



**CITY COUNCIL  
SPECIAL MEETING AGENDA**

Tuesday, August 28, 2012

6:00 p.m.

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

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**6:00 P.M. STUDY SESSION**

- SS1.** Discuss the City's Emergency Preparedness direction and readiness options  
([Staff report #12-130](#))

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

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

**PLEDGE OF ALLEGIANCE**

**ANNOUNCEMENTS**

**A. PRESENTATIONS AND PROCLAMATIONS – None**

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

**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.** Adopt a resolution authorizing the annual destruction of records ([Staff report #12-126](#))
- D2.** Waive second reading and adopt an ordinance adding Chapter 7.14 [Prohibition of the use of polystyrene based disposable food service ware by food vendors] to Title 7 of the Menlo Park Municipal Code ([Staff report #12-128](#))
- D3.** Adopt a resolution appropriating \$99,095 from the Transportation Impact Fee fund balance and award a contract to Golden Bay Construction, Inc. in the amount of \$107,398 for the Safe Routes to Hillview Middle School Project and authorize a total budget of \$144,988 for contingencies, inspection, testing and project management ([Staff report #12-127](#))
- D4.** Adopt a resolution accepting dedication of public access easements and authorize the City Manager to sign the Certificates of Acceptance for the 1906 El Camino Real Frontage Improvements Project ([Staff report #12-123](#))
- D5.** Waive the reading and adopt an ordinance rezoning properties at 50 Terminal Avenue and 1467 Chilco Street ([Staff report #12-124](#))

- D6.** Adopt a resolution appropriating \$47,461 from the Transportation Impact Fee fund balance and award a contract to Amland Corporation in the amount of \$45,239 for the Middlefield Road at Linfield Drive Lighted Crosswalk Improvement Project and authorize a total budget of \$61,073 for contingencies, inspection, testing and project management ([Staff report #12-131](#))
- D7.** Acting as the Board of the Successor Agency, approve an exclusive authorization to sell with Cassidy/Turley Commercial Real Estate Services for the sale of property located at 777-821 Hamilton Avenue and authorize the City Manager to execute the agreement on behalf of the Successor Agency ([Staff report #12-125](#))
- D8.** Accept Council minutes for the meeting of July 31, 2012 ([Attachment](#))

**E. PUBLIC HEARING**

- E1.** Consider an appeal of the Planning Commission's decision on July 9, 2012 to approve a use permit to locate a preschool at 695 Bay Road with up to 6 employees and 48 students in the C-2-A (Neighborhood Shopping District, Restrictive) zoning district that would operate Monday through Friday between the hours of 7:30 a.m. and 6:00 p.m. ([Staff report #12-129](#))

**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**

**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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[http://menlopark.granicus.com/ViewPublisher.php?view\\_id=2](http://menlopark.granicus.com/ViewPublisher.php?view_id=2)

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# POLICE DEPARTMENT

Council Meeting Date: August, 28, 2012  
Staff Report #: 12-130

Agenda Item #: SS-1

## STUDY SESSION: Discuss the City's Emergency Preparedness Direction and Readiness Options

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### BACKGROUND

Prior to FY 06-07, the police department had three commander positions with one of the commanders designated as the Emergency Services Coordinator. This commander was responsible for revising and updating of the City's Emergency Operation Plans, providing staff with training, collaborating with San Mateo County Office of Emergency Services and Menlo Park Fire District, and coordinating training exercises. During the FY 06-07 budget process, Council decided to eliminate a then vacant commander position. Due to the elimination of this position, emergency preparedness efforts ceased to exist for a few years.

In December of 2010, City Manager Glen Rojas named Commander Lacey Burt as the Emergency Services Coordinator and asked the police department to once again take the lead on emergency preparedness. A City-wide emergency preparedness committee was formed to assist with the efforts and the City's Housing Manager assisted Commander Burt for a short period of time. This effort, although piecemeal, allowed the City to regain compliance with State and Federal mandates and provided City staff with the opportunity to participate in some excellent training.

### ANALYSIS

Since December of 2010, the following emergency preparedness efforts have occurred in order to ready the City for a disaster.

- December 2010, Commander Burt was designated as the Emergency Services Coordinator
- December 2010 a working partnership was formed with Menlo Park Fire Department Emergency Services Manager, Ryan Zollicoffer
- January 2011 – a revised National Incident Management System (NIMS) compliant Emergency Operations Plan (EOP) was created and adopted
  - EOP Volume 1 is available to all City employees on the intranet
  - EOP Volume 2 is available to the public on the City's website
- March 2011 – The City executives and managers attended training on the EOP and the Incident Command System (ICS)

- May 2011: A County Wide full functional Emergency Operations Center (EOC) exercise was conducted with participation from most of the executive team
- Summer 2011: City staff attended training on personal readiness
- Summer 2011: An inventory of emergency supplies was conducted for each department
- October 2011: The Local Hazards Mitigation Plan (LHMP) was completed and adopted by Council
- November 2011: A training matrix was created for City staff
- January 2012: The mandated annual review of the EOP was conducted to ensure the contents remain valid and current
- May 2012: Training was provided to the Menlo Park, East Palo Alto, and Atherton leadership teams followed by a County wide training exercise. An EOC training exercise was conducted using a Multi-Agency Coordination System for the very first time.

Although much has been accomplished in a relatively short period of time there is still significant work that needs to be done. The top three future initiatives should be as follows:

1. Continue to train staff and identify key people who have the capacity to further their skills in specific ICS sections.
2. Identify and purchase supplies in order to sustain workers at all City facilities for up to 72 hours. I.e. first aid supplies, food, water, etc.
3. Work with MPFD to fully integrate the CERT program into the City's EOP especially into the response and recovery phases of an emergency.

## **IMPACT ON CITY RESOURCES**

Council's desired level of emergency management readiness will dictate the funding and staffing that would be required. The following are three readiness options for consideration:

### Option 1: Status Quo

Continue to assign a police commander the auxiliary duty of being the Emergency Services Coordinator with minimal support staff. This option will allow for the mandatory annual maintenance of the EOP in order to ensure it remains NIMS compliant, one annual city training exercise, training opportunities to be made available to City staff, and the continued working partnership with MPFD Emergency Services Manager.

### Option 2: Negotiate with Menlo Park Fire Department

Staff can negotiate a contract with MPFD's Emergency Services Manager to be the Emergency Services Coordinator for the City of Menlo Park. This would still require a liaison to be identified from the City to help coordinate training and other needs. However, this would ensure all of option 1 is completed and additional time spent on mitigation and planning.

Option 3: Hire a full time Coordinator

Identify and hire a full time Emergency Services Coordinator exclusively for the City of Menlo Park. This coordinator would be responsible for all four components of Emergency Management: Mitigation, Planning, Response, and Recovery.

**POLICY ISSUES**

Emergency response, like all governmental action is based legal authority. The City of Menlo Park Emergency Operation Plans must follow state and federal guidelines for conducting emergency operations planning, training, emergency response, and recovery. The first is to ensure the City of Menlo Park's EOP is designed to be consistent with Homeland Security Presidential Directive (HSPD-5), National Incident Management System (NIMS), and the California Standardized Emergency Management System (SEMS).

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Lacey Burt  
Police Commander

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Lee Violet  
Interim Police Chief

**PUBLIC NOTICE**

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

**ATTACHMENTS**

- A. NIMS Compliance Training Reference Chart
- B. CERT Program Overview



## NIMS Compliance Training Reference Chart

Number of required courses increases with level of position responsibility	<b>PERSONNEL</b> Includes Federal/State/Local/Private Sector and non-Governmental Personnel	<b>REQUIRED TRAINING</b> Courses listed below in <b>BOLD ITALICS</b> currently required for NIMS Compliance
<b>ICS 400 (Command)</b>  <b>Six Months after ICS 300 Completion</b>	<b>COMMAND AND GENERAL STAFF</b> Department heads with Multi-agency coordination system responsibilities, area commanders, emergency managers, multi-agency coordination center / emergency operations center managers	<ul style="list-style-type: none"> <li>• <b><i>FEMA IS 700a: NIMS, An Introduction</i></b></li> <li>• <b><i>FEMA IS 800b: National Response Framework (NRF)</i></b></li> <li>• <b><i>ICS 100: Introduction to ICS or equivalent</i></b></li> <li>• <b><i>ICS 200: Basic ICS or Equivalent</i></b></li> <li>• <b><i>ICS 300: Intermediate ICS or equivalent</i></b></li> <li>• <b><i>ICS 400: Advanced ICS or equivalent</i></b></li> <li>• <b><i>SEMS EOC/ Introduction to SEMS</i></b></li> </ul>
<b>ICS 300 / IS 800 SEMS EOC (Managers)</b>	<b>MIDDLE MANAGEMENT</b> Strike team leaders, task force leaders, unit leaders, division / group supervisors, branch directors, and multi-agency coordination center / emergency operations center staff	<ul style="list-style-type: none"> <li>• <b><i>FEMA IS 700a: NIMS, An Introduction</i></b></li> <li>• <b><i>FEMA IS 800 b: National Response Framework (NRF)</i></b></li> <li>• <b><i>ICS 100: Introduction to ICS or equivalent</i></b></li> <li>• <b><i>ICS 200: Basic ICS or Equivalent</i></b></li> <li>• <b><i>ICS 300: Intermediate ICS or equivalent</i></b></li> <li>• <b><i>SEMS EOC/ Introduction to SEMS</i></b></li> </ul>
<b>ICS 200 SEMS EOC (Supervisors)</b>	<b>FIRST LINE SUPERVISORS</b> Single resource leaders, field supervisors, and other emergency management / response personnel that require a higher level of NIMS training	<ul style="list-style-type: none"> <li>• <b><i>FEMA IS 700.a: NIMS, An Introduction</i></b></li> <li>• <b><i>ICS-100: Introduction to ICS or equivalent</i></b></li> <li>• <b><i>ICS-200: Basic ICS or equivalent</i></b></li> <li>• <b><i>SEMS EOC/ Introduction to SEMS</i></b></li> </ul>
<b>ICS 100 / IS 700 SEMS (Responders)</b>	<b>ENTRY LEVEL RESPONDERS &amp; DISASTER WORKERS</b> Emergency Medical Service, firefighting, law enforcement, hospital, public health, public works/utility, skilled support and other emergency management response, support & volunteer personnel at all levels	<ul style="list-style-type: none"> <li>• <b><i>FEMA IS 700.a: NIMS, An Introduction</i></b></li> <li>• <b><i>ICS-100: Introduction to ICS or equivalent</i></b></li> <li>• <b><i>Introduction to SEMS</i></b></li> </ul>

California recommends Standardized Emergency Management System courses at levels indicated.

FEMA Independent Study Program (for ICS/IS) courses can be found at: <http://training.fema.gov/IS/crslst.asp>

Standardized Emergency Management System courses can be found at: <http://www.calema.ca.gov/CSTI/Pages/SEMS-ACI-Training-Materials.aspx>

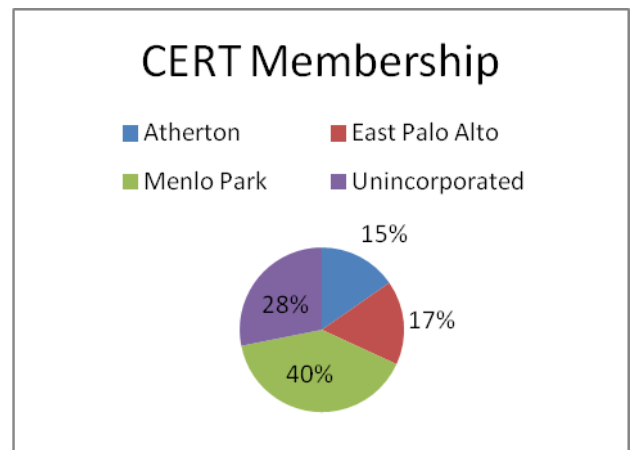
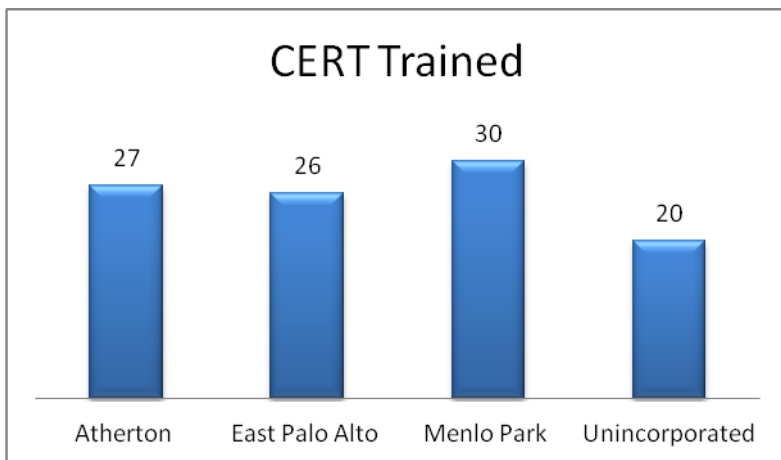


The Community Emergency Response Team concept was developed and implemented by the Los Angeles City Fire Department (LAFD) in 1985. The Whittier Narrows earthquake in 1987 underscored the area-wide threat of a major disaster in California. Further, it confirmed the need for training civilians to meet their immediate needs. As a result, many other national fire departments observed the tremendous benefits of such a program and slowly began their own program fostered upon the same approach.

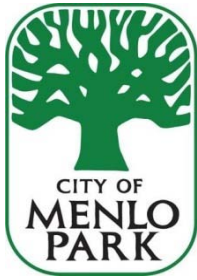
Menlo Park Fire Protection District established its Community Emergency Response Program more than 10 years ago. As of today there are more than 1,000 trained local CERT members within the Fire District. City of Menlo Park accounts for 40% of the membership within the District (refer to graph for more information).

Each year the Fire Districts prepares the CERT teams and the residents within the community to exercise their emergency readiness skills by participating in local, county and state disaster exercises. CERT members provide an additional layer of emergency readiness to city government in their ability to assist with damage assessment, first aid, shelter management, and light search and rescue operations for the community. The Fire District currently provides 3 classes each year or more in an effort of certifying more CERT members to continue this process of ensuring for the safety of the residents within the City of Menlo Park.

The CERT program course covers the following topics to aid in providing the fundamental skills one would need during a significant emergency (Disaster Preparedness, Disaster Fire Suppression, Disaster Medical Operations, Light Search and Rescue Operations, Disaster Psychology and Team Organization) in addition to such training, CERT members also have emergency caches within the city to support these operations. The placement of the emergency equipment for the CERT Teams are located at three different locations within the City of Menlo Park and these caches contain safety, rescue, shelter, medical and support supplies. City of Menlo Park in partnership with the Menlo Park Fire Protection District is committed to sustain a program that enables its residents to be disaster resilient and prepared for any emergency that threatens life, property, environment or the economical prosperity of the community.



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# ADMINISTRATIVE SERVICES DEPARTMENT

Council Meeting Date: August 28, 2012  
Staff Report #: 12-126

Agenda Item #: D-1

**CONSENT:**            **Approve a Resolution Authorizing the Destruction of Obsolete City Records**

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## RECOMMENDATION

Staff recommends approval of a resolution authorizing the destruction of obsolete City records for the Administrative Services, Community Services, Police and Public Works Departments, as specified in Resolution Exhibits A, B, C and D in accordance with Government Code sections 34090 and 34090.6 and Menlo Park Municipal Code section 2.54.

## BACKGROUND

The proposed resolution complies with the City's Records Retention Schedule adopted by the City Council on November 27, 2001 by Resolution 5351, amended on September 27, 2005 by Resolution 5625 and amended on November 15, 2011 by Resolution 6031. The program provides for the efficient and proper management and protection of the City's records. The program also allows for the destruction of records deemed obsolete according to the City's adopted Records Retention Schedule.

## ANALYSIS

Provided in Attachment A is an overview of the files being proposed for destruction including the year the records were created. A more detailed description is provided in Exhibit A to the Resolution (Attachment B). All records being requested are in compliance with the current Records Retention Schedule adopted by the City Council.

## IMPACT ON CITY RESOURCES

There would be a positive impact on office organization and the consistent destruction of obsolete records both on- and off-site and will provide additional records storage space.

## POLICY ISSUES

The proposed action is consistent with the City's current policy and adopted Records Retention Schedule.

## **ENVIRONMENTAL REVIEW**

The proposed action does not require environmental review.

Signature on File  
Margaret S. Roberts  
City Clerk

Signature on File  
Starla Jerome-Robinson  
Assistant 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: Description of records
- B: Resolution with exhibits

The following is a description of the records included on the Requests for Destruction of Obsolete Records:

## **ADMINISTRATIVE SERVICES**

### **City Clerk Division**

- Nomination file for unsuccessful candidates for the 2008 City Council election: Include nomination papers, candidate statements, Form 501 (Candidate Declaration), Form 700 and forms related to publishing information on the City and County websites
- Campaign Committee files – FPPC Election Forms (400 Series): Campaign Finance Reports for the committee(s) listed (years vary from 2002 – 2009)
- 2008 – 2009 Copies of Alcohol Beverage License applications: Copies sent from the Alcohol Beverage Control
- Appeals to Council from 2009
  - 515 El Camino Real (PC/CDP)
  - 220 Felton Dr. (EQC/Heritage tree)
  - 825 Santa Cruz (PC/Use Permit)
  - 1155 Santa Cruz (EQC/Heritage tree)
  - Petition of the Flood Triangle Community re Ringwood Ped Over Xing (Papers turned in with signatures of residents pertaining to a topic the Council is considering)
- Copies of budget for Fiscal year 2007-2008 and 2009
- 2009 Department copies of Cal Card invoices: Department copies (Not the office of record)
- 2009 Department copies of check requisitions: Department copies (Not the office of record)
- 2009 Department copies of petty cash vouchers: Department copies (Not the office of record)
- 2009 Department copies of receipts: Department copies (Not the office of record)
- 2010 Copies of Commission agendas: Department copies (Not the office of record)
- 2010 Commission applications Includes termed out, resigned or not appointed as of 2008: Original applications
- Past Commissioners Oath of Office through 2008: original oaths
- Copies of tentative calendars: copies of the weekly internal tentative calendar
- 2008-2010 Copies of Council agendas
- 2009 Council reorganization notices from other cities
- 2008-2009 Council correspondence: letters from City Council to other agencies
- 2008, 2009, January through June 2010 Citizen correspondence to City Council: copies of CCIN, letters addressed to Council
- 2009 Correspondence to City Clerk : both incoming, outgoing and email
- 2009 Proclamation requests
- 2009 Requests for Notification

## **Finance**

- ADP reports: payroll reports for 2003-2005
- Accounts payable: Check Requisitions, Vendor Invoices, Purchase Validations, Bid Waiver Forms, Closed Purchases Orders for 2004-2007
- Business License: Original Business License Application, Renewal Applications for 2006-2007
- Council Reports: Department copies for 07/2005-06/2008
- Cash vouchers: Revenue Account Posting Worksheet, Deposit Slip Copies, Credit Card Merchant Copies, and other supporting documents for 09/2006-12/2007
- Garbage Service order forms: Garbage service change forms, paid invoices and returned mail (undelivered yearly invoices) 07/2006-06/2007
- Journal vouchers: Report and supporting documents explaining the reason for making the JE for 06/2004-06/2007
- Purchase orders: Original purchase orders for 2002-2006
- Time cards: Original timecards for 08/2005-10/2007
- California Water service reports for 08/2005-09/2007

## **COMMUNITY SERVICES DEPARTMENT**

### **Belle Haven Child Development Center**

- 2005-2006 Attendance sheets: Sign in and out sheets used to track daily attendance
- 2007 Food Program / Meal Counts / Delivery Receipts: Previous food program contracts, reports, meal benefit forms for the children and notices of any changes or announcements for the food program, Receipts of food delivered from the food vendor
- 2006-2007 Children's DRDP (Desired Results Development Profile): Assessments that are mandated to use to assess all children twice a year
- 2006-2007 Parent Surveys: Surveys returned by parents
- 2006-2007 Children Files: Files of children previously in the program

### **Menlo Children's Center**

- 1998-2005 Family files: Files of children previously in the program
- 1990-2001 Employee files: Department files (not the office of record)
- 1998-2010 Sign in / Sign Out sheets: Sheets used to track daily attendance

## **Onetta Harris Community Center**

- 1994-2001 Money Receipts: Receipts from deposit books or receipt books for City programming
- 1999-2008 Deposit Records: paper work that goes with money when we do our weekly deposits
- 1994-1995 & 1998 Cash Vouchers: Deposit records submitted to finance
- 1994-1997 Rentals: Application forms for customers reserving a room, field or picnic area
- 1996 Check Requests: Department copies (Not the office of record)
- 1999 Community Services Info: Information regarding programming or projects that took place at OHCC many years ago
- 1998-1999 Costco Invoices: Department copies (Not the office of record)
- 1994 Balance Book: an old binder/book that had records/ transactions

## **POLICE DEPARTMENT**

### **Administration**

- Supervisor report: Reports by supervisor for specific types of incidents for reports prior to August 7, 2010
- Internal Investigation: Files related to an internal investigation for 06/28/2005, 11/23/2005, 08/29/2006 and 06/28/2006

### **Records**

- Police Reports: Reports taken by officers in the field from 01/01/2003 thru 12/31/2004

## **PUBLIC WORKS**

### **Engineering**

- 2008-2009 Encroachment Permits: Temporary permits allowing access to property

**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK  
AUTHORIZING THE DESTRUCTION OF OBSOLETE CITY RECORDS**

WHEREAS, the City of Menlo Park has an adopted Records Retention Schedule adopted on November 27, 2001, by City Council Resolution Number 5351 and amended on November 15, 2011, by City Council Resolution Number 6031; and

WHEREAS, Section 2.54.110 of the Menlo Park Municipal governs the destruction of public records; and

WHEREAS, the City's Records Management Program provides for the efficient and proper management and protection of the City's records and allows for the destruction of records deemed obsolete according the City's adopted Records Retention Schedule.

NOW, THEREFORE BE IT RESOLVED, that the City of Menlo Park, acting by and through its City Council, having considered and been fully advised in the matter and good cause appearing therefore do hereby authorizes the destruction of the obsolete records described in Exhibits A, B, C and D, Requests for Destruction of Obsolete Records, attached hereto and incorporated herein by this reference.

BE IT FURTHER RESOLVED, that once the records are destroyed, the City Clerk will maintain all original Certificates of Destruction.

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 twenty-eighth day of August, 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 twenty-eighth day of September, 2012.

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Margaret S. Roberts, MMC  
City Clerk



## REQUEST FOR DESTRUCTION OF OBSOLETE RECORDS

Date: August 23, 2012

Page: 1

Department: Administrative Services / City Clerk Division

Current retention schedules show that the records listed below are now ready for destruction. Authorization by the parties listed below provides written consent to destroy these obsolete records in accordance with the retention schedule established by Council Resolution and in accordance with Government Code Section 34090 and 34090.6.

RECORD TITLE	CONTAINER	DATES	RETENTION PERIOD
Nomination file for unsuccessful candidates for the 2008 City Council election – Rick Ciardella, Garrett Gafke, Jeff Jahnke, Ronald Sheperd	File room: Box - 'Clerk Destruction Aug 2012 '	2008	Election + 4 years
Campaign Committee file - Friends of Derry Lane - ID#1290892	Same	2006-2007	Election + 4 years
Campaign Committee file – Menlo Park Residentialists - ID# 1250483	Same	2002-2008	Election + 4 years
Campaign Committee file – Menlo Park Tomorrow - ID# 128314	Same	2006-2008	Election + 4 years
Campaign Committee file – Yes on K: Menlo Park UUT - ID# 1254237	Same	2006-2007	Election + 4 years
Campaign Committee file – Bayfront Park Coalition: No on Measure J ID # 1289193	Same	2006-2007	Election + 4 years
Campaign Committee file – Ciardella “Vote for Rick” - ID# 1309861	Same	2008	Election + 4 years
Campaign Committee file – Fergusson for Supervisor Exploratory Committee ID# 1301883	Same	2008	Election + 4 years
Campaign Committee file – Menlo Park Matters - ID# 1254237	Same	2003-2009	Election + 4 years
Copies of Alcohol Beverage License applications	Same	2008, 2009	When no longer needed
Appeals to Council - 515 El Camino Real (PC/CDP) - 220 Felton Dr. (EQC/Heritage tree) - 825 Santa Cruz (PC/Use Permit) - 1155 Santa Cruz (EQC/Heritage tree) - Petition of the Flood Triangle - Community re Ringwood Ped Over Xing	Same	2009	2 years
Copies of budget	Same	FY 07-08, 08-09	2 years
Department copies of Cal Card invoices	Same	2009	When no longer needed (Min. 1 year)



# REQUEST FOR DESTRUCTION OF OBSOLETE RECORDS

Date: August 16, 2012

Page: 1 of 1

Department: Finance

Current retention schedules show that the records listed below are now ready for destruction. Authorization by the parties listed below provides written consent to destroy these obsolete records in accordance with the retention schedule establish by Council Resolution and in accordance with Government Code Section 34090 and 34090.6.

RECORD TITLE	CONTAINER	DATE	RETENTION PERIOD
<b>ADP reports</b>	4 boxes (#201-05-378 to 201-05-380, 201-09-525)	2003-2005	7
<b>Account payable</b>	15 boxes (#201-09-496 to 201-09-500, 201-09-503 to 201-09-504, 201-09-506 to 201-09-508, 201-09-510 to 201-09-512, 201-09-515 to 201-09-516)	2004-2007	5
<b>Business license</b>	3 boxes (#201-08-470, 201-08-509, 201-09-513)	2006-2007	5
<b>Council reports</b>	1 box (#201-09-495)	7/2005-6/2008	5
<b>Cash vouchers</b>	5 boxes (#201-09-517 to 201-09-520, 201-09-523)	9/2006-12/2007	5
<b>Garbage service order forms</b>	1 box (#201-07-440)	7/2006-6/2007	5
<b>Journal vouchers</b>	2 boxes (#201-10-555 to 201-10-556)	6/2004-6/2007	5
<b>Purchase orders</b>	1 box (#201-11-574)	2002-2006	5
<b>Time cards</b>	9 boxes (#201-08-477 to 201-08-478, 201-09-527 to 201-09-533)	8/2005-10/2007	5
<b>California Water service reports</b>	2 boxes (#201-09-521 to 201-09-522)	08/2005-09/2007	5

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Department Head

\_\_\_\_\_  
Date

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City Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
City Clerk for Council

\_\_\_\_\_  
Date

## REQUEST FOR DESTRUCTION OF OBSOLETE RECORDS

Date: July 6, 2012

Page: 1

Department: Community Services / CDC

Current retention schedules show that the records listed below are now ready for destruction. Authorization by the parties listed below provides written consent to destroy these obsolete records in accordance with the retention schedule established by Council Resolution and in accordance with Government Code Section 34090 and 34090.6.

RECORD TITLE	CONTAINER	DATES	RETENTION PERIOD
Attendance Sheets	CSD / BHCDC - Box 1	FY: 2006-2007	5 years
Food Program/ Meal Counts/ Delivery Receipts	CSD / BHCDC - Box 1	2007	5 years
Children's DRDP Assessments	CSD / BHCDC – Box 2	FY: 2006-2007	5 years
Parent Surveys	CSD / BHCDC – Box 2	FY: 2006-2007	5 years
Children Files	CSD / BHCDC – Box 3	FY: 2006-2007	5 years

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City Clerk for Council

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# REQUEST FOR DESTRUCTION OF OBSOLETE RECORDS

Date: August 9, 2012

Page: 1

Department: Community Services - MCC

Current retention schedules show that the records listed below are now ready for destruction. Authorization by the parties listed below provides written consent to destroy these obsolete records in accordance with the retention schedule establish by Council Resolution and in accordance with Government Code Section 34090 and 34090.6.

RECORD TITLE	CONTAINER	DATES	RETENTION PERIOD
Family Files	Container 1-MCC	2003-2004	5 years
Family Files	Container 2-MCC	1998-2002	5 years
Employee Files	Container 3-MCC	1990-2001	10 years
Family Files	Container 3-MCC	2005	5 years
Sign In/Out Sheets	Container 4-MCC	January 1998, 1999,2005, 2006, 2008, 2010	2 years
Sign In/Out Sheets	Container 4-MCC	February 1999, 2000, 2004, 2006, 2006, 2008, 2009, 2010	2 years
Sign In/Out Sheets	Container 4-MCC	March 1998, 2000, 2001, 2004, 2005, 2006, 2008, 2010	2 years
Sign In/Out Sheets	Container 4-MCC	April 1998, 1999, 2001, 1003, 2006, 2008	2 years
Sign In/Out Sheets	Container 4-MCC	May 1999, 2000, 2001, 2003, 2005, 2006, 2008	2 years
Sign In/Out Sheets	Container 4-MCC	June 2001,2002,2004,2005	2 years
Sign In/Out Sheets	Container 4-MCC	July 2004,2005	2 years
Sign In/Out Sheets	Container 4-MCC	August 1999,2000,2001,2004,2005	2 years
Sign In/Out Sheets	Container 4-MCC	September 1999, 2000, 2004, 2005	2 years
Sign In/Out Sheets	Container 4-MCC	October 1999,2000,2001,2004,2005	2 years
Sign In/Out Sheets	Container 4-MCC	November 2000,2004,2005	2 years
Sign In/Out Sheets	Container 4-MCC	December 2000,2004,2005	2 years

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Department Head

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City Clerk for Council

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# REQUEST FOR DESTRUCTION OF OBSOLETE RECORDS

Date: 8/10/12

Page: 1

Department: Community Services - OHCC

Current retention schedules show that the records listed below are now ready for destruction. Authorization by the parties listed below provides written consent to destroy these obsolete records in accordance with the retention schedule establish by Council Resolution and in accordance with Government Code Section 34090 and 34090.6.

RECORD TITLE	CONTAINER	DATES	RETENTION PERIOD
Money Receipts	CSD/OHCC1	1996	When no longer needed
Money Receipts	CSD/OHCC1	1994-2001	When no longer needed
Deposit Records	CSD/OHCC1	1999-2008	When no longer needed
Cash Vouchers	CSD/OHCC1	1994-1995 & 1998	When no longer needed
Rentals	CSD/OHCC1	1994-1997	When no longer needed
Check Requests	CSD/OHCC1	1996	When no longer needed
Community Svc Info	CSD/OHCC1	1999	When no longer needed
Costco Invoices	CSD/OHCC1	1998-1999	When no longer needed
CSD – balance book	CSD/OHCC1	1994	When no longer needed

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City Clerk for Council

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## REQUEST FOR DESTRUCTION OF OBSOLETE RECORDS

Date: August 6, 2012

Page: 1

Department: Police - Administration

Current retention schedules show that the records listed below are now ready for destruction. Authorization by the parties listed below provides written consent to destroy these obsolete records in accordance with the retention schedule establish by Council Resolution and in accordance with Government Code Section 34090 and 34090.6.

RECORD TITLE	CONTAINER	DATES	RETENTION PERIOD
All internal Supervisor Reports with a disposition date prior to August 7, 2010	Administrative Sergeant's Locked Filing Cabinet		2 years
Internal Investigation #05-02	Administrative Sergeant's Locked Filing Cabinet	June 28, 2005	6 Years
Internal Investigation #05-04 and related material	Administrative Sergeant's Locked Filing Cabinet	November 23, 2005	6 Years
Internal Investigation #05-05	Administrative Sergeant's Locked Filing Cabinet	August 29, 2006	6 Years
Internal Investigation #06-01 and related civil suit material	Administrative Sergeant's Locked Filing Cabinet	June 28, 2006	6 years

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City Clerk for Council

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Date

# REQUEST FOR DESTRUCTION OF OBSOLETE RECORDS

Date: August 6, 2012

Page: 1

Department: Police

Current retention schedules show that the records listed below are now ready for destruction. Authorization by the parties listed below provides written consent to destroy these obsolete records in accordance with the retention schedule establish by Council Resolution and in accordance with Government Code Section 34090 and 34090.6.

