st</sup>, nearly \$13.4 million of funds held by the Community Development Agency were transferred from the Agency's LAIF account to the City's regular bank account, and then transferred, to the extent possible, to the City's LAIF account. Most of these funds represent largely unencumbered fund balances of the former Agency, and will be forwarded to the County Controller's Office in the next few months. Over the past two quarters, the yields on 2-year Treasuries have fallen below those available with LAIF. Until the City forwards the remaining unencumbered fund balances of the former Agency to the County, the City's LAIF account will be maximized and excess funds will need to be invested in safe, short term investments that might not provide quite as high a yield as LAIF.

### Comparative Rates of Return



Fees paid to Cutwater (totaling \$9,776.00 for the quarter ended June 30, 2012) are deducted from investment earnings before calculating the City’s net rate of return. Staff continues to work with the City’s investment advisors to meet the City’s investment objectives and rearrange the portfolio for maximum yield.

### Investment Transactions in the Second Quarter

With the City’s LAIF account at the maximum holding amount permitted, staff has been trying to purchase new short-term investments as others are called or matured. However, there are few qualified investment opportunities with the same or higher yields than LAIF. During the second quarter, the City purchased a slightly longer-term security (2 2/3 years) with a yield somewhat below what is available with LAIF (0.35 percent versus 0.36 percent). During the month of July, \$4.5 million in securities has matured or been called and needs to be reinvested. During the last quarter, \$4.5 million was reinvested in short-term commercial paper and \$4 million in longer-term (over 2 years) securities. The two longer-term securities are callable within 2 years.

Even though longer-term purchases were made to add some slightly-higher yielding instruments and support a higher weighted average duration of the total portfolio, the average number of days to maturity in the City’s portfolio decreased during the second quarter. The average number of days to maturity of the City’s portfolio as of June 30, 2012 is 213 days as compared to 288 days as of March 31, 2012. There were two long-term securities that were called during the quarter and replaced with securities of shorter duration. The average life of securities in LAIF’s portfolio as of June 30, 2012 was 268 days. In addition, one of the City’s higher earning investments (\$2 million) matured during the last quarter and was replaced with a lower yielding investment. In

addition, \$4 million in callable investments were called during the quarter. Note that all of the City's recent purchases in agency securities have been callable bonds, as these investments provide a slightly higher yield because of the added risk of being called prior to maturity. Of the \$22 million of agency bonds currently held in the City's portfolio, eight are callable agency bonds with a par value of \$17 million.

Investments maturing, called, or purchased during the period of April 1, 2012 through June 30, 2012 are shown in the schedule below:

<u>Date</u>	<u>Transaction</u>	<u>Description</u>	<u>Term</u>	<u>% Yield</u>	<u>Principal</u>
05/10/12	Maturity	CP – Kells Funding	3 mos	0.60	\$2,500,000
05/11/12	Maturity	CP – UBS Finance	3 mos	0.48	\$2,500,000
05/11/12	Purchase	CP – Rabobank	6 mos	0.50	\$1,500,000
05/11/12	Purchase	CP – Kells Funding	5 mos	0.58	\$3,000,000
06/05/12	Call	FNMA callable	6 mos	0.70	\$2,000,000
06/05/12	Purchase	FNMA callable	3.00 yr	0.59	\$2,000,000
06/08/12	Call	FHLB callable	1.00 yr	1.47	\$2,000,000
06/08/12	Maturity	FHLB	4.75 yr	4.97	\$2,000,000
06/08/12	Purchase	FNMA callable	2.67 yr	0.35	\$2,000,000

As previously stated, staff continues to acquire mostly short-term bonds so as not to be holding too many low yielding securities when interest rates eventually start to increase.

### **Cash and Investments by Fund**

Overall, the City's investment portfolio decreased by almost \$800,000 in the second quarter of 2012. The schedule below lists the change in cash balance by fund type.

<b>Fund/Fund Type</b>	<b>Cash Balance as of 06/30/12</b>	<b>Cash Balance as of 03/31/12</b>	<b>Difference</b>	<b>% Change</b>
General Fund	17,616,192	16,859,101	757,091	4.49%
Bayfront Park Maintenance Fund	774,133	789,368	(15,235)	-1.93%
Recreation -in-Lieu Fund	469,048	767,641	(298,593)	-38.90%
Other Expendable Trust Funds	1,009,754	1,257,794	(248,040)	-19.72%
Transportation Impact Fee Fund	3,056,300	3,040,961	15,339	0.50%
Garbage Service Fund	1,038,552	864,594	173,958	20.12%
Parking Permit Fund	2,702,336	2,865,176	(162,840)	-5.68%
BMR Housing Fund	6,993,759	7,265,080	(271,321)	-3.73%
Measure A Funds	979,525	1,079,757	(100,232)	-9.28%
Storm Water Management Fund	175,089	168,078	7,011	4.17%
Successor Agency Funds	6,778,009	7,113,012	(335,003)	-4.71%
Measure T Funds	605,708	1,867,721	(1,262,013)	-67.57%
Other Special Revenue Funds	15,929,145	15,497,037	432,108	2.79%
Capital Project Fund- General	8,871,004	8,489,246	381,758	4.50%
Redevelopment Grant Capital	7,756,542	7,761,714	(5,172)	-0.07%
Water Operating & Capital	14,853,837	15,440,514	(586,677)	-3.80%
Debt Service Fund	4,495,688	3,854,538	641,150	16.63%
Internal Service Fund	3,281,914	3,196,318	85,596	2.68%
<b>Total Portfolio of all Funds</b>	<b>97,386,535</b>	<b>98,177,650</b>	<b>(791,115)</b>	<b>-0.81%</b>

Cash and investment holdings in the General Fund increased as property tax revenues were received in April, which were partially offset by normal operating costs. In May, the Successor Agency submitted a reimbursement to the County due to an overpayment of tax increment revenue received in December. The reimbursement was over \$500,000, leading to the decrease in cash in the Successor Agency funds during the past quarter. The Agency received no tax increment revenues during the quarter.

The Recreation-in-Lieu Fund and Measure T funds both decreased as work on the Gymnastics Center was largely completed during this quarter, and remaining invoices were being paid. The Parking Permit Fund was drawn down for remaining work on Parking Plaza 2. The BMR Fund used \$327,000 to pay off the mortgage for a Below Market Rate unit on Sage Street.

The Garbage Service Fund increased during the quarter as current collection rates provide additional revenues to the City for the eventual pay-off of the Allied liability (for collection services previous to January 1, 2011) due in October. The Water funds cash balances decreased by normal operating costs during the quarter. And the City's Debt Service Funds increased due to the revenues received from the County for debt service payments to be made in July 2012 and January 2013 for the City's general obligation bonds and the Community Development Agency's bonds.

## **IMPACT ON CITY RESOURCES**

Due to the liquidity of LAIF accounts, the City has more than sufficient funds available to meet its expenditure requirements for the next six months.

## **POLICY ISSUES**

The City and the Agency funds are invested in full compliance with the City's Investment Policy and State Law, which emphasize the following criteria, in the order of importance: safety, liquidity and yield.

## **ENVIRONMENTAL REVIEW**

This report is not subject to the California Environmental Quality Act (CEQA).

Signature on file  
Geoffrey Buchheim  
Financial Services Manager



**ATTACHMENT:**

A. Cutwater Investment Reports (attachment) for the period of June 1, 2012 – June 30, 2012, including:

- Fixed Income Market Review for the month of June;
- Activity and Performance Summary (amortized cost basis and fair market value basis);
- Recap of Securities Held;
- Maturity Distribution of Securities Held;
- Securities Held (detail); and
- Governmental Accounting Standards Board (GASB) 40 Deposit and Investment Risk Disclosure



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**Cutwater Asset Management**  
1900 Sixteenth Street, Suite 200  
Denver, CO 80202  
**Tel: 303 860 1100**  
Fax: 303 860 0016

# CITY OF MENLO PARK

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Report for the period June 1, 2012 - June 30, 2012

Please contact Accounting by calling the number above or email [camreports@cutwater.com](mailto:camreports@cutwater.com) with questions concerning this report.

