



## PLANNING COMMISSION MINUTES

March 31, 2008

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** – Bims (Arrived at 7:04 p.m.), Bressler (Arrived at 7:04 p.m.), Deziel (Chair), Keith, O'Malley, Pagee, Riggs (Vice chair)

**INTRODUCTION OF STAFF** – Deanna Chow, Senior Planner; Megan Fisher; Associate Planner; Bill McClure, City Attorney; Justin Murphy, Development Services Manager

### A. PUBLIC COMMENTS

There were none.

### B. CONSENT

There were no items on the consent calendar.

### C. PUBLIC HEARING

1. **Rescind Previous Approvals for the Derry Project and Consider a General Plan Amendment, Zoning Ordinance Amendment, Rezoning, Planned Development Permit, Major Subdivision, Development Agreement, and Environmental Review for the Revised Derry Project/O'Brien at Derry Lane, LLC/550 to 580 Oak Grove Avenue and 540 to 570 Derry Lane:**

- 1) General Plan Amendment to modify the El Camino Real land use designation and the associated land use intensity tables to allow the density for residential uses to exceed the base density of 18.5 dwelling units per acre (du/ac) and to allow the intensity to exceed the base floor area ratio (FAR) of 75 percent on this property;
- 2) Zoning Ordinance Amendment to modify Chapter 16.57 P-D District to allow the density for residential uses to exceed the base density of 18.5 du/ac and to allow intensity to exceed the overall floor area ratio (FAR) requirements of the existing C-4 General Commercial District (Applicable to El Camino Real) zoning designation on this property;
- 3) Rezoning the property from C-4 (ECR) District to P-D (Planned Development) District;

- 4) Planned Development Permit for the demolition of existing commercial structures and to establish specific development regulations and architectural designs for the construction of:
  - 108 residential units at a density of 40 du/net acre where 18.5 du/ac is the maximum density permitted by the pre-existing zoning designation;
  - Approximately 146,075 square feet of residential gross floor area;
  - Approximately 12,650 square feet of retail/restaurant (with permitted restaurant alcohol sales and outdoor seating) space and 12,275 square feet of non-medical office space for a total commercial gross floor area of 24,925 square feet;
  - An approximate residential FAR of 124 percent and commercial FAR of 21 percent for a total FAR of 145 percent where 75 percent is the maximum FAR permitted by the pre-existing zoning designation; and
  - Three-story building elements with a maximum building height of 40 feet where 30 feet is the maximum building height permitted by the pre-existing zoning designation; and
  - 301 on-site parking spaces in a partially submerged and below-grade parking structure where 366 parking spaces would be required by the existing C-4 (ECR) zoning designation.
- 5) Major Subdivision to merge eight existing lots, to abandon right-of-way, plan lines, and easements, to dedicate right-of-way and easements, and to create 108 residential and up to a maximum of eight commercial condominium units;
- 6) Development Agreement to allow the project sponsor to secure vested rights and the City to secure certain benefits;
- 7) Below Market Rate Agreement to provide 16 BMR units and in-lieu fees in accordance with the City's BMR Housing Program;
- 8) Heritage Tree Removal Permit to remove five on-site heritage trees, and to remove three off-site heritage trees associated with the proposed Derry Lane/Garwood Way right-of-way improvements and extension; and
- 9) Environmental Impact Report Addendum to compare the potential environmental impacts of the proposal with the certified EIR.