RECORD TITLE	CONTAINER	DATES	RETENTION PERIOD
Police Reports for year <b>2003</b> : ALL-except those otherwise specifically mentioned in the City retention schedule and City Attorney retention document	Police Records rear shelf area	1/1/2003 thru 12/31/2003	7 years
Police Reports for year <b>2004</b> : ALL-except those otherwise specifically mentioned in the City retention schedule and City Attorney retention document	Police Records rear shelf area	1/1/2004 thru 12/31/2004	7 years

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City Clerk for Council

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## REQUEST FOR DESTRUCTION OF OBSOLETE RECORDS

Date: July 23, 2012

Page: 1

Department: Public Works-Engineering

Current retention schedules show that the records listed below are now ready for destruction. Authorization by the parties listed below provides written consent to destroy these obsolete records in accordance with the retention schedule established by Council Resolution and in accordance with Government Code Section 34090 and 34090.6.

RECORD TITLE	CONTAINER	DATES	RETENTION PERIOD
Encroachment Permits (temporary; construction street openings, sidewalk ramps, Debris Boxes, Temporarily lane closures, etc.)	Drawer 1 - Engineering	2008-2009	3 years

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City Clerk for Council

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## PUBLIC WORKS DEPARTMENT

Council Meeting Date: August 28, 2012  
Staff Report #: 12-128

Agenda Item #: D-2

**CONSENT CALENDAR: Waive Second Reading and Adopt an Ordinance Adding Chapter 7.14 [Prohibition of the Use of Polystyrene Based Disposable Food Service Ware by Food Vendors] to Title 7 of the Menlo Park Municipal Code**

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### RECOMMENDATION

Staff recommends that the City Council waive the second reading and adopt the ordinance adding Chapter 7.14 [Prohibition of the Use of Polystyrene Based Disposable Food Service Ware by Food Vendors] to Title 7 [Health and Sanitation] of the Menlo Park Municipal Code.

### BACKGROUND

In March 2012, City Council held a study session to consider regulating disposable Polystyrene food ware distributed by food vendors. Council was generally supportive of adopting San Mateo County's existing Polystyrene food ware ordinance (Attachment B) by reference. Council also directed staff to provide community engagement opportunities to food vendors and the general public before considering adoption of an ordinance. On July 31 2012, the City Council held a public hearing to introduce San Mateo County's ordinance by adding Chapter 7.14 [Prohibition of the Use of Polystyrene Based Disposable Food Service Ware by Food Vendors] to Chapter 7 of the Menlo Park Municipal Code (Attachment A).

### ANALYSIS

The ordinance would prohibit food vendors, including restaurants, deli's, 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 sold 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.

### Next Steps

If adopted by City Council at the August 28, 2012 meeting, the ordinance will become effective on November 1, 2012. The City's Environmental Program staff and the

County's Environmental Health staff will coordinate an education and outreach effort to inform food vendors of the new requirements and compliance 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 because the County's Environmental Health Department will provide outreach and enforcement to food vendors in Menlo Park at no cost to the City. 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 ordinance's effective 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. Ordinance adding Chapter 7.14 Prohibition of the Use of Polystyrene Based Disposable Food Service Ware by Food Vendors
- 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 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 twenty-eighth day of August, 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.

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# PUBLIC WORKS DEPARTMENT

Council Meeting Date: August 28, 2012  
Staff Report #: 12-127

Agenda Item #: D-3

**CONSENT CALENDAR: Adopt a Resolution Appropriating \$99,095 from the Transportation Impact Fee Fund Balance and Award a Contract to Golden Bay Construction, Inc. in the amount of \$107,398 for the Safe Routes to Hillview Middle School Project, and authorize a Total Budget of \$144,988 for Contingencies, Inspection, Testing, and Project Management**

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## RECOMMENDATION

Staff recommends that the City Council adopt a resolution appropriating \$99,095 from the Transportation Impact Fee Fund balance and award a contract to Golden Bay Construction, Inc. in the amount of \$107,398 for the Safe Routes to Hillview Middle School Project, and authorize a total budget of \$144,988 for contingencies, inspection, testing, and project management.

## BACKGROUND

On numerous occasions, staff has received requests from residents and parents of Hillview Middle School students to enhance the marked crosswalks on Santa Cruz Avenue, especially the ones near the 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 their 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 (SRTS) 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 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**

On July 6, 2012, the City advertised the project for bids from qualified contractors. The bids for the project were opened on July 31, 2012. Three bids were received from qualified contractors, Golden Bay Construction, Inc., Guerra Construction Group, and J.J.R. Construction, Inc. Golden Bay Construction, Inc. was the lowest bidder in the amount of \$107,398. Unfortunately, the bid was over the Engineer's estimated budget for construction by \$60,000. The main difference between the lowest bid and the Engineer's estimate was the escalated installation costs for the lighted crosswalk systems. The cost for installation has more than doubled. The Engineer's estimate used unit costs from installations of previous lighted crosswalks in the City in the past three to four years. Staff contacted the Contractor to verify that their bid was for installation of city-furnished material and they confirmed that this is the going rate for installation of the system. Staff also contacted other cities, such as Atherton and Pleasant Hill, who have recently installed similar systems and they have experienced similar price escalation costs from other Contractors for installing lighted crosswalk systems on their projects. Staff proposes to fund the difference with Transportation Impact Fee funds.

## IMPACT ON CITY RESOURCES

Staff received grant funding in the amount of \$143,000. With the City purchased equipment and consultant design fees, the estimated project balance is \$45,893. Staff recommends the remainder of the total project cost (\$99,095) be funded through the Transportation Impact Fee funds. There is approximately \$3,000,000 remaining in the Transportation Impact Fee fund balance to date. This project includes sidewalk curb ramps, pedestrian bulb-outs and lighted crosswalk systems, which are consistent with the traffic calming and sidewalk improvement categories in the Transportation Impact Fee types of projects.

The following is a breakdown of estimated construction costs:

Construction contract	\$107,398
Contingency	\$ 16,110
Inspection, Testing and Project Management	\$ 21,480
<b>Total Construction Budget</b>	<b>\$144,988</b>

The expense breakdown is as follows:

Original Budget	\$143,000
City purchased equipment	- \$61,000
Design and surveying fees	- \$36,107
Project remaining balance	\$45,893

The proposed funding is as follows:

Project remaining balance	\$45,893
Transportation Impact Fee funds	\$99,095
<b>Total Funding</b>	<b>\$144,988</b>

## ENVIRONMENTAL REVIEW

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

Signature on File  
Atul Patel  
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
- B. Bid Summary

**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK AUTHORIZING APPROPRIATION OF \$99,095 FROM THE TRANSPORTATION IMPACT FEE FUND BALANCE AND AWARD A CONTRACT TO GOLDEN BAY CONSTRUCTION, INC. 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 \$107,398 AND AUTHORIZE A TOTAL BUDGET OF \$144,988 FOR CONTINGENCIES, INSPECTION, TESTING AND PROJECT MANAGEMENT**

WHEREAS, plans and specifications, dated July 3, 2012 were prepared and approved by the Engineering Services Manager for the Pedestrian and Bicycle Safety Improvements for Safe Routes to Hillview School Project described above and on file in the office of the Engineering Services Manager; and

WHEREAS, a schedule of prevailing wage scales for each craft or type of workman needed to execute these plans and specifications in the locality in which said work is to be performed has been established by the Department of Industrial Relations and has been referred to in said plans and specifications; and

WHEREAS, the Transportation Division did issue a call for sealed proposals to be received at the office of the Transportation Division, City of Menlo Park administration building, 701 Laurel Street, Menlo Park, CA, until the hour of 2:00 p.m., Thursday, July 31, 2012; and

WHEREAS, the Transportation Division did cause the notice inviting sealed proposals to be published three (3) times in *The Daily News*, a newspaper printed and published in this County; and

WHEREAS, said bids were then publicly opened and declared in the Transportation Division office; and

WHEREAS, the Transportation Division has caused an analysis of said sealed proposals to be made by the Engineering Services Manager for the City of Menlo Park, and has, in open session, fully reviewed and considered said proposals and the analysis thereof; and

WHEREAS, the lowest responsible bid was submitted by Golden Bay Construction, Inc. in the amount of one hundred and seven thousand three hundred ninety eight (\$107,398.00) based on an estimate of the amount of work to be done:



NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Menlo Park that the City Council does hereby authorize the appropriation of \$99,095 from the Transportation Impact Fee fund balance for construction, engineering, and administration for constructing the improvements shown on the plans and specifications for the Safe Routes to Hillview Middle School Project (Project); and

BE IT FURTHER RESOLVED, that said City Council does hereby approve the project plans and specifications and award the project to Golden Bay Construction, Inc. and execute the necessary construction agreements for the Safe Route to Hillview Middle School Project (City Project No. 70-065, Federal Project No. SRTSL-5273(017)) in an amount not to exceed \$107,398 and authorize a total budget of \$144,988 for contingencies, inspection, testing, and project management.

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 twenty-eighth day of August, 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 twenty-eighth day of August, 2012.

Margaret S. Roberts, MMC  
City Clerk

# Bid Summary

## Safe Routes to Hillview Middle School

**BID OPENING DATE: July 31, 2012**

	<b>CONTRACTOR</b>	<b>BID AMOUNT</b>
1.	Golden Bay Construction, Inc.	\$107,398
2.	J.J.R. Construction, Inc.	\$137,340
3.	Guerra Construction Group	\$147,930



# PUBLIC WORKS DEPARTMENT

Council Meeting Date: August 28, 2012

Staff Report #: 12-123

Agenda Item #: D-4

**CONSENT CALENDAR: Adopt a Resolution Accepting Dedication of Public Access Easements and Authorize the City Manager to Sign the Certificates of Acceptance for the 1906 El Camino Real Frontage Improvements Project**

---

## RECOMMENDATION

Staff recommends that the City Council adopt a resolution (Attachment A) accepting dedication of two (2) Public Access Easements and authorize the City Manager to sign the certificates of acceptance for the 1906 El Camino Real frontage improvements project.

## BACKGROUND

In 2008, the City approved construction of a new two-story, 9,825 square-foot office building for medical/dental office use at 1906 El Camino Real. The Conditions of Approval for the project included construction of frontage improvements including all new curb, gutter, driveways and the construction of a new concrete sidewalk on the applicant's property along El Camino Real and Watkins Avenue. The approved site layout for the project required a detached sidewalk for most of the project's frontage along El Camino Real and Watkins Avenue, with a small portion of attached sidewalk near the intersection of El Camino Real and Watkins Avenue. All of the detached sidewalk falls within the applicant's private property, while the portion of attached sidewalk falls within the existing right-of-way along El Camino Real.

## ANALYSIS

As a condition of the use permit, the applicant was required to provide public pedestrian access along the El Camino Real and Watkins Avenue frontages of their property. Since the new detached portions of the public sidewalk are located within the applicant's private property, Public Access Easements are required to allow the public to use the sidewalk. The easement dedications are shown in Attachment B. The portion of attached sidewalk along El Camino Real is within the existing right-of-way and therefore does not require an easement from the property owner.

All improvements have been constructed. Acceptance and recordation of the easement dedications is a condition of final inspection for the project and for occupancy of the building.

### **IMPACT ON CITY RESOURCES**

The staff time associated with review and acceptance of the easement dedications and access agreement are fully recoverable through fees collected from the applicant.

### **POLICY ISSUES**

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

### **ENVIRONMENTAL REVIEW**

Environmental review is not required for this action. A Mitigated Negative Declaration was prepared for the project and certified by the City Council on January 8, 2008.

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. Public Access Easements

**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK ACCEPTING PUBLIC ACCESS EASEMENTS AND AUTHORIZING THE CITY MANAGER TO SIGN THE CERTIFICATE OF ACCEPTANCE FOR THE 1906 EL CAMINO REAL FRONTAGE IMPROVEMENTS PROJECT**

WHEREAS, the 1906 El Camino Real Frontage Improvements Project consists of construction of new concrete curb, gutter, driveways and sidewalk along El Camino Real and Watkins Avenue; and

WHEREAS, the Project includes the construction of a new concrete sidewalk on the property along El Camino Real and Watkins Avenue; and

WHEREAS, as a condition of the use permit to provide public pedestrian access along the El Camino Real and Watkins Avenue frontages; and

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

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby accepts the required Public Access Easements along the southerly and westerly edges of the property at 1906 El Camino Real and are attached hereto as Exhibits A and B and incorporated herein by this reference; and

BE IT FURTHER RESOLVED, that the City Council authorizes the City Manager to sign the Certificates of Acceptance 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 twenty-eight day of August, 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 this twenty-eight day of August, 2012.

Margaret S. Roberts, MMC  
City Clerk

**RECORDING REQUESTED BY**

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

**WHEN RECORDED MAIL TO**

City of Menlo Park  
701 Laurel Street  
Menlo Park, CA 94025  
Attn: City Clerk

---

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Documentary Transfer Tax: \$-0- No apparent value  
"No fee required" (Government Code Section 6103 & 27383)  
Recorded for the benefit of the City of Menlo Park.

**PUBLIC ACCESS EASEMENT**

Atherton Financial Building LLC, a California limited liability company (hereinafter "Grantor") is the owner of certain real property situated in the City of Menlo Park, County of San Mateo, California, and more commonly known as 1906 El Camino Real, Assessor Parcel Number 060-333-150 (hereafter referred to as the "Servient Tenement").

**Grant of Easement**

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Grantor hereby grants to the City of Menlo Park, a municipal corporation, in the County of San Mateo, State of California ("Grantee") an easement and right-of-way for public access purposes, including the right of ingress and egress, over, under and across a portion of the Servient Tenement being that certain real property ("Property") situated in said City of Menlo Park and more particularly described and shown in Exhibit A and B, attached hereto and incorporated herein by this reference.

**Term**

This easement is granted in perpetuity.

**Maintenance**

Grantor is responsible for maintaining and repairing the Property, including, without limitation, the sidewalk located on the Property, in accordance with City of Menlo Park Municipal Code Title 13.

**Nonexclusive Easement**

The easement granted in this Agreement is nonexclusive. Grantors retain the right to make any use of the Servient Tenement, including the right to grant concurrent easements in the Servient Tenement to third parties that does not interfere unreasonably with Grantees' free use and enjoyment of the easement.

Reserving to Grantor the continued use of the real property that is subject to the easement granted herein, Grantor agrees for itself, its successors and assigns, not to erect, place or maintain, nor to permit the erection, placement, or maintenance of any buildings, structures or similar improvements that would unreasonably interfere with the ability of Grantee to exercise the access rights granted herein.

Dated 7/17/12

Atherton Financial Building LLC  
A California Limited Liability Company

By: LUCY GAO  
Managing Member



State of California

County of Los Angeles

On July 17, 2012 before me, Helena Chang, a notary public, personally appeared Lucy Gao 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/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

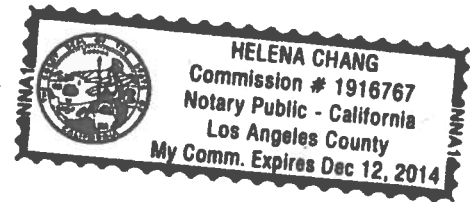
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)





**EXHIBIT "A"**  
**Legal Description**

**PUBLIC ACCESS EASEMENT**  
**1906 El Camino Real, Menlo Park, Ca 94027**  
**(Along El Camino Real)**

Real property situate in the City of Menlo Park, County of San Mateo, State of California, described as follows:

Being a portion of Lots 2, 3 and 4 in Block C, as shown on that certain Map, Entitled "Map Of Menlo Park Villa Lots", filed June 14, 1888, in Volume 6 of Miscellaneous Records at Page 295, and copied into Book 1 of Maps at Page 93, Records of San Mateo County, more particularly described as follows;

**BEGINNING** at the most southerly corner of said Lot 2, said corner being also on the northeasterly line of El Camino Real (State Highway 82);

Thence leaving said corner and along the southwesterly line of said Lots 2, 3 and 4, North 58°18'36" West, 146.16 feet;

Thence leaving said southwesterly line, the following four (4) courses:

- 1) North 31°41'24" East, 6.00 feet;
- 2) South 58°18'36" East, 125.16 feet;
- 3) South 31°41'24" West, 0.50 feet;
- 4) South 58°18'36" East, 21.00 feet to the southeasterly line of said Lot 2;

Thence along said southeasterly line, South 31°41'24" West, 5.50 feet to the point of **BEGINNING**.

Containing an area of 866 square feet or 0.020 acres, more or less.

Being a portion of Assessor's Parcel Numbers 060-333-150 and 060-333-160.

**As shown on Exhibit "B" attached hereto and made a part hereof.**

For: BKF Engineers

By: 

Davis Thresh, P.L.S. No. 6868  
License expires: 09-30-2012



Date: 07-19-2011

LOT 6

LOT 31

MAP OF MENLO PARK VILLA LOTS LOT 32

J M 93  
BLOCK C

LOT 5

LOT 4

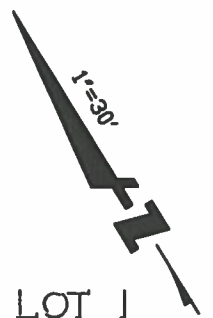
LOT 3

LOT 2

LOT 1

APN 060-333-160

APN 060-333-150



SEE DETAIL BELOW

PUBLIC ACCESS EASEMENT  
866 sq.ft.± 0.020 acres±

S 58°18'36" E 125.16'  
N 58°18'36" W 146.16'

6.00'

L2

5.50'

L3

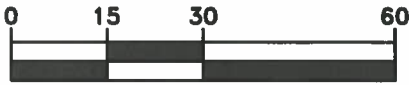
S 58°18'36" E 21.00'

POINT OF BEGINNING

EL CAMINO REAL  
(STATE HWY. 82)

- LEGEND
- APN - ASSESSOR'S PARCEL NUMBER
  - M - BOOK OF MAP
  - (R) - RADIAL BEARING
  - P.A.E. - PUBLIC ACCESS EASEMENT

LINE TABLE		
LINE	BEARING	LENGTH
L1	N 31°41'24" E	6.00'
L2	S 31°41'24" W	0.50'
L3	S 31°41'24" W	5.50'



SCALE IN FEET

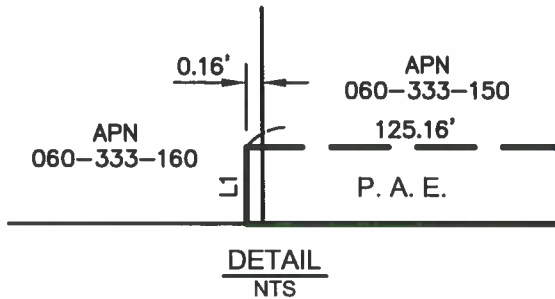


EXHIBIT "B"

PLAT TO ACCOMPANY LEGAL DESCRIPTION

MENLO PARK, SAN MATEO COUNTY, CALIFORNIA  
K:\SUR06\066041\DWG\PLATS\PAE\_EL CAMINO.dwg



1650 TECHNOLOGY DRIVE  
SUITE 650  
SAN JOSE, CA 95110  
408-467-9100  
408-467-9199 (FAX)

Subject PUBLIC ACCESS EASEMENT  
1906 EL CAMINO REAL, MENLO PARK, CA  
Job No. 20066041-65  
By RL Date 07-19-11 Chkd. \_\_\_\_\_  
SHEET 1 OF 1

**EXHIBIT "A"**  
**Legal Description**

**PUBLIC ACCESS EASEMENT**  
**1906 El Camino Real, Menlo Park, Ca 94027**  
**(Along Watkins Avenue)**

Real property situate in the City of Menlo Park, County of San Mateo, State of California, described as follows:

Being a portion of Lot 5 in Block C, as shown on that certain Map, Entitled "Map Of Menlo Park Villa Lots", filed June 14, 1888, in Volume 6 of Miscellaneous Records at Page 295, and copied into Book 1 of Maps at Page 93, Records of San Mateo County, more particularly described as follows;

Beginning at the most westerly corner of said Lot 5, said corner being also at the intersection of the northeasterly line of El Camino Real (State Highway 82) with the southeasterly line of Watkins Avenue, being 60 feet in width, as shown on said Map (1 M 93);

Thence leaving said corner and along the southwesterly line of said Lot 5, South 58°18'36" East, 8.40 feet to the beginning of a non-tangent curve, concave to the northeast, having a radius of 25.00 feet, from which a radial line bears North 73°18'22" East, said point being also the **TRUE POINT OF BEGINNING** of this description;

Thence leaving said point, the following two (2) courses:

- 1) Northerly along said curve, through a central angle of 20°01'34", for and arc length of 8.74 feet;
- 2) North 31°41'24" East, 118.18 feet to the northeasterly line of said Lot 5;

Thence along said northeasterly line, South 58°18'36" East, 5.00 feet;

Thence leaving said northeasterly line, the following three (3) courses:

- 1) South 31°41'24" West, 111.97 feet to the beginning of a tangent curve to the left, having a radius of 10.00 feet;
- 2) Southeasterly along said curve, through a central angle of 38°56'33", for an arc length of 6.80 feet to the beginning of a compound curve, concave to the northeast, having a radius of 19.00 feet;
- 3) Southeasterly along said curve, through a central angle of 40°41'51", for an arc length of 13.50 feet to said southwesterly line of said Lot 5;


Thence along said southwesterly line, North 58°18'36" West 13.19 feet to the **TRUE POINT OF BEGINNING** of this description.

Containing an area of 656 square feet or 0.015 acres, more or less.

Being a portion of Assessor's Parcel Number 060-333-160.

**As shown on Exhibit "B" attached hereto and made a part hereof.**

For: BKF Engineers

By:   
Davis Thresh, P.L.S. No. 6868  
License expires: 09-30-2012



Date: 06-13-2011

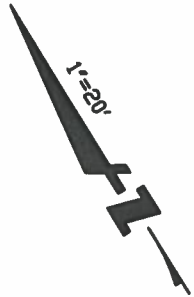
LEGEND  
 APN - ASSESSOR'S PARCEL NUMBER  
 M - BOOK OF MAPS  
 (R) - RADIAL BEARING

WATKINS AVENUE  
 (60' WIDE)

APN 060-333-160      APN 060-333-150  
 MENLO PARK VILLA LOTS  
 J M 93  
 BLOCK C  
 LOT 5      LOT 4

LINE TABLE		
LINE	BEARING	LENGTH
L1	S 58°18'36" E	8.40'
L2	S 58°18'36" E	5.00'
L3	N 58°18'36" W	13.19'

CURVE TABLE			
CURVE	RADIUS	DELTA	LENGTH
C1	25.00'	20°01'34"	8.74'
C2	10.00'	38°56'33"	6.80'
C3	19.00'	40°41'51"	13.50'



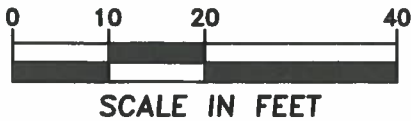
S 86°40'04" E (R)

PUBLIC ACCESS EASEMENT  
 656 sq.ft.±    0.015 acres±

N 42°03'00" E (R)

POINT OF BEGINNING  
 TRUE POINT OF BEGINNING

EL CAMINO REAL  
 (STATE HWY. 82)



MENLO PARK, SAN MATEO COUNTY, CALIFORNIA  
 K:\SUR06\066041\DWG\PLATS\PAE\_WATKINS.dwg

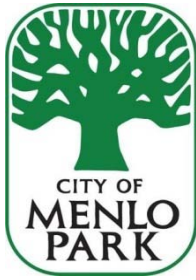
EXHIBIT "B"  
 PLAT TO ACCOMPANY LEGAL DESCRIPTION



1650 TECHNOLOGY DRIVE  
 SUITE 650  
 SAN JOSE, CA 95110  
 408-467-9100  
 408-467-9199 (FAX)

Subject PUBLIC ACCESS EASEMENT  
1906 EL CAMINO REAL, MENLO PARK, CA  
 Job No. 20066041-65  
 By RL Date 06-13-11 Chkd. \_\_\_\_\_  
 SHEET 1 OF 1

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# COMMUNITY DEVELOPMENT DEPARTMENT

Council Meeting Date: August 28, 2012  
Staff Report #: 12-124

Agenda Item #: D-5

**CONSENT CALENDAR: Waive the Reading and Adopt an Ordinance Rezoning Properties at 50 Terminal Avenue and 1467 Chilco Street**

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## RECOMMENDATION

Staff recommends that the City Council waive the full reading of and adopt an ordinance rezoning properties at 50 Terminal Avenue and 1467 Chilco Street.

## BACKGROUND

At the July 31, 2012 City Council meeting, the Council unanimously approved the following actions related to the use of the property located at 50 Terminal Avenue and 1467 Chilco Street by Beechwood School and the Menlo Park Fire Protection District (MPFPD):

1. **Environmental Review:** Made findings and adopted the Mitigated Negative Declaration;
2. **Tentative Parcel Map:** Made findings and approved the Tentative Parcel Map 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 establishes new easements and abandons existing easements (note: the City Council is scheduled to conduct an additional action to grant a new sanitary sewer easement at a meeting in September 2012, as this component could not be completed prior to the earlier Tentative Parcel Map approval);

3. **General Plan Map Amendment:** Adopted a resolution 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:** Introduced an ordinance 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.

The overall set of actions is being conducted to provide a clearer delineation for current and anticipated future uses of the site. As indicated in Action #4, the City Council introduced an ordinance, which requires both a first and second reading. As a result, this action is before the City Council again for the second reading and approval.

## **ANALYSIS**

The ordinance rezoning the properties at 50 Terminal Avenue and 1467 Chilco Street (Attachment A) is intended to make the 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. The rezonings would be consistent with the new General Plan land use designations, approved previously.

If the Council takes action to adopt the ordinances, they will become effective 30 days later, or on September 20, 2012.

## **IMPACT ON CITY RESOURCES**

There is no direct impact on City resources associated with adoption of these ordinances. The overall project's impact on City resources was discussed in the July 31, 2012 staff report.



## **POLICY ISSUES**

The recommended action is consistent with the City Council's actions and approvals at its meeting of July 31, 2012 and would serve to complete the approval of the project.

## **ENVIRONMENTAL REVIEW**

On July 31, 2012, the City Council made findings relative to the environmental review of the proposal and adopted the Mitigated Negative Declaration.

Signature on File  
Thomas Rogers  
Senior Planner

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**

- A. Ordinance of the City of Menlo Park, Rezoning Properties Located at 50 Terminal Avenue and 1467 Chilco Street

**ATTACHMENT A**

*August 28, 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 twenty-eighth day of August, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

\_\_\_\_\_  
Kirsten Keith  
Mayor

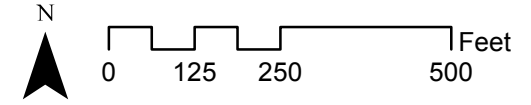
ATTEST:

\_\_\_\_\_  
Margaret S. Roberts, MMC  
City Clerk

# CITY OF MENLO PARK

50 Terminal Avenue & 1467 Chilco Avenue

Ordinance No.  
Exhibit A



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

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# PUBLIC WORKS DEPARTMENT

Council Meeting Date: August 28, 2012  
Staff Report #: 12-131

Agenda Item #: D-6

**CONSENT CALENDAR: Adopt a Resolution Appropriating \$47,461 from the Transportation Impact Fee Fund Balance and Award a Contract to Amland Corporation in the amount of \$45,239 for the Middlefield Road at Linfield Drive Lighted Crosswalk Improvement Project and authorize a Total Budget of \$61,073 for Contingencies, Inspection, Testing, and Project Management**

---

## RECOMMENDATION

Staff recommends that the City Council adopt a resolution appropriating \$47,461 from the Transportation Impact Fee Fund balance and award a contract to Amland Corporation in the amount of \$45,239 for the Middlefield Road at Linfield Drive Lighted Crosswalk Improvement Project, and authorize a total budget of \$61,073 for contingencies, inspection, testing, and project management.

## BACKGROUND

During the Fiscal Year 2007-08 project priority-setting process, the City Council approved a project to study the options for improving the safety for pedestrians and bicyclists at the existing crosswalk on Middlefield Road at Linfield Drive. The developments at 110 Linfield Drive, 175 Linfield Drive, and 321 Middlefield Road analyzed this intersection as part of their environmental review process. In the Environmental Impact Report for these developments, the intersection of Middlefield Road at Linfield Drive was shown to have a significant traffic impact. A traffic signal would mitigate the impact, but due to residential concerns regarding additional cut-through traffic, the signal was determined not to be a feasible solution.

At the City Council of July 14, 2009, staff presented the different options it analyzed to improve the safety for pedestrians and bicyclists at the existing crosswalk on Middlefield Road at Linfield Drive. Subsequently, the City Council approved the relocation and installation of a solar wireless lighted crosswalk system and signage in combination with an enhanced crosswalk with reddish textured pavement treatment on Middlefield Road at Linfield Drive as the preferred improvement alternative. The City has collected \$186,000 in developer traffic impact fees specific to the traffic mitigations of the developments at 110 Linfield Drive, 175 Linfield Drive, and 321 Middlefield Road for the intersection of Middlefield Road and Linfield Drive intersection that can be used to pay for the installation cost to implement the installation of a solar wireless lighted crosswalk system. Additional directions to staff also included:

- Consideration of an audible warning message when the system is activated.
- Consideration of a radar detection system to show vehicles they are speeding

- Exploration of adding one more flexible divider from Middlefield Road at Santa Maria Avenue
- The developers deposited the amount of \$186,000 for a traffic signal installation but the City Council found the traffic signal not desirable. Consequently, the Council suggested that the remaining funds to be kept for one year after construction completion of the in-pavement lighted crosswalk system and earmarked for this intersection, to be used if additional intersection safety improvements would be required.

The proposed project consists of installing an in-pavement lighted crosswalk system at the relocated crosswalk, furnishing and installing roadside signs and posts, installing striping and pavement marking, construction of new Portland Cement Concrete ADA curb ramps, installation of a new asphalt concrete pathway, enhancing of the new crosswalk with a textured pavement treatment, and removal of an existing ADA curb ramp.

## **ANALYSIS**

On July 24, 2012, the City advertised the project for bids from qualified contractors. The bids for the project were opened on August 7, 2012. Five bids were received from the following qualified contractors: Republic ITS, Golden Bay Construction, Inc., American Asphalt, Amland Corporation, and Pleasanton Engineering Contractors. Amland Corporation was the lowest bidder in the amount of \$ 45,239.

Staff has reviewed the most recent project related references of Amland Corporation and is satisfied with its past performance. Also, Amland Corporation is the City's contractor on the installation of a new traffic signal at the intersection of Santa Cruz Avenue and Elder Avenue, near Hillview School. Staff has found the contractor's performance on this project satisfactory to date.

## **IMPACT ON CITY RESOURCES**

The project budget has to be increased because the original budget did not cover the costs for the installation of the new Portland Cement Concrete ADA curb ramps, construction of the new asphalt concrete pathway, construction contingencies, and inspection, testing, and project management costs. In addition, the cost for installation for the lighted crosswalk system has more than doubled. The Engineer's estimate used unit costs from installations of previous lighted crosswalks in the City in the past three to four years. Staff has contacted the Contractor on another City project to verify its bid for installation of in-pavement lighted crosswalk systems and it confirmed that this is the going rate for installation of the system. Staff also contacted other cities, such as Atherton and Pleasant Hill, who have recently installed similar systems and they have experienced similar price escalation costs from other Contractors for installing lighted crosswalk systems on their projects. Staff proposes to fund the difference with Transportation Impact Fee funds.