( This report was prepared on July 9, 2012 )

## Fixed Income Market Review June 30, 2012

### U.S. Personal Consumption Expenditures

9/30/06-3/31/12

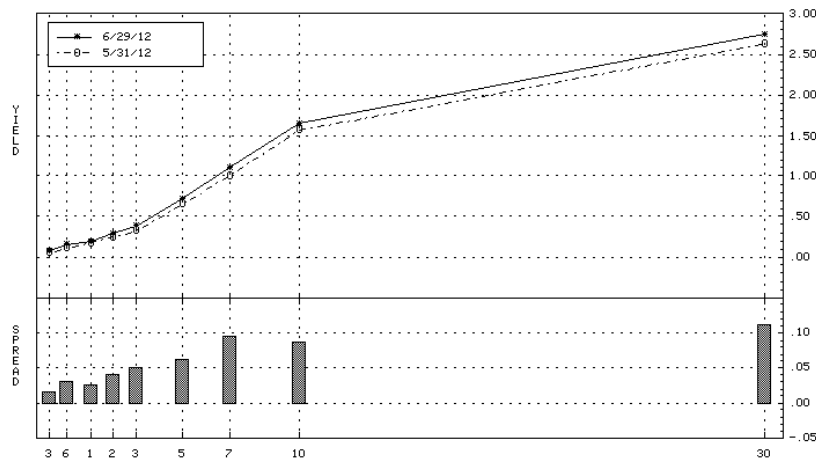
**Chart 1**



### Treasury Yield Curves

5/31/12-6/30/12

**Chart 2**



**Economic Indicators & Monetary Policy** – The U.S. economy is showing signs of slowing as increases in consumer spending were offset by reduced business and government spending. During the first quarter of 2012, personal consumption expenditures grew at a 2.5 percent annual rate (See Chart 1) compared to a 2.1 percent increase the prior quarter. Since the first quarter, households are reducing purchases of durable goods, like automobiles, as the job market softens. Cars and light trucks sold at a 13.7 million annual rate in May, the weakest this year, and down from a rate of 14.4 million in April.

A struggling job market and slowing global capital markets could make it more difficult to spark a U.S. expansion. The unemployment rate climbed to 8.2 percent in May, up from 8.1 percent the previous month. Fed officials have recently lowered their growth and employment outlook. The Federal Open Market Committee (FOMC) “expects economic growth to remain moderate over coming quarters and then to pick up very gradually.” On June 20<sup>th</sup>, the FOMC stated its plan to hold its benchmark interest rate near zero until late 2014. It also said it will expand the Operation Twist program to extend the weighted average maturity of balance sheet assets, which pressures the yield curve to flatten.

Despite the slow recovery, the U.S. economy expanded at a revised 1.9 percent annual rate during the first quarter following a 3.0 percent annualized growth rate during the final quarter of 2011. The gain reflects a smaller increase in consumer spending due to the soft labor market. Inflation has been subdued in recent months as prices of crude oil and gasoline have decreased. Consumer prices dropped in May by the most in three years, and long-term inflation expectations remain stable. At the end of 2012, lawmakers will face a possible “fiscal cliff” when several significant tax-and-spending changes take effect unless Congress acts. Up to three percentage points could be clipped from domestic growth if the expiration of income tax cuts occurs.

**Yield Curve & Spreads** – Treasury yields moved higher in June with slight recent consumer spending gains.

At the end of June, 3-month Treasury bills yielded 0.08 percent, 6-month Treasury bills yielded 0.15 percent, 2-year Treasuries yielded 0.30 percent, 5-year Treasuries yielded 0.72 percent, 10-year Treasuries yielded 1.65 percent, and 30-year bonds yielded 2.75 percent (Chart 2).

**Additional Information**  
**June 30, 2012**

A current version of the investment adviser brochure, for Cutwater Investor Services Corp., in the form of the Firm's ADV Part 2A is available for your review. Please contact our Client Service Desk at 1-800-395-5505 or mail your request to:

Cutwater Investor Services Corp.  
Attention: Client Services  
113 King Street  
Armonk, NY 10504

A copy of the brochure will be sent to you either by mail or electronically at your option.

In addition, a copy of the most recent version of the Firm's complete Form ADV can be downloaded from the SEC website at [www.adviserinfo.sec.gov/](http://www.adviserinfo.sec.gov/).

**City of Menlo Park  
Activity and Performance Summary  
for the period June 1, 2012 - June 30, 2012**

**Amortized Cost Basis Activity Summary**

<b>Beginning Amortized Cost Value</b>	97,082,930.07
Additions	
Contributions	0.00
Interest Received	132,750.00
Accrued Interest Sold	0.00
Gain on Sales	0.00
<b>Total Additions</b>	<b>132,750.00</b>
Deductions	
Withdrawals	20,093.14
Fees Paid	3,177.70
Accrued Interest Purchased	4,479.16
Loss on Sales	0.00
<b>Total Deductions</b>	<b>(27,750.00)</b>
Accretion (Amortization) for the Period	(13,111.62)
<b>Ending Amortized Cost Value</b>	<b>97,174,818.45</b>
Ending Fair Value	97,335,260.67
Unrealized Gain (Loss)	160,442.22

**Detail of Amortized Cost Basis Return**

	Interest Earned	Accretion (Amortization)	Realized Gain (Loss)	Total Income
<b>Current Holdings</b>				
Cash and Equivalents	14,007.77	0.00	0.00	14,007.77
Commercial Paper	0.00	5,050.00	0.00	5,050.00
U.S. Treasury	3,492.63	(21.95)	0.00	3,470.68
U.S. Instrumentality	21,628.49	(6,334.37)	0.00	15,294.12
Corporate	25,046.87	(11,619.46)	0.00	13,427.41
<b>Sales and Maturities</b>				
U.S. Instrumentality	2,847.22	(185.84)	0.00	2,661.38
<b>Total</b>	<b>67,022.98</b>	<b>(13,111.62)</b>	<b>0.00</b>	<b>53,911.36</b>

**Annualized Comparative Rates of Return**

	Twelve Month Trailing	Six Month Trailing	For the Month
Fed Funds	0.10 %	0.13 %	0.16 %
Overnight Repo	0.09 %	0.13 %	0.18 %
3 Month T-Bill	0.04 %	0.06 %	0.09 %
6 Month T-Bill	0.07 %	0.10 %	0.13 %
1 Year T-Note	0.15 %	0.17 %	0.20 %
2 Year T-Note	0.28 %	0.29 %	0.29 %
5 Year T-Note	0.95 %	0.84 %	0.71 %

**Summary of Amortized Cost Basis Return for the Period**

	Total Portfolio	Excl. Cash Eq.
Interest Earned	67,022.98	53,015.21
Accretion (Amortization)	(13,111.62)	(13,111.62)
Realized Gain (Loss) on Sales	<u>0.00</u>	<u>0.00</u>
Total Income on Portfolio	53,911.36	39,903.59
Average Daily Historical Cost	97,347,082.46	47,665,526.90
Annualized Return	0.68%	1.02%
Annualized Return Net of Fees	0.64%	0.94%
Annualized Return Year to Date Net of Fees	0.73%	1.16%
Weighted Average Effective Maturity in Days	213	439

**City of Menlo Park  
Activity and Performance Summary  
for the period June 1, 2012 - June 30, 2012**

**Fair Value Basis Activity Summary**

<b>Beginning Fair Value</b>	97,257,577.72
Additions	
Contributions	0.00
Interest Received	132,750.00
Accrued Interest Sold	0.00
<b>Total Additions</b>	132,750.00
Deductions	
Withdrawals	20,093.14
Fees Paid	3,177.70
Accrued Interest Purchased	4,479.16
<b>Total Deductions</b>	(27,750.00)
Change in Fair Value for the Period	(27,317.05)
<b>Ending Fair Value</b>	97,335,260.67

**Detail of Fair Value Basis Return**

	<b>Interest Earned</b>	<b>Change in Fair Value</b>	<b>Total Income</b>
<b>Current Holdings</b>			
Cash and Equivalents	14,007.77	0.00	14,007.77
Commercial Paper	0.00	5,252.00	5,252.00
U.S. Treasury	3,492.63	(6,485.00)	(2,992.37)
U.S. Instrumentality	21,628.49	(13,114.50)	8,513.99
Corporate	25,046.87	(10,675.55)	14,371.32
<b>Sales and Maturities</b>			
U.S. Instrumentality	2,847.22	(2,294.00)	553.22
<b>Total</b>	<b>67,022.98</b>	<b>(27,317.05)</b>	<b>39,705.93</b>