Staff Comment: Planner Fisher said there were three additional items presented on the dais to the Commission. She said the first item was an e-mail correspondence expressing dissatisfaction that the project had been delayed because of referendum action; the second item was correspondence suggesting that the project be put on hold because of perceived traffic, noise and air pollution impacts. She said the third item was a copy of a TDM Plan that had been provided by the applicant. She said the TDM Plan was referenced in condition 6.40 in the Planned Development Permit (PDP). She said on page I.8 of the staff report, Section 3.3.1, the last line read "the ninth anniversary of the effective date" and that should read "the **fourth** anniversary of the effective date." She said on sheet H.2, paragraph 2.4, that the applicant had requested a reduction from 21% to 20% minimum landscaping to accommodate additional fire exiting that might be required. She said staff supported that reduction to accommodate additional fire exiting required, and that if the Commission also supported the requested reduction, it should make a recommendation to that effect. She said prior to the City

Council's technical changes made to the PDP and to the Development Agreement to address the applicant's concerns related to the timing of the Commission's approval, relationship to the 1300 El Camino Real proposed project, and also the possible clarification of some of the wording of the Commission's approval, staff did not anticipate that any of these changes would alter the content of the PDP or the Agreement.

Questions of Staff: Commissioner O'Malley asked for a broader explanation of the restaurant use or Option 4 on page 16 as staff appeared to have concerns with it. Planner Fisher said the applicant's request was for a larger fast food restaurant, which was an ITE definition and could hypothetically be a coffee house. She said the project, working under the Settlement Agreement, needed to stay under the daily peak trips specified in the Final EIR. She said the applicant was making a case that based on the project's location, proximity to transit and the mixed use of the project that there might be justification for reduction in the residential trips coming from and to the project that would permit for trips to and from the fast food establishment. She said the Commission could recommend to the City Council that the reduction was reasonable and this option was supportable or the Commission could indicate support of staff's recommendation to not allow the fast food component of the project. She said there had not been time to analyze this proposal and it had not been part of the original EIR.

Commissioner Bims said the applicant was indicating there would be a 15% reduction in a.m. and p.m. peak trips and was requesting trip credits. He asked what the number of a.m. and p.m. peak trips were for a fast food use. Planner Fisher said the 15% reduction would equate to eight less trips in the morning and five less trips in the evening. She said that the evening trips did not exceed what was identified in the EIR so the only real concern was the reduction in the a.m. She said for the residential portion the 15% reduction would equate to seven trips in the a.m. and the p.m. peak hours continued to be under the maximum identified in the EIR. Commissioner Bims asked without counting the reduction what the aggregate of peak trips would be for both the fast food restaurant and the residential. Planner Fisher said that would be 53 trips for the fast food and 48 for the residences and that was without looking at commercial uses currently at the site and pass-by reductions. She said the pass-by reduction would be 50% of the trips.

Chair Deziel said at the end of the deliberations he would give an opportunity for all of the Commissioners to state what factors went into their decision making so that the Commission was assured of its basis of finding being forwarded to the City Council.

Commissioner Riggs noted sheet I.6 in the Development Agreement draft and the last two lines referring to a contribution of \$2 million less any new fees implemented and imposed on the Project by City on or after September 12, 2006, to the full extent of any such new fee(s), and asked if that was meant to be November 2007 and if there was a concept of what the amount of fees in the last 18 months might be. Mr. McClure said the September 12, 2006 was the correct date and this was the negotiation between the applicant and Menlo Park Tomorrow and related to any new fees imposed, not

increases to existing fees. He said there had been no new types of fees during this period of time.

Commissioner O'Malley said the applicant did not desire a maintained path along the railroad tracks because of the requirement that the path be ADA compliant and the City Council's recommendation conflicted with the tree protection measures stated by the arborist. He asked if staff had confirmed these two objections were accurate.

Mr. Kent Steffens, the Public Works Director for the City of Menlo Park, said the City made this condition applicable based on prior approvals and a belief there is a philosophy in Menlo Park to have walkable community. He said staff's opinion was that the path could be designed so as not to conflict with the trees and ADA compliance was required by federal and state law.

Chair Deziel said he thought the compaction of a trail would work against the bio-swale functioning and permeability. Steffens said the path as perceived would be a permeable surface that would allow percolation.