The following is a breakdown of estimated construction costs:

Construction contract	\$45,239
Contingency	\$ 6,786
Inspection, Testing and Construction Management Costs	<u>\$ 9,048</u>
<b>Total Construction Budget</b>	<b>\$61,073</b>

The expense breakdown is as follows:

Original Budget	\$50,000
City purchased equipment	- \$19,359
Design and surveying fees	<u>- \$17,029</u>
Project remaining balance	\$13,612

The proposed funding is as follows:

Project remaining balance	\$13,612
Transportation Impact Fee	<u>\$47,461</u>
<b>Total Funding</b>	<b>\$61,073</b>

## **POLICY ISSUES**

This project is consistent with Policy II-A of the 1994 City General Plan Circulation and Transportation Element, which seeks 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 categorically exempt under Class 1 of the current California Environmental Quality Act Guidelines. Class 1 allows for minor alterations of existing facilities, including existing 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 \_\_\_\_\_  
Rene Baile  
Transportation Engineer

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. Resolution
- B. Bid Summary

**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK AUTHORIZING APPROPRIATION OF \$47,461 FROM THE TRANSPORTATION IMPACT FEE FUND BALANCE AND AWARD A CONTRACT TO AMLAND CORPORATION IN THE AMOUNT OF \$45,239 FOR THE MIDDLEFIELD ROAD AT LINFIELD DRIVE LIGHTED CROSSWALK IMPROVEMENT PROJECT AND AUTHORIZE A TOTAL BUDGET OF \$61,073 FOR CONTINGENCIES, INSPECTION, TESTING AND PROJECT MANAGEMENT**

WHEREAS, during the 2007-08 project priority setting process, the City Council approved a project to study the options for improving the safety for pedestrians and bicyclists at the existing crosswalk on Middlefield Road at Linfield Drive; and

WHEREAS, at the City Council meeting of July 14, 2009, staff presented different options to improve safety and subsequently approved the relocation and installation of a solar wireless lighted crosswalk system and signage in combination with an enhanced crosswalk; and

WHEREAS, on July 24, 2012 the City advertised the project for bids from qualified contractors which were opened on August 7, 2012; and

WHEREAS, five bids were received and Amland Corporation was the lowest bidder in the amount of \$45,239.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Menlo Park that the City Council does hereby authorize the appropriation of \$47,461 from the Transportation Impact Fee fund balance for construction, engineering, and administration for constructing the improvements shown on the plans and specifications for the Middlefield Road at Linfield Drive Lighted Crosswalk Improvement Project (Project); and

BE IT FURTHER RESOLVED by the City Council of the City of Menlo Park that the City Council does hereby approve the project plans and specifications and award the project to Amland Corporation the amount of \$45,239 and authorize a total budget of \$61,073 for contingencies, inspection, testing, and project management.

\*\*\*\*\* This left blank intentionally \*\*\*\*\*



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 twenty-eighth day of August, 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 twenty-eighth day of August, 2012.

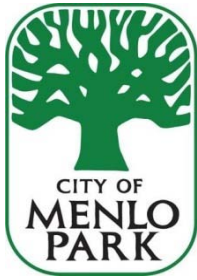
Margaret S. Roberts, MMC  
City Clerk

# Bid Summary

## Safe Routes to Hillview Middle School

**BID OPENING DATE: August 7, 2012**

	<b>CONTRACTOR</b>	<b>BID AMOUNT</b>
1.	Amland Corporation	\$45,239
2.	Golden Bay Construction	\$50,661
3.	Republic ITS	\$52,634
4.	American Asphalt	\$60,104
3.	Pleasanton Engineering Contractors	\$66,496



## COMMUNITY SERVICES

Council Meeting Date: August 28, 2012  
Staff Report #: 12-125

Agenda Item: D-7

**CONSENT CALENDAR:** Acting as the Board of the Successor Agency, Approve an Exclusive Authorization to Sell with Cassidy/Turley Commercial Real Estate Services for the Sale of Property Located at 777-821 Hamilton Avenue and Authorize the City Manager to Sign the Agreement on behalf of the Successor Agency

---

### RECOMMENDATION

Staff recommends that the City Council, acting as the Successor Agency Board for the Community Development Agency of the City of Menlo Park, approve an Exclusive Authorization to Sell (listing agreement) with Cassidy/Turley to represent the Successor Agency in the sale of contiguous properties located at 777, 785, 787, 791, 801, 811, and 821 Hamilton Avenue and authorize the City Manager to sign the agreement on behalf of the Successor Agency.

### BACKGROUND

In April of 2001, the City of Menlo Park Community Development Agency (Agency) purchased the vacant property at 777 Hamilton Avenue, and the adjacent property at 735 Hamilton Avenue with housing set-aside funds, with the intent of developing the consolidated property in order to implement the Amended and Restated Las Pulgas Project Area Plan and to eliminate blight in the Project Area.

The following month, the Agency acquired five parcels adjacent to and southeast of these properties, including 787, 791, 801, 811 and 821 Hamilton Avenue. Collectively, the properties came to be known as the Hamilton Avenue East Site. The aggregation of the parcels provided further opportunity for the Agency to redevelop the site in compliance with the City's General Plan and Zoning Ordinance, including possible use of the properties for relocating existing businesses at the Hamilton Park and Housing site on Hamilton Avenue in order to facilitate that project. The properties were cleared of existing structures within two months of purchase, and no part of the Hamilton East Site was ultimately needed as exchange properties to facilitate the Hamilton Park and housing project, allowing the properties to remain available for housing development. The Hamilton Avenue East site is currently zoned M1 (light industrial). The site is approximately 2.1 acres and could potentially support up to 38 housing units in accordance with the site's current General Plan designation of R3 zoning density at

18.5 units per acre (plus any density bonus units, as a result of the Below Market Rate [BMR] program) or it could support a higher number of units if the General Plan is amended and the Property rezoned to a higher density.

Industrial uses are present on both sides of the Hamilton Avenue East site and the six owners of those properties have expressed interest in selling so that the entire block can be included in any potential project. With all parcels along the north side of Hamilton Avenue included in the process, the total size of the project area would be 7.1 acres.

Subsequent actions by the City Council directed staff to work toward encouraging the development of the site, along with the adjacent properties, as a market rate housing development with a Below Market Rate component (15% of all units) to address lower income affordability. Toward that end, City staff had released a Request for Qualifications to a development team that would purchase the City's property and attempt to aggregate the adjoining lots for a larger development project. The City was in the middle of that effort when the court decision dissolved the Community Development Agency and forced the disposition of Agency assets.

On June 27, 2012, the Oversight Board directed City (Successor Agency) staff to release a Request for Proposals (RFP) to identify a commercial realtor to oversee the sale of the property. The realtor selected would work with the City (as Successor Agency) to determine an appropriate asking price for the site, communicate with adjacent property owners about the prospects for the sale and the potential impact on their own properties, and manage the sale for the Successor Agency. Proposals were due on Wednesday, July 25. Three responses were received and reviewed by City /Successor Agency staff on Tuesday, July 31. Based on a comprehensive analysis and evaluation of the proposals, all submitting firms appeared qualified, however Cassidy / Turley Commercial Real Estate Services of East Palo Alto was selected based on the comprehensiveness, and thoroughness of their proposal and the favorable listing commission rate. All three proposals were provided to the Oversight Board and it approved moving forward with negotiation of a listing agreement with Cassidy/Turley at their meeting of August 8, 2012. A copy of the Cassidy/Turley proposal is attached. (The other proposals may be reviewed via the Successor Agency web page at [www.menlopark.org](http://www.menlopark.org)).

The City Attorney and Sam Wright, Partner with Cassidy/Turley, have negotiated the listing agreement included as Attachment A and staff recommends approval and authorization for the City Manager to sign the agreement on behalf of the Successor Agency. Once executed, Cassidy/Turley will begin to develop the marketing announcement / offering package for the property, which should be ready for distribution by mid-September. The marketing and closing timeline proposed by Cassidy/Turley shows an anticipated "call for offers" during November and owner's review of offers in December followed by contract negotiations in January. A final negotiated contract will be presented to the Oversight Board and the City Council sitting as the Board of the

Successor Agency for review and approval. Assuming that the buyer's due diligence period takes no more than 90 days, closing should occur sometime in May, 2013.

## **IMPACT**

This action will result in the eventual sale of the Hamilton Avenue East site, the proceeds of which will be forwarded to the County and distributed to other taxing agencies, including the City of Menlo Park.

## **ENVIRONMENTAL REVIEW**

The disposition of the property to a private party is not a project under CEQA. Any developer interested in putting housing on the site will be expected to apply for zoning changes required for housing development, including the development of any Environment Impact Review (EIR) that such changes would require.

Signature on File  
Cherise Brandell  
Community Services Director

Signature on File  
Justin Murphy  
Development Services 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. Exclusive Authorization to Sell with Cassidy / Turley Commercial Real Estate Services
- B. Listing Proposal from Cassidy/Turley Commercial Real Estate Services

## EXCLUSIVE AUTHORIZATION TO SELL

1. **Basic Provisions.** The undersigned (together "Owner") hereby grants to CASSIDY TURLEY NORTHERN CALIFORNIA, INC., a California corporation ("Broker") the exclusive right, for a Term commencing on August 21, 2012, and ending at midnight on February 20, 2013 (the "Listing Period"), to sell the Property described herein to an approved buyer (the "Buyer"). The Property is located in the City of Menlo Park, County of San Mateo, State of California, with a street address of 777, 785, 787, 791, 801, 811, and 821 Hamilton Avenue (the "Property"). Broker shall act solely as Owner's broker and shall not represent any buyer in a dual agency capacity. The price and terms for any sale shall be determined by Owner in its sole discretion.
2. **Marketing Process.** Broker will market the Property for sale in a thorough, professional and timely manner, in accordance with the best practices of the commercial brokerage industry and the Listing Proposal submitted by Broker to Owner on July 25, 2012, the terms of which Listing Proposal are incorporated in this agreement as if set forth in full.
3. **Commissions.** In consideration of this Authorization and Broker's agreement to pursue the procurement of a purchaser for the Property, Owner agrees to pay Broker a sale commission in an amount equal to three and one-half per cent (3.5%) of the sales price of the Property.
  - A. Owner shall pay the commission to Broker if, during the Term hereof, the Property is sold to Buyer. The commission shall be payable upon close of escrow. If one or more individual parcels constituting the Property are sold, the commission shall be based on the actual sales price of the parcel(s) sold.
  - B. Owner further agrees that Owner shall pay Broker a commission in accordance with the Schedule if, within one hundred and eighty (180) calendar days after the expiration or termination of this Authorization or any extension thereof, the Property is sold to, or Owner enters into a contract to sell the Property with a buyer who submitted a written offer to acquire the Property, or a portion thereof, during the Listing Period, unless Owner has entered into a new exclusive listing agreement with a different broker and is obligated to pay a commission to such other broker.
  - C. [Omitted.]
  - D. [Omitted.]
4. **Cooperating Brokers.** The parties acknowledge that any fee to be paid to a cooperating agent or broker will be paid by the Buyer. The Owner will have no obligation pursuant to this Agreement to pay a commission or other compensation to an agent or broker representing the Buyer.
5. [Omitted.]
6. **Owner's Duties; Broker's Rights.** Owner shall cooperate fully with Broker in effecting the sale of the Property and shall immediately refer to Broker all inquiries of any party interested in the Property. All negotiations shall be conducted through Broker or with Broker's involvement and participation. Owner shall, within five (5) business days after the execution hereof, provide Broker with full and complete information regarding the Property, including its physical condition, applicable agreements, and any other matter affecting its value or utility. Owner acknowledges that Owner and Broker may have an obligation to disclose to a prospective purchaser whether the Property is located within certain Natural Hazard Zones, and Owner hereby authorizes Broker to secure, for the benefit of Owner and Broker, a Natural Hazards Report concerning the Property, the costs of which shall be deducted from Owner's proceeds in the event of a sale.
7. [Omitted.]
8. **Non-Discrimination.** It is understood that it is illegal for either Owner or Broker to refuse to purchase, show, sell or lease real property from any person because of race, color, religion, national origin, sex, marital status or physical disability. Owner shall defend, indemnify and hold Broker harmless from any claim based upon an alleged act or omission of Owner or anyone associated with Owner, including but not limited to claims of personal injury by prospective or actual purchasers, sellers, landlords, tenants or their agents and guests.
9. **Warranties and Authority.** Owner warrants that (i) it is the owner of record of the Property and/or has full legal authority to execute this Authorization; (ii) no person or entity has the right to purchase or lease the Property or to acquire any interest in the Property by virtue of any agreement, option or right of first refusal; (iii) Owner is not in default with respect to any note, deed of trust or any agreement with respect to the Property; and (iv) that neither Owner nor the Property is the subject of a bankruptcy, insolvency, probate or conservatorship proceeding. Owner shall notify Broker immediately if Owner discovers that any of the above warranties is untrue.
10. [Omitted.]
11. **Mediation of Disputes.** Owner and Broker agree to mediate any dispute between them arising out of this Authorization prior to the initiation of any legal proceedings. If the parties cannot agree on a mediator, either party may petition the Superior Court of the County where the Property is located, which Court shall be authorized to appoint a

mediator. The parties shall cooperate to promptly schedule the mediation. The mediator may conduct more than one session and both parties to the dispute shall pay fees equally. Matters that are within the jurisdiction of the small claims court are excluded from mediation. In the event a party pursues legal action of any kind (including litigation, arbitration or otherwise) without first attempting to participate in mediation in good faith, that party shall not be entitled to recover prevailing party attorneys' fees or costs pursuant to Section 13.D.

**12. Owner's Acknowledgments.** Owner acknowledges that it has been advised by Broker to consult with and retain experts to advise and represent it concerning the legal and tax effects of this Authorization and any transaction involving the Property, as well as the condition and/or legality of the Property, including, but not limited to, its environmental aspects. Broker shall have no obligation to investigate such matters unless expressly otherwise agreed to in writing signed by Owner and Broker. Owner agrees that Broker is not providing, and under no circumstances shall provide, legal, financial, tax or accounting advice; Owner shall seek any such advice from other professionals and shall under no circumstances obtain or rely on such advice from Broker. Owner agrees that Broker is under no obligation or duty to investigate any prospective purchaser or others, or to evaluate their financial condition or ability to close escrow. Owner further acknowledges that in determining the financial soundness of any prospective purchaser, Owner will rely solely upon Owner's own investigation, notwithstanding Broker may have assisted in gathering such information.

**13. Miscellaneous.**

A. This Authorization shall be binding on the parties hereto and on their respective successors and assigns; provided, however, that the assignment of this Authorization or any interest herein by any party, whether voluntary or by operation of law, without the prior written consent of the other, shall be prohibited and of no force and effect.

B. This Authorization constitutes the entire agreement between the parties. Any prior agreement or understanding is void and of no further force and effect. No amendments or alterations in the terms hereof or withdrawal of this Authorization shall be valid or binding unless made in writing and signed by both parties. There are no statements, representations, inducements, warranties or promises made or relied upon by either party, except as expressly stated herein. If any provision or portion of a provision of this Authorization is found to be unenforceable, then the remaining provisions shall be given full force and effect.

C. Owner agrees to defend, indemnify and hold Broker harmless from any liabilities, costs, damages and/or expenses, including without limitation attorney's fees and costs, arising from or connected with (i) any and all claims, demands, fines, penalties, judgments and lawsuits arising out of this Authorization, except to the extent arising from the negligence or intentional misconduct of Broker; (ii) any environmental claim; (iii) any claim alleging a material omission, misrepresentation, or incorrect information supplied by Owner; (iv) alleged discrimination or other acts or omissions of Owner; and (v) claims for injury or damage to any prospective purchaser, guest, or invitee occurring on the Property. Owner hereby releases and relieves Broker, and waives Owner's entire right of recovery against Broker, for direct or consequential loss or damage arising out of or incident to the perils covered by property or liability insurance carried by Owner, irrespective of any negligence on the part of Broker; provided, however, that the foregoing release shall not apply to claims for professional negligence based on the wrongful acts or omissions of Broker.

D. In any action arising out of this Authorization, the prevailing party, whether in court, on appeal, or by use of alternative dispute resolution methods, shall be entitled to recover from the other its reasonable attorney's fees, court costs, expert witness fees and other costs of suit, except as restricted by Section 11 above.

E. This Authorization will be governed by and construed in accordance with the laws of the State of California. In the event of any legal action, jurisdiction and venue shall be in the Superior Court of the State of California, in the County where the Property is located.

F. This Authorization may be executed in counterparts, each of which shall be deemed an original, all of which together shall constitute one and the same Authorization.

G. Owner shall file any claim against Broker within one hundred and eighty (180) days of the earlier of: (i) any alleged breach by Broker, (ii) any damage to Owner, (iii) Owner's knowledge of such claim or a potential claim, or (iv) such time as Owner should have been aware of such claim. Subject to the foregoing, in no event will any action be brought by Owner more than one year after expiration of this Authorization. In no event shall Broker be responsible for any consequential damages.

H. [Omitted.]

I. [Omitted.]

J. Any and all notices provided for herein shall be deemed served delivered as follows: (i) when mailed by registered United States mail in an envelope with postage prepaid, addressed to Owner at the address shown below; (ii) when sent by email to the address shown below, with electronic confirmation of receipt; or (iii) upon personal delivery:

Owner: Successor Agency to the Community Development  
Agency The City of Menlo Park  
Address: 701 Laurel Street  
City: Menlo Park  
State, Zip: CA, 94025  
Attention: Ms. Cherise Brandell  
Email: [cebrandell@menlopark.org](mailto:cebrandell@menlopark.org)

With a copy to:

William L. McClure  
City Attorney  
1100 Alma Street, Suite 210  
Menlo Park, CA 94025  
Email: [wlm@jsmf.com](mailto:wlm@jsmf.com)

And to Broker as follows:

Broker: Cassidy Turley Northern California, Inc.  
Address: 1950 University Avenue, Suite 220  
City: East Palo Alto  
State, Zip: CA, 94303  
Attention: Sam Wright / Jamie D'Alessandro

**OWNER:**

Successor Agency to the Community Development  
Agency of The City of Menlo Park

By: \_\_\_\_\_

Name: Alex D. McIntyre

Its: City Manager

Address: 701 Laurel Street

Menlo Park, CA 94025

Ph: (650) 330-6610

Email: [admccintyre@menlopark.org](mailto:admccintyre@menlopark.org)

Dated: \_\_\_\_\_

**BROKER:**

Cassidy Turley Northern California, Inc.

By: \_\_\_\_\_

Sam Wright - Partner

License:

Ph: 650-320-0253

Email: [swright@ctbt.com](mailto:swright@ctbt.com)

By: \_\_\_\_\_

Jamie D'Alessandro - Partner

License:

Ph: 650-\_\_\_\_\_

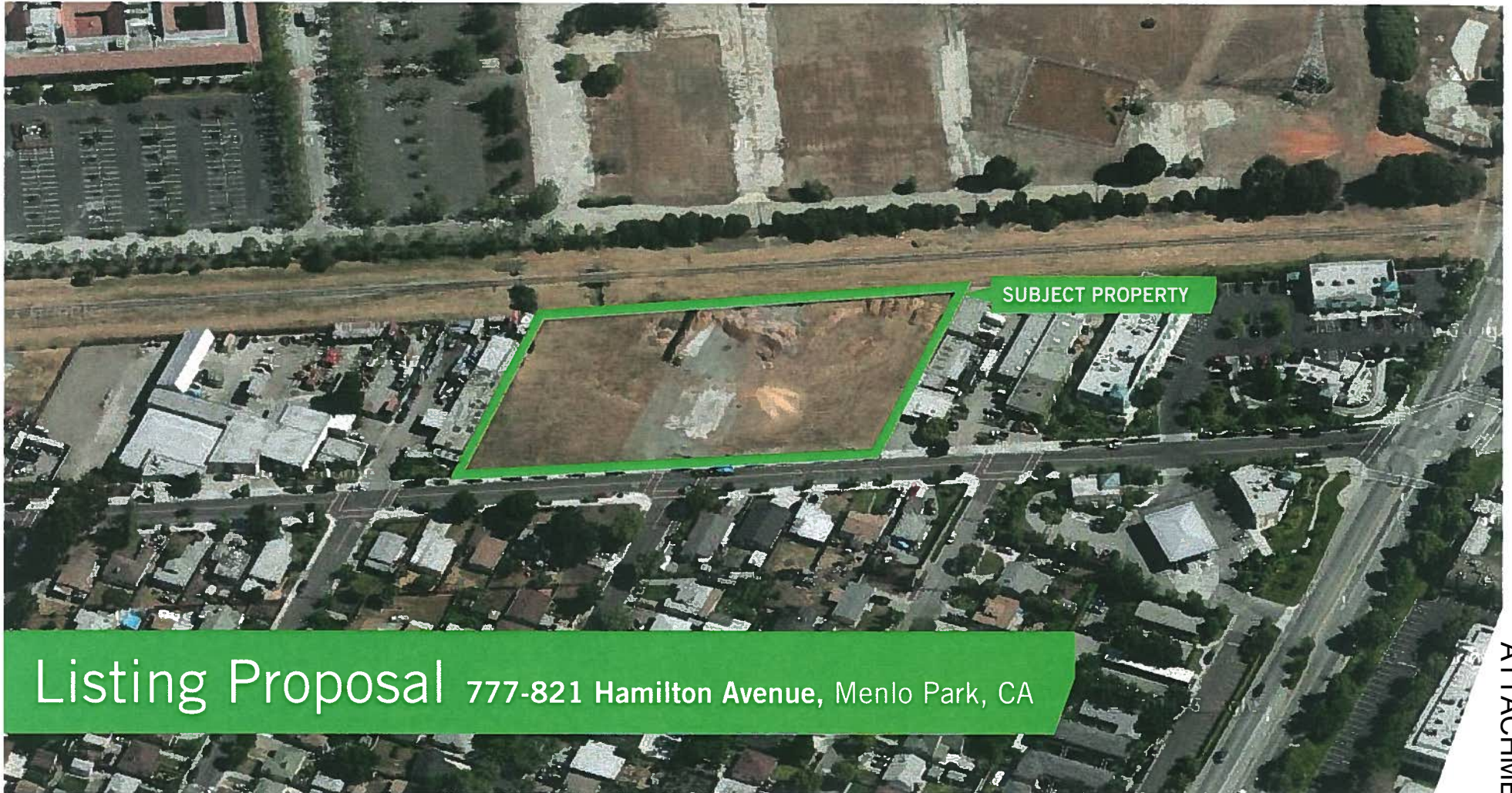
Email: [JDAlessandro@ctbt.com](mailto:JDAlessandro@ctbt.com)

By: \_\_\_\_\_

Broker / Sales Manager

Dated: \_\_\_\_\_





**Listing Proposal 777-821 Hamilton Avenue, Menlo Park, CA**

ATTACHMENT B

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**Presented To: City of Menlo Park  
Cherise Brandell  
Director of Community Services  
701 Laurel Street  
Menlo Park, CA 94025**

**Jamie D'Alessandro**  
Partner  
650.320.0270  
jdalessandro@ctbt.com  
Lic #01299928

**Sam Wright**  
Partner  
650-320-0253  
swright@ctbt.com  
Lic #01061071

1950 University Avenue, Suite 220  
East Palo Alto, CA 94303  
ph: 650.852.1200 fx: 650.856.1098  
Cassidy Turley Northern California  
[www.ctbt.com](http://www.ctbt.com)

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## Assignment Overview

### Assignment Overview and Commentary

We are pleased to present this proposal to list for sale the 2.1 acre site located at 777 – 821 Hamilton Avenue in Menlo Park. We truly believe that this will be a ground-breaking event for the City, and will usher in a new era in the Belle Haven neighborhood. All of us at Cassidy Turley hope that we will have the opportunity to work with the City and the related agencies on this project.

We understand that the City of Menlo Park, as successor agency to the Menlo Park Housing Authority, is the owner of the Hamilton Avenue property. We know that the City had intended the site for market rate housing development, and that the City had anticipated that the adjacent owners who control a total of roughly 7.1 acres, might join in a sale.

We have followed the City's plans to identify sites which could help the City comply with state laws requiring more housing sites. We're familiar with the settlement agreement in which the City agreed to update its general plan and provide zoning necessary to add a total of 1,975 sites to its current housing stock.

We understand that high density housing – identified by the State of California as sites that allow a minimum of 30 units per acre – are the focus of the City's efforts. Various elements will come into play to qualify a site as suitable for high-density housing, including proximity to transit and services, size of the proposed project, and impact on neighbors and environmental resources.

We have included in this package a copy of the preliminary map reviewed by the Housing Element Steering Committee, which identifies 14 sites in the City that are potential housing sites, including the Hamilton Avenue site. We understand that the Steering committee has asked to add bus routes to this map to better assess the availability of transportation and is refining its selection criteria. The development of secondary "granny" units may help alleviate the housing shortage, as has been proposed, but this will not solve the entire shortfall.

The Hamilton Avenue site is a logical addition to the City's list of potential development sites and would make an excellent multi-family housing location.

### Facebook Impact

The value of the Hamilton Avenue site will be driven by much more than just the potential to deliver more sorely needed housing sites to the City. The addition of Facebook's headquarters campus will have a transformative effect on the immediate area, and the entire community. With roughly 2,200 employees at the site and up to 3,600 employees in the former SUN property, Facebook's employees will inject a new life and vibrancy into this part of the City. Facebook eventually wants to expand to another campus across the street that would allow it to employ a total of 9,400 people. The company plans to construct five new buildings totaling approximately 440,000 square feet as part of that project, which was included in the environmental impact report approved Tuesday. Of course, the company's financial contributions to the City will be significant. We understand that Facebook will pay Menlo Park nearly \$8,500,000 over 10 years to offset impacts on City services. The company will also make a one-time payment of more than \$1 million for capital improvements, establish a \$500,000 community improvement fund and set up high school internship and job training programs. Beyond all that though, the presence of a world-class technology company with hundreds of millions of users worldwide will draw attention and energy to this corner of Menlo Park. All this will have huge impact on the Hamilton Avenue site; together with the transformation that is already underway in traditionally light industrial areas in Menlo Park will create a new energy and community.

### Zoning and Discussion with City

We met with Doug Frederick, the outgoing Housing Director, and Justin Murphy, the City Planning Director, to discuss the City's expectations regarding entitlements for the property. The site is currently zoned Light Industrial. However, as noted above, we anticipate that the City will revisit that zoning designation and, consistent with the settlement agreement relating to the City's Housing Element, will in all likelihood change the zoning designation to allow high density housing.

## Assignment Overview (Continued)

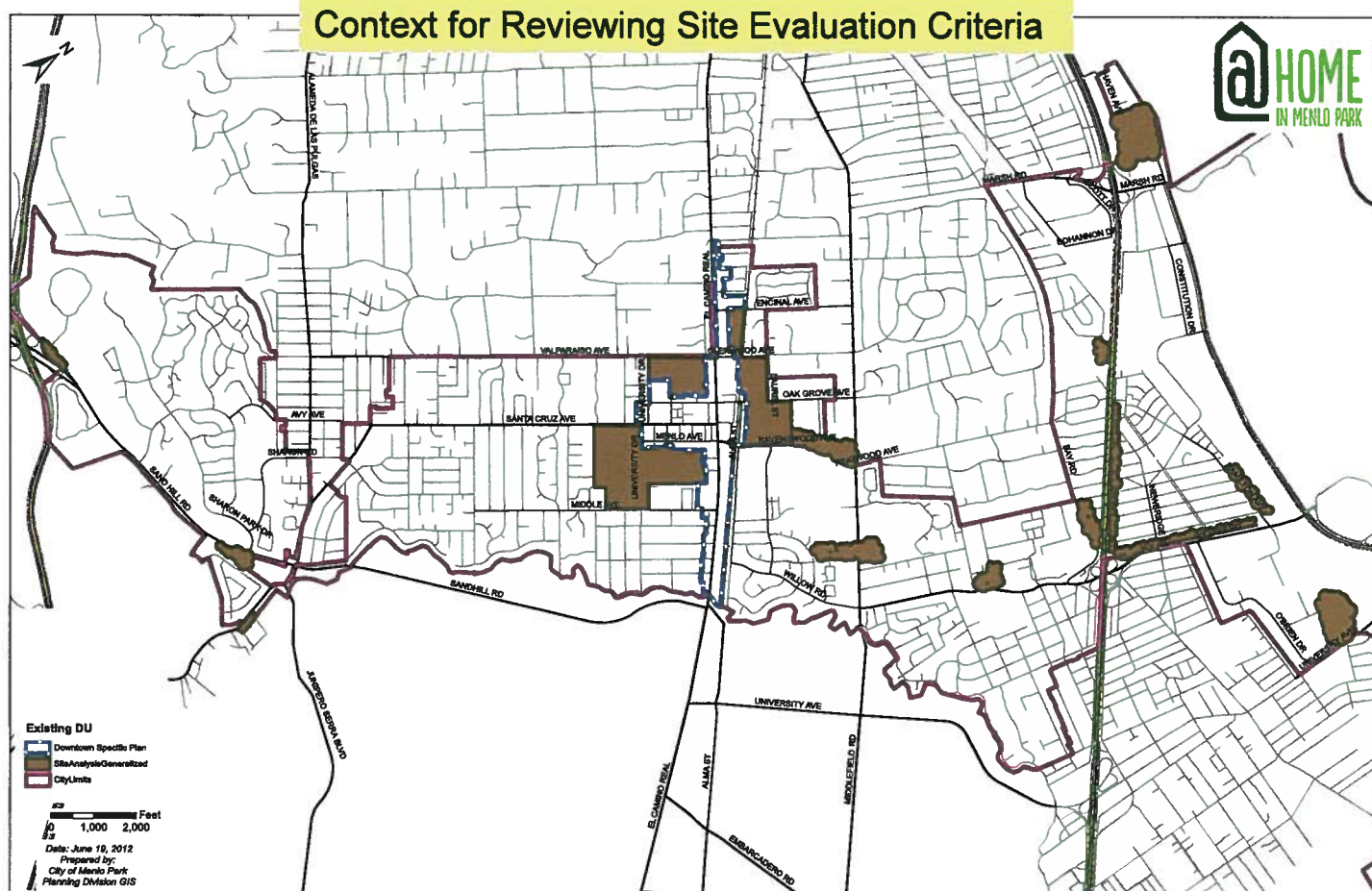
We discussed with the City representatives whether a buyer would be required to prepare an EIR for a high density residential project. We don't have a definitive answer on that point and that will certainly affect the timing that we could expect to achieve with a buyer. We are aware that a project approved by a Redevelopment Agency may not require an EIR. If that is not applicable, we would further explore the issue of the City entering into a development agreement with the potential buyer. In either case, we have assumed that a buyer would not be required to obtain EIR approval to proceed with this project. If that's not the case, we will of course revisit the marketing timeline and the sales approach for the property.

We anticipate that 15% of the project will be set aside for below market rate housing. If the City is able to provide any assistance in connection with the BMR housing element, in terms of down payment assistance or otherwise, we would of course want to explore that topic as well.

The demand for housing in Menlo Park is brisk and growing. Given the demand both for owned housing and apartments, we are satisfied that there will be significant demand for the housing development site to be offered by the City. The senior members of the listing team are also both Menlo Park residents and we are well suited to extolling the virtues of our City. We look forward to offering this unique development site to the housing community.

Assignment Overview Map

# Potential Higher Density Housing Locations



## Cassidy Turley

### Why Cassidy Turley?

#### 1) CASSIDY TURLEY "City of Menlo Park"

We have a highly qualified and experienced team with a unique combination of skills to serve the city of Menlo Park ("MP"). The core "MP Project Team" collectively brings over 40 years of experience.