**Annualized Comparative Rates of Return**

	<b>Twelve Month Trailing</b>	<b>Six Month Trailing</b>	<b>For the Month</b>
Fed Funds	0.10 %	0.13 %	0.16 %
Overnight Repo	0.09 %	0.13 %	0.18 %
3 Month T-Bill	0.07 %	0.10 %	0.12 %
6 Month T-Bill	0.19 %	0.14 %	0.12 %
1 Year T-Note	0.25 %	0.12 %	0.00 %
2 Year T-Note	0.64 %	0.08 %	-0.85 %
5 Year T-Note	7.23 %	2.96 %	-2.32 %

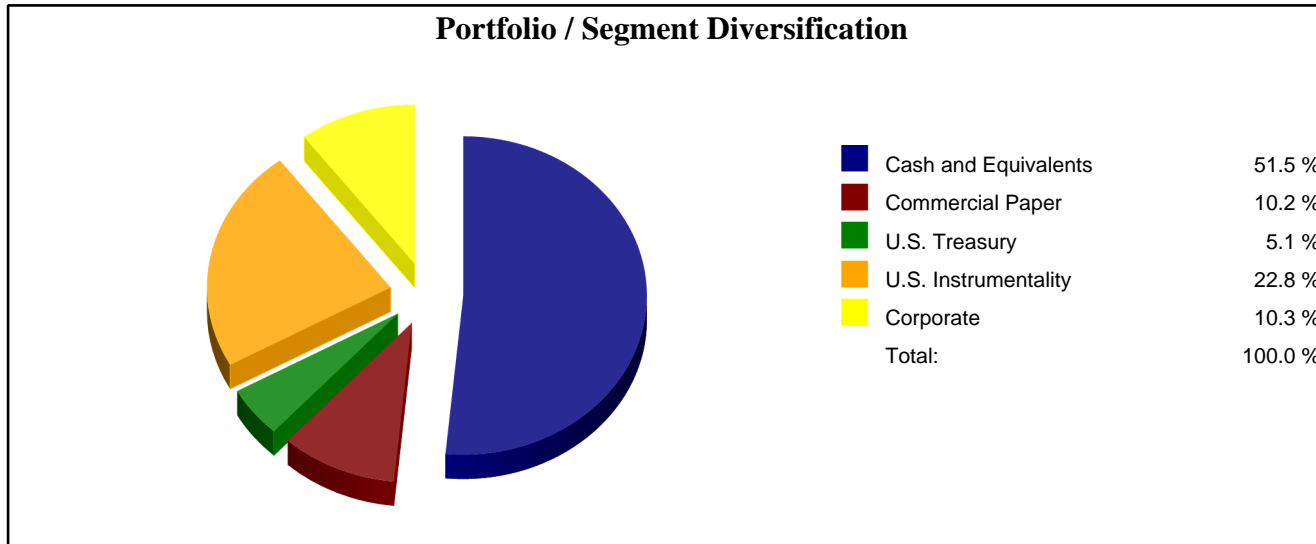
**Summary of Fair Value Basis Return for the Period**

	<b>Total Portfolio</b>	<b>Excl. Cash Eq.</b>
Interest Earned	67,022.98	53,015.21
Change in Fair Value	<u>(27,317.05)</u>	<u>(27,317.05)</u>
Total Income on Portfolio	39,705.93	25,698.16
Average Daily Historical Cost	97,347,082.46	47,665,526.90
Annualized Return	0.50%	0.66%
Annualized Return Net of Fees	0.46%	0.58%
Annualized Return Year to Date Net of Fees	0.59%	0.87%
Weighted Average Effective Maturity in Days	213	439

**City of Menlo Park  
Recap of Securities Held  
June 30, 2012**

	Historical Cost	Amortized Cost	Fair Value	Unrealized Gain (Loss)	Weighted Average Final Maturity (Days)	Weighted Average Effective Maturity (Days)	% Portfolio/Segment	Weighted Average Yield *	Weighted Average Market Duration (Years)
Cash and Equivalents	50,198,222.22	50,198,222.22	50,198,222.22	0.00	1	1	51.55	0.36	0.00
Commercial Paper	9,968,554.86	9,984,415.97	9,987,561.00	3,145.03	94	94	10.24	0.62	0.00
U.S. Treasury	5,010,468.76	5,013,772.92	5,056,288.00	42,515.08	726	726	5.14	0.84	1.95
U.S. Instrumentality	22,176,710.00	22,134,924.04	22,176,091.50	41,167.46	1,070	419	22.77	0.84	1.13
Corporate	10,032,578.50	9,843,483.30	9,917,097.95	73,614.65	684	684	10.30	1.61	1.81
<b>Total</b>	<b>97,386,534.34</b>	<b>97,174,818.45</b>	<b>97,335,260.67</b>	<b>160,442.22</b>	<b>362</b>	<b>213</b>	<b>100.00</b>	<b>0.65</b>	<b>0.54</b>

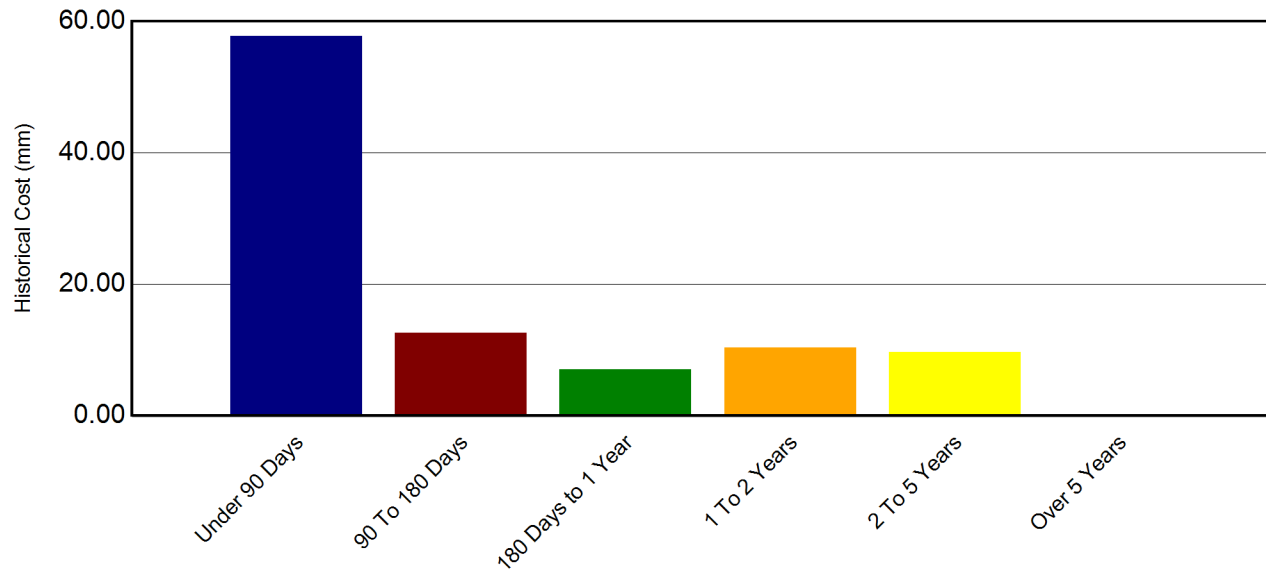
\* Weighted Average Yield is calculated on a "yield to worst" basis.