Commissioner Riggs said that retention and plant growth was necessary for the functioning of a bio-swale and that was not possible in decomposed granite, which also was questionable for ADA purposes. He asked if staff had determined whether there was enough square yardage of bio-swale left to meet the retention and absorption required by the overall design. Director Steffens said there was not a specific numerical quantity. He said decreasing landscaping reduces that amount but there were benefits of having more walkable areas in the community around the train station that might reduce other pollutants such as the amount of cars that might use this stretch of roadway. He said an example of a successful bio-swale recently built was on Sand Hill Road along the boundary of Palo Alto. He said it was 10-foot wide with landscaping and trees. He said the proposed project had 15 feet of workable distance, and even if there was a four or five foot path added, there would be 10 feet for a bio-swale.

Commissioner Bims asked about the expected pedestrian use of the planned sidewalk from Oak Grove Avenue to Glenwood Avenue. Director Steffens said they expected the residents in the area, those who would live in the new development, would use the new sidewalk on their side of the street. He said people walked their dogs and walked for health, and having a path on the other side of the railroad tracks would provide a protected environment with no driveways to cross for walkers, which was a benefit to the community, while perhaps not a direct benefit to the residents of the new development. Chair Deziel confirmed with Director Steffens that the City remained in favor of the proposed new sidewalk.

Public Comment: Mr. Jim Pollard, O'Brien Homes, the applicant for the project, said he would review briefly changes to the project since the original approval, and address specifically the issues that were raised in the October study session. Revisions related to the residential development were a 20% reduction in the density of the residential units, from 135 units to 108 units, and a proportionate reduction of the number of Below

Market Rate (BMR) units from 21 units to 16 units; four story elements in the rear portion of the project had been eliminated and all the proposed buildings were three story; the maximum height was reduced from 50 feet to 40 feet; as part of the reduction in the density from 135 units to 108 units, some of the interior buildings were reconfigured to increase the size of some of the interior courtyards. Revisions related to the commercial development was an expansion of the public commercial plaza with an additional 75 feet to extend from Oak Grove Avenue 110 to 115 feet; expansion of the ground floor retail space with an additional 2,400 square feet; elimination of pedestrian bridges to make the space more open; reconfiguration of commercial building number 9 originally designed for retail on the first floor, office use on the second floor and residential on the third floor to office use on both the second and third floor; and that building had previously had a step back at the third level and now had a 12-foot step back at the second level, and a 12 to 14 step back at the third level. Other components of the project included the addition of the \$2,000,000 public benefit payment. He said in the previous application there had been text related to the PD-zoning amendment that had referred to 1300 El Camino Real and there was no longer any bundling of that project with this application and no impact on that project from this application. He said their application only related to the Derry property. He said they have added a 15-foot pedestrian easement along the northern portion of the development that would ultimately tie into an easement through the Cadillac property, which would create a pedestrian connection from the new Derry Lane through to El Camino Real. He said they had introduced a new development agreement into the packing of overall entitlements for the reasons discussed by staff at the October study session.

Mr. Pollard said they were still proposing the same quality of materials and finishes; he said the materials and colors board and part of their application was the same as that approved with the previous application. He said the list of finishes found in Exhibit Q primarily outlined the exterior finishes but also interior systems, window systems, retail store fronts and others, were exactly the same as what was approved with the previous application. He said this application contained the same business center, fitness center and club room amenity package as originally presented even though density had been reduced from 135 units to 108 units. He said sheet A4.2 showed the preliminary layout of those amenities. He said there were the same number of stairs, fountains, and one elevator added. He said there were slightly better parking ratios than in the previously approved project. He said as part of the design they had added small workout coves in each of the four different floor plan types.