- Commercial Real Estate:
  - Brokerage – Property Sales and Leasing
  - Property Development Planning and Entitlements
  - Interface to City and State Agencies
- Corporate Operations and Management:
  - Strategic Planning, Sales & Marketing, Branding and Promotion
  - International Facilities Management

#### 2) CASSIDY TURLEY COMPANY

A leader in Commercial Real Estate Services – The largest privately held commercial real estate service company in the United States.

- Leading Company in Northern California Markets
  - Over 400 professionals and 16 offices in Northern California
  - Stable, Secure – established in Bay Area since 1981, No Debt, Privately Held
- Leading National Company
  - Over 2,800 professionals, in 58 offices
  - Largest Privately Held Commercial Real Estate Firm in the United States
  - Leading Corporate Services Platform
    - Over 420,000,000 square feet under Facilities and Property management
    - Over 22,000 client locations managed by Corporate Services
    - Top 100 Global Outsourcing Organizations – Ranked #12 by the Independent Association of Outsourced Professionals "2009 Global Outsourcing 100"
- Global Reach
  - Reach and exposure to over 3,000 professionals, in 65 offices located in Europe, Asia and in the Middle East

## Cassidy Turley

### 3) GLOBAL MARKETING STRATEGY

Our integrated and creative marketing campaign is designed to drive the highest value in the shortest period of time.

#### • Positioning and Branding

- Alignment – It is essential to be completely aligned to Brandenburg's priorities, goals and objectives regarding both internal and external impact of the property sale.

- Positive Image and Brand Equity – We will focus on the highlights and features of the property and company to increase enthusiasm about the property, including:

- Unique benefits of property physical location, size, infrastructure and prominence in the area

- Compelling Marketing Collateral – We will design and publish property sales collateral utilizing professional designers to communicate the features and benefits of the property.

- Brochures, Mailers, Email Blasts, etc.
- Printed Hard Copy and Electronic Formats
- Interactive Online and/or Web Site

- Integrated Media Campaign – We will utilize both traditional and "Out of the Box" channels of communication to create regional, national and international exposure to the project.

- Print Media & Advertising
- Electronic Media & Advertising
- Property Signage
- Mobile Phone Marketing – Instant Property Info

- Urgency – Utilizing a managed sales process, we will create a sense of competitiveness and urgency by pursuing multiple sales targets in parallel and drive to a defined offer schedule. We feel creating urgency and credibility through a defined process and deadline will result in:

- Quickly test the multiple market segments for level of interest and price
- Create a sense of action and competitiveness, hopefully generating multiple parties of interest
- Multiple parties of interest will drive the price to the highest possible in the current market



## About Cassidy Turley

Cassidy Turley is a leading commercial real estate services provider with more than 3,500 professionals in more than 60 offices nationwide. The company represents a wide range of clients—from small businesses to Fortune 500 companies, from local non-profits to major institutions. The firm completed transactions valued at \$22 billion in 2011, manages 455 million square feet on behalf of institutional, corporate and private clients and supports more than 28,000 domestic corporate services locations. Cassidy Turley serves owners, investors and tenants with a full spectrum of integrated commercial real estate services—including capital markets, tenant representation, corporate services, project leasing, property management, project and development services, and research and consulting. Cassidy Turley enhances its global service delivery outside of North America through a partnership with GVA, giving clients access to commercial real estate professionals across the globe. Please visit [www.cassidyturley.com](http://www.cassidyturley.com) for more information about Cassidy Turley.

Cassidy Turley provides regional real estate services in Northern California. With 15 Northern California offices and a 400-member team, our Northern California market leadership is demonstrated by completion of over 3,300 transactions, totaling over \$4.3 billion in 2011.

Fundamental to our success are our core values – our cornerstone principles. These principles reflect what is most important to us as a firm and are the foundation of our company's culture.

Our vision is to be a world-class provider of fully integrated commercial real estate services. Supported by outstanding resources, our talented people meet client needs with responsiveness, adaptability, excellent execution and unwavering commitment to our clients' success.

- **Exceptional Results for Our Clients**  
We do whatever it takes, wherever it takes us.
- **Dedication to Our Communities**  
We don't just work in our communities, we belong to them.
- **Growth for Our Company**  
We grow to get better, not just bigger.
- **Energizing Workplace for Our Associates**  
Our people are more than assets; they are Cassidy Turley.



Visit [www.cassidyturley.com](http://www.cassidyturley.com) for more information.

### Cassidy Turley Facts

- More than 60 U.S. offices
- 65 international offices\*
- More than 3,500 professionals
- More than 900 brokers

### 2011 Transactions

- Gross transaction volume: \$22 billion
- Gross capital markets volume: \$10.3 billion
- 455 million sf management portfolio on behalf of institutional, corporate and private clients
- More than 28,000 Corporate Services locations served

\*Through GVA partnership





## Jamie D'Alessandro's Resume



### Jamie D'Alessandro

Title: Partner

Specialties: Investment Sales

Cassidy Turley, Palo Alto

1950 University Avenue, Suite 220

East Palo Alto, CA 94303

Phone: 650-320-0270

License # 01299928

jdalessandro@ctbt.com

### Scope of Service Experience:

Investment Property & Development Sales

### Special Accomplishments:

Recognized as Marcus & Millichap's National Rookie of the Year

Top 5 Broker in Palo Alto Office with M&M 5 consecutive years

Top 30 Broker with Cassidy Turley in 2009

Top 15 Broker with Cassidy Turley 2011

Top 5 Broker in Palo Alto Office, 2011

### Education

- BS, Cornell University, School of Hotel Administration, Concentration in Real Estate Finance

### Background & Experience

2008-Present: Cassidy Turley

2000-2008: Vice President/Investments at Marcus & Millichap Real Estate Investment Brokerage Company

Jamie entered the investment real estate business with Marcus & Millichap Real Estate Investment Brokerage Company as an investment broker in late 2000 after graduating from the Hotel School at Cornell University with an emphasis in Real Estate Finance. During his 8 year tenure at M&M, Jamie used his underwriting and marketing expertise to successfully broker the sale of over \$450 million of real estate investment properties nationwide. Jamie was named the firm's Top Rookie Broker among its 40 offices nationwide and was the youngest broker in company history to qualify for the firm's exclusive National Achievement Awards. He was promoted to Vice President / Investments and consistently ranked among the top 10% of over 1,200 investment brokers companywide.

Jamie accepted a position as Partner with Cassidy Turley in October 2008. His move to Cassidy Turley coincided with the move of close to a dozen brokers previously with M&M who have collectively transacted over \$2 billion in investment property sales. Jamie has personally brokered more than 200 transactions eclipsing \$650 million in sales volume. Jamie is also actively involved in the ownership and management of over 400 apartment units in the bay area and several commercial properties nationwide. Jamie sits on Cassidy Turley's National Multi-Family Advisory Council and is actively involved in the Cornell alumni community, having volunteered for over a decade conducting admissions interviews for prospective students. Jamie is also actively involved in the Housing Industry Foundation, a local non-profit providing various forms of housing assistance as well as Peninsula Volunteers, a local non-profit providing various programs for senior citizens.

### Professional Affiliations & Designations

- Cornell Hotel Society

## Jamie D'Alessandro's Resume

### Significant Transactions

Investment Sale Transactions:

Representation of investors in the acquisition and disposition of over \$650 million of investment property sales (residential and multifamily as built and land)

### Major Multifamily Developer Clients/Relationships:

- Essex Property Trust
- Prometheus Real Estate Group
- Braddock & Logan
- Wood Partners
- Urban Housing Group
- Summerhill Homes
- Pacific Urban Residential
- Emerald Fund
- Greystar
- Sares Regis
- The Cypress Group
- Wavecrest Development
- Brandenburg Properties

## Sam Wright's Resume



### Sam Wright

Title: Partner

Specialties: Leasing, Investment Sales

Cassidy Turley, Palo Alto

1950 University Avenue, Suite 220

East Palo Alto, CA 94303

Phone: 650.320.0253

License # 01061071

swright@ctbt.com

### Professional Expertise

Sam specializes in the sale of investment properties, development sites, and owner/user facilities, as well as leasing on behalf of property owners and tenants throughout Silicon Valley and the western United States. Sam also focuses on property tax assessment services and distressed property solutions.

Sam provides his clients with a wealth of experience from a varied background – as a real estate broker, lawyer, and investor. He has used those skills for over two decades to help clients achieve exceptional results in their real estate transactions. Sam practiced real estate law for fourteen years at Wilson, Sonsini, Goodrich & Rosati in Palo Alto and GCA Law Partners in Mountain View, representing investors, developers and technology companies. Notable transactions included Apple Computer's 1,000,000 square foot R&D campus in Cupertino, a \$50M off-balance sheet financing for NYSE-listed Cardinal Health, numerous transactions for Genentech, and headquarters leases, acquisitions and financings for Silicon Valley's leading companies. Sam was a partner at Sharp Development Company until 1999, where he bought, redeveloped, managed and sold multiple commercial properties in Silicon Valley

### Major Transactions

Sam has advised clients on well over \$2 billion worth of transactions, including:

Renco Properties Fremont and North San Jose Portfolios, \$200 Million

Pelio/ Moore Santa Clara Data Center Portfolio, \$95 Million

Limar Realty Corp. – Sales of 34 separate projects totaling \$350 Million plus

Novell, Inc. San Jose campus – Sale of 500,000 square feet plus campus and 19 acre development site to

EBay Inc.

### Professional Recognition

Second in the ASVB ranking of "Top Commercial Agents in All Practice Areas", 2005

Second highest producing commercial agent companywide, 2005

Runner-up for ASVB "Investment Broker of the Year" award

Top 5 in Cornish & Carey's Santa Clara office in 2005(#1 in 2005) and 2006

### Education

Bachelor's Degree in Political Science, Williams College

Juris Doctorate Degree, University of California, Hastings College of the Law

## Matthew Thomson's Resume



**Matthew Thomson**  
Associate  
650.320.0268  
mthomson@ctbt.com  
Lic #01471708

1950 University Avenue  
Suite 220  
East Palo Alto, CA 94303  
ph. 650.852.1200  
fx. 650.856.1098

[www.ctbtapartments.com](http://www.ctbtapartments.com)

### Background & Experience

Before joining Cassidy Turley BT Commercial Matthew Thomson was with Marcus & Millichap as an investment broker for nearly 5 years. Matthew graduated from the University of California, Santa Barbara with a Bachelor's Degree in Literature and a minor in Finance. Matthew has been involved in brokering more than 200 transactions locally & nationwide, eclipsing \$600 million dollars in sales volume, focused specifically in assisting multifamily investors acquire & dispose of their assets.

Please visit [www.ctbtapartments.com](http://www.ctbtapartments.com) for more information.

### Education

University of California, Santa Barbara



## Samantha Basto's Resume

### **Samantha Basto**

Marketing Assistant  
650.320.0233  
sbasto@ctbt.com

1950 University Avenue  
Suite 220  
East Palo Alto, CA 94303  
ph. 650.852.1200  
fx. 650.856.1098

[www.ctbt.com](http://www.ctbt.com)

### **Background & Experience**

Samantha supports two senior brokers in investment sales and leasing of properties throughout the Silicon Valley. Samantha graduated from the University of California, San Diego with a Bachelor's Degree in Communication and a Minor in Psychology. Samantha is responsible for assisting in all aspects of transactions, from researching the local market to drafting lease and sale proposals, acting as a secondary contact for all clients to help facilitate any and all concerns in their real estate transaction.

### **Education**

University of California, San Diego

## Relevant Listing Team Case Studies

1250 Grundy Lane, San Bruno, CA

Land Sale

Project Size: 1.71 acres

Representation: Seller

Results: Currently marketing the site as an office or multifamily development opportunity. Site is currently zoned PD allowing for office (.5 FAR) but the city is in favor of a general plan amendment to allow higher density housing (+-50 units/acre).



Fayette Drive, Mountain View, CA

Land Sale

Project Size: 1.15 Acres

Representation: Seller/Buyer

Results: Marketed property to national pool of public and private developers. Generated over 10 offers and dramatically exceeded owner's value expectations through competitive bidding process resulting in a "vertical negotiation." Currently in escrow and non-refundable with a major redeveloper. Pricing in excess of \$100,000/buildable unit.



## Relevant Listing Team Case Studies

101 Polk Street, CA

Land Sale

Project Size ± .17 Acres

Representation Seller/Buyer

Results: Unentitled existing surface parking lot with development potential for 150+ unit high density multifamily project. Marketed property to national pool of public and private developers. Generated over 10 offers and dramatically exceeded owner's value expectations through competitive bidding process resulting in a "vertical negotiation." Currently in escrow and non-refundable with a major regional developer.



533 Middlefield Road, Redwood City, CA

Building & Land Sale

Site Size: 92,000 SF

Escrow: In Escrow

/Price PSF: \$240

Total Price: Confidential

Representation: Seller

Results: Selling site for San Mateo Credit Union. Buyer is condo developer (Pauls Corp). 10 story height limit.





## Relevant Listing Team Case Studies

1258 El Camino Real, Menlo Park, CA

Building & Land Sale

Site Size: 13,917 SF

Escrow: May 3, 2012

\$/Price PSF: \$643

Total Price: \$2,250,000

Representation: Seller

Results: Represented both the original ownership and then the lender who took the property back in foreclosure. The property was brought onto the market with an environmental issue. There were solvents in the soil and groundwater as a result of releases by the dry cleaner formerly located on the adjacent site (owned by the Derry family). The materials migrated to the property, so there were soil, groundwater and indoor air issues to overcome. The clean-up of the Derry site and 1258 El Camino was ordered by the Department of Toxic Substances Control and was underway during the sale.



Novell, Inc. San Jose Campus

Building & Land Sale

Project Size: 500,000 SF campus / 19 acre development site

Results: Represented the Seller in the sale of the project to eBay, Inc.



## Relevant Listing Team Case Studies

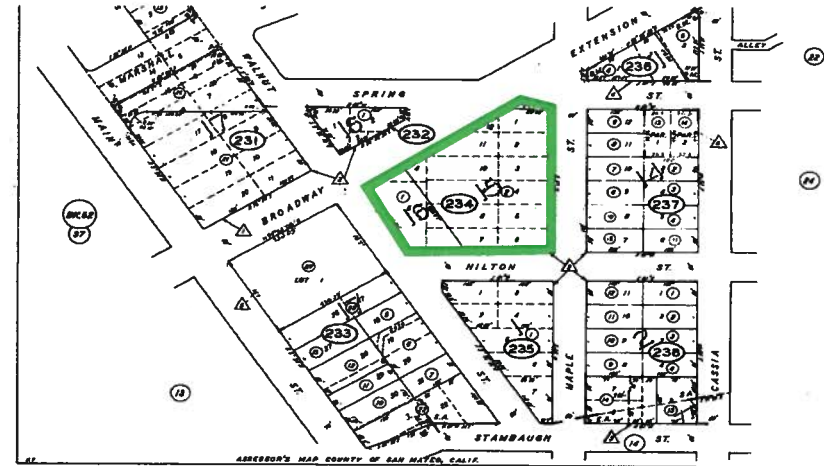
1833 Broadway, Redwood City, CA

Land Sale

Site Size ± 1.66 Acres

Representation Seller

Results: Marketed property to REITS, pension funds, developers and 1031 exchange investors on behalf of ownership. Generated multiple offers for outright purchase, joint venture & long term ground lease. Proposed development uses included for sale condominiums, multifamily for sale (affordable & market rate), retail and mixed use.



## Relevant Cassidy Turley Case Studies

Station Park Green, San Mateo, CA

Joint Venture Equity

Site Size: 11.96 Acres

Representation: Seller/Buyer

Results: Retained by a national developer to market a site entitled for 599 units and 70,000 sf of office and commercial space. Generated multiple offers for outright purchase as well as for joint venture equity. Currently in negotiations with a national equity fund on terms of joint venture agreement. Pricing in excess of \$110,000/buildable unit.



280 Units, Affordable Apartments, San Jose, CA

Land Sale

Project Size: 9.1 Acres (30.8 DLL/Acre)

Representation: Seller/Buyer

Results: This property was annexed from Santa Clara County through the LAFCO process with a General Plan revision and a residential zoning approval necessary for the development of 280 units development on the 9.1 net acre site (30.8 DU/AC). This was a development of affordable housing that had 5 qualified applicants apply for every tenancy availability. It is the poster child project for the San Jose Redevelopment Agency.





## Relevant Cassidy Turley Case Studies

San Jose Medical Center (Residential Mixed-Use Redevelopment) San Jose, CA

Building & Land Sale

Site Size 583,522 SF; 13.39 acres

Time on Mkt 15 Months

Escrow January 21, 2010

Occupancy Vacant

\$\text{Price Psf} \\$41.13

Total Price \$24,000,000

Results: Functionally obsolete hospital became surplus but could not be sold to a competitor. Following the recommendations and guidance from Cassidy Turley brokers on this sales assignment, the Seller was able to gain City Council approval of a conceptual redevelopment plan for 650 residential units and 100,000 square feet of commercial development space.



381 Stockton Ave (Industrial conversion to Residential) San Jose, CA

Building & Land Sale

Site Size 192,263 SF, 4.4 acres

Date Sold Sep-09

Occupancy Seller vacated on closing

Price Psf \$102.94

Total Price \$19,792,000

Buyer Castle Group

Seller 381 Stockton, LLC

Results: Industrial Conversion to 250 unit residential apartment project increased sale value. Owner sold HVAC contracting business and wanted to sell site for "highest and best" use value. Cassidy Turley's knowledge of market and best value led to strengthening seller's position to achieve exceptional value.



## Relevant Cassidy Turley Case Studies

I-880 at Brokaw Rd (Development Site) San Jose, CA

Land Sale

Site Size 1	8.1 acres
Time on Mkt	250 days
Date Sold	Sep-07
Occupancy	Vacant
Price Psf	\$32
Total Price	\$25,000,000
Buyer	Sand Hill Properties
Seller	McClatchy Company

Results: Disposition of excess land acquired through acquisition of Knight Ridder for McClatchy (Bay Area News Group). Newspaper was able to monetize surplus parcel of land throughout sale to a retail developer.



Hilton Hotel at Santa Clara Convention Center, San Jose, CA

Land Lease/Development Agreement Negotiation

Project Size 4 Acres / 244 room hotel

Results: The Investor/Developer made initial calls to this area from his established base in southern California. On an exclusive representation basis, arranged with the City Manager for a Direct Development Agreement to be negotiated between the two parties. The City leased the 4 acre site to the developer who completed construction of the 244 room hotel in 1998.





## Relevant Cassidy Turley Case Studies

Ebay's First Campus Facility, San Jose, CA

Land Sale

Project Size 475,856 sf of office space on 24.3 acre site

Representation Seller/Buyer

Results: This 24.3 acre orchard site is located on the NE corner of Hamilton at Bascom Avenue on the border of the City of Campbell. The property was zoned for agricultural use. The brokerage team counseled closely with the planning staff at the city and were able to conclude that office or R & D use were preferred over residential development at the time. The family sought top of the market pricing along with a desire to minimize the time allocated to entitlements. The successful bidder for this property was the McCandless Corporation who developed the property as a speculative development. The key element of the negotiation was the agreement by Buyer and Seller to phase the project over time into two phases. This allowed the developer to cut his risk profile essentially in half. For the Sellers, they were able to realize a higher price at closing for the Phase II portion of the property. They were compensated for waiting. The brokerage team represented both Buyer and Seller in this transaction. The project rented well and over time, a small start up tenant, E-Bay, grew to occupy and ultimately purchase the entire property.



## Property Overview

### Details

Address	777-827 Hamilton Avenue Menlo Park, CA
County	San Mateo
APN	777,785,787,791,801,811
County Use	Land
Improvements	8,345 sf (per city planning approval records)
Zoning	M1-light industrial
Desired Use	Medium density residential ( 30-40 units/acre)

### Attributes

Land Area	2.1 Acres
General Plan	Medium Density Residential

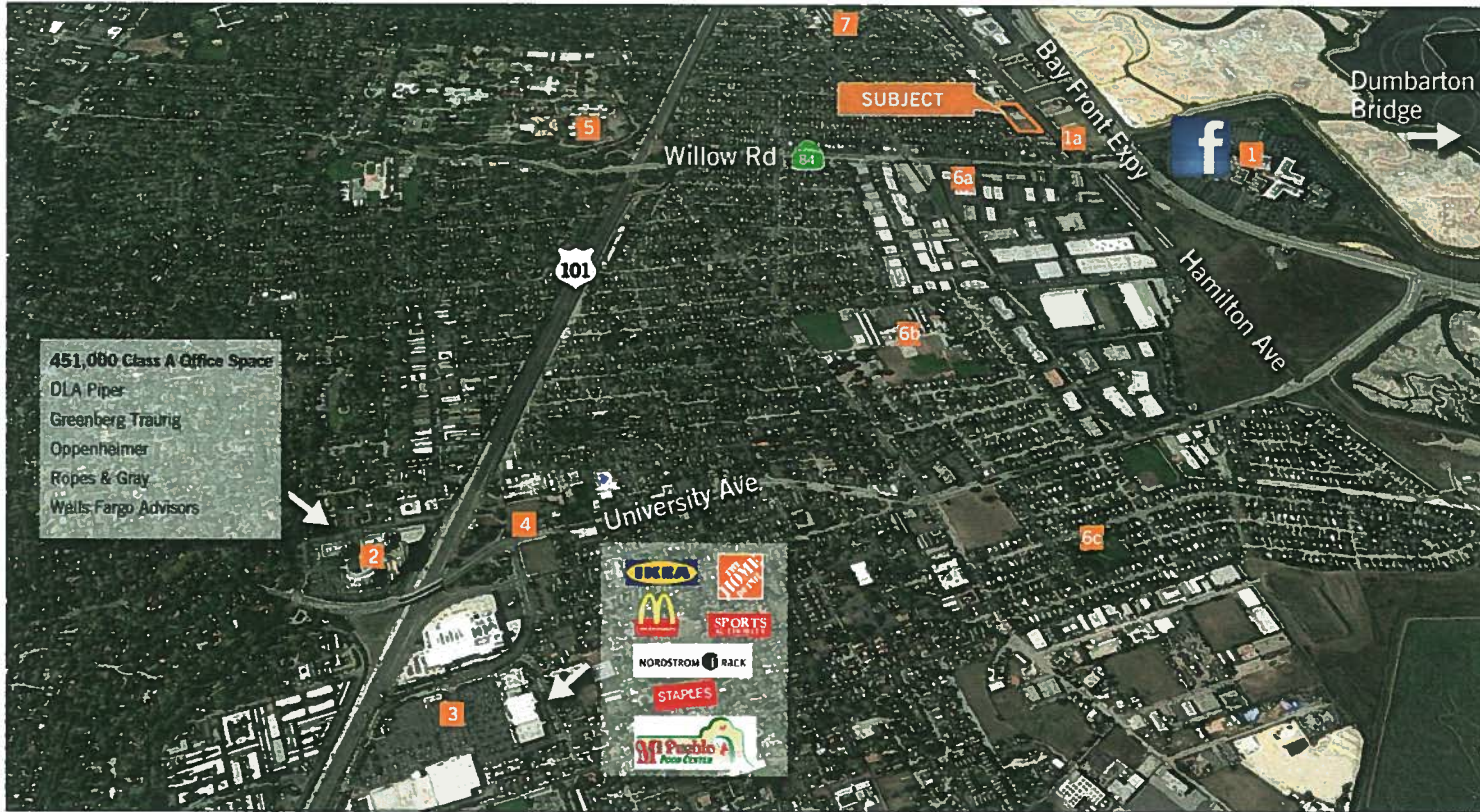
## Aerial Map



- 1** Facebook Headquarters - 1,034,000 SF of Class A Office Space    **1a** Facebook Headquarters Expansion Land (Development Potential For Additional 440,000 SF)
- 2** Menlo Corporate Center (E-Trade, Allstate Investments, Lucile Packard Children's Hospital, Latham & Watkins LLP)
- 3** Intuit
- 4** Veterans Affairs Medical Center - Menlo Park (800,000 SF)
- 5** Sobrato Development Site (12.1 Acres - 237,000 SF Class A Office Space)
- 6** Menlo Gateway Development Site (694,669 SF Office and R&D, 171,563 SF Hotel - 230 Rooms, 68,519 SF Health Club, 10,420 SF Retail)
- 7** Boys & Girls Club
- 8** Menlo Atherton High School
- 9** Mid-Peninsula High School
- 10** Beechwood High School

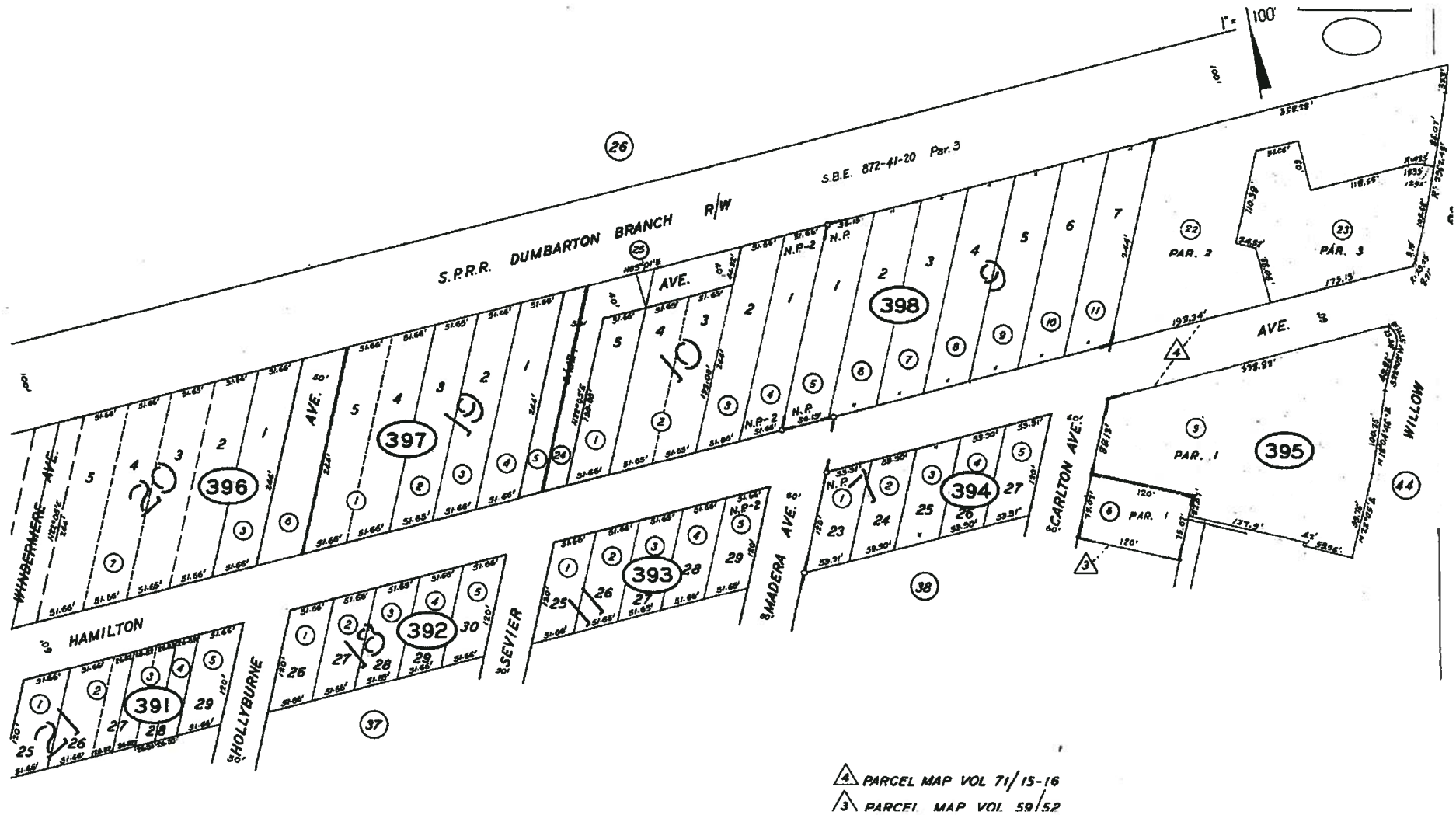


Aerial Map



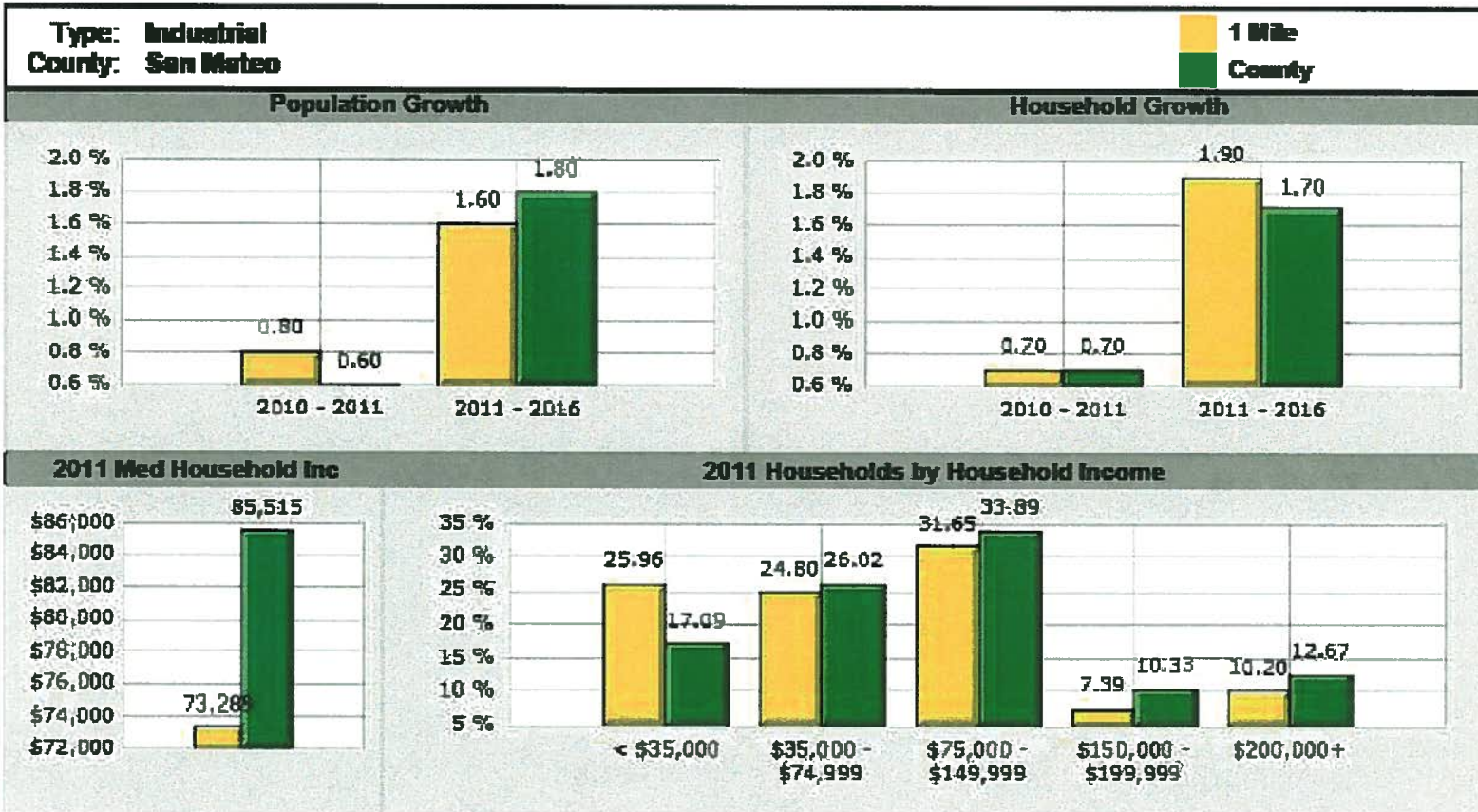
- 1** Facebook Headquarters - 1,034,000 SF of Class A Office Space    **1a** Facebook Headquarters Expansion Land (Development Potential For Additional 440,000 SF)
- 2** University Circle - 451,000 SF Class A Office Space (DLA Piper, Greenberg Traurig, Oppenheimer, Ropes & Gray, Wells Fargo Advisors)
- 3** Ravenswood Shopping Center (Ikea, Nordstrom Rack, Home Depot, Sports Authority, Staples, Mi Pueblo, McDonalds)
- 4** Sobrato Development Site (208,000 SF Class A Office Space)
- 5** Veterans Affairs Medical Center - Menlo Park (800,000 SF)
- 6a** Mid-Peninsula High School    **6b** Cesar Chavez Elementary School    **6c** Costano Elementary School
- 7** Boys & Girls Club