**City of Menlo Park**  
**Maturity Distribution of Securities Held**  
**June 30, 2012**

Maturity	Historical Cost	Percent
Under 90 Days	57,690,390.00	59.24 %
90 To 180 Days	12,609,820.58	12.95 %
180 Days to 1 Year	7,023,131.88	7.21 %
1 To 2 Years	10,361,916.25	10.64 %
2 To 5 Years	9,701,275.63	9.96 %
Over 5 Years	0.00	0.00 %
	<b>97,386,534.34</b>	<b>100.00 %</b>

**Maturity Distribution**





**City of Menlo Park  
Securities Held  
June 30, 2012**

CUSIP/ Description	Purchase Date	Rate/ Coupon	Maturity/ Call Date	Par Value/ Shares	Historical Cost/ Accrued Interest Purchased	Amortized Cost/ Accretion (Amortization)	Fair Value/ Change In Fair Value	Unrealized Gain (Loss)	Interest Received	Interest Earned	Total Accrued Interest	% Port Cost	Yield
<b>Cash and Equivalents</b>													
LAIF - City 98-19-22	06/30/12	0.363V		49,967,466.54	49,967,466.54	49,967,466.54	49,967,466.54	0.00	0.00	14,736.19	44,800.20	51.31	0.36
					0.00	0.00	0.00						
LAIF-GO Bond	06/30/12	0.363V		230,755.68	230,755.68	230,755.68	230,755.68	0.00	0.00	(728.42)	4.71	0.24	0.36
					0.00	0.00	0.00						
<b>TOTAL (Cash and Equivalents)</b>				50,198,222.22	50,198,222.22	50,198,222.22	50,198,222.22	0.00	0.00	14,007.77	44,804.91	51.55	
					0.00	0.00	0.00						
<b>Commercial Paper</b>													
06737HG29	02/01/12	0.000	07/02/12	2,500,000.00	2,492,927.78	2,499,953.47	2,499,972.50	19.03	0.00	0.00	0.00	2.56	0.68
Barclays US Funding					0.00	1,395.83	457.50						
74977KJS9	03/30/12	0.000	09/26/12	1,000,000.00	997,500.00	998,791.67	999,287.00	495.33	0.00	0.00	0.00	1.02	0.51
Rabobank USA					0.00	416.67	394.00						
48802WNH7	05/11/12	0.000	10/15/12	3,000,000.00	2,992,542.50	2,994,965.00	2,996,904.00	1,939.00	0.00	0.00	0.00	3.07	0.58
KELLS FUNDING LLC					0.00	1,425.00	1,596.00						
74977KL80	05/11/12	0.000	11/08/12	1,500,000.00	1,496,304.58	1,497,345.83	1,497,931.50	585.67	0.00	0.00	0.00	1.54	0.50
Rabobank USA					0.00	612.50	910.50						
85324TME3	03/21/12	0.000	12/14/12	2,000,000.00	1,989,280.00	1,993,360.00	1,993,466.00	106.00	0.00	0.00	0.00	2.04	0.73
STANDARD CHARTER					0.00	1,200.00	1,894.00						
<b>TOTAL (Commercial Paper)</b>				10,000,000.00	9,968,554.86	9,984,415.97	9,987,561.00	3,145.03	0.00	0.00	0.00	10.24	
					0.00	5,050.00	5,252.00						
<b>U.S. Treasury</b>													
912828QL7	04/12/11	0.750	03/31/13	1,000,000.00	998,671.88	999,495.72	1,004,023.00	4,527.28	0.00	614.76	1,885.25	1.03	0.82
T-Note					0.00	55.41	(625.00)						
912828PL8	12/15/10	0.750	12/15/13	2,000,000.00	1,985,781.25	1,993,098.20	2,012,890.00	19,791.80	7,500.00	1,229.51	655.74	2.04	0.99
T-Note					0.00	389.20	(2,110.00)						
912828RB8	08/25/11	0.500	08/15/14	1,000,000.00	1,003,046.88	1,002,174.34	1,003,359.00	1,184.66	0.00	412.09	1,881.87	1.03	0.40
T-Note					0.00	(84.17)	(1,094.00)						
912828QX1	08/25/11	1.500	07/31/16	1,000,000.00	1,022,968.75	1,019,004.66	1,036,016.00	17,011.34	0.00	1,236.27	6,263.74	1.05	1.02
T-Note					0.00	(382.39)	(2,656.00)						
<b>TOTAL (U.S. Treasury)</b>				5,000,000.00	5,010,468.76	5,013,772.92	5,056,288.00	42,515.08	7,500.00	3,492.63	10,686.60	5.14	
					0.00	(21.95)	(6,485.00)						
<b>U.S. Instrumentality</b>													
3133XW7L7	03/20/12	1.500	01/16/13	2,000,000.00	2,020,860.00	2,013,745.50	2,013,344.00	(401.50)	0.00	2,500.00	13,750.00	2.08	0.23

**City of Menlo Park  
Securities Held  
June 30, 2012**

CUSIP/ Description	Purchase Date	Rate/ Coupon	Maturity/ Call Date	Par Value/ Shares	Historical Cost/ Accrued Interest Purchased	Amortized Cost/ Accretion (Amortization)	Fair Value/ Change In Fair Value	Unrealized Gain (Loss)	Interest Received	Interest Earned	Total Accrued Interest	% Port Cost	Yield	
FHLB					5,333.33	(2,072.18)	(2,438.00)							
3134G2NK4	Call	07/11/11	1.125	07/11/14	2,000,000.00	2,001,740.00	2,000,047.54	2,000,372.00	324.46	0.00	1,875.00	10,625.00	2.06	1.04
FHLMC						0.00	(142.62)	(1,266.00)						
31398A3G5		09/28/11	1.500	09/08/14	1,500,000.00	1,535,565.00	1,526,409.33	1,530,522.00	4,112.67	0.00	1,875.00	7,062.50	1.58	0.69
FNMA						0.00	(991.59)	(700.50)						
3135G0EQ2	Call	11/07/11	1.000	11/07/14	3,000,000.00	3,000,000.00	3,000,000.00	3,005,607.00	5,607.00	0.00	2,500.00	4,500.00	3.08	1.00
FNMA						0.00	0.00	(669.00)						
3135G0HC0	Call	06/08/12	0.625	01/30/15	2,000,000.00	2,003,600.00	2,003,249.15	2,003,116.00	(133.15)	0.00	798.62	5,243.06	2.06	0.35
FNMA						4,444.44	(350.85)	(484.00)						
3136G0KG5	Call	06/05/12	0.625	06/04/15	2,000,000.00	2,001,400.00	2,001,350.07	1,998,230.00	(3,120.07)	0.00	902.78	937.50	2.06	0.59
FNMA						34.72	(49.93)	(3,170.00)						
3133XWNB1		09/28/11	2.875	06/12/15	1,500,000.00	1,606,845.00	1,584,970.60	1,602,028.50	17,057.90	21,562.50	3,593.75	2,276.04	1.65	0.92
FHLB						0.00	(2,369.07)	(2,325.00)						
3134G3MK3	Call	02/24/12	1.000	02/24/16	2,000,000.00	2,010,200.00	2,008,413.95	2,009,612.00	1,198.05	0.00	1,666.67	7,055.56	2.06	0.74
FHLMC						0.00	(418.61)	1,120.00						
3134G2TH5	Call	07/27/11	2.050	07/27/16	2,000,000.00	2,000,000.00	2,000,000.00	2,002,452.00	2,452.00	0.00	3,416.67	17,538.89	2.05	2.05
FHLMC						0.00	0.00	(2,928.00)						
3136FT3C1	Call	03/05/12	1.000	12/05/16	2,000,000.00	1,996,500.00	1,996,737.90	2,007,444.00	10,706.10	5,000.00	1,666.66	1,444.44	2.05	1.04
FNMA						0.00	60.48	(450.00)						
3136FTM30	Call	02/15/12	0.500V	02/15/17	2,000,000.00	2,000,000.00	2,000,000.00	2,003,364.00	3,364.00	0.00	833.34	3,777.78	2.05	0.50
FNMA						0.00	0.00	196.00						
<b>TOTAL (U.S. Instrumentality)</b>					22,000,000.00	22,176,710.00	22,134,924.04	22,176,091.50	41,167.46	26,562.50	21,628.49	74,210.77	22.77	
					9,812.49	(6,334.37)	(13,114.50)							