Mr. Pollard said he would next address issues raised in October and how they had addressed those. First issue: input from the Commission on the design of the stair towers both on the east elevation facing the railroad and the southwest corner of the community fronting on the Oak Grove Avenue and El Camino Real intersection. Beginning with the southwest elevation, Mr. Pollard directed the Commission to drawing number 4 on sheet A3.2, which was a new perspective drawing. This perspective drawing showed the existing Chevron gas station at the northeast corner of Oak Grove Avenue and El Camino Real with the proposed Derry project behind that. He said they

had not previously provided that perspective drawing but had mostly provided perspective drawings from the railroad station. He noted a stair tower in the middle of that drawing that projected above the wall of the gas station and that had previously been proposed as a flat roof with monolithic sides. He said the Commission had asked them to add a tile hip roof and some detail, which they had done. He said a related point on Sheet A3.2 was the stair towers and elevator towers on the east edge of the community facing the railroad. He said those towers had been modified since October to include hipped tiled roofs and detailing. He directed the Commission to Sheet A3.3, elevation number 2. He said that was the full east elevation of the community facing the railroad. He said there were three towers – one stair tower, one elevator tower, and garbage/recycling chutes – and those had all been modified as described. He said at the request of one of the Commissioners he had met with the architect to confirm that the tower heights were adequate for the elevators proposed. He said they were specifically proposing traction elevators versus hydraulic elevators. He said traction elevators were faster and smoother in motion but required more head room at the top of the tower. He said they double-checked and confirmed that all of the elevator towers had adequate height to house the “head” equipment for the traction elevators.

Second Issue: a request to provide more detail on the retail and office space to confirm that it was properly designed and would be suitable and attractive for the type of tenants they desired to bring into the community. Mr. Pollard said Exhibit P showed the layout of the retail spaces with two restaurants in the 3,000 to 3,600 square foot size and four to five retail spaces with each having 1,000 square feet. He said the attachments 1, 2, and 3 to Exhibit U were letters from three local retail leasing brokers who reconfirmed that they had reviewed the plans, particularly these new layouts that show actual demised space, and concluded this was attractive space for the kind of locally owned, independent, eclectic retail tenants and restaurateurs they wanted to bring into the community.

Third Issue: a request to post public notice of this hearing on the property. Mr. Pollard said they had posted a large public notice on the property on the front of the old pet supply store a week ago today, and it had remained there since that time.

Fourth issue: a Commission request to provide more information on the finishes of the stairways in the community. Mr. Pollard said he sent an e-mail to staff but he did not think it had made it into the staff packet. He read: “With respect to the exterior stairs, which are the stairs that lead from the courtyard to the podium, and the stairs that lead from the podium down to grade, exterior stairs will be finished with exterior materials, including decorative pavers to match the adjacent hardscape surface with inset tile details. Lighting and railing details will match to the exterior lighting and railings elsewhere in the community. Regarding interior stairs which are located throughout the community that will serve to provide everyday access for residents from the street and garage levels up to the podium level and upper level homes, those will be finished in the same fashion as the project interior corridors. Stair interior finishes will include textured and painted sheetrock walls, carpeted or tiled floors, decorative interior light fixtures, and high quality handrails and baseboards.”

Fifth issue: request to look into whether the applicant could provide additional one and two-bedroom units versus the three-bedroom units being proposed and whether they could provide additional BMR units. Mr. Pollard said they were unable to do either of the things requested. He said the reason was when they redesigned the project and resubmitted it and agreed to the \$2,000,000 public benefit contribution, they reduced the project's economics to a level that was right on the threshold of what would economically be viable and would be financed. He said since spring of last year because of the sub-prime mortgage crisis and the somewhat stagnant residential real estate markets and increasing construction costs, their economics had worsened. He said the changes requested would have significant economic impacts to the project.

Mr. Pollard noted that the proposed project had been endorsed by the Greenbelt Alliance, Bay Area Council, Silicon Valley Leadership Group, and the Housing Action Coalition of Santa Clara Valley.

Planner Fisher said it had come to staff's attention that part of Attachment D, the addendum to the EIR, had by error not been attached and this was information from the traffic consultant regarding peak hour trips. A copy was provided to each of the Commissioners, and the Commissioners read the material presented.