Parcel Map

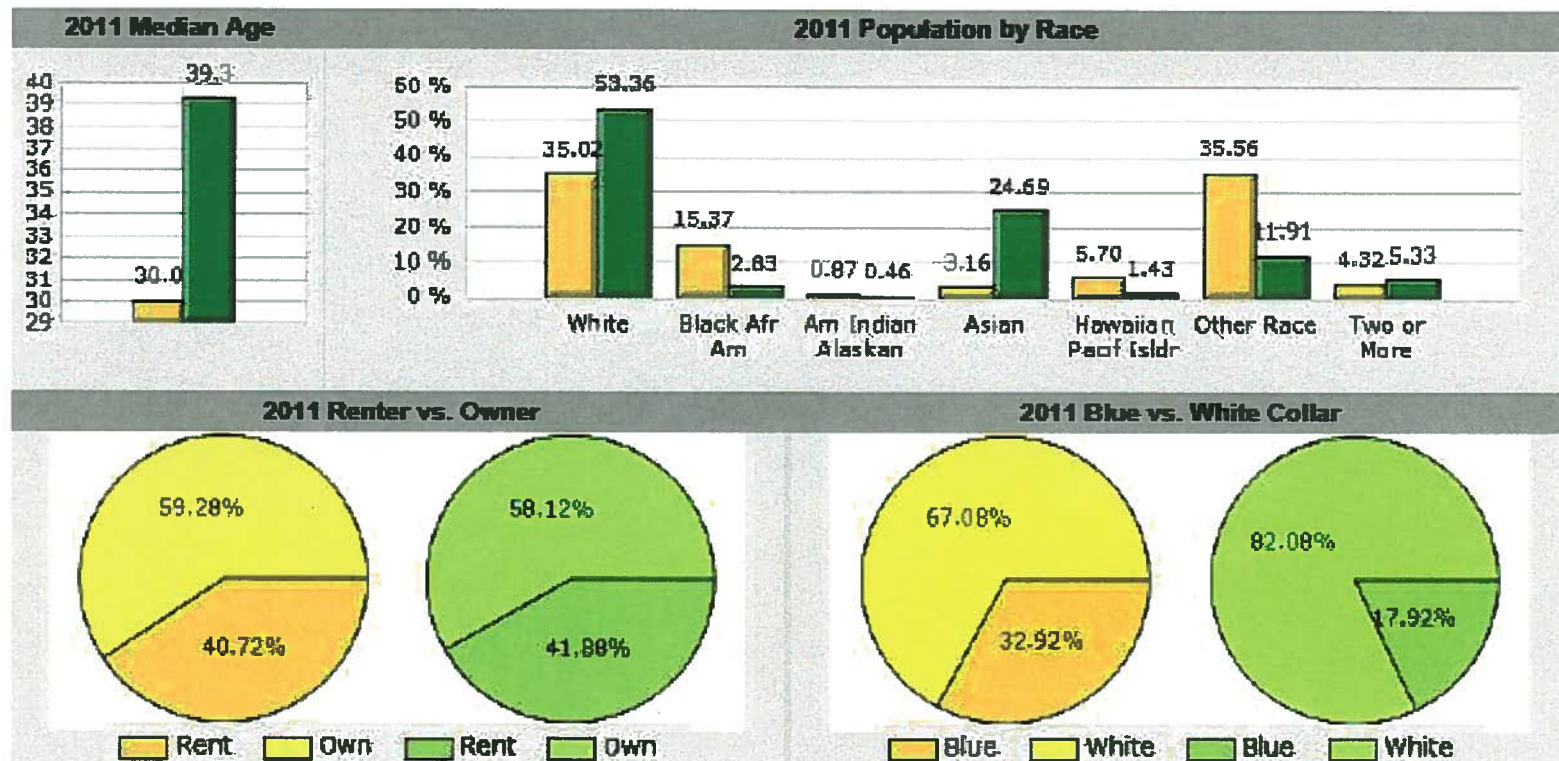




Demographics



## Demographics



## Marketing & Closing Timeline

### Sample Project Timeline

The timeline below is representative of a typical project where a property is listed un-priced and a predetermined date is defined for receipt of qualified offers.

A specific project timeline will be created upon confirmation of the desired schedule and sales objectives.

This sample project assumes an "As-is" sale without contingencies for entitlement or environmental conditions.

Month	August	September	October	November	December	January	February	March	April
No									
1 Execute Listing Agreement									
2 Develop Marketing Announcement/ Offering Package	█	█							
3 Distribute Marketing Announcement / Confidentiality Agreement		█	█						
4 Distribute Offering Package			█	█					
5 Buyer Review of Opportunity and Initial Due Diligence			█	█	█				
6 Anticipated Call for Offers				█	█				
7 Owner's Review of Offers - 2nd Round Bidders Chosen					█				
8 2nd Round Offers Due					█				
9 Owner's Review of Offers and Selection of Buyer						█			
10 Contract Negotiations						█	█		
11 Buyer's Due Diligence, Removal of Contingencies and Deposit Non-Refundable							█	█	█
12 Removal of Closing Conditions and Close of Escrow									█



## Marketing Process and Property Due Diligence

### The Marketing Process

Our goal is to achieve the best price and terms from a qualified buyer within the shortest time frame possible.

Our well organized, far reaching and structured marketing program will create a competitive environment with all interested buyers and establish today's market value by not setting an asking price. This process will avoid having the property tied up by a buyer meeting asking price expectations but later re-trading price and terms during their due diligence period.

We will perform our services through a disciplined process, which will entail the following:

#### Step 1:

Create a two sided opportunity announcement and registration of interest (information flyer).

#### Step 2:

Prospective user and investor/developer list, including brokers, assembled and the opportunity announcement is sent out requiring potential buyers to register their interest.

#### Step 3:

Confidentiality agreement is sent out to all registered buyers with their interest and activity level being tracked and reported to MP.

#### Step 4:

The offering package is mailed to all registered buyers, with specific instructions regarding property tours, offering guidelines and offer due date.

#### Step 5:

Physical inspections and due diligence phase for all interested and registered buyers. Including review of:

- all environmental documents and reports
- existing improvements – all plans, reports and historical information
- city and governmental agency notices and reports regarding operations and use of the property
- a document library will need to be set up on site, or a web based electronic vault with copies of all documents and plans for password protected access

#### Step 6:

Follow up questions and reminder notice of offer deadline sent to all potential buyers.

#### Step 7: Offer Due Date

Offer matrix created summarizing the price and key points of each offer.

#### Step 8:

Offers submitted to seller for review. Each Buyer is interviewed to understand their underwriting assumptions and qualify their ability to finance and close escrow.

#### Step 9:

Best and Final – 2nd round offers, if necessary, to a short list of the most capable and qualified buyers.

#### Step 10:

Interviews - Under certain circumstances, we might recommend face to face interviews with a handful of the most qualified buyers in an effort to further qualify.

#### Step 11:

Negotiation period – selected buyer and seller to negotiate a purchase and sale agreement including remaining due diligence items prior to closing escrow.

## Marketing Strategy

The Cassidy Turley marketing team led by Jamie D'Alessandro & Sam Wright have completed numerous sale transactions in San Mateo & Santa Clara County using a proven strategy to market exclusively listed properties. The marketing approach for each these distressed assets is summarized as follows:

### I. Compile Due Diligence Materials and Identify "Red Flag" Items

- Major Property issues identified.
- Underwriting and pricing verified.

### II. Identify Target Investor Group

- Each property's strengths & challenges matched to investor profiles.
- Database search to compile investing entities match target investor profile.

### III. Direct Mail Marketing Campaign

- Create teaser postcard highlighting deal points to generate interest.
- Postcard customized to appeal to target buyer pool's investment criteria.
- Approval from ownership requested prior to distribution.
- Postcard distributed to target investor groups.

### IV. Internet Marketing Campaign

- Create "eBlast" - an abridged, email compatible marketing presentation with links to full marketing package.
- eBlast distributed to target investor group via email.
- eBlast distributed to proprietary apartment investment brokerage community database
- Broker cooperation recommended.
- Upload to Cassidy Turley BT's, LoopNet, CoStar and Property Line property listing websites - vast marketing exposure that is particularly helpful for these unique deals.

### V. Telemarketing Campaign

- Target investor list divided among marketing team.
- Jamie D'Alessandro and Sam Wright to call investors most likely to acquire each asset.
- Over 200 calls to be made.

### VI. Offering Memorandum

- Create comprehensive offering memorandum.
- Communicate marketing process overview, timeline for offers, ownership's objectives to investors.
- Comprehensive location and market analysis.
- Highlight each property's strengths.
- Address Property's challenges and provide solutions.
- Substantiate pricing with relevant comparable metrics.
- Offering memorandum customized to target buyer pool's investment criteria.
- Approval from ownership requested prior to distribution.
- Offering memorandum distributed to registered investors.

### VII. Offers

- Based upon market's reception, a date certain call for offers may be utilized.
- Offerors qualified prior to recommendations made to ownership.
- Ownership's participation in qualifying potential buyers could be added through an interview process. This provides objective and unobjective background for selecting the buyer most likely to be successful with the city.
- Ownership to select buyer.

## Marketing Strategy

### VIII. Escrow & Closing

- Marketing team will supervise, to the extent desired by ownership, the entire closing process from buyer selection and contract negotiation to closing.

### Marketing Philosophy

Our objective is to achieve the highest possible price in the marketplace for our clients that entrust us with exclusively marketing their properties. At all times we focus our efforts and resources on our seller's goals in a manner consistent with the highest levels of professionalism and ethics. In today's market, the highest price for each property will be achieved by orchestrating a transparent process where multiple, competing letters of intent are generated over a narrow time span for ownership's consideration. Further, we believe that a wide-reaching, highly visible marketing effort, drawing attention and interest from many potential buyers, is appropriate and recommended.

### Control of the Process

We believe that the marketing team, working closely with the ownership, should control the the marketing process. As your exclusive agent, we will deal directly with the pre-identified group of investors and make certain to maintain a consistent marketing message for this offering.

### Property Positioning

Communicating each apartment community's specific position in the market is a vital component to a successful sale. This communication must be done first through the preparation and dissemination of a high quality, thorough, and accurate offering memorandum. Second, through relentless selling, the prospects must be assisted to understand the full potential and value of the property. Investors constantly comment about the quality of information in our offering memorandums and how our thorough approach allows them to go from offer to closing without "re-trading" based on inaccurate or undisclosed information.

### Strong Work Ethic

To achieve the highest price, there is no substitute for hard work. Our marketing team is committed to investing the time to sell each property that we exclusively list. We do not just put out an offering memorandum and wait for offers. We create offers by contacting and re-

contacting potential buyers. Our marketing team is prepared to allocate the time and effort needed to complete this assignment.

### Marketing Strategy & Target Investors

We project investor categories by matching the property type, quality, and investment characteristics with the interests of various market segments. After we have identified the investor categories, we review the active participants in each to create an investor prospect list, the "target market." The key to achieving the highest price for the ownership is to first generate qualified buyer interest from this target market within a narrow time frame. Second, this interest must be controlled and converted into competing offers so that the Seller has the ability to select the most promising purchaser with which to negotiate. Third, that negotiation must be brought to a completed sale through a collaborative effort between ownership and the marketing team. Groups in the "target market" include:

- Residential Developers
- 1031 Trade Buyers
- Well-Funded Private Capital Investors
- Real Estate Operating Companies
- Professional Investors

### Target Market Contact Program

Generating qualified, motivated interest in the offering depends on relationships with investment decision-makers within the target market. Due to internet-based contact management software and e-mail data delivery, identifying likely prospective purchasers and providing them insightful information has become ever easier. As a result, investment decision-makers receive more data than they can evaluate. For this reason, personal relationships with actual acquisition decision-makers have become critical to generating multiple offers over a short time frame. The marketing team's strong relationships and direct telemarketing campaigns ensure the offering brochures for each asset will be brought to the top of the pile and read.



## Marketing Strategy

### The Offering Memorandum

While brochures do not sell property, if properly designed, they can both stimulate buyer interest and simultaneously pre-qualify that interest. An effective marketing package should be designed to be attractive, accessible and informative. At the same time, it must have sufficient detail to allow a non-local investor to gain a thorough knowledge of the asset. There should also be enough data to convince a buyer to schedule a site visit for confirmation, not initial fact-finding. The offering brochure must stand out with respect to both visual impact and content. It must reflect the high standards of ownership and be easily referenced by the prospects. The marketing team is well known for its quality, thorough, offering memorandums.

### Advertising and the Internet

The marketing team utilizes a variety of delivery systems to expand its target market list on an ongoing basis. These systems include the Wall Street Journal, Cassidy Turley's web site and other internet based information delivery systems such as MindMatrix and LoopNet. These resources seem to offer the most effective means of accessing qualified buyers and providing the due diligence materials as appropriate. For this assignment, the marketing team will utilize MindMatrix to create secure web-based document war rooms for each offering. This web site will house the flyer, offering memorandum, and due diligence materials for each property. These materials are then released to investors as deemed appropriate.

### Reporting and Client Communication

Communication is essential to a successful marketing program. It provides the information necessary to respond quickly to offers to purchase when they appear. Having marketed notable assets for many owners, we understand the need to design our reporting to meet the client's formats. You will be kept informed on all developments in the marketing of the Property on your desired schedule and format. As the marketing process progresses, we will provide you with a regular report on those prospects we have developed, and other points of significant interest.

### Documentation

Sellers often require comprehensive records of their broker's activities. To this end, in addition to our marketing reports, The marketing team will maintain a chronological file of all

correspondence relating to each listing. Once escrow is opened, a separate escrow file will be established on MindMatrix and will include requests for and delivery of documents, reports and other information regarding the property. At all times, the entire transaction file is open and available for inspection and review by the Seller.

### Due Diligence

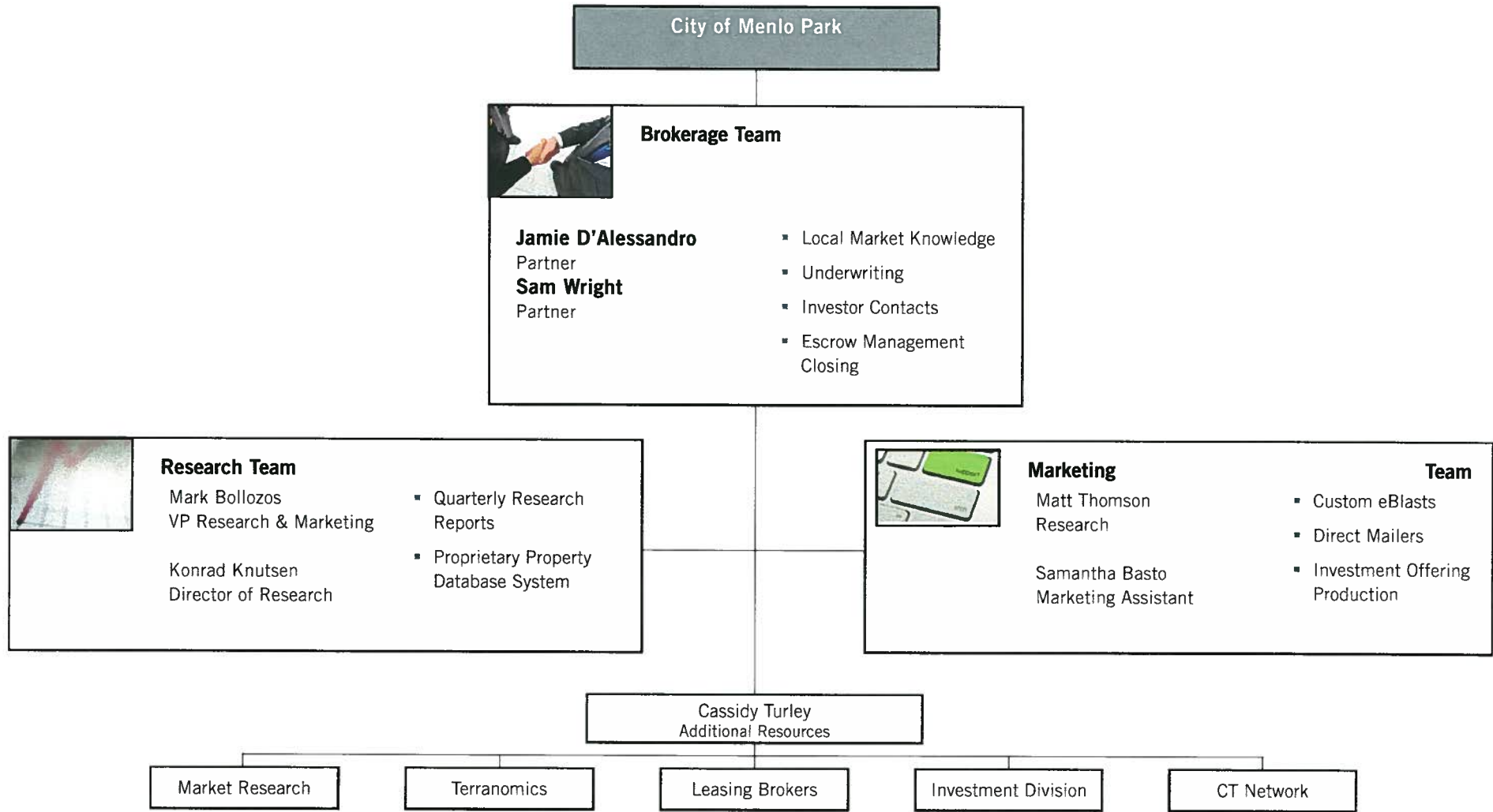
We propose establishing a due diligence, online war room with MindMatrix where the marketing team would post downloadable copies of all important due diligence items. The marketing team would then selectively allow, via password, qualified parties access to these files as necessary. This war room will allow the ownership to credibly demand a short due diligence period and also avoid delays related to delivery of documents. The marketing team recommends that this war room be created at the beginning of the marketing process. The assembly of due diligence documents will alert the Seller to any missing records and accelerate decisions over representations and warranties.

### Escrow

Long escrow periods tend to decrease the likelihood of successful transactions. The art to completing a transaction with a motivated buyer is to remove impediments before they appear and to immediately counter objections and problems. This requires the active and direct involvement of the team co-leaders. The sales process does not stop until the escrow closes.

This is especially important in this instance due the unique circumstance where you are have to give consideration to the higher price that can be realized by allowing the Buyer sufficient time to secure a change in use. We have met with the city and discussed the potential, alternative uses that would gain positive response from the city. The timing of this sale is in alignment with the city's current active consideration of initiating their own usage changes to take advantage of the maturation of transit services to the city and the proximity of services to residents and employment centers.

## Marketing Structure



## Marketing Collateral



### Postcards

Direct mailers are an effective way of supplementing electronic marketing methods. In particular, postcards are highly visible pieces that are less likely to get lost in the stacks of mail received by potential buyers daily.

Our marketing department will design and order a custom postcard for the property within 2 days of an executed listing agreement. Postcards will be mailed within a week thereafter and will be delivered to contacts contained in Cassidy Turley's comprehensive, proprietary investor database.

When used in tandem with e-mail blasts, postcards create maximum marketing exposure for an asset in a short period of time.



### Investment Offerings

Cassidy Turley prides itself in creating high-end professional marketing pieces. Investment Offerings are created to maintain this standard and will serve as potential buyer's substantive introduction to this investment offering.

Production on a comprehensive Investment Offering will commence immediately following receipt of a signed listing agreement and is typically completed within 2 weeks.

This Opinion of Value will be updated and converted into a confidential Investment Offering that will be provided to qualified parties.

Investment Offerings will be available in both electronic and professionally printed hardcopy formats.

## Marketing Collateral

### eBlasts

Cassidy Turley will leverage electronic correspondence throughout the marketing of the property to maintain frequent contact with the marketplace. E-mail blasts will be sent directly from Cassidy Turley's proprietary database with the goal of reaching all potential buyers.

- E-mail blast will be sent out after the Investment Offering has been completed and approved.
- Additional e-mail blasts will be sent regularly to investors that have yet to express interest in this opportunity.
- E-mail blasts will be sent to active qualified investors across the region, ranging from large professional buyers to individual local investors.

Property	City	State	Type	Units	Price	Per Sq Ft	View
Sunco Park	Concord	CA	Apartment	178	\$10,995,000.00	6.78	
25th Street	San Francisco	CA	Apartment	27	\$5,600,000.00	5.41	
The El Rey Apartments	San Rafael	CA	Apartment	20	\$4,500,000.00	5.09	
1600th Street	San Leandro	CA	Apartment	26	\$3,650,000.00	5.89	
174-111th Street S.E.	Sunnyvale	CA	Apartment	18	\$3,355,000.00	0.00	
152 2nd St E	San Jose	CA	Apartment	49	\$3,200,000.00	5.09	

### Internet Listing Campaign

During the marketing process, the property will be added to a number of highly trafficked internet listing web sites. These sites are visited by individuals involved in varying areas of the real estate industry, including investors and brokers. Any interested party will be able to easily access summary offering information from these sites and quickly review the opportunity.

Uploaded to Loopnet, PropertyLine, CoStar, and www.ctbtapartments.com.

Listing information is easily accessible to ALL interested parties, including outside brokers.

Maximizes listing exposure with the aim of creating a competitive buying atmosphere.



## Pricing and Proposed Value Range

80 Unit Multi-Family Development (±40 units/acre)	Neutral	Moderate	Aggressive
Potential Value	\$4,000,000	\$4,800,000	\$5,600,000
Price per Unit	\$50,000	\$60,000	\$70,000

**Pricing:** We would recommend taking the property to market “unpriced.”

**Deposit Structure:** Based on our experience, we anticipate a developer going nonrefundable on a \$100,000-\$200,000 deposit after an initial 45-60 days feasibility period.

**Closing Timeline:** Based on our experience, we anticipate a closing window within 2-3 weeks of the completion of a buyers feasibility period.

## Brokerage Fee Proposal

### VALUE LEADERSHIP – COST COMPETITIVE PRICING

#### Brokerage Pricing:

Commission Based Services – Upon successful sale or otherwise transfer of property value (e.g., in the event it is advantageous for MP to transfer or contribute the value of all or part of the property. Hypothetical example. “Sales Price” below represents either the Gross Sales Price in traditional sale, or, the Value of the transfer situations as the example above.)

- Compensation Scenario
  - 3.5% of the Sales Price – Paid by MP at closing to Cassidy Turley.
  - Any additional commission paid to a procuring broker shall be paid by buyer.
- These Cassidy Turley performed services are complete and comprehensive, meeting or exceeding accepted practice for brokerage services delivered to effectively market and sell real commercial property.



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

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

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Mayor Keith called the closed Session to order at 5:45 p.m. with Cline, Fergusson, Keith and Ohtaki present.

NOTE: Council Member Cohen is recused from the item due to the proximity of his property

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

**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)*

Mayor Keith called the Study Session to order 6:38 p.m. with Cline, Fergusson, Keith and Ohtaki present.

NOTE: Council Member Cohen is recused from the item due to the proximity of his property

**SS1.** Update from legislative advocate regarding High Speed Rail  
Ravi Mehta, provided an update regarding legislation related to High Speed Rail ([Attachment](#)).

Public Comment

- Don Barnby urged the Council to thwart anything but a two-track plan.
- Adina Levin, representing Friends of Caltrain, gave a breakdown of what is included for Caltrain through the High Speed Rail project, including electrification and suggested that the Council focus on what is happening.

Mayor Keith called the Regular Session to order 7:12 p.m. with all members present.

**REPORT FROM CLOSED SESSION**

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

**ANNOUNCEMENTS**

City Manager McIntyre introduced the new Human Resources Director Gina Donnelly.

**A. PRESENTATIONS AND PROCLAMATIONS**

**A1.** Proclamation: July 2012 is Parks Make Life Better® Month ([Attachment](#))



Mayor Keith read a proclamation honoring the Community Services Department during Parks Make Life Better® Month.

Noreen Bickell, Recreation coordinator, gave a presentation on the accomplishments of the Community Services Department. ([PowerPoint](#))

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

**B1.** Bicycle Commission quarterly report on the status of their 2-year Work Plan Presentation made by Gregory Klingsporn, Bicycle commission Chair

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

**D. CONSENT CALENDAR**

**ACTION:** Motion and second (Cline/Ohtaki) to approve the Consent Calendar, excluding Items D-8 and D-10, passes unanimously; Item D-10 as submitted passes 4-0-1 (Recused: Fergusson)

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

**D2.** Adopt **Resolution No. 6091** 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 **Resolution No. 6092** 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](#))

**This item was removed from the agenda due to unexpected high bid results.**

- 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 **Resolution No. 6093** 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 **Resolution No. 6094** 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 #12-114](#))  
Staff presentation by Thomas Rogers, Senior Planner

Mr. Matteson, applicant, presented a visual presentation on the project features. ([PowerPoint](#))

The Public Hearing was opened at 8:21 p.m.

### Public Comments

- Pestoy Butcher spoke in favor of the project and stated that he hopes this is the beginning of the changes on El Camino Real.
- Howie Dallmar spoke on behalf of the project as it will fit into the neighborhood and one that the community can be proud of.

**ACTION:** Motion and second (Cline/Ohtaki) to close the Public Hearing at 8:25 p.m. passes unanimously.

**ACTION:** Motion and second (Ohtaki/Cohen) to approve the following passes unanimously:

- **Resolution No. 6095** certifying the Final Environmental Impact Report, adopting the Statement of Overriding Considerations and adopting the Mitigation Monitoring and reporting Program;
- Apply the State Density Bonus Law to allow one incentive and six development standard waivers;
- 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
- Adopt findings and approve the Architectural Control for design review of the new buildings and site improvements;
- Make findings and approve the Tentative Map to merge seven (7) lots into two lots, abandon the public street easement for Alto Lane, and create 26 residential condominium units; and
- Approve the Below Market Rate (BMR) Housing Agreement to provide three (3) on-site BMR units in accordance with the City’s BMR Housing program and State Density Bonus Law.

Additional requirements added to the Conditions of Approval:

1. The applicant shall include provisions in the project CC&R’s that state that the project’s two common open space areas (the large open space area along El Camino Real located between Buildings A1 and A2, and the smaller “pocket park” along College Avenue) shall remain publicly accessible, and that limitations to public access (i.e. permanent barrier fencing, gates, etc.) are not permitted.
2. Concurrent with the submittal for a building permit, the applicant may revise the site and landscape plans to allow for wider effective sidewalk area, through potential measures such as stepping stones and tree grates, along El Camino Real at the southern portion of the parcel. The applicant may also revise the landscape plan to utilize a greater number of native tree plantings. Any such landscape plan revisions shall be subject to review and approval of the Planning and Public Works Divisions.
3. Concurrent with the submittal for a building permit, the applicant shall submit a revised landscape plan showing retention of the two London plane street trees in front of the central “common green” (trees # 13 and #14). The applicant shall also submit a revised arborist report, detailing any necessary preservation measures for these trees. The revised landscape plan and arborist report shall be subject to review and approval of the Planning Division and City Arborist.
4. Concurrent with the submittal for a building permit, the applicant shall conduct one of the following to address the removal of three London plane street trees (trees # 10, #11 and #17), subject to review and approval of the Planning Division and City Arborist. A combination of these measures may be permitted, as long three total trees are addressed:
  - a. Conduct planting of three London plane trees elsewhere along El Camino Real, subject to all Public Works and Caltrans requirements, and provide documentation thereof; or
  - b. Make a donation to Trees for Menlo of an amount equivalent to provide for future plantings of three London plane trees along El Camino Real, and provide documentation thereof.

**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](#))  
Staff presentation by Thomas Rogers, Senior Planner

The Public Hearing was opened at 9:16 p.m.

**ACTION:** Motion and second (Fergusson/Ohtaki) to close the Public Hearing at 9:16 p.m. passes unanimously.

**ACTION:** Motion and second (Fergusson/Ohtaki) to approve the following passes unanimously:

- Make findings regarding the Mitigated Negative Declaration;
- Make findings and approve the Tentative Parcel Map 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;

- Adopt **Resolution No. 6096** Amending the General Plan to change the Land Use designation for property located and 50 terminal Avenue and 1467 Chilco Street
  - 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;
- Introduce an ordinance 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.

**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](#))  
Staff presentation by Rebecca Fotu, Environmental Programs Manager

The Public Hearing was opened at 9:27 p.m.

Public Comments

- Adina Levin spoke in favor of the item.

**ACTION:** Motion and second (Fergusson/Cline) to close the Public Hearing at 9:28 p.m. passes unanimously.

**ACTION:** Motion and second (Ohtaki/Cohen) to introduce an Ordinance 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 passes unanimously.

**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](#))

**ACTION:** Motion and second (Cohen/Cline) to adopt **Ordinance No. 983** amending Section 3.16.030 [Imposition] of Chapter 3.16 [Transient Occupancy Tax] of Title 13 [Revenue and Finance] of the Menlo Park Municipal Code to Increase the Tax Rate to 12% passes unanimously.

**ACTION:** Motion and second (Cohen/Cline) to approve **Resolution No. 6097** 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 (Mayor Keith and Vice Mayor Ohtaki) 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 passes unanimously.

**ACTION:** By consensus, the ballot question will be Alternative 1 from the staff report and incorporating a reference to the dissolution of the Redevelopment Agency and an annual loss of \$1.2 Million.

- F2.** Approve the charter and general composition of the Specific Plan Parking Management Advisory Task Force and direct that appointments to the Parking Task Force and initiation of its worked by timed to coincide with the first phase of changes in the downtown area as stated in the Specific Plan ([Staff report #12-122](#))

Staff presentation by Charles Taylor, Director of Public Works; Thomas Rogers, Senior Planner and Linda Heineck Community Development Director

Public Comment

- Adina Levin discussed having a member of the Environmental Quality Commission be a part of this task force.

**ACTION:** By consensus staff will continue to work on the mission for the task force and return to the Council at a later date.

**F3.** Select the voting delegate for the Annual League of California Cities conference  
([Attachment](#))

**ACTION:** By consensus Mayor Keith will be the voting delegate and Kelly Fergusson the alternate.

**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](#))

**ACTION:** By consensus the Council will support resolutions 3-5 and oppose resolutions 1-2.

**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**

The Council received the reports.

**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**

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

Council Member Cohen discussed information on the Housing Element including upcoming meetings.

Vice Mayor Ohtaki provided a letter from the Menlo Park City School District and a second letter from himself to the Association of Bay Area Governments regarding regional allocations for the 2014-2022 Housing element planning period. ([Letters](#))

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

**L. ADJOURNMENT**

The meeting was adjourned at 10:33 p.m.

A handwritten signature in blue ink that reads "Margaret S. Roberts". The signature is written in a cursive, flowing style.