**Corporate**

87244EAC6		02/24/11	5.125	10/10/12	950,000.00	1,012,443.50	960,617.50	960,659.95	42.45	0.00	4,057.29	10,954.69	1.04	1.04
TIAA Global Markets						0.00	(3,153.71)	(3,314.55)						
64952WAJ2		07/19/10	5.250	10/16/12	1,000,000.00	1,086,950.00	1,011,345.91	1,012,474.00	1,128.09	0.00	4,375.00	10,937.50	1.12	1.30
New York Life Global						0.00	(3,181.10)	(3,867.00)						
36962G3K8		01/18/08	5.250	10/19/12	1,000,000.00	1,032,300.00	1,002,046.66	1,013,999.00	11,952.34	0.00	4,375.00	10,500.00	1.06	4.49
GE Capital						0.00	(558.18)	(3,812.00)						
36962G4X9		02/02/12	2.100	01/07/14	1,500,000.00	1,531,845.00	1,525,069.47	1,523,329.50	(1,739.97)	0.00	2,625.00	15,225.00	1.57	0.99
GE Capital						2,187.50	(1,355.10)	2,770.50						
931142DA8		07/26/11	1.625	04/15/14	1,000,000.00	1,020,000.00	1,013,138.83	1,019,061.00	5,922.17	0.00	1,354.17	3,430.56	1.05	0.88
Wal-Mart						0.00	(603.62)	(889.00)						

**City of Menlo Park  
Securities Held  
June 30, 2012**

CUSIP/ Description	Purchase Date	Rate/ Coupon	Maturity/ Call Date	Par Value/ Shares	Historical Cost/ Accrued Interest Purchased	Amortized Cost/ Accretion (Amortization)	Fair Value/ Change In Fair Value	Unrealized Gain (Loss)	Interest Received	Interest Earned	Total Accrued Interest	% Port Cost	Yield
478160AX2 Johnson & Johnson	05/20/11	1.200	05/15/14	1,000,000.00	998,830.00	999,267.54	1,013,584.00	14,316.46	0.00	1,000.00	1,533.33	1.03	1.24
36962GX41 GE Capital	12/14/11	5.650	06/09/14	750,000.00	818,760.00	803,614.63	810,169.50	6,554.87	21,187.50	3,531.25	2,589.58	0.84	1.86
594918AG9 MICROSOFT CORP	07/26/11	1.625	09/25/15	1,000,000.00	1,003,400.00	1,002,638.24	1,034,154.00	31,515.76	0.00	1,354.16	4,333.33	1.03	1.54
084670BD9 Berkshire Hathaway	02/02/12	1.900	01/31/17	1,500,000.00	1,528,050.00	1,525,744.52	1,529,667.00	3,922.48	0.00	2,375.00	11,954.17	1.57	1.51
<b>TOTAL (Corporate)</b>				<b>9,700,000.00</b>	<b>10,032,578.50</b>	<b>9,843,483.30</b>	<b>9,917,097.95</b>	<b>73,614.65</b>	<b>21,187.50</b>	<b>25,046.87</b>	<b>71,458.16</b>	<b>10.30</b>	

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<b>GRAND TOTAL</b>	<b>96,898,222.22</b>	<b>97,386,534.34</b>	<b>97,174,818.45</b>	<b>97,335,260.67</b>	<b>160,442.22</b>	<b>55,250.00</b>	<b>64,175.76</b>	<b>201,160.44</b>	<b>100.00</b>
		<b>12,158.32</b>	<b>(12,925.78)</b>	<b>(25,023.05)</b>					

V = variable rate, current rate shown, average rate for Cash & Equivalents

**City of Menlo Park**  
**GASB 40 - Deposit and Investment Risk Disclosure**  
**June 30, 2012**

CUSIP	Type	Coupon	Maturity Date	Call Date	S&P Rating	Moody Rating	Par Value / Shares	Historical Cost	% Portfolio Hist Cost	Market Value	% Portfolio Mkt Value	Weighted Avg Mkt Dur (Yrs)
<b><u>LAIF</u></b>												
	Cash and Equivalents	0.363	01/30/3100				49,967,466.54	49,967,466.54	51.31	49,967,466.54	51.34	0.00
	Cash and Equivalents	0.363	01/30/3100				230,755.68	230,755.68	0.24	230,755.68	0.24	0.00
<b>ISSUER TOTAL</b>							50,198,222.22	50,198,222.22	51.55	50,198,222.22	51.57	0.00
<b><u>FNMA</u></b>												
3135G0EQ2	U.S. Instrumentality	1.000	11/07/2014	11/07/2012	AA+	Aaa	3,000,000.00	3,000,000.00	3.08	3,005,607.00	3.09	0.35
3135G0HC0	U.S. Instrumentality	0.625	01/30/2015	01/30/2013	AA+	Aaa	2,000,000.00	2,003,600.00	2.06	2,003,116.00	2.06	0.58
3136FTM30	U.S. Instrumentality	0.500	02/15/2017	02/15/2013	AA+	Aaa	2,000,000.00	2,000,000.00	2.05	2,003,364.00	2.06	0.63
3136FT3C1	U.S. Instrumentality	1.000	12/05/2016	03/05/2014	AA+	Aaa	2,000,000.00	1,996,500.00	2.05	2,007,444.00	2.06	1.67
31398A3G5	U.S. Instrumentality	1.500	09/08/2014		AA+	Aaa	1,500,000.00	1,535,565.00	1.58	1,530,522.00	1.57	2.15
3136G0KG5	U.S. Instrumentality	0.625	06/04/2015	06/04/2014	AA+	Aaa	2,000,000.00	2,001,400.00	2.06	1,998,230.00	2.05	2.90
<b>ISSUER TOTAL</b>							12,500,000.00	12,537,065.00	12.87	12,548,283.00	12.89	1.27
<b><u>FHLMC</u></b>												
3134G2NK4	U.S. Instrumentality	1.125	07/11/2014	07/11/2012	AA+	Aaa	2,000,000.00	2,001,740.00	2.06	2,000,372.00	2.06	0.03
3134G2TH5	U.S. Instrumentality	2.050	07/27/2016	07/27/2012	AA+	Aaa	2,000,000.00	2,000,000.00	2.05	2,002,452.00	2.06	0.08
3134G3MK3	U.S. Instrumentality	1.000	02/24/2016	02/24/2014	AA+	Aaa	2,000,000.00	2,010,200.00	2.06	2,009,612.00	2.06	1.63
<b>ISSUER TOTAL</b>							6,000,000.00	6,011,940.00	6.17	6,012,436.00	6.18	0.58
<b><u>T-Note</u></b>												
912828QL7	U.S. Treasury	0.750	03/31/2013		AA+	Aaa	1,000,000.00	998,671.88	1.03	1,004,023.00	1.03	0.75
912828PL8	U.S. Treasury	0.750	12/15/2013		AA+	Aaa	2,000,000.00	1,985,781.25	2.04	2,012,890.00	2.07	1.45
912828RB8	U.S. Treasury	0.500	08/15/2014		AA+	Aaa	1,000,000.00	1,003,046.88	1.03	1,003,359.00	1.03	2.11
912828QX1	U.S. Treasury	1.500	07/31/2016		AA+	Aaa	1,000,000.00	1,022,968.75	1.05	1,036,016.00	1.06	3.95
<b>ISSUER TOTAL</b>							5,000,000.00	5,010,468.76	5.14	5,056,288.00	5.19	1.96
<b><u>FHLB</u></b>												
3133XW7L7	U.S. Instrumentality	1.500	01/16/2013		AA+	Aaa	2,000,000.00	2,020,860.00	2.08	2,013,344.00	2.07	0.54
3133XWNB1	U.S. Instrumentality	2.875	06/12/2015		AA+	Aaa	1,500,000.00	1,606,845.00	1.65	1,602,028.50	1.65	2.84
<b>ISSUER TOTAL</b>							3,500,000.00	3,627,705.00	3.73	3,615,372.50	3.71	1.56
<b><u>GE Capital</u></b>												
36962G3K8	Corporate	5.250	10/19/2012		AA+	A1	1,000,000.00	1,032,300.00	1.06	1,013,999.00	1.04	0.30
36962G4X9	Corporate	2.100	01/07/2014		AA+	A1	1,500,000.00	1,531,845.00	1.57	1,523,329.50	1.57	1.48