Commissioner Pagee asked how the report from Hexagon Transportation Consultants related to page 15 of the staff report addressing options of restaurant uses. Planner Fisher said the options on page 15 correlated with options 2 through 5 of the consultant's memo. Chair Deziel confirmed with staff that the basis of the analysis for Option 4 was defined by the applicant and not staff, and that staff did not recommend Option 4. Planner Fisher said the 15% TOD credit would however match up with some studies that had been done as had been noted in the staff report.

Mr. Morris Brown, Menlo Park, said he was representing Menlo Park Tomorrow, the proponents for the referendum action. He said the group was fully in favor of the proposed project and considered it a much improved project over what was originally presented. He said the owner of the Crepes Restaurant had told him that there was no concern with a.m. peak traffic; that there was p.m. peak traffic but which was mostly associated with the 7-11 store.

Commissioner O'Malley said he had read that the group had about 100 members. Mr. Brown said there were 80 to 100 members, and were 90% Menlo Park residents and voters. Mr. O'Malley asked if the group was a legal entity that was authorized to sign legal documents. Mr. Brown said that it was and described the process briefly. Commissioner O'Malley said at the last meeting the former City mayor indicated he signed the agreement as an individual. Mr. Brown said he has the title of contact person for the group and all persons signed as individuals.

Mr. David Speer, Menlo Park, said he was one of the group who negotiated the settlement agreement with the applicant. He said he firmly supported the project as presented and there were many benefits to the City because of the project.

Commissioner O'Malley asked if Mr. Speer supported Option 4 and no path along the railroad. Mr. Speer said those matters had not been part of the settlement agreement and those matters were between the City and applicant.

Ms. Bena Chang, Silicon Valley Leadership Group, said her organization was a public policy trade association and a housing action coalition, and a member of the Coalition of Housing Advocates. She said both groups supported the project. She said it provided a key opportunity to place more compact homes near transit, which provided future residents with the choice of taking transit to work, and placing housing within City limits and not in open space and agricultural lands. She said they encouraged the Commission to recommend approval of the project.

Mr. Matt Regan said he was Director of the Housing Policy and Sustainable Development for the Bay Area Council, a business-sponsored public policy organization founded in 1946. He said their Housing Endorsement Committee reviewed the project, which was unanimously approved. He said they urged the Commission to recommend the project for approval.

Ms. Anne Moser said she was a member of the City's Housing Commission and had been asked by the Chair of that Commission to represent the Commission this evening. She said their Commission met on March 5, 2008 and recommended acceptance of the 16 BMR units proposed by the applicant and in-lieu fees on two market rate units per the draft BMR Agreement for 550 and 558 Oak Grove Avenue and 540 and 570 Derry Lane. She said the Commission also recommended approval of the applicant's proposed amended location of BMR units in which 80% percent of the BMR units are stacked and 20% are not in which a two-bedroom corner unit on the first floor was designed to be a BMR unit. She said they were very happy this project was moving forward and to have smaller BMR units in Menlo Park.

Mr. Todd Temple said he owned both a home and business in Menlo Park and was on the Downtown Visioning Committee. He urged the Commission to recommend approval of the project, which he thought would be a viable benefit to the downtown community.

Chair Deziel closed the public hearing.

Commission Comment: Chair Deziel said in Addendum C there was an outline of what the Commission needed to consider this evening. He said unless staff had an objection that he would like to move consideration of the EIR until after the discussion of the other matters.

Commissioner Keith said one issue the applicant had not addressed in his presentation was the request to consider green building techniques, noting that a member of the



public had also sent an e-mail requesting consideration of green building techniques. Recognized by the Chair, Mr. Pollard said in October he had indicated that they were considering designing the project in conformance with the California Build It Green Guidelines with the intent of qualifying for green point rated certification. He said they had decided to include elements in the project to endeavor to receive rated certification from California Build It Green. He said he also mentioned in