Margaret S. Roberts, MMC

City Clerk

Minutes accepted at the Council meeting of





## COMMUNITY DEVELOPMENT DEPARTMENT

Council Meeting Date: August 28, 2012  
Staff Report #: 12-129

Agenda Item #:E-1

**PUBLIC HEARING:** Consider an Appeal of the Planning Commission's Decision to Approve a Use Permit to Locate a Preschool at 695 Bay Road in the C-2-A (Neighborhood Shopping District, Restrictive) Zoning District

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### RECOMMENDATION

The City Council should consider the merits of an appeal of the Planning Commission's approval of a use permit to locate a preschool within an existing single-story building located in the C-2-A (Neighborhood Shopping District, Restrictive) zoning district. Staff recommends that the City Council uphold the action of the Planning Commission to approve a preschool at 695 Bay Road, thereby denying the appeal, and approve the findings, actions and conditions of approval for the use permit, as provided in Attachment A.

### BACKGROUND

#### Proposal

Key elements of the proposal are summarized here, and the applicant's project description letter is included as Attachment B of this report. The project site is located at 695 Bay Road, at the corner of Bay Road and Hollyburne Avenue. The property is developed with a single-story commercial building, consisting of one tenant space, which is currently vacant.

For purposes of this site location description, Highway 101 is considered to run in the north-south direction, and all compass directions referenced will utilize this orientation. The project plans utilize true compass orientations, and are included as Attachment C. The project site is bound to the north and east by a single parcel that wraps around the subject property. This parcel includes a one-story professional office building currently occupied by Kornberg Associates, which is addressed 687 Bay Road and located immediately north of the project site. The eastern portion of this parcel includes parking for the office at 687 Bay Road, provides access to additional off-street parking located at the rear of office building located at 687 Bay Road, and provides access to the parking immediately adjacent to the rear of the building on 695 Bay Road. There is an existing ingress and egress easement on this parcel to allow for access to the parking spaces at the rear of the building located at 695 Bay Road.

The 687 Bay Road parcel has split zoning, with the front office portion located within the C-2-A (Neighborhood Shopping District, Restrictive) zoning district and the rear parking lot in the R-1-U (Single Family Urban Residential) district. The large parcel immediately across Bay Road (to the west) is zoned P-F (Public Facilities) and occupied by Veterans Affairs Department facilities, including a hospital. Parcels to the north, east and south are residentially zoned and predominantly zoned R-1-U (Single-Family Urban Residential District) and developed with single-family residences.

The applicant is proposing to locate a preschool in an existing 2,582 square foot office building located at 695 Bay Road, where special uses, such as private schools, require use permit approval. The preschool would serve children ranging in age from two and one-half years old to five years old, and at full capacity the preschool would have 48 students and six employees. The school would operate from 7:30 A.M. until 6:00 P.M. and would offer five programs, ranging in duration, to suit the needs of the students.

Physical improvements to the structure and project site would be completed as part of the project. Interior tenant improvements would convert the office space into a preschool inclusive of two 925 square foot classrooms, a lobby, staff office, staff break room, and restrooms that would comply with disabled access requirements. In addition, a new trash enclosure would be constructed.

To address the needs for outdoor play space for the students, the proposal includes the development of a 1,600 square foot enclosed playground on the southern portion of the project site directly adjacent to Hollyburne Avenue. Development of this outdoor play space requires re-grading of this portion of the site to make the surface level. The playground would be predominantly turf, with a 375 square foot portion covered in pervious paving where a play structure would be located. As the project plans reflect, the play structure would not exceed a maximum height of ten feet six inches. The playground would be surrounded by an approximately five foot, seven inch tall wood fence as illustrated on the project elevations. The proposed fence would be accented with a trellis-like element at the top, helping add visual interest. The Transportation Division has reviewed the proposed fence for compliance with relevant sight distance standards, and staff does not believe that it would create any safety risks for pedestrians or vehicles at this intersection.

### *Parking and Circulation*

Various other site improvements would also be completed as part of the proposed project, including the reconfiguration of the existing parking lots, and landscaping improvements to address the needs of the preschool. The off-street parking requirement for this special use is established by the use permit. The office building includes 2,582 square feet of gross floor area. For standard C-2-A uses, the Zoning Ordinance requires that off-street parking be provided at a rate of six spaces per every 1,000 square feet of gross floor area. Therefore, for this parcel, 16 parking spaces would be required, where 15 parking spaces are currently provided on site. No disabled access compliant spaces are currently provided. As part of the proposed restriping of

the parking lots, a disabled access compliant parking space would be provided, which would be accessible from Bay Road. The provision of the accessible space would result in the loss of one parking space for a proposed total parking space count of 14 spaces. This is a net loss of one space; however, the City permits parking space reductions to allow for the provision of accessible parking spaces. Given that the maximum number of employees at the site would be six, with not all employees present at any given time, the staggered nature of the programs offered, and the nature of the business being predominantly for quick student drop-off and pick-up, staff anticipates that the parking spaces provided would be sufficient to meet the needs of the preschool.

### *Use Permit Review*

The proposal for the preschool requires that the Planning Commission (or City Council, on appeal) determine whether or not the establishment, maintenance, or operation of the use applied for would, under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, or whether it would be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the city. In addition, because private schools are regulated through the Zoning Ordinance as "Special Uses" per section 16.78.020, there are three factors, not necessarily findings, to be considered in determining whether the characteristics of the special use would be compatible with the uses permitted in the surrounding area:

- 1) Damage or nuisance from noise, smoke, odor, dust or vibration;
- 2) Hazard from explosion, contamination or fire;
- 3) Hazard occasioned by unusual volume or character of traffic or the congregation of a large number of people or vehicles.

Staff believes the proposed private school use would not create any such hazard or nuisance. Though there will be a slight increase in noise associated with children playing outside for a total of 160 minutes per day, there is already traffic noise at the site resulting from the site's proximity to State Highway 101 and the intersection of Bay Road and Hollyburne Avenue. In addition, schools are a common feature of residential neighborhoods in Menlo Park and elsewhere, and as such, the sound of children playing would not be unusual. As discussed above, staff believes that the parking demand for the private school use could be addressed on site, as a result of the nature of the business operations. Finally, the traffic generation associated with the proposed private school use is not considered to be unusual, and the applicant would be required to pay a Transportation Impact Fee (TIF) to mitigate any impacts to the transportation infrastructure within the City.

Because the use would not generate any of the impacts associated with the special use factors, staff recommended approval of the use permit to the Planning Commission, with specific findings as described in Attachment A. The original findings proposed by staff and included in the Planning Commission staff report have been amended to

reflect the Planning Commission's discussion to better reflect the Commission's rationale for project approval.

### **Planning Commission Review and Action**

On July 9, 2012, the Planning Commission reviewed the requested use permit. Approved excerpt minutes are available as Attachment D, and two items of correspondence associated with that meeting are included in Attachment F. These items include an email from Brynn Cahill which was an attachment to the Planning Commission staff report, and one item of correspondence from Alison Leigh Wright that was distributed at the meeting. In addition to a representative for the applicant, six community members (four in opposition to the proposal and two in support of the proposal) provided public comment at the Planning Commission meeting. The Commission's discussion touched on a number of topics including: previous site uses, the Transportation Impact Fee (TIF), parking, the accessible nature of the project site (in regard to location within the City), playground fencing and traffic.

After receiving the public testimony and discussing the proposal, the Planning Commission approved the project subject to the findings and conditions included in Attachment A (vote of 6-0 with Commissioner Ferrick absent).

### **Appeal**

On July 24, 2012, Brynn Cahill, Menlo Park resident who resides at 703 Bay Road (south of the project site on the other side of Hollyburne Avenue), filed an appeal of the Planning Commission's decision to approve the use permit. The appeal letter is included as Attachment E and is discussed in more detail in the following section. As referenced previously, Ms. Cahill also provided correspondence that was included in the Planning Commission staff report and spoke in opposition of the project at the Planning Commission hearing.

Though distinct from Ms. Cahill's appeal of the Planning Commission's approval of the use permit request, it should be noted that the applicant separately appealed the TIF on August 3, 2012. If the approval of the use permit is upheld by the City Council, the TIF appeal is anticipated to be brought to the Council for review in September.

### **ANALYSIS**

The appeal letter raises a number of concerns with the proposed preschool, which are listed below, and responded to by staff.

1. Noise: The appellant indicates that she is concerned about the potential for increased noise associated with children playing outdoors, as well as the anticipated increase in noise associated with increased traffic.

Staff would agree that there would be a minor increase in noise during regular business hours, during which time a maximum of 24 children will play outside in 40 minute increments for a total of 160 minutes Monday through Friday. A schedule of proposed preschool daily operations is included in Attachment B. There would also be an increase in vehicular trips to the site, and vehicles do inherently have some element of noise associated with their operation. Schools are a common feature of residential neighborhoods in Menlo Park and elsewhere, and as such, the sound of children playing would not be unusual. In addition, the project site is commercially zoned property, where traffic generation and associated noise is anticipated to be greater than for sites zoned for single-family residence uses. Previous site uses included a convenience store, a food market, and office uses, some of which would have generated more traffic and associated noise than the proposed preschool is projected to generate.

The project site and surrounding neighborhood is already subject to traffic noise associated with the proximity of the area to State Highway 101, as well as other uses that generate traffic including the Veteran's Affairs Hospital, which is directly across the street from the subject project site. The projected noise increase would be comparable to other commercial operations and is not considered a neighborhood noise nuisance.

2. Parking: The appellant raises concerns that the on-site parking would not be able to meet the demands of the proposed use.

In regards to parking, the site is currently substandard by one space (16 spaces are required, while 15 spaces are provided) compared to zoning ordinance requirements for parking in the C-2-A zoning district. The proposed restriping of the parking lots to improve parking access and safety and to allow for the provision of an accessible parking space would result in the loss of one space, for a total of 14 on-site parking spaces. As discussed previously, it is permissible to lose a parking space to allow for the provision of an accessible space. In addition, the number of parking spaces for special uses, such as preschools, is established by the use permit.

The City's zoning ordinance does not have an explicit standard related to required parking for preschool uses; however, as part of the development of this report, staff researched the parking requirements for similar uses in neighboring jurisdictions. The table below provides parking requirements for preschool/day care uses in other Bay Area City's, and the associated parking that would be required for the subject project based upon these requirements (fractional numbers are rounded up):

<b>Jurisdiction</b>	<b>Parking Requirement</b>	<b>Parking for subject project</b>
City of San Bruno	3 spaces, plus 1 space for each employee	3 + 6 = 9 spaces

City of Mountain View	1 space/employee, plus 1 space/every 15 children	6 + 4 = 10 spaces
City of Daly City	1 space/employee, plus 1 space/every 10 children	6 + 5 = 11 spaces
City of Palo Alto	1 space/1.5 employees	4 spaces

Based upon staff’s review of parking requirements for preschools in neighboring jurisdictions, and the proposed operations of the subject preschool, staff believes the parking provided would be sufficient to meet the needs of the proposed use. The parking lot striping has also been extensively reviewed with the City’s Transportation Division to ensure usability and maximize the number of spaces provided.

3. Traffic: The appellant raises concerns that the increased traffic would result in privacy impacts to her residence and increased noise.

The projected traffic generation associated with the use is not considered by the Transportation or Planning Divisions to be unusual and would be comparable with other commercial uses that could occupy the site. In addition, this property is a commercially zoned property, where traffic generation is anticipated to be greater than for sites zoned for single-family residential uses. As discussed previously, prior site uses included a convenience store, a food market, and office uses, some of which would have generated more traffic than the proposed preschool is projected to generate.

4. Safety: The appellant raises safety concerns associated with parent parking on Bay Road.

On-street parking in the public right-of-way is permissible both on Bay Road and Hollyburne Avenue and could be utilized by parents during drop-off and pick-up periods. Parking in the public right-of-way is not unusual and not considered by the Transportation Division to be a safety impact. In addition, it is anticipated that the majority of parents would utilize the on-site parking lot for pick-up and drop-off.

As noted previously, the Planning Commission’s findings and action on the use permit are included as Attachment A. In its deliberations, the Council may wish to consider factors such as the site zoning and neighborhood compatibility, desirability for an increase in accessible child care options in the City, noise, transportation and parking.

**Correspondence**

Subsequent to the Planning Commission’s approval of the use permit staff received six letters regarding the appeal (Attachment F). The first letter received subsequent to the appeal is from the applicants, MeiLing Huang and Joe Wyffels, representing Bright

Angel Montessori Academy (695 Bay Road), and addresses the concerns raised in Ms. Cahill's letter and provides rationale for why they believe their requested use permit is consistent with Zoning Ordinance requirements and would be compatible with the neighborhood. Included in their letter is a chain of email correspondence between Joe Wyffels and the appellant beginning on July 9, 2012 and continuing through July 23, 2012.

The five additional letters are all in support of the requested use permit and speak to the need for additional child care opportunities in the community, and support the locating of a preschool at the subject project site.

### **IMPACT ON CITY RESOURCES**

The applicant paid a deposit of \$1,500 for review of the application for a use permit. Additional staff time above the initial deposit is cost recoverable on an hourly basis, through the end of the appeal period. The appellant paid \$110 to file an appeal of the Planning Commission's decision. Staff time spent on the review of the appeal to the City Council is not recovered, per Council policy.

### **POLICY ISSUES**

No changes to the General Plan or Zoning Ordinance are required for the project. Each use permit request is considered individually. The City Council should consider whether the required use permit findings can be made for the proposal to convert an existing vacant commercial building to a preschool.

### **ENVIRONMENTAL REVIEW**

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

Signature on File  
Rachel Grossman  
Associate Planner  
Report Author

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. Draft Findings, Actions, and Conditions for Approval
- B. Project Description Letter
- C. Project Plans
- D. Planning Commission Meeting of July 9, 2012 – Approved Excerpt Minutes
- E. Letter of Appeal Submitted by Brynn Cahill, received July 24, 2012
- F. Correspondence
  1. Brynn Cahill, Menlo Park resident, received July 2, 2012
  2. Alison Leigh Wright, Menlo Park resident, received July 9, 2012
  3. MeiLing Huang and Joe Fyffels, Bright Angel Montessori Academy – 695 Bay Road, received August 6, 2012
  4. Ahron Bogomilsky, Menlo Park resident, received August 8, 2012
  5. Lee Scheuer, Menlo Park business owner, received August 10, 2012
  6. Jasmine Ya-Fen Chen, received August 10, 2012
  7. Heather Hopkins, Menlo Park resident, received August 13, 2012
  8. Ken Kornberg, property owner of 695 and 687 Bay Road, received August 21, 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 and drawings are available for public viewing at the Community Development Department.

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

- Planning Commission Staff Report, dated July 9, 2012

**Attachment A**  
**695 Bay Road**  
**Draft Findings, Actions, and Conditions for Approval**  
**August 28, 2012**

1. Make a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current California Environmental Quality Act (CEQA) Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use would not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and would not be detrimental to property and improvements in the neighborhood or the general welfare of the City because the proposed preschool is limited in size to 48 students and six employees, there would be a limited duration of outdoor student play time, the preschool would operate during business hours and would not be operational when Menlo Park City schools are not in operation, and the project site contains sufficient onsite parking to meet the needs of the proposed use.
3. Approve the use permit subject to the following *standard* conditions:
  - a) Development of the project shall be substantially in conformance with the plans prepared by Kornberg Associates Architects, consisting of seven plan sheets, dated received July 26, 2012, and approved by the City Council on August 21, 2012 except as modified by the conditions contained herein, subject to review and approval of the Planning Division.
  - b) Prior to building permit issuance, the applicants shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
  - c) Prior to building permit issuance, the applicants shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
  - d) Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
4. Approve the use permit subject to the follow *project specific* conditions
  - a) Prior to building permit issuance, the applicant shall pay the Transportation Impact Fee per the direction of the Transportation Division in compliance with

Chapter 13.26 of the Municipal Code. The current estimated transportation impact fee is \$70,342.19, although the final fee shall be the fee in effect at the time of payment. The Transportation Impact Fee escalates annually on July 1.

V:\STAFFRPT\CC\2012\082112 - 695 Bay Road - Preschool - Appeal\082112 - 695 Bay Road - ATT A - staff recommendation findings for approval.docx

## ATTACHMENT B

### Bright Angel Academy Business plan

Our intent is to open Bright Angel Montessori Academy at 695 Bay Road in Menlo Park, CA. Our initial remodel of the building will include 2 preschool classrooms (age 2.5 years to 5 years old). Each classroom will be built sharing an ADA compliant bathroom, and we will install one playground next to the building. Each classroom will open with 1 lead teacher and 1 assistant teacher. At full capacity the school will have 6 employees and 48 students.

The school will be operated by one director and one assistant director, and will provide Montessori instruction for preschool to pre-kindergarten in five programs which are full day (7:30am to 6:00pm), school day (9am to 3:00pm), Happy Bear (8:00am to 5:00pm), AM (8:00 am to 12:00pm), and PM (1:00pm to 5:00).

Beside the indoor activities, each classroom (24 children) will have 40 minutes playground time twice a day.

The Tenant Improvement project consists of interior modifications and site improvements. The interior modifications will remove existing non-bearing interior walls and construct new interior partitions according to the proposed floor plan. There are no exterior changes except a new window is added at back of the building, a new door is added on the side of the building and a new skylight is added on the roof. A playground will be built by leveling the current lawn on the side of the property. To keep the children safely inside the playground, the center will build a wooden fence around the playground. The fence is 15 feet away from front property line and 16 inches away from side property line. The fence is out of the Triangular Area at the corner of the property. To keep the playground as large as possible for the children to play inside, an alternative method is used to draw the Triangular Area (measured from the curb of existing sidewalk.) There is no outdoor storage.

In summary, we believe the Bay Road site is a great location to open our school and look forward to having a long term mutually beneficial relationship with the City of Menlo Park.

### BAMA Room A (Nap room) Daily Schedule

7:30-8:30	Morning Drop Off, Health Check and Free Play
8:30-8:45	Transition to Regular Classroom, Morning greeting and Hygiene (Bathroom, Hand Washing).
8:45-9:25	Morning Circle Time: Big group lesson; Calendar, Weather, Montessori job demonstration.
9:25-10:05	Playground Time
10:05-11:35	Montessori Job time: individual, small group lessons start from the assigned areas then move through the six areas. Morning snack is available at this time.
11:35-11:50	Hygiene (Bathroom, Hand Washing)
11:50-12:15	Story/Music, prepare lunch,
12:15-12:45	Lunch Time
12:45-1:00	Clean Up, Hygiene, Preparation for Rest Time
1:00-2:30	Rest Time
2:30-3:15	Wake Up/Hygiene/ Afternoon Snacks Served
3:15-4:00	Chinese lesson Circle,
4:00-4:40	Playground Time
4:40-5:10	Music/art time
5:10-5:30	Story time
5:30-6:00	Dismissal

## BAMA Room B (AM/PM room) Daily Schedule

- 7:30-8:30 Morning Drop Off, Health Check and Free Play
- 8:30-8:45 Transition to Regular Classroom, Morning greeting and Hygiene (Bathroom, Hand Washing).
- 8:45-10:15 Montessori Job time: individual, small group lessons start from the assigned areas then move through the six areas Morning snack is available at this time.
- 10:15-10:45 Morning Circle Time: Big group lesson; Calendar, Weather, Montessori job demonstration.
- 10:45-11:25 Playground time
- 11:25-11:40 Hygiene (Bathroom, Hand Washing)
- 11:40-12:00 Story/Music,
- 12:00-12:15 AM program children dismissal.
- 1:00- 1:15 PM Children drop off
- 1:15-2:45 Montessori Job time
- 2:45-3:15 Montessori Job time: individual, small group lessons start from the assigned areas then move through the six areas. Afternoon snack is available at this time.
- 3:15-3:55 Playground time
- 3:55-4:10 Hygiene (Bathroom, Hand Washing)
- 4:10-4:30 Story/Music,
- 4:30-4:15 PM program children dismissal.





Bright Angel  
Education  
Center LLC

Bright Angel  
Montessori Academy  
685 BAY ROAD  
MENLO PARK  
CA 94025



**KORNBERG  
ASSOCIATES  
ARCHITECTS**  
340 PIERCE, SAN FRANCISCO, CALIFORNIA  
TEL: (415) 774-1234 FAX: (415) 774-1237  
WWW.KORNBERG.COM

DATE: 06/12/2012	SCALE: 1/8" = 1'-0"
PROJECT: BRIGHT ANGELO CENTER	DATE: 06/12/2012
DESIGNER: KORNBERG ASSOCIATES	DATE: 06/12/2012
DATE: 06/12/2012	DATE: 06/12/2012
DATE: 06/12/2012	DATE: 06/12/2012
DATE: 06/12/2012	DATE: 06/12/2012
DATE: 06/12/2012	DATE: 06/12/2012
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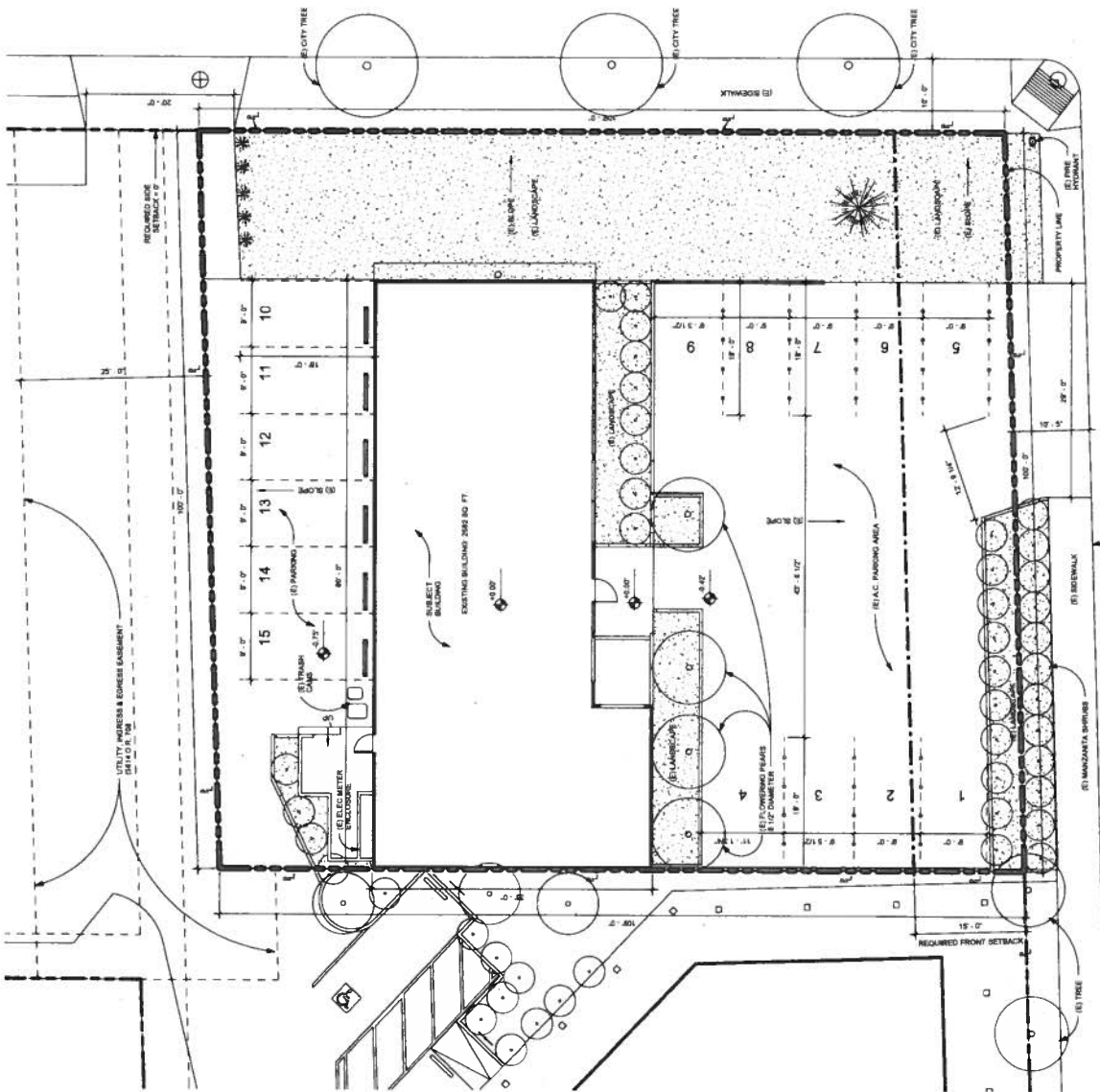


**EXISTING SITE  
PLAN**

**A-002**

HOLLYBURNE AVENUE

BAY ROAD



PROJECT SITE LOT AREA: 10,895 SQ. FT.  
EXISTING F.L.R. AREA: 2,582 SQ. FT.  
NOTE:  
1. ALL ITEMS SHOWING ON THIS DRAWING ARE EXISTING CONDITIONS.  
2. ALL DIMENSIONS ARE EXISTING CONDITIONS.

EXISTING SITE PLAN  
1/8" = 1'-0"

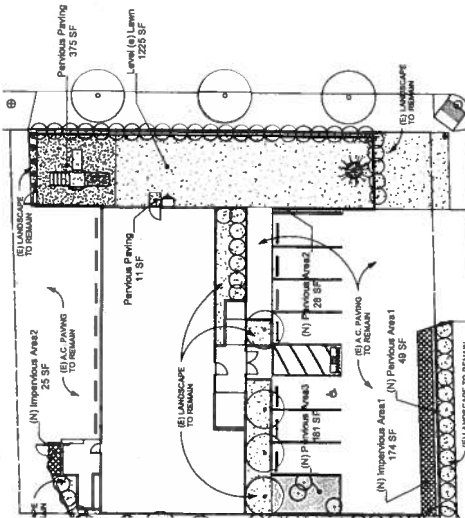
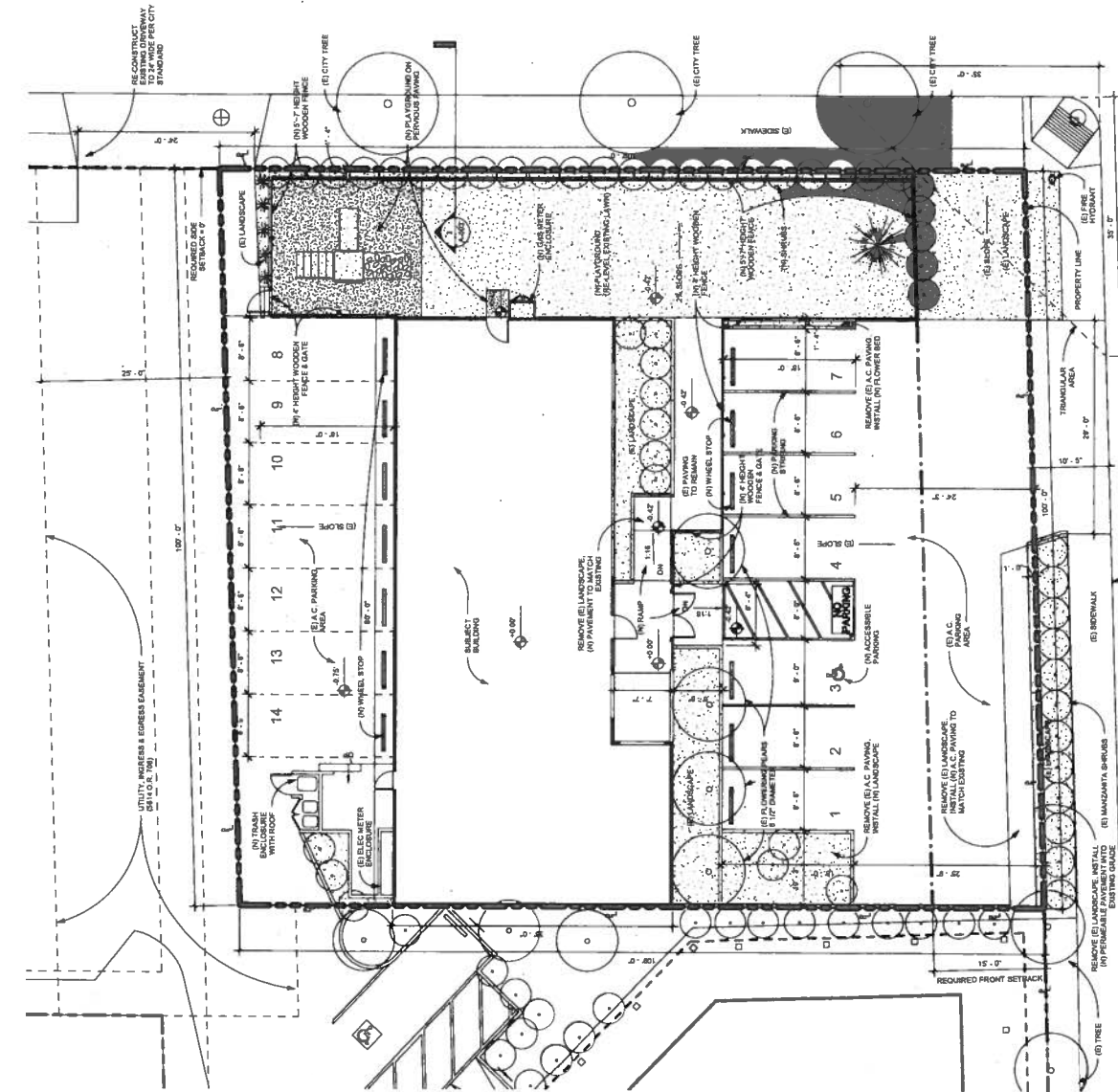


DATE: 08/12/2012	NO. 1002
△ 01/20/12	ISSUE FOR REVIEW
△ 04/20/12	USE PERMIT SET
△ 07/22/12	RESUBMIT COP SET
△ 08/12/12	RESUBMIT COP SET
△ 08/12/12	RESUBMIT COP SET
△ 08/12/12	RESUBMIT COP SET
△ 08/12/12	RESUBMIT COP SET
△ 08/12/12	RESUBMIT COP SET



HOLLYBURNE AVENUE

BAY ROAD



**PERVIOUS SURFACE**

Impervious Area	Area
(N) Impervious Area1	174 SF
(N) Impervious Area2	25 SF
(N) Impervious Area3	181 SF
<b>Grand total</b>	<b>480 SF</b>

PerVIOUS Surface	Name	Area
(N) PerVIOUS Surface	Area	Area
(N) PerVIOUS Area1	48 SF	48 SF
(N) PerVIOUS Area2	25 SF	25 SF
(N) PerVIOUS Area3	181 SF	181 SF
<b>Grand total</b>	<b>254 SF</b>	<b>254 SF</b>

**SITE ANALYSIS:**

ZONING: C2A

LOT AREA: 10,865 SQ.FT

ALLOWABLE FLOOR AREA (40%): 4,346 SQ.FT

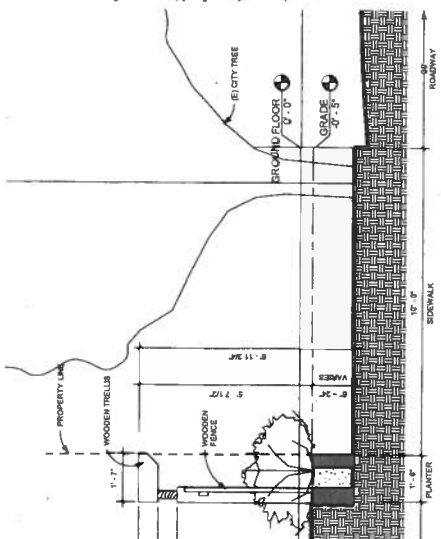
EXISTING FLOOR AREA: 2,832 SQ.FT

LAND COVERED BY STRUCTURE: 23.7%

LANDSCAPING: 28.5%

REQUIRED PARKING SPACES: 16 (EXISTING PARKING SPACES: 15)

PROPOSED PARKING SPACES: 14



NOTE:  
1. ANY SIGNAGE WILL BE SUBJECT TO A SEPARATE PERMIT

① SITE PLAN  
1/8" = 1'-0"