**City of Menlo Park**  
**GASB 40 - Deposit and Investment Risk Disclosure**  
**June 30, 2012**

CUSIP	Type	Coupon	Maturity Date	Call Date	S&P Rating	Moody Rating	Par Value / Shares	Historical Cost	% Portfolio Hist Cost	Market Value	% Portfolio Mkt Value	Weighted Avg Mkt Dur (Yrs)
36962GX41	Corporate	5.650	06/09/2014		AA+	A1	750,000.00	818,760.00	0.84	810,169.50	0.83	1.85
<b>ISSUER TOTAL</b>							3,250,000.00	3,382,905.00	3.47	3,347,498.00	3.44	1.22
<b><u>KELLS FUNDING LLC</u></b>												
48802WNH7	Commercial Paper	0.000	10/15/2012		A-1+	P-1	3,000,000.00	2,992,542.50	3.07	2,996,904.00	3.08	0.00
<b>ISSUER TOTAL</b>							3,000,000.00	2,992,542.50	3.07	2,996,904.00	3.08	0.00
<b><u>Barclays US Funding</u></b>												
06737HG29	Commercial Paper	0.000	07/02/2012		A-1	P-1	2,500,000.00	2,492,927.78	2.56	2,499,972.50	2.57	0.00
<b>ISSUER TOTAL</b>							2,500,000.00	2,492,927.78	2.56	2,499,972.50	2.57	0.00
<b><u>Rabobank USA</u></b>												
74977KJS9	Commercial Paper	0.000	09/26/2012		A-1+	P-1	1,000,000.00	997,500.00	1.02	999,287.00	1.03	0.00
74977KL80	Commercial Paper	0.000	11/08/2012		A-1+	P-1	1,500,000.00	1,496,304.58	1.54	1,497,931.50	1.54	0.00
<b>ISSUER TOTAL</b>							2,500,000.00	2,493,804.58	2.56	2,497,218.50	2.57	0.00
<b><u>STANDARD CHARTERED BANK</u></b>												
85324TME3	Commercial Paper	0.000	12/14/2012		A-1+	P-1	2,000,000.00	1,989,280.00	2.04	1,993,466.00	2.05	0.00
<b>ISSUER TOTAL</b>							2,000,000.00	1,989,280.00	2.04	1,993,466.00	2.05	0.00
<b><u>Berkshire Hathaway</u></b>												
084670BD9	Corporate	1.900	01/31/2017		AA+	Aa2	1,500,000.00	1,528,050.00	1.57	1,529,667.00	1.57	4.35
<b>ISSUER TOTAL</b>							1,500,000.00	1,528,050.00	1.57	1,529,667.00	1.57	4.35
<b><u>MICROSOFT CORP</u></b>												
594918AG9	Corporate	1.625	09/25/2015		AAA	Aaa	1,000,000.00	1,003,400.00	1.03	1,034,154.00	1.06	3.15
<b>ISSUER TOTAL</b>							1,000,000.00	1,003,400.00	1.03	1,034,154.00	1.06	3.15
<b><u>Wal-Mart</u></b>												
931142DA8	Corporate	1.625	04/15/2014		AA	Aa2	1,000,000.00	1,020,000.00	1.05	1,019,061.00	1.05	1.77
<b>ISSUER TOTAL</b>							1,000,000.00	1,020,000.00	1.05	1,019,061.00	1.05	1.77

**City of Menlo Park**  
**GASB 40 - Deposit and Investment Risk Disclosure**  
**June 30, 2012**

CUSIP	Type	Coupon	Maturity Date	Call Date	S&P Rating	Moody Rating	Par Value / Shares	Historical Cost	% Portfolio Hist Cost	Market Value	% Portfolio Mkt Value	Weighted Avg Mkt Dur (Yrs)
<b><u>Johnson &amp; Johnson</u></b>												
478160AX2	Corporate	1.200	05/15/2014		AAA	Aaa	1,000,000.00	998,830.00	1.03	1,013,584.00	1.04	1.86
<b>ISSUER TOTAL</b>							1,000,000.00	998,830.00	1.03	1,013,584.00	1.04	1.86
<b><u>New York Life Global Funding</u></b>												
64952WAJ2	Corporate	5.250	10/16/2012		AA+	Aaa	1,000,000.00	1,086,950.00	1.12	1,012,474.00	1.04	0.30
<b>ISSUER TOTAL</b>							1,000,000.00	1,086,950.00	1.12	1,012,474.00	1.04	0.30
<b><u>TIAA Global Markets</u></b>												
87244EAC6	Corporate	5.125	10/10/2012		AA+	Aa1	950,000.00	1,012,443.50	1.04	960,659.95	0.99	0.28
<b>ISSUER TOTAL</b>							950,000.00	1,012,443.50	1.04	960,659.95	0.99	0.28

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<b>GRAND TOTAL</b>	<b>96,898,222.22</b>	<b>97,386,534.34</b>	<b>100.00</b>	<b>97,335,260.67</b>	<b>100.00</b>	<b>0.55</b>
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Highlighted totals are issuers representing 5.00% or more of the portfolio's market value

**City of Menlo Park  
Securities Purchased  
June 1, 2012 - June 30, 2012**

CUSIP/Description	Purchase Date	Rate/Coupon	Maturity/Call Date	Par Value/Shares	Unit Cost	Principal Cost	Accrued Interest Purchased	Yield
<b><u>Cash and Equivalents</u></b>								
LAIF - City 98-19-228	06/08/2012	0.363V		2,900,000.00	100.000	2,900,000.00	0.00	0.36
<b>TOTAL (Cash and Equivalents)</b>				<b>2,900,000.00</b>		<b>2,900,000.00</b>	<b>0.00</b>	
<b><u>U.S. Instrumentality</u></b>								
3136G0KG5 FNMA	Call 06/05/2012	0.625	06/04/2015 06/04/2014	2,000,000.00	100.070	2,001,400.00	34.72	0.59
3135G0HC0 FNMA	Call 06/08/2012	0.625	01/30/2015 01/30/2013	2,000,000.00	100.180	2,003,600.00	4,444.44	0.35
<b>TOTAL (U.S. Instrumentality)</b>				<b>4,000,000.00</b>		<b>4,005,000.00</b>	<b>4,479.16</b>	
<b>GRAND TOTAL</b>				<b>6,900,000.00</b>		<b>6,905,000.00</b>	<b>4,479.16</b>	

V = variable rate, current rate shown, average rate for Cash & Equivalents

**City of Menlo Park**  
**Securities Sold and Matured**  
**June 1, 2012 - June 30, 2012**

CUSIP/ Description	Sale or Maturity Date	Rate/ Coupon	Maturity/ Call Date	Par Value/ Shares	Historical Cost	Amortized Cost at Sale or Maturity / Acct/ (Amort)	Sale/ Maturity Price	Fair Value at Sale or Maturity / Chg.In Fair Value	Realized Gain (Loss)	Accrued Interest Sold	Interest Received	Interest Earned	Yield
<b><u>Cash and Equivalents</u></b>													
LAIF-GO Bond	06/07/2012	0.363V		800,000.00	800,000.00	800,000.00	100.00	800,000.00	0.00	0.00	0.00	0.00	0.36
						0.00		0.00					
<b>TOTAL (Cash and Equivalents)</b>				<b>800,000.00</b>	<b>800,000.00</b>	<b>800,000.00</b>		<b>800,000.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	
						0.00		0.00					
<b><u>U.S. Instrumentality</u></b>													
3135G0GE7	06/05/2012	1.000	12/05/2014	2,000,000.00	2,002,920.00	2,000,000.00	100.00	2,000,000.00	0.00	0.00	10,000.00	222.22	0.70
FNMA						(66.36)		(110.00)					
313373XT4	Call 06/08/2012	1.875	06/08/2015	2,000,000.00	2,007,840.00	2,000,000.00	100.00	2,000,000.00	0.00	0.00	18,750.00	729.17	1.47
FHLB			07/08/2012			(153.30)		(504.00)					
3133XKSK2	06/08/2012	4.875	06/08/2012	2,000,000.00	1,991,560.00	2,000,000.00	100.00	2,000,000.00	0.00	0.00	48,750.00	1,895.83	4.97
FHLB						33.82		(1,680.00)					
<b>TOTAL (U.S. Instrumentality)</b>				<b>6,000,000.00</b>	<b>6,002,320.00</b>	<b>6,000,000.00</b>		<b>6,000,000.00</b>	<b>0.00</b>	<b>0.00</b>	<b>77,500.00</b>	<b>2,847.22</b>	
						(185.84)		(2,294.00)					
<b>GRAND TOTAL</b>				<b>6,800,000.00</b>	<b>6,802,320.00</b>	<b>6,800,000.00</b>		<b>6,800,000.00</b>	<b>0.00</b>	<b>0.00</b>	<b>77,500.00</b>	<b>2,847.22</b>	
						(185.84)		(2,294.00)					