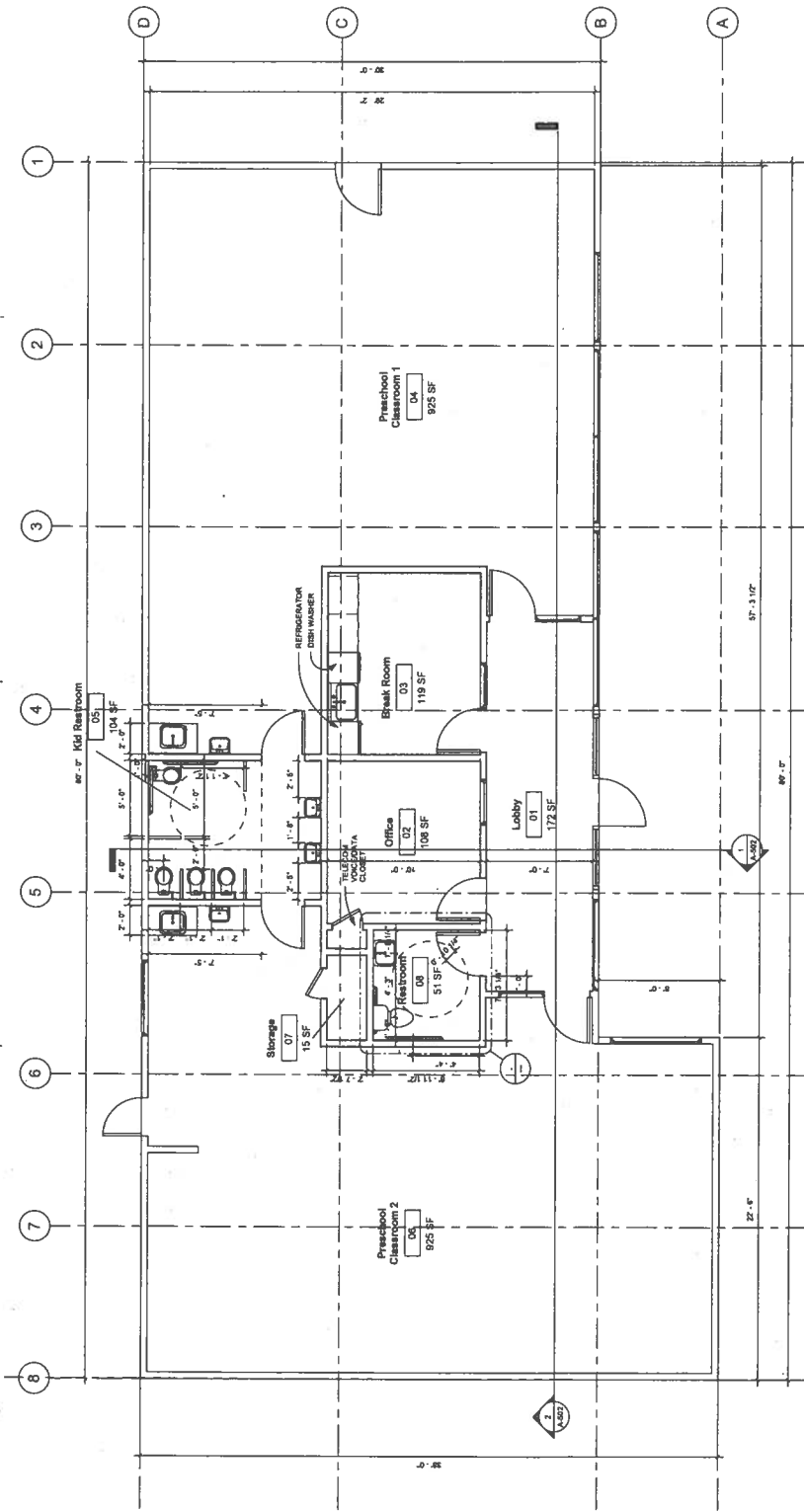


**KORNBERG ASSOCIATES ARCHITECTS**  
405 BAY ROAD, SUITE 200, MENLO PARK, CA 94025  
TEL: 650.321.7422 FAX: 650.321.3122  
www.kornberg.com  
SAN DIEGO, SAN FRANCISCO, TOKYO

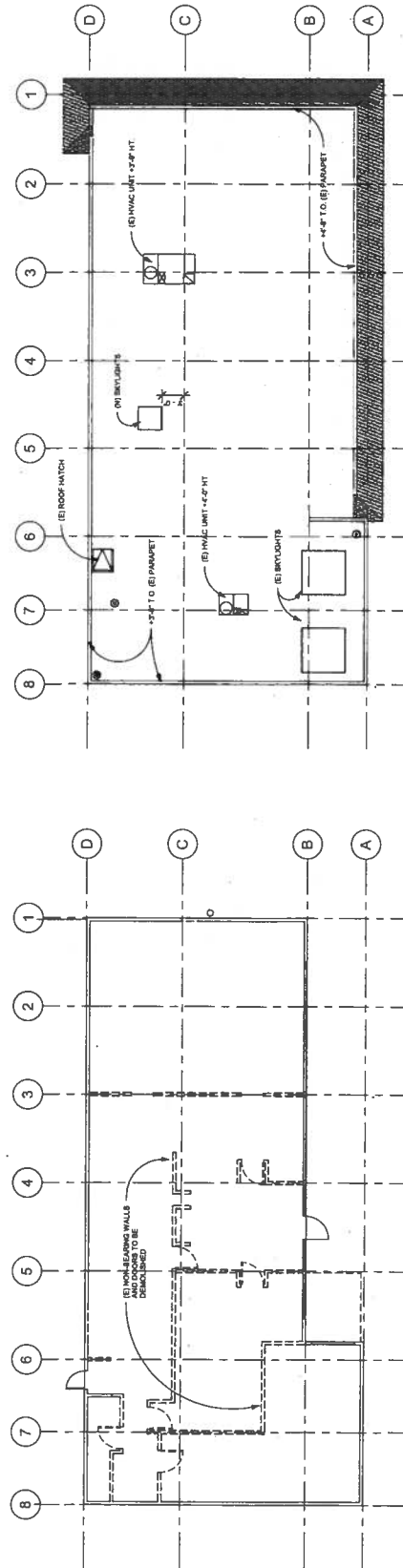
DATE: 06/12/2012 | PLAN NO. 1202

△	CONSOLE	REUSE FOR REVIEW
△	WALLS	USE PERMIT SET
△	W/DOOR	RE-SUBMIT CUP/BET
△		
△		
△		

SCALE: AS SHOWN  
SHEET TITLE  
**FLOOR PLAN,  
DEMO PLAN &  
ROOF PLAN**  
A-101



1 FLOOR PLAN  
1/4" = 1'-0"

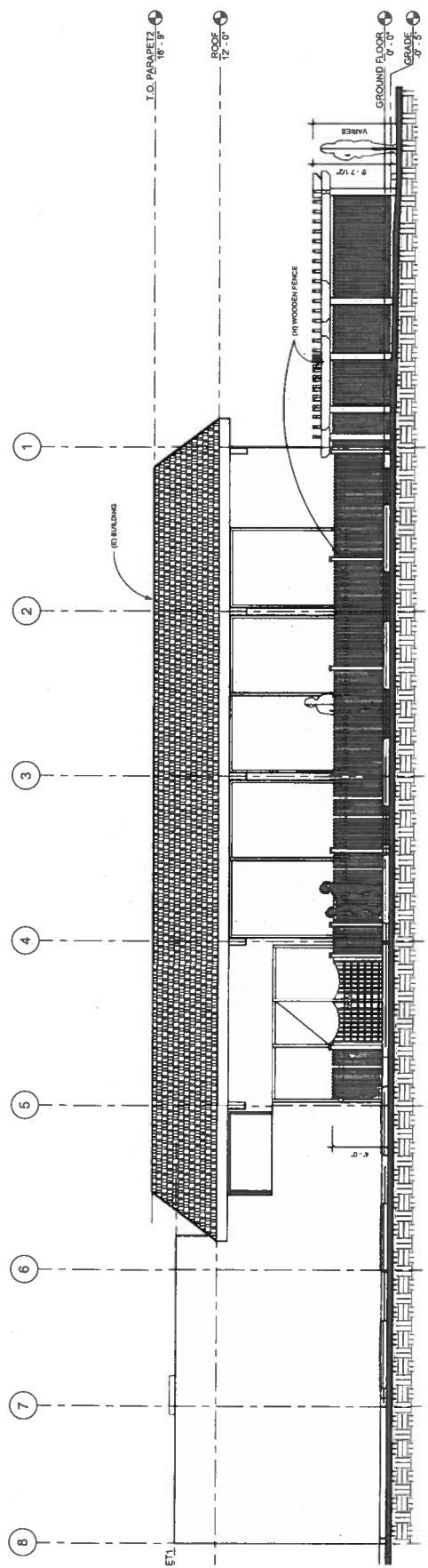


2 ROOF PLAN  
1/8" = 1'-0"

DATE: 06/12/2012	TA NO. 1202
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△ 03/28/2012	RE-SUBMIT CUP SET
△ 04/11/2012	RE-SUBMIT CUP SET
△ 05/01/2012	RE-SUBMIT CUP SET
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△ 05/01/2012	RE-SUBMIT CUP SET
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△ 05/01/2012	RE-SUBMIT CUP SET
△ 05/01/2012	RE-SUBMIT CUP SET

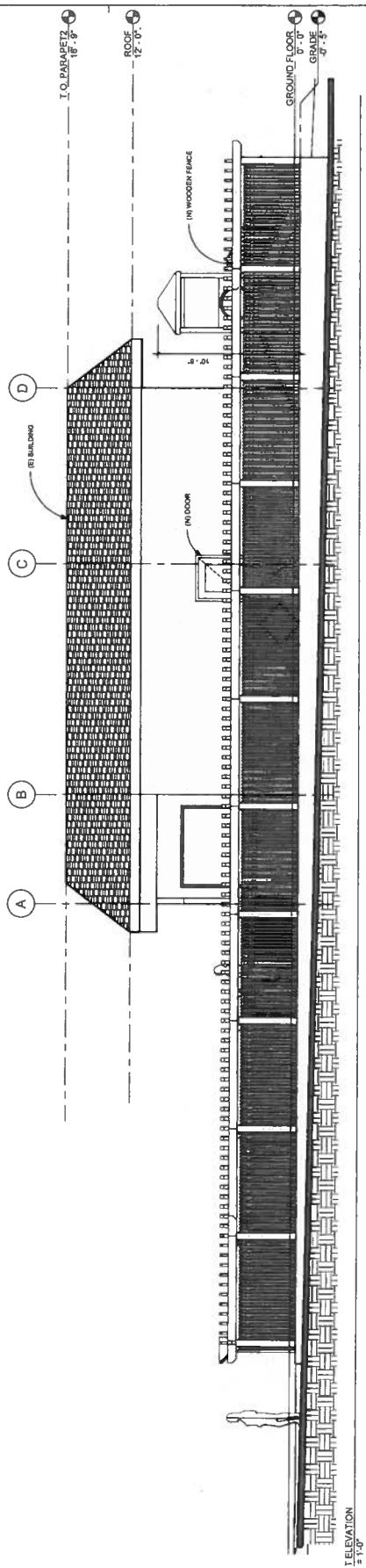
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SHEET TITLE

**ELEVATIONS-1**  
A-500



ELEVATION = 1/4"

NOTE: NO EXTERIOR CHANGES EXCEPT AS NOTED ON THE ELEVATIONS



ELEVATION = 1/4"

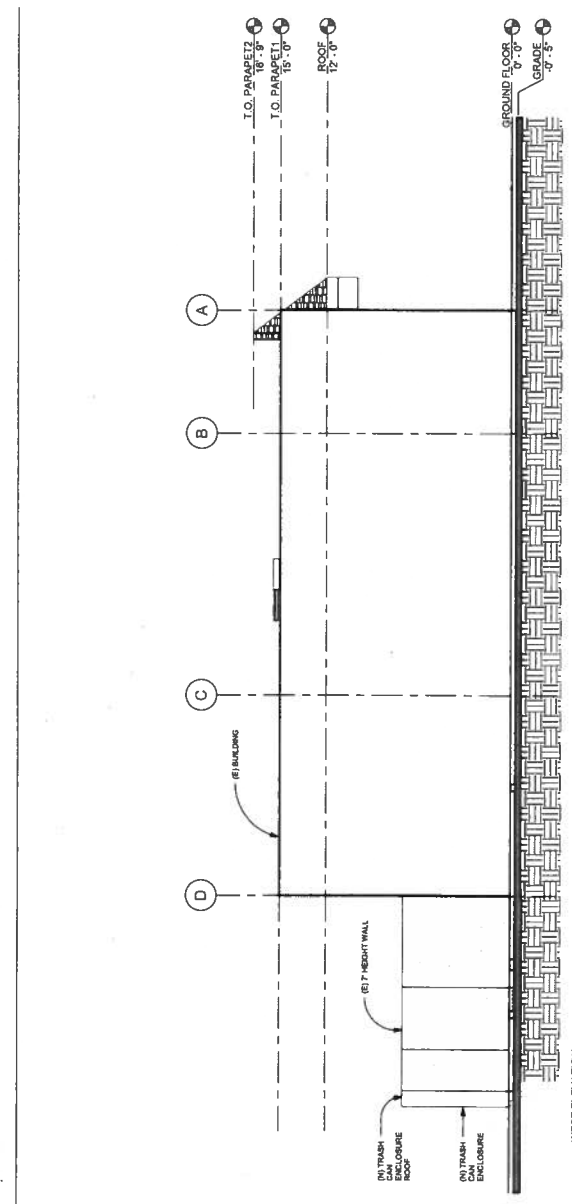
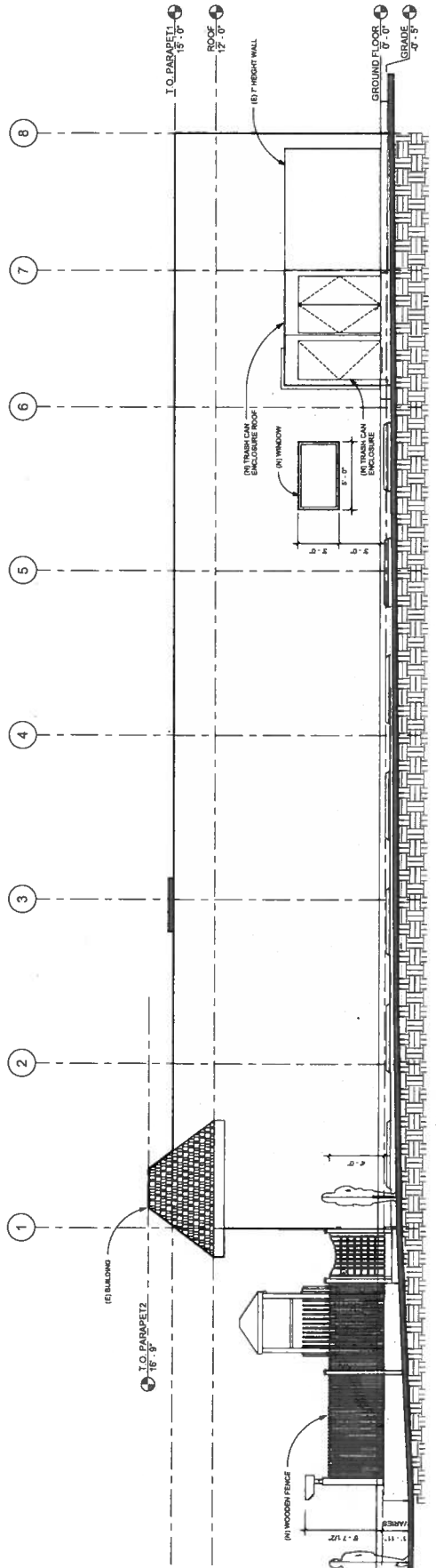
NOTE: NO EXTERIOR CHANGES EXCEPT AS NOTED ON THE ELEVATIONS

DATE: 08/12/2012	IA NO. 1152
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△ REVISION	USE PERMIT SET
△ REVISION	RE-SUBMIT CUP SET
△	
△	
△	
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**ELEVATIONS-2**  
SHEET NUMBER

**A-501**



NOTE: NO EXTERIOR CHANGES EXCEPT AS NOTED ON THE ELEVATIONS

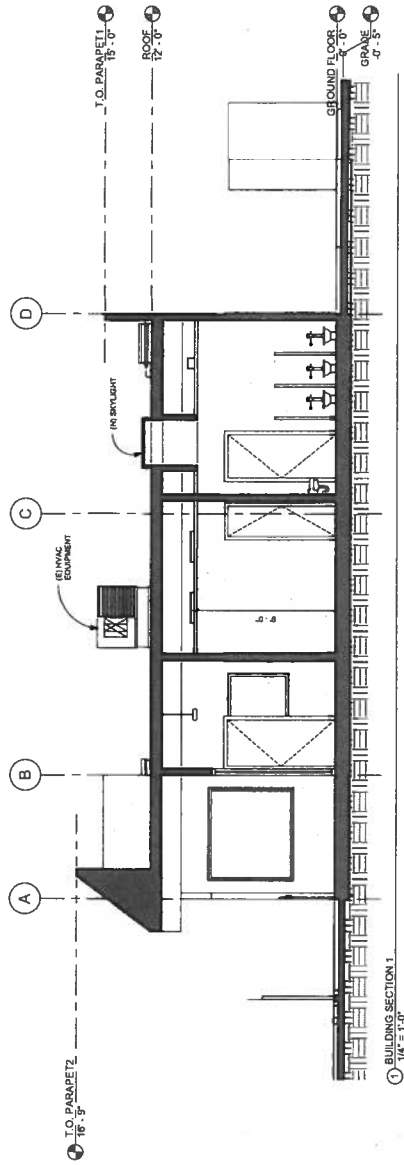
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△ ARCHITECT	USE SUBMIT SET
△ MECHANICAL	RE-SUBMIT CDP SET
△ ELECTRICAL	
△ PLUMBING	
△ STRUCTURE	
△ OTHER	

SCALE: 1/4" = 1'-0"

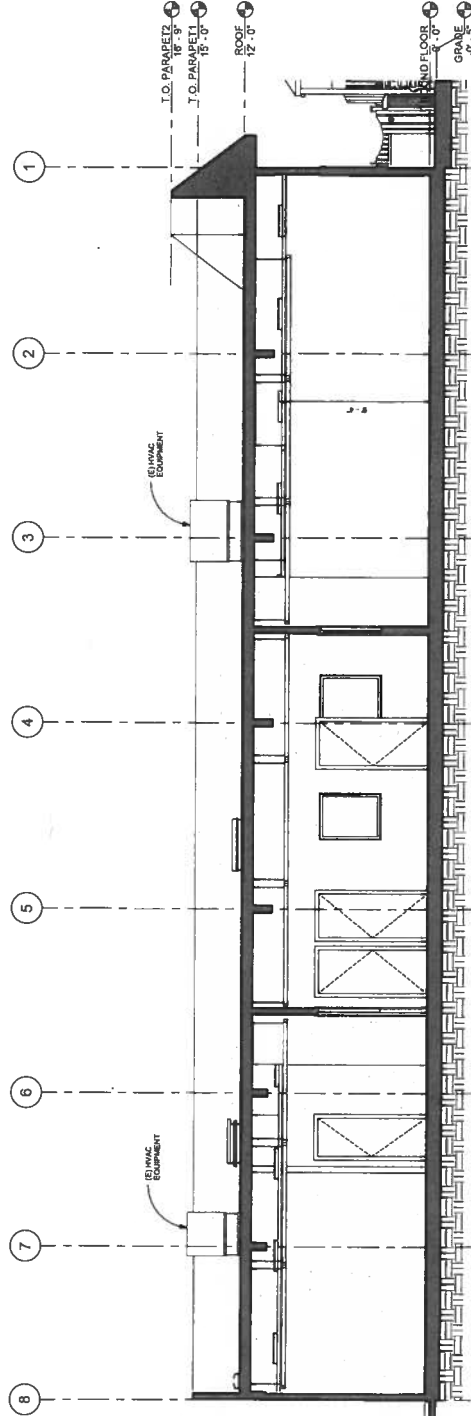
SHEET TITLE

**BUILDING  
SECTIONS**

**A-502**



1 BUILDING SECTION 1  
1/4" = 1'-0"



2 BUILDING SECTION 2  
1/4" = 1'-0"



## PLANNING COMMISSION EXCERPT MINUTES

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

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**CALL TO ORDER** – 7:03 p.m.

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

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

### D. PUBLIC HEARING

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

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

Planner Grossman said she would let the owner answer whether this school was moving to a new location. She said when the application was submitted it was staff's understanding that the property was vacant. She said when staff visited the site and talked with the owner it became known that the Stanford New School had operated for some period of time without a business license. She said the applicant was not aware that a business license was needed. She said if this application was denied the current tenant would have to be notified that a business license and permitting would be needed.

Commissioner Riggs asked if the Commission could have a review of the traffic impact fee (TIF), why it existed, and how it applied to the project. Planner Grossman said TIF was required when an application changed the use of a site, and was calculated by the Transportation Division using information from a traffic analysis provided by the applicant or by using ITE standards to determine peak hour trips, the basis for the calculation of TIF. Commissioner Riggs said the presumption was this use would



impact traffic more than the previous use which would cost the City over the future approximately \$70,000. Planner Grossman said based on ITE rates that looked at trip rates all over the country it might not be applicable to every site. She noted TIF funds transportation improvement projects. Commissioner Riggs asked if the ITE looked at this specific site and not the impact on traffic throughout the City. Planner Grossman said there was no traffic study done for this application. Planner Riggs said if people actually drove less miles to drop off children that was not part of the calculation for the traffic impact fee. Planner Grossman said that was correct and that trip rates based on the ITE were used for the calculation.

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

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

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

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

property and to reasonable comfort and convenience in its occupation which in his case he felt would be severely compromised.

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

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

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

Mr. Jack Cahill, property owner, said the concern was with the quality of noise. He said currently the noise was white noise from the tires on the road and the occasional tire

screech and horn blowing. He said there would be children screaming and they were concerned with impact to their property and their use of their property. He said the value and enjoyment of their property would decrease. He asked that the Commission deny the use permit noting that the property was not zoned appropriately. He said if they had known there would have been a school here that they would not have bought the property.

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

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

Vice Chair Kadvany closed the public hearing.

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

Commissioner Yu asked about the size of the parking spaces and if those were standard size. Planner Grossman said the stalls were 8 1/2 feet wide and 19 feet deep to create a safe walkway. She said there was also added landscape and the applicant and staff had worked to make this area very usable and functional.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Commissioner Kadvany said the fence was an attractive solution now and recommending not closing it. He said he lived across from an elementary school for a couple years and worked from home. He said there was noise but it did become white noise. He said parking or blocking driveways should not happen anywhere in Menlo Park. He said if it did happen the resident should get the license plate and report it to the school. He said if there was overflow parking on the streets that was something Menlo Park dealt with all the time when commercial uses were next to residential areas. He suggested the solution was communication and in that instance was to ask parents to cooperate with parking in specific places. He said a TIF of \$70,000 for a preschool seemed punitive, and asked if the Commission had any scope to alter that or comment upon it. Planner Grossman said staff had been working on the TIF with the applicant and Transportation Division, but that was something that was required per Council direction. She said they have looked at different ITE manuals and trip studies and the amount had been reduced by \$30,000 looking at studies that were more similar to this

use. She said the applicant had the opportunity to have a traffic study done specific to this site for the City to use to calculate the fee. She said they chose not to proceed with that at this time because of the uncertainty and the desire to move ahead quickly.

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

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

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

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

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

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

1. Make a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current California Environmental Quality Act (CEQA) Guidelines.
2. Make findings, as per Section 16.82.030 of the Zoning Ordinance pertaining to the granting of use permits, that the proposed use would not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.
3. Approve the use permit subject to the following *standard* conditions:
  - a. Development of the project shall be substantially in conformance with the

plans prepared by Kornberg Associates Architects, consisting of seven plan sheets, dated received June 26, 2012, and approved by the Planning Commission on July 9, 2012 except as modified by the conditions contained herein, subject to review and approval of the Planning Division.

- b. Prior to building permit issuance, the applicants shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
  - c. Prior to building permit issuance, the applicants shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
  - d. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
4. Approve the use permit subject to the follow *project specific* conditions
- a. Prior to building permit issuance, the applicant shall pay the Transportation Impact Fee per the direction of the Transportation Division in compliance with Chapter 13.26 of the Municipal Code. The current estimated transportation impact fee is \$70,342.19, although the final fee shall be the fee in effect at the time of payment. The Transportation Impact Fee escalates annually on July 1.

Motion carried 6-0 with Commissioner Ferrick absent.

## **ADJOURNMENT**

The meeting adjourned at 9:41 p.m.

Staff Liaison: Thomas Rogers, Senior Planner

Recording Secretary: Brenda Bennett

Approved by the Planning Commission on August 6, 2012



July 24, 2012

JUL 24 2012 (P1A)

To Whom It May Concern:

**City Clerk's Office  
City of Menlo Park**

I am writing to appeal the special use permit that was granted by the Planning Commission on July 9, 2012 for the use of a preschool called Bright Angel Montessori Academy at 695 Bay Road. I live at 703 Bay Road, which is directly across the street from the proposed preschool.

One of my concerns has to do with noise. I am a kindergarten teacher at Laurel School in Menlo Park, so I have a good idea of the noise level associated with a school. Often, I am the yard duty for my class of 22 five and six-year-olds. During recess, they yell, scream, and cry, which should be expected from children who are trying to exude energy. With the preschool playground directly across the street from my home, there is no doubt that the noise from children playing will affect my comfort and the enjoyment of my home. A Planning Commissioner argued that some people like the noise of children playing; however, because of the nature of my job, I am around that noise all day and would like a break from it when I am home.

Another noise concern has to do with traffic and parking related to the preschool. Parents are required to walk their child in and out of the preschool. They cannot drop their child off without accompanying them inside, as the child must be signed in and out. At full capacity, the preschool will have 48 families. That means that there will be 48 parents parking to drop children off in the morning and 48 parents parking to pick children up after school for a total of 96 total trips in and out of the preschool. Ninety-six times a day we, as neighbors, would have to listen to car doors slamming, parents and children talking while loading and unloading, and the general noise that comes from cars. During those 96 trips, one can conclude there will be at least 2 people, the parent and the child. That is at least an extra 192 people going in and out of the preschool. Not only will the increase in people and cars invade my privacy at my home, it will obviously generate a lot of extra noise, along with the noise I already described by children playing on a playground. This is a huge difference from the current quietness of the neighborhood.

Section 16.78.020 of the Zoning Ordinance lists factors to consider prior to issuing a use permit. These factors include: (1) Damage or nuisance from noise, smoke, odor, dust or vibration; (2) Hazard from explosion, contamination or fire; (3) Hazard occasioned by unusual volume or character of traffic or the congregation of a large number of people or vehicles.

The operation of a preschool will be a noise nuisance, which is a factor to consider when issuing a use permit. The legal definition of a nuisance is the interference with an individual's peaceful enjoyment of one's property. I feel that the peaceful enjoyment of my property will be compromised by the noise of children yelling, screaming, and crying on the playground and the noise related to picking up and dropping off children throughout the day.

Another concern of mine has to do with parking. With only 14 non-handicapped parking spaces and 6 employees, there would only be 8 parking spots for families. Since the preschool would occupy 2,582 square feet, this violates Section 16.72.040, which states that there must be six spaces per one thousand square feet of gross floor area. The Planning Commission Staff Report justifies eliminating 2 of the 16 code-obligated parking spaces because of the nature of the preschool's staggered day program. My problem with this is that there is nothing that states that

the preschool has to distribute students evenly among the different staggered programs. Therefore, if all 48 parents wanted to drop their child off at 8 a.m., there is nothing that states this could not happen. This would create a huge problem. Where would all these families park? Based on the fact that the Zoning Code is being violated and that the staggered day program is not regulated, there will be parking and traffic issues. These parking and traffic issues are another factor relevant to Section 16.78.020 since there is a potential for an unusual volume or character of traffic or the congregation of a large number of people or vehicles.

Another concern I have is related to safety. The applicants for the preschool have suggested that parents who do not have a parking spot because of overflow in their parking lot will park in front of the preschool on Bay Road. This is a safety concern with parents swinging doors open into traffic to load and unload children. Cars often go a lot faster than the speed limit on Bay Road and I would hate for an accident to occur with the possibility of children running around.

Another safety concern with only having 8 parking spots for 48 families with an unregulated staggered day program is bicyclist safety on Bay Road. The applicants and I discussed the probable overflow parking issues that come with only having 8 available off street parking spots and no clear way of regulating the number of families that come during each staggered day program. As I mentioned earlier, the applicant's overflow parking solution is Bay Road. Based on my knowledge of the traffic conditions during weekday morning rush hour on Bay Road, having numerous cars lined up in front of the preschool on Bay Road is a major safety hazard for the many students biking to the nearby schools and people biking to work. I foresee accidents occurring because of cars obstructing the bike lane on Bay Road when car doors are swung open to load and unload children. California law requires that cars do not obstruct bicycle traffic by reducing the width required for safe bicycle passage, typically 3 to 4 feet. In the likely chance that parents do not have an off street place to park, Bay Road is not a safe option for parents to load and unload children. If this is the case, then a likely option is to park on Hollyburne Avenue, which is currently usually only used by those who live on this quiet residential street. This would certainly be another factor relevant to Section 16.78.020 since this is yet another potential for an unusual volume or character of traffic or the congregation of a large number of people or vehicles.

With all of these concerns relating to the operation of a preschool, I think it is important to note that I have made suggestions regarding how to address these issues. In emails to Rachel Grossman, Associate Planner, I suggested moving the playground to a different location on the property. I also suggested making more parking spaces. Both of these suggestions were denied.

In addition to working with Rachel Grossman, I hosted a meeting with the preschool applicants at my home. During this meeting, I suggested the possibility of the applicants building a fence on the side of my property that would potentially be facing the preschool, which they also denied without consideration.

Additionally, I wrote emails to the preschool applicants to suggest coming to an amicable resolution instead of having to appeal to the City Council. (Please see the attached email correspondence.) I suggested we could compromise by having a fence built on the side of my property that would potentially face the preschool playground. A fence will have to be built along the side of my property that faces Hollyburne Avenue to create the possibility of maintaining anything close to the current quiet atmosphere and privacy. Because I would be compromising the enjoyment of my property in regards to noise, traffic, parking, privacy, and

safety, I don't think it would be too much to ask, as part of a negotiation and good faith effort on both sides, to not be out of pocket to pay for this necessity. If the City Council finds that a preschool is a reasonable use for 695 Bay Road, then I feel that they also might find that a fence is a fair agreement based on all the things that I, as a homeowner, would be compromising.

In addition to my unanswered email, I also called the applicant on July 23 at 10:45am. I left a voicemail kindly asking the applicant to call me back in a last good faith effort to reach a compromise. I never received a call back. I would much rather have tried to address each party's concerns between ourselves than to have to pursue further legal matters. Because the applicant was unwilling to contact me after my amicable attempts, I had no option other than to appeal.

Because I was so focused on trying to work with the applicant to come to an agreement, I did not have time to get signatures from my neighbors who also support this appeal. I have discussed the proposal for the preschool with neighbors who are not happy with the proposed location. Many neighbors share my concerns for the noise, traffic, parking, and privacy issues that would come with the operation of a preschool at 695 Bay Road. I will bring neighbor's signatures with me to the hearing for this appeal.