V = variable rate, current rate shown, average rate for Cash & Equivalents



**City of Menlo Park  
Transaction Report  
for the period June 1, 2012 - June 30, 2012**

Date	CUSIP	Transaction	Sec Type	Description	Maturity	PAR Value/Shares	Principal	Interest	Transaction Total	Balance
06/05/2012	3135G0GE7	Interest	INS	FNMA	12/05/2014	2,000,000.00	0.00	10,000.00	10,000.00	10,000.00
06/05/2012	3135G0GE7	Call	INS	FNMA	12/05/2014	2,000,000.00	2,000,000.00	0.00	2,000,000.00	2,010,000.00
06/05/2012	3136FT3C1	Interest	INS	FNMA	12/05/2016	2,000,000.00	0.00	5,000.00	5,000.00	2,015,000.00
06/05/2012	3136G0KG5	Bought	INS	FNMA	06/04/2015	2,000,000.00	2,001,400.00	34.72	(2,001,434.72)	13,565.28
06/07/2012		Sold	CE	LAIF-GO Bond		800,000.00	800,000.00	0.00	800,000.00	813,565.28
06/08/2012		Bought	CE	LAIF - City 98-19-22		2,900,000.00	2,900,000.00	0.00	(2,900,000.00)	(2,086,434.72)
06/08/2012	313373XT4	Interest	INS	FHLB	06/08/2015	2,000,000.00	0.00	18,750.00	18,750.00	(2,067,684.72)
06/08/2012	313373XT4	Call	INS	FHLB	06/08/2015	2,000,000.00	2,000,000.00	0.00	2,000,000.00	(67,684.72)
06/08/2012	3133XKSK2	Maturity	INS	FHLB	06/08/2012	2,000,000.00	2,000,000.00	0.00	2,000,000.00	1,932,315.28
06/08/2012	3133XKSK2	Interest	INS	FHLB	06/08/2012	2,000,000.00	0.00	48,750.00	48,750.00	1,981,065.28
06/08/2012	3135G0HC0	Bought	INS	FNMA	01/30/2015	2,000,000.00	2,003,600.00	4,444.44	(2,008,044.44)	(26,979.16)
06/09/2012	36962GX41	Interest	COR	GE Capital	06/09/2014	750,000.00	0.00	21,187.50	21,187.50	(5,791.66)
06/12/2012	3133XWNB1	Interest	INS	FHLB	06/12/2015	1,500,000.00	0.00	21,562.50	21,562.50	15,770.84
06/15/2012	912828PL8	Interest	TSY	T-Note	12/15/2013	2,000,000.00	0.00	7,500.00	7,500.00	23,270.84
<b>Portfolio Activity Total</b>										<b>23,270.84</b>

<b>Net Contributions:</b>	<b>0.00</b>
<b>Net Withdrawals:</b>	<b>20,093.14</b>

<b>Fees Charged:</b>	<b>3,177.70</b>
<b>Fees Paid:</b>	<b>3,177.70</b>

**City of Menlo Park  
Securities Bid and Offer  
for the period 6/1/2012 - 6/30/2012**

Trans	Settle	Description	Call Date	Broker	Par Value	Discount	Price	YTM/YTC	Competitive Bids
BUY	06/05/2012	FNMA .625 06/04/2015	06/04/14	BAS	2,000,000		100.070	0.59	MS - FNMA 0.50% 05/17/15 @ YTM 0.52 CG - FHLMC 5% 07/15/14 @ YTM 0.32
BUY	06/08/2012	FNMA .625 01/30/2015		UBS	2,000,000		100.180	0.56 / 0.35	JEFF - FHLMC 4.5% 1/01/15 @ YTM 0.46 CG - FHLB 1.5% 1/16/13 @ YTM 0.19

**City of Menlo Park  
Upcoming Cash Activity  
for the next 45 days**

Date	Transaction	CUSIP	Description	Coupon	Maturity Date	Next Call Date	Par / Shares	Principal	Interest	Transaction Total
07/02/2012	Maturity	06737HG29	Barclays US Funding	0.670	07/02/2012		2,500,000.00	2,500,000.00	0.00	2,500,000.00
07/07/2012	Interest	36962G4X9	GE Capital	2.100	01/07/2014		1,500,000.00	0.00	15,750.00	15,750.00
07/11/2012	Potential Call	3134G2NK4	FHLMC	1.125	07/11/2014	07/11/2012	2,000,000.00	2,000,000.00	11,250.00	2,011,250.00
07/16/2012	Interest	3133XW7L7	FHLB	1.500	01/16/2013		2,000,000.00	0.00	15,000.00	15,000.00
07/27/2012	Interest	3134G2TH5	FHLMC	2.050	07/27/2016	07/27/2012	2,000,000.00	0.00	20,500.00	20,500.00
07/30/2012	Interest	3135G0HC0	FNMA	0.625	01/30/2015	01/30/2013	2,000,000.00	0.00	6,250.00	6,250.00
07/31/2012	Interest	084670BD9	Berkshire Hathaway	1.900	01/31/2017		1,500,000.00	0.00	14,250.00	14,250.00
07/31/2012	Interest	912828QX1	T-Note	1.500	07/31/2016		1,000,000.00	0.00	7,500.00	7,500.00

# END OF REPORTS



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1900 Sixteenth Street, Suite 200  
Denver, CO 80202  
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For any questions concerning this report please contact accounting either by phone or email to [camreports@cutwater.com](mailto:camreports@cutwater.com).



# ADMINISTRATIVE SERVICES

Council Meeting Date: July 31, 2012  
Staff Report #: 12-115

Agenda Item #: I-4

## INFORMATION ITEM: Quarterly Update on Council Goals and Deliverables

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### BACKGROUND

Council has previously set goals in order to better align staff work plans, Commission work plans, Council priorities and, ultimately, the City budget. In 2009, Council developed a set of three long-term goals with supporting one-year deliverables in a daylong goal setting process that also resulted in a set of high level Council values allowing the organization to better balance both the quality and quantity of work Council desired. In 2010, Council approved a continuation of the three long term goals for two years while the deliverables have continued to be updated annually to provide organizational and budgetary focus.

On January 31, 2012, Council met for a goal setting session which resulted in a 2012 update to the ongoing goal and deliverable worksheet (Attachment A) to include one additional goal and updated deliverables. Subsequently, at the February 28, 2012 Council meeting, Council approved these goals and deliverables and staff proposed a quarterly review of progress.

This report includes progress on the deliverables through July 31, 2012.

### ANALYSIS

Menlo Park is in a unique situation, concurrently managing a number of significant development and zoning projects. Attachment A provides a report to Council on deliverables that are relevant to the four overarching goals. The progress demonstrated by this report is exciting, as is the opportunity to advise the Council and the community on progress to date, on specific tasks.

Notable achievements in the last quarter include the approval of the El Camino Real / Downtown Specific Plan (and the passage of the 30-day waiting window for filing referenda and lawsuits against the plan); approval of the Facebook Development Agreement and initiation of the Housing Element.

In preparing this report, it was noted that as issues emerge we lack a Council process for vetting new goals that might surface during the year. Since the goal setting session in January, several individual Council members have requested staff support for additional projects. These projects also need to be incorporated into an overall

assessment by the Council to determine priority use of staff time not previously committed to a specific purpose or project. These process questions and priorities will be worked out over time.

Staff will provide the next quarterly update at the November 13, 2012 Council meeting.

### **IMPACT ON CITY RESOURCES**

The approval of Council goals and deliverables essentially allocates the resources of the organization toward achievement of those specific outcomes to the extent that resources are available. It assumes that resources may not be available for other work that may be identified by individual Council members during the rest of the year and, should other priorities emerge, Council consensus would be required before that work could be undertaken.

### **POLICY ISSUES**

Tracking progress on Council deliverables is consistent with previous Council direction.