In closing, the problems that will come with the operation of a preschool regarding noise, parking, traffic, neighbor's privacy, and safety far outweigh the argument that was made at the Planning Commission meeting that this preschool would be good for the community because Menlo Park needs more preschools. Simply because Menlo Park may need another preschool is not a good reason to allow a preschool at this location when you consider all of the negative impacts it will have on the surrounding neighborhood and, potentially, for the safety of the preschool children themselves. I appreciate some of the ways the preschool has tried to address the foreseen concerns with parking and traffic, such as offering a staggered day program; however, if the children are not distributed evenly among the different staggered programs, it is a moot attempt to solve any problems and a transparent and redundant response when addressing legitimate concerns. There are many examples that, like the staggered day program, are not well thought out. There have not been enough studies on the area for the proposed preschool to issue a permit, especially when sections of the Zoning Ordinance are being violated. As I said, I have repeatedly tried suggesting ways to reach a compromise with the applicants, to which I have not received a reply. For these aforementioned reasons, I feel my appeal for the decision to issue a use permit for the proposed preschool at 695 Bay Road is more than justified.

As a kindergarten teacher in Menlo Park, I obviously value schools; however, I do not agree that the location for this preschool is suitable for the surrounding neighborhood. Thank you for taking the time to read and consider this appeal.

Sincerely,

A handwritten signature in black ink, appearing to read "Brynn Cahill". The signature is fluid and cursive, with a large initial "B" and a long, sweeping underline.

Brynn Cahill

## Email Correspondence

**From:** Brynn Cahill  **Sent:** Friday, July 20, 2012 12:47 PM

Hi Joe and MeiLing,

It was great meeting with you both as well. Thanks again for taking the time to meet.

Even though we are not happy about the preschool going across the street from our property because of concerns with noise, traffic, parking, and privacy, we would like to amicably work it out without having to appeal to the city council. Like we discussed, in order to accommodate a preschool across the street, I will have to have a high fence built around my property to ensure my privacy and hopefully diminish some of the noise. I already feel like the enjoyment of my property is being compromised and I certainly do not want to be out of pocket to make alterations to my property because of the preschool.

I am asking for a fence to be built to my specifications on my property. I know you have a tight budget, but perhaps you can ask the landlord to pay for it. I'm sure Mr. Kornberg does not want to delay receiving rent by going through an appeal process that may end up with him not having a renter. I do not care who pays for it, but I do think it is a fair request.

If I do not hear back from you with a response by 5:00pm on Sunday, I will be appealing. Again, I do not want to have to take the time and effort to go through that process, but I know I have a lot of neighbors who would be backing the appeal.

I look forward to an amicable resolution. Thank you.

Brynn

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On Sat, Jul 21, 2012 at 11:29 PM, Joe Wyffels <[jwyffel@comcast.net](mailto:jwyffel@comcast.net)> wrote:  
Brynn,

We recognize that the impact of the school is a concern for you and as we have stated before in our meeting and emails, we want to work with you as good neighbors and try to help with issues that present a problem. However we don't feel it is appropriate to respond to threats especially when an actual problem and the most effective response is not carefully studied.

Sincerely,

Joe and MeiLing

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**From:** Brynn Cahill  **Sent:** Sunday, July 22, 2012 1:26PM

Hi Joe and Meiling,

I sincerely apologize if you misunderstood my last email. It was in no way intended to be a threat. At our meeting, I saw how much you want this preschool and I really do want to make it work for both sides, but you have to understand that I feel like I am making a lot of compromises while you have not made any.

Appealing to the city council is not a threat, it is my right. I, however, am trying to reach a fair compromise that addresses both sides. Based on your own admission, the preschool will increase traffic and noise and will affect my quality of life at my home. These would be the reasons that I would be appealing. However, after meeting with you and Meiling and seeing that you want to be good neighbors, I thought there might be room for compromise.

A fence will have to be built along the side of my property that faces Hollyburne to create any possibility of maintaining anything close to the current quiet atmosphere. Because I am already compromising the enjoyment of my property in regards to noise, traffic, parking, and privacy, I didn't think it would be too much to ask, as part of a negotiation and good faith effort on both sides, to not be out of pocket to pay for this necessity. If you do

not think a fence is a fair compromise, what do you suggest?

If it is easier to discuss this in person or on the phone, I am available to meet on Monday or discuss this on the phone today or Monday. Again, please understand that I am trying to make this work for both sides to reach an amicable conclusion and agreement.

Thanks,  
Brynn  
[650-619-2215](tel:650-619-2215)

**Grossman, Rachel M**

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**From:** Brynn Cahill <brynnccahill@gmail.com>  
**Sent:** Monday, July 02, 2012 5:15 PM  
**To:** Grossman, Rachel M  
**Subject:** Concerns With Proposed Preschool at 695 Bay Road

Hi Rachel,

I want to thank you for taking the time to talk to me today. As I mentioned, my boyfriend and I live on the corner of Bay Road and Hollyburne Avenue. We have some serious concerns with the proposed Bright Angel Montessori Academy at 695 Bay Road.

One of our concerns is the noise that this establishment would undoubtedly bring to the area. As much as I enjoy children, I also know from extensive experience that when playing outside, children don't have much regard for the surrounding households, not that they should be expected to. As a kindergarten teacher, I know my students use their recess time to get out as much energy and noise as they can! When we walk our dog around the neighborhood, we often walk by a preschool a few blocks away. Without fail, the campus can be heard from a great distance. As someone who owns a property directly across the street from the proposed site, this is of great concern. Additionally, I know firsthand the noise that comes from picking up and dropping off children. With 48 families and 6 staff members, there is absolutely no way that Hollyburne Avenue will maintain its current quiet atmosphere.

Secondly, the increase in traffic and parked cars on our block will be tremendous. I understand the idea that the staggered drop off and pick up times will attempt to relieve the use of street parking, but with only 14 parking spots and 6 staff members, that only leaves 8 parking spots for families. I also know how difficult it can be to put kids in their cars with car seats, etc. I am sure it will be easier in many cases to simply park on the street as to not be crammed for space between cars while putting kids in and taking them out of cars. Additionally, I realize that the proposed schedule is a staggered day program, but this will not only ensure that there will constantly be cars parked on the street, but also will add to the consistency of the noise outside.

Thirdly, I am not sure if the idea of safety has been considered. The entrance to the rear of the VA hospital is just across Bay Road from the proposed preschool. Large trucks routinely use Hollyburne as a place to park for short periods of time to make deliveries to the VA Hospital and also to maneuver into the VA driveway entrance. This would make for a very hazardous situation if there were many cars parked on the street, not to mention children running around.

As an elementary school teacher, I am obviously all for education and good schools; however, I am not sure the location for the proposed preschool is advantageous for all the people that will be involved with and effected by it. Again, thank you for your time and consideration with this matter.

Sincerely,  
Brynn Cahill

**Grossman, Rachel M**

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**From:** Alison Wright <alisonwrighton@yahoo.com>  
**Sent:** Monday, July 09, 2012 6:05 PM  
**To:** Grossman, Rachel M  
**Subject:** Bright Angel Preschool

Dear Planning Commission,

We are unable to make the meeting this evening but wanted to write you to show support for Bright Angel Preschool opening on Bay Road. Please let me know if you have any questions.

Best regards,  
Alison Leigh Wright  
1027 Windermere Ave.  
Menlo Park, CA. 94025  
408-316-3967

## Email Correspondence

**From:** Brynn Cahill  **Sent:** Friday, July 20, 2012 12:47 PM

Hi Joe and MeiLing,

It was great meeting with you both as well. Thanks again for taking the time to meet.

Even though we are not happy about the preschool going across the street from our property because of concerns with noise, traffic, parking, and privacy, we would like to amicably work it out without having to appeal to the city council. Like we discussed, in order to accommodate a preschool across the street, I will have to have a high fence built around my property to ensure my privacy and hopefully diminish some of the noise. I already feel like the enjoyment of my property is being compromised and I certainly do not want to be out of pocket to make alterations to my property because of the preschool.

I am asking for a fence to be built to my specifications on my property. I know you have a tight budget, but perhaps you can ask the landlord to pay for it. I'm sure Mr. Kornberg does not want to delay receiving rent by going through an appeal process that may end up with him not having a renter. I do not care who pays for it, but I do think it is a fair request.

If I do not hear back from you with a response by 5:00pm on Sunday, I will be appealing. Again, I do not want to have to take the time and effort to go through that process, but I know I have a lot of neighbors who would be backing the appeal.

I look forward to an amicable resolution. Thank you.

Brynn

---

On Sat, Jul 21, 2012 at 11:29 PM, Joe Wyffels <[jwyffel@comcast.net](mailto:jwyffel@comcast.net)> wrote:  
Brynn,

We recognize that the impact of the school is a concern for you and as we have stated before in our meeting and emails, we want to work with you as good neighbors and try to help with issues that present a problem. However we don't feel it is appropriate to respond to threats especially when an actual problem and the most effective response is not carefully studied.

Sincerely,

Joe and MeiLing

---

**From:** Brynn Cahill  **Sent:** Sunday, July 22, 2012 1:26PM

Hi Joe and Meiling,

I sincerely apologize if you misunderstood my last email. It was in no way intended to be a threat. At our meeting, I saw how much you want this preschool and I really do want to make it work for both sides, but you have to understand that I feel like I am making a lot of compromises while you have not made any.

Appealing to the city council is not a threat, it is my right. I, however, am trying to reach a fair compromise that addresses both sides. Based on your own admission, the preschool will increase traffic and noise and will affect my quality of life at my home. These would be the reasons that I would be appealing. However, after meeting with you and Meiling and seeing that you want to be good neighbors, I thought there might be room for compromise.

A fence will have to be built along the side of my property that faces Hollyburne to create any possibility of maintaining anything close to the current quiet atmosphere. Because I am already compromising the enjoyment of my property in regards to noise, traffic, parking, and privacy, I didn't think it would be too much to ask, as part of a negotiation and good faith effort on both sides, to not be out of pocket to pay for this necessity. If you do



not think a fence is a fair compromise, what do you suggest?

If it is easier to discuss this in person or on the phone, I am available to meet on Monday or discuss this on the phone today or Monday. Again, please understand that I am trying to make this work for both sides to reach an amicable conclusion and agreement.

Thanks,  
Brynn  
650-619-2215

RECEIVED

AUG 06 2012

CITY OF MENLO PARK  
BUILDING

08/05/2012

City Council of Menlo Park,

We feel the property located at 695 Bay Road is an ideal location for Bright Angel Montessori Academy. It is close to the community it will serve while being the least intrusive to the neighborhood. Across Bay RD from us is the VA, to the north is a commercial property, behind us is a parking lot for the adjacent commercial property, and to the south across the street is a private residence. The purpose of this hearing is to address the concerns of the owner of that private residence Brynn Cahill.

As you will see by the email chain provided (addendum 1) we have tried to address her concerns from the beginning. Immediately following the planning commission hearing on July 9<sup>th</sup> we sent an email to Brynn offering to meet with her personally to discuss the concerns she has with our school. After several emails we came to an agreement to meet with her on July 19<sup>th</sup>. We met her at 1pm at the school property. It was quite windy that day and since we were showing her the site plan drawings of the property she suggested we go her house. While we were at her house we discussed various concerns she had.

Her first concern was the parking situation. She assumed that the parking lot behind us was for us to use and therefore would create a lot of extra traffic on Hollyburne which is the street in front of her house. We informed her that we only have the use of seven parking spots directly behind our building the rest of the lot was for the use of Ken Kornberg Associates, the business next to us. Those seven spots would only be used for staff parking so the extra traffic on Hollyburne from the school will be minimal. We also told Brynn that we would have a signed parking agreement with our parents to prevent them from parking on her side of Hollyburne.

The second concern she had was the noise created by the children in the playground. We explained to her that based on our experience with pre-school aged children that they are much less noisy than school aged children and much smaller groups gather outside at one time than at an elementary school. We also pointed out that since she is an elementary school teacher she will be at work when our students are in the playground and therefore shouldn't be problem for her at all. She then questioned about when she is on vacation. Since we are located within the geographic confines of Menlo Park City Elementary School District our school calendar would match theirs. So for example when she is on spring break, we will be too.

Her next concern was traffic. We won't speak to that here. We feel that issue has already been addressed by the Planning Department.

Brynn then asked us if we would be willing to split the cost of building her a fence to give her more privacy and help block the noise. We told her that at this time, since we are not even operating yet we don't know if that is something we can do at this time. After we open and can actually see what our impact is on her we could re-visit this at that time.

Brynn's statement in her appeal letter that we have not responded to her is simply false. You can see in the attached email chain we have made very reasonable response to all of her emails. She gave us an ultimatum on Friday July 20<sup>th</sup> that states if we don't agree to her demands by 5pm on Sunday she will be making the appeal but if we agree to pay for a fence designed to her specifications she won't. Since we were unable to contact the building department on the weekend to try to figure out what the city would allow to be built and what would actually help solve her concerns, we hope you agree why we didn't agree to her demands. We did offer in our response to study the matter to determine what the best accommodation would be.

We want to be good neighbors and members of the local community. If there are any actual and measured issues with our presence in the neighborhood, please be assured we will do what we can to correct them.

In closing, I would like to point out that when Miss Cahill purchased her property 3 years ago she had to be aware she was purchasing a property across the street from 2 commercial properties. I think it would be reasonable to assume that an individual buying such a property would expect to have less privacy and experience more noise as opposed to being surrounded by single family homes.

Sincerely,

MeiLing Huang

Joe Wyffels

Bright Angel Montessori Academy

Addendum 1.

**From:** Joe Wyffels [<mailto:jwyffel@comcast.net>]

**Sent:** Monday, July 23, 2012 8:23 PM

**To:** 'Brynn Cahill'

**Cc:** Meiling Huang

**Subject:** RE: Bright Angel Academy

Brynn,

Thank you for your reply. Opening a new business is nothing short of compromise after compromise. There are so many different people and agencies involved that all have their own agendas we have to meet in order to get to the place we are today.

At this time I don't know a reasonable way to conclude this negotiation in one day. We do not know what type of fence the city will allow or what type of fence would provide you with the privacy and noise reduction you would be happy with. We are also dealing with our business partners to get this project done. They simply will not approve an unknown expense and design for your fence when we also do not know what our exact impact on you will be. As we discussed with you last Thursday, in the interest of being good neighbors, once our school is open and we know our enrollment and noise impact is on the neighborhood we will look into helping you out with a fence or other options that would solve these issues. Unfortunately, these are unknown now. So we hope you will accept our offer to address the fence or some other appropriate measure when we can come up with the most effective solution.

Sincerely,

Joe and MeiLing

**From:** Brynn Cahill [<mailto:brynnccahill@gmail.com>]  
**Sent:** Sunday, July 22, 2012 1:26 PM  
**To:** Joe Wyffels  
**Cc:** Meiling Huang  
**Subject:** Re: Bright Angel Academy

Hi Joe and Meiling,

I sincerely apologize if you misunderstood my last email. It was in no way intended to be a threat. At our meeting, I saw how much you want this preschool and I really do want to make it work for both sides, but you have to understand that I feel like I am making a lot of compromises while you have not made any.

Appealing to the city council is not a threat, it is my right. I, however, am trying to reach a fair compromise that addresses both sides. Based on your own admission, the preschool will increase traffic and noise and will affect my quality of life at my home. These would be the reasons that I would be appealing. However, after meeting with you and Meiling and seeing that you want to be good neighbors, I thought there might be room for compromise.

A fence will have to be built along the side of my property that faces Hollyburne to create any possibility of maintaining anything close to the current quiet atmosphere. Because I am already compromising the enjoyment of my property in regards to noise, traffic, parking, and privacy, I didn't think it would be too much to ask, as part of a negotiation and good faith effort on both sides, to not be out of pocket to pay for this necessity. If you do not think a fence is a fair compromise, what do you suggest?

If it is easier to discuss this in person or on the phone, I am available to meet on Monday or discuss this on the phone today or Monday. Again, please understand that I am trying to make this work for both sides to reach an amicable conclusion and agreement.

Thanks,

Brynn

650-619-2215

On Sat, Jul 21, 2012 at 11:29 PM, Joe Wyffels <[jwyffel@comcast.net](mailto:jwyffel@comcast.net)> wrote:

Brynn,

We recognize that the impact of the school is a concern for you and as we have stated before in our meeting and emails, we want to work with you as good neighbors and try to help with issues that present a problem. However we don't feel it is appropriate to respond to threats especially when an actual problem and the most effective response is not carefully studied.

Sincerely,

Joe and Meiling

**From:** Brynn Cahill [mailto:[brynnccahill@gmail.com](mailto:brynnccahill@gmail.com)]

**Sent:** Friday, July 20, 2012 12:47 PM

**To:** Joe Wyffels

**Subject:** Re: Bright Angel Academy

Hi Joe and MeiLing,

It was great meeting with you both as well. Thanks again for taking the time to meet.

Even though we are not happy about the preschool going across the street from our property because of concerns with noise, traffic, parking, and privacy, we would like to amicably work it out without having to appeal to the city council. Like we discussed, in order to accommodate a preschool across the street, I will have to have a high fence built around my property to ensure my privacy and hopefully diminish some of the noise. I already feel like the enjoyment of my property is being compromised and I certainly do not want to be out of pocket to make alterations to my property because of the preschool.

I am asking for a fence to be built to my specifications on my property. I know you have a tight budget, but perhaps you can ask the landlord to pay for it. I'm sure Mr. Kornberg does not want to delay receiving rent by going through an appeal process that may end up with him not having a renter. I do not care who pays for it, but I do think it is a fair request.

If I do not hear back from you with a response by 5:00pm on Sunday, I will be appealing. Again, I do not want to have to take the time and effort to go through that process, but I know I have a lot of neighbors who would be backing the appeal.

I look forward to an amicable resolution. Thank you.

Brynn

On Thu, Jul 19, 2012 at 11:46 PM, Joe Wyffels <[jwyffel@comcast.net](mailto:jwyffel@comcast.net)> wrote:

Brynn,

We enjoyed meeting with you today. I hope we were able to address your concerns with our school opening across the street from you. If you have any other concerns please don't hesitate to contact us.

Sincerely,

Joe and MeiLing

**From:** Brynn Cahill [<mailto:brynnccahill@gmail.com>]

**Sent:** Wednesday, July 18, 2012 4:14 PM

**To:** Joe Wyffels

**Subject:** Re: Bright Angel Academy

That works! I'll see you tomorrow at 1pm.

Thanks,

Brynn

On Wed, Jul 18, 2012 at 4:10 PM, Joe Wyffels <[jwyffel@comcast.net](mailto:jwyffel@comcast.net)> wrote:

Brynn,

We could meet with you tomorrow at 1pm if that works for you.

Regards,

Joe and MeiLing

**From:** Brynn Cahill [mailto:[brynnccahill@gmail.com](mailto:brynnccahill@gmail.com)]

**Sent:** Thursday, July 12, 2012 4:48 PM

**To:** Joe Wyffels

**Subject:** Re: Bright Angel Academy

Hi Joe,

Next Thursday at the building works for me. What time is good for you?

Brynn

On Wed, Jul 11, 2012 at 12:34 PM, Joe Wyffels <[jwyffel@comcast.net](mailto:jwyffel@comcast.net)> wrote:

Brynn,



Thanks for getting back to us. We would be available tomorrow or next Wednesday and Thursday to meet with you. We could meet at the building if that works for you.

Regards,

Joe and Meiling

[www.brightangelacademy.com](http://www.brightangelacademy.com)

**From:** Brynn Cahill [mailto:[brynnccahill@gmail.com](mailto:brynnccahill@gmail.com)]

**Sent:** Wednesday, July 11, 2012 10:29 AM

**To:** Joe Wyffels

**Cc:** Ken Kornberg; Grossman, Rachel M

**Subject:** Re: Bright Angel Academy

Hi Joe and Meiling,

Thank you so, so much for your offer. I really appreciate it. If a preschool is to be built across the street, it makes me feel so much better knowing the people who will be managing it are so thoughtful and kind.

Yes, I would love to meet with you. Since it is my summer, I am pretty flexible. I am available anytime before 4pm this Friday or next Monday. If these days don't work, let me know some days that work for you. Where should we meet?

Again, thank you so much for reaching out!

Brynn Cahill

650-619-2215

On Mon, Jul 9, 2012 at 10:04 PM, Joe Wyffels <[jwyffel@comcast.net](mailto:jwyffel@comcast.net)> wrote:

Brynn,

In the interest of being good neighbors and members of the local community we would like to offer to meet with you personally to discuss the concerns you have about our school being across the street from you. We want to assure you we will do everything in our power to minimize any negative impact you will experience because of our presence. Please let us know when is a good time to meet.

Regards,

Joe and Meiling

Bright Angel Academy

408-314-1212

## Grossman, Rachel M

---

**From:** Ahron Bogomilsky <ahbogo@aol.com>  
**Sent:** Wednesday, August 08, 2012 12:57 PM  
**To:** Grossman, Rachel M  
**Subject:** bright angel montessori academy

I live on 375 Arden Rd in Menlo Park and I support this project it is good for the community Ahron Bogomilsky  
[ahbogo@aol.com](mailto:ahbogo@aol.com)

**Grossman, Rachel M**

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**From:** Lee Scheuer <lee@proinsurance.com>  
**Sent:** Friday, August 10, 2012 12:57 PM  
**To:** Grossman, Rachel M; \_CCIN  
**Subject:** Bright Angel Montessori Academy

Planning Commission and City Council,

Please know that as an employer of a small business office in Menlo Park I am **grateful and support having Bright Angel Montessori Academy** at 695 Bay Road, Menlo Park. One of my biggest challenges in hiring and retaining employees is finding a preschool that has an opening for young children. The enormous shortage of children's schools not directly affiliated with large employers is critically. I beg of you to support this important need for our community. Please allow them a use permit so that the needs of my employees can be filled.

Thank you,

Lee C. Scheuer, CLU  
President / CEO  
International ProInsurance Services, LLC  
3925 Bohannon Drive Suite 100  
Menlo Park, CA 94025  
(650) 289-3823 direct phone  
(650) 289-5523 direct fax  
[www.ProInsurance.com](http://www.ProInsurance.com)  
CA Ins. Lic. #0D35070

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**Grossman, Rachel M**

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**From:** Yafen Chen <jasmineyafenchen@gmail.com>  
**Sent:** Friday, August 10, 2012 2:57 PM  
**To:** Grossman, Rachel M  
**Subject:** support for Bright Angel

Hi,

I would like to write to you to express my support for having the preschool Bright Angel Montessori Academy around our Menlo Park neighborhood at 695 Bay Road.

Thank you.

Jasmine Ya-Fen Chen

August 13, 2012

Dear City Manager and Menlo Park City Council,

I'm writing to support the staff recommendation for and unanimous Planning Commission decision to approve a Conditional Use Permit for a preschool at 695 Bay Road.

I lend my perspective as an aspiring preschool owner and, therefore, student of State childcare regulations and the local commercial real estate market. I made an offer on 695 Bay Road in February because its layout and grassy outdoor space make it particularly suited to the use. Although Bright Angel Montessori Academy ultimately outbid me on the property, I wanted to support their application for a permit because I think it would be a shame to see it denied for the following reasons:

1. **There are a shortage of preschools in Menlo Park.** As a parent of a preschooler and a potential competitor in the field, I have found that that nearly every (if not all) Menlo Park neighborhood preschools currently have waitlists for the fall, as they have had for many years. Even for returning families, overnight campouts are routine to secure a spot on the roster of many of these preschools.
2. **Menlo Park lacks preschool-appropriate commercial properties.** The California Department of Social Services requires that childcare facilities encompass 75 square feet of outdoor space per student. This is extremely hard to come by in Menlo Park. This year, only one other commercial property fitting the bill has come on the market. (That said, children would've had to play in a converted parking lot and the owner did not want to make a gamble on the lengthy conditional use permit process.) The only other option for preschools seeking commercial space is industrial Menlo Park, which is neither convenient nor acceptable to many families who believe schools are a vital part of our residential community.

I also wanted to speak to two issues that concern neighbors of the property:

1. **They worry that the sound of children playing outdoors will be excessive.** Given the size of the outdoor space, State regulations will only allow 24 children to play outdoors at a time. That said, according to the daily schedule for Bright Angel Montessori Academy, only 12 children will use the playground at any one time. To compare the noise level created by 12 to 24 preschool children to that of an elementary school playground with hundreds of children released during recess seems a stretch.
2. **They are concerned that parking is not sufficient and the street will get backed up during drop-off hours.** While researching parking needs for my own potential school, I learned that, according to the U.S. Department of Transportation, it takes an average of

5.6 minutes to park and sign a child in and out of a childcare center.<sup>1</sup> Assuming Bright Angel Montessori's drop-off window of 75 minutes (between 7:30 and 8:45 am), one parking spot could host up to 13 drop-offs during this time. Therefore, the 8 available drop-off spaces (assuming staff use 6 of the 14) could accommodate up to 104 families during these 75 minutes. While it is unlikely arrival would play out in this perfectly organized fashion, it's realistic to assume that 48 families could comfortably use the parking lot without spilling into the street, especially since some families will likely be dropping off more than one preschool child at the same time.

Most cities do not specify parking requirements for childcare centers. However, several nearby planning departments would agree with the Menlo Park Planning Department and Commission that parking at this property is adequate for 48 children and 6 staff. For example, both Mountain View and Santa Clara require one parking space per 15 children plus one space per staff member (which would equal a total of 10 parking spaces for this property). Cupertino stipulates that childcare centers have one space per 6.5 children (8 spaces for the 48 children at this property) but does not stipulate parking for staff (though if they did, the total would come to 14 parking spaces).

If other neighborhood preschools are any indication, many families will also walk or ride bikes to drop off their children, further decreasing demand for parking.

As a working mother I've been continuously frustrated over the years at the lack of preschool opportunities in Menlo Park, especially as I struggled to find childcare while working for My New Red Shoes, a nonprofit that serves many families in Menlo Park and which I founded. When I researched why there is such a dearth of childcare in our community, I was stunned to learn that the impossible combination of State requirements, unwilling commercial real estate owners, lack of appropriate properties, and the challenges of a lengthy and complicated permitting process make it nearly impossible for a preschool to open in Menlo Park. In fact, it has been decades since this city has seen a neighborhood preschool open its doors.

695 Bay Road offers a unique opportunity for Menlo Park to add another preschool to its community. Ken Kornberg, its owner, has been unbelievably patient and supportive as he and his prospective tenant have weathered the conditional use permit process over the last six months (something most commercial property owners I've encountered between San Carlos and Palo Alto are not willing to do, by the way). Bright Angel Montessori is even prepared to pay the hefty \$70,342.19 Transportation Impact Fee, which would be prohibitive to most

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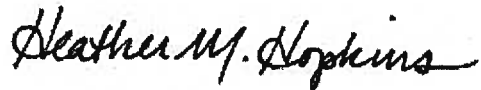
<sup>1</sup> Hitchens, Preston W., "Trip Generation of Daycare Centers." Institute of Transportation Engineers, 1990. Compendium of Technical Papers, pages 359-361.

independent preschool owners (including me) and does not take into consideration the many families who would be driving shorter distances to this preschool than they would to other preschool locations if it does not open.

Not many people are willing to jump over the many hurdles required to open a preschool, and even fewer find a property that is suitable to bring their vision to reality. Bright Angel Montessori has done both and I support their endeavor.

Thank you for your consideration and for the hours of service you have given our community.

With respect,

A handwritten signature in black ink that reads "Heather M. Hopkins". The signature is written in a cursive style with a large initial 'H' and a long, sweeping tail on the 's'.

Heather Hopkins



August 21, 2012

To: The Menlo Park City Council

My wife and I own 695 Bay Rd, the property that Bright Angels Montessori Academy proposes to use for their preschool. We have owned this property since 1985. We purchased it as a location for my architecture firm, Kornberg Associates, which outgrew the building in 2000. Kornberg Associates moved next door to 687 Bay Road and is currently still functioning there as a full service architecture firm.

We have leased 695 Bay Road to a variety of commercial tenants since 2000. Current zoning C2A permits retail services including food, drugs, apparel, hardware, variety, banks, professional services, personal services such as barber, beauty, dry cleaning, restaurants.

Though the property is zoned for it, we feel that retail businesses often have a negative impact on the neighborhood. Their clientele has minimal vested interest in the property. They come out of convenience and leave trash, diapers, cigarettes, and wrappers around the property and park where it is most convenient for them regardless of the impact to the neighbors. They often double park, block entrances and do what is expedient for them. They do not heed signage and park in our lots rather than the retailers'.

In contrast, schools have a different clientele. With their long waiting lists of concerned parents, a small private nursery school has a vested interest in fostering a good relationship with the neighborhood and avoiding confrontations. The school becomes part of the social community and functions as an integral part of a neighborhood.

I would like to say a few words about Bright Angels Montessori Academy. When they first approached us, I was at first reluctant because the occupancy was not a permitted use by C2A zoning and therefore would require a long and expensive permitting process, but several things seemed unusual and important to consider:

- 1) Many of the previous parties who have come to us have been day care or pre-school. The Bright Angels Montessori Academy owners explained why this is needed in this neighborhood and how they could attractively fill a serious void in the neighborhood preschool provisions.
- 2) Bright Angels Montessori Academy presented a good business plan that could sustain the CUP process and be able to make it through the maturation of permitting, construction, marketing and retaining students.
- 3) Bright Angels Montessori Academy was eager to do the project well and maintain it appropriately.
- 4) Given the degradation of the neighborhood over the last decade by the VA, some new vitality (especially with children) would provide a helpful boost to this immediate neighborhood. The VA in the last few years converted the well maintained Bay Road tree-lined grass field across the street, (that was used by the neighborhood for Frisbee, football, whiffle ball, and picnics), into a large metal structured delivery lot. The frontage which faces 695 and 687 Bay Road is now mainly a 7' high, pink split-faced concrete block wall.

I have every reason to believe that the owners of Bright Angels Montessori Academy will be good community members who represent an overall positive impact on the neighborhood. No one wants added traffic in their neighborhood, including us, but we believe that the preschool, with its staggered drop-off and pic-up times, offers less traffic impact than other options for occupancy, such as retail.

My wife and I walked around the neighborhood and met with neighbors and found an overwhelmingly positive response to the pre-school. Most people hoped the project would go through and some anticipated walking their children to pre-school.

The major problems that 687 and its neighbors face are the indefatigable noise from 101, the traffic and noise from Bay Road, and the major frontage on the VA with its uncaring, interminable development process. These issues dwarf the impact that Bright Angels Montessori Academy presents.

Any business we accommodate at 687 Bay Road will increase traffic on Bay Road. The new school will increase traffic on Bay Road, but because of their small size and because they are private, they are more flexible and can set hours that work best to match their needs with the community.

Currently, there are days when the traffic backs up because of the 2,500 students who go to Laurel School and Menlo Atherton High School. There are some mornings when the traffic is minimal and others when it is slow and I suspect it has to do with days in which special occasions at MA and Laurel coincide or on days when the two schools have similar start times. Statistically, Bright Angels Montessori Academy's clientele could at the very most contribute 2% to this traffic.

However, we are promoting Bright Angels Montessori Academy for this neighborhood, because there is no other pre-school in walking distance of this neighborhood. If they are allowed to locate in the neighborhood, those same parents who currently drive across Bay Road and Willow to the closest pre-school or the next closest across 101, will be able to walk their children to school. If more than 50% of the students come from the neighborhood, the school is just as likely to reduce the local traffic problems by 2%.

In our conversation with residents, realtors and educators the majority have said that the school is needed and will increase in the attractiveness and property values of the neighborhood. We appreciate the Planning Commission's careful consideration of our CUP as they listened intently to the appellant's concerns. We also appreciate the thorough and careful assessment by the City staff.

In short, we selected Bright Angels Montessori Academy because of their commitment to providing an establishment which is caring and respectful of the people they will affect, because of their minimal impact compared to other likely occupancies, and because of the major benefit they will provide to a community that has very few options.

This process has been, expensive and difficult, but we believe it will have a long term and valuable impact on the neighborhood if allowed to proceed.

Thank you for your consideration.



Ken Kornberg  
687 Bay Road  
Menlo Park, CA