### **ENVIRONMENTAL REVIEW**

Environmental Review is not required.

Signature on File  
Alex McIntyre, City Manager

**PUBLIC NOTICE:** Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

### **ATTACHMENTS:**

A. 2012 Council Goals and Deliverables Worksheet 7.31.12 Update

**Council Goal Deliverables 2012 Update**

<b>Ongoing Goal</b>	<b>Proposed 2012 Deliverables (due on or before 1.13)</b>	<b>Progress Report – July 31, 2012</b>
<p><b>1. Vibrant and resilient economy supporting a sustainable budget.</b></p> <p>Promote a desirable level of economic growth to maintain an economically vibrant and sustainable community with a sustainable budget through implementing a comprehensive community supported business development plan for attraction and retention and through finalization of development projects currently in process.</p>	<ul style="list-style-type: none"> <li>• Conduct study session with Council (March 6) to review business development plan and confirm priorities                             <ul style="list-style-type: none"> <li>○ Other deliverables to be developed following this meeting</li> </ul> </li> <li>• Continue BD subcommittee meetings                             <ul style="list-style-type: none"> <li>○ Evaluate idea for tech start up incubator w/ VC support</li> <li>○ Track progress on state level tool to replace RDAs</li> <li>○ Continue focus on major property and business owners to ensure business retention (AMB, Tyco, Willow Business Park, Gateway, Downtown)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Study session conducted, priorities confirmed. New deliverables and staffing model are being developed for Council consideration</li> <li>• BD subcommittee will continue to meet with local companies</li> </ul>
	<ul style="list-style-type: none"> <li>• Complete Facebook Development Agreement</li> <li>• Develop sustainable options for 2012-13 budget</li> <li>• Resolution to place TOT increase on Nov. '12 ballot</li> <li>• Assessment of budget sustainability to Council with 2012-13 budget</li> <li>• Complete sale of Terminal Ave property to Beechwood School</li> </ul>	<ul style="list-style-type: none"> <li>• Approved</li> <li>• TOT info item presented 4.17.</li> <li>• First reading of ordinance scheduled for 6.12. final reading scheduled for 7.31.</li> <li>• Terminal sale public hearing 4.17;</li> <li>• Due diligence period underway through July 17. Closing estimated September.</li> </ul>
	<ul style="list-style-type: none"> <li>• Specific Plan adopted</li> </ul>	<ul style="list-style-type: none"> <li>• Plan approved by Council – 30 day period for referenda and law suits passed 7.13.12</li> </ul>
	<ul style="list-style-type: none"> <li>• WBA Phase 1.2 completed</li> </ul>	<ul style="list-style-type: none"> <li>• To be completed @ conclusion of</li> </ul>

		Specific Plan and Facebook processes
<p><b>Ongoing Goal</b></p> <p><b>2. Future focused planning and visioning supporting a high quality of life</b> Proactively plan for the future direction for the City's growth, development, &amp; public investments by continuing the public outreach process to define values, goals, and policies addressing the community's future vision and updating appropriate planning documents</p>	<p><b>Proposed 2012 Deliverables (due on or before 1.13)</b></p> <ul style="list-style-type: none"> <li>• Prepare a Housing Element, including associated amendments to other elements of the General Plan, and accompanying required zoning changes</li> <li>• Maintain CIP projects on time and within budget             <ul style="list-style-type: none"> <li>o CIP review by Commissions in February</li> <li>o Draft final CIP to Council in March</li> </ul> </li> <li>• Enhance environmental programs</li> <li>• Present to Council draft ordinances for:             <ul style="list-style-type: none"> <li>o elimination of plastic bags and polystyrene foodware</li> </ul> </li> </ul>	<p><b>Progress Report – May 8, 2012</b></p> <ul style="list-style-type: none"> <li>• Steering committee has met twice, stakeholder meetings in early August, community meetings in late August</li> <li>• CIP approved April 24.</li> <li>• See bi-annual update for progress on individual projects</li> <li>• Polystyrene Food Ware ban scheduled for July 31; and plastic bag ban is in process with County Draft EIR released and City outreach process moving forward.</li> </ul>
<p><b>Ongoing Goal</b></p> <p><b>3. Regional focus creating synergy of efforts on issues of mutual interest</b> Provide technical expertise and staff support to Council as they leverage regional partnerships with all levels of government</p>	<p><b>Proposed 2012 Deliverables (due on or before 1.13)</b></p> <p>Support to Council in focusing attention on issues related to BAWSCA</p> <p>Support to Council in focusing attention on issues related to Caltrain</p> <p>Support Council in focusing attention on issues related to SBWMA</p>	<p><b>Progress Report – May 8, 2012</b></p> <ul style="list-style-type: none"> <li>• Regular attendance at BAWSCA continues</li> <li>• Continued High Speed Rail Council Subcommittee meetings</li> <li>• Regular attendance at SBWMA continues. Recycling Cost Projections and Rate Impacts were presented on May 8<sup>th</sup></li> </ul>



	<p>Support Council in focusing attention on issues related to Fire District</p> <ul style="list-style-type: none"> <li>• Ensure Emergency Operations Plan remains NIMS compliant</li> <li>• Participate in ongoing emergency exercises</li> <li>• Take initial steps to develop a Community Disaster Committee</li> </ul>	<ul style="list-style-type: none"> <li>• Emergency preparedness study session this Fall will include updates on these items</li> <li>• Participated in County Wide Emergency Disaster Tabletop Exercise with Atherton and EPA on May 24<sup>th</sup></li> </ul>
	<p>Support Council in focusing attention on issues related to School Districts</p> <ul style="list-style-type: none"> <li>• Council approval of Joint Field Use Agreement with MPCSD</li> <li>• Resolve issues related to scheduling the PAC</li> </ul>	<ul style="list-style-type: none"> <li>• Agreement with MPSCD approved</li> <li>• New theater manager hired for PAC – Parks and Rec Council study session on this item scheduled for 7.25.12</li> </ul>
	<p>Support Council in focusing attention on issues related to San Francisco Creek JPA</p>	<ul style="list-style-type: none"> <li>• Recent presentation by Creek JPA staff. Meeting attendance continuing</li> </ul>
	<p>Support Council in focusing attention on issues related to HSR</p> <ul style="list-style-type: none"> <li>• Participate in regular PCC meetings</li> <li>• Monitor HSR activities and progress on Program &amp; Project EIRs</li> </ul>	<ul style="list-style-type: none"> <li>• Participation in PCC Meetings continuing</li> <li>• Recent letters and continuing participation in Atherton lawsuits</li> <li>• Continued High Speed Rail Council Subcommittee meetings</li> </ul>
	<p>Participate in the Grand Blvd Initiative</p>	<ul style="list-style-type: none"> <li>• Regular attendance at meetings</li> </ul>
	<p>Support Council in focusing on regional issues considered by CCAG to have an impact on Menlo Park</p>	<ul style="list-style-type: none"> <li>• Participate in the CCAG TAC and Board meetings by staff and Council</li> </ul>
	<p>Participate in development of the Sustainable Cities Strategy</p>	<ul style="list-style-type: none"> <li>• Staff participating in regular meetings</li> </ul>

<p><b>Ongoing Goal</b></p> <p>4. City services reflect an appropriate alignment of resources to services</p>	<p><b>Proposed 2012 Deliverables (due on or before 1.13)</b></p> <ul style="list-style-type: none"> <li>• Decisions are made on potential new service including Police / City Services Center and Flood Park</li> <li>• Confirm that existing services are staffed appropriately (ie NET, Library, new recreation facilities, etc) Consider volunteers</li> <li>• Determine efficient ways to increase transparency and communication (ie on-line records and social media)</li> </ul>	<p><b>Progress Report – May 8, 2012</b></p> <ul style="list-style-type: none"> <li>• County continues to express desire to retain Flood Park. Staff attending County study session on future of County parks on 7.31.</li> <li>• City Attorney resolving contract issues for Police Services Center for presentation to Successor Agency Oversight Board</li> <li>• Web site enhanced for easy access to existing social media, adding Open City Hall</li> <li>• Pilot for paperless agendas started July 1</li> <li>• Study session on community engagement model held on April 24</li> <li>• Summer Intern program in full swing</li> </ul>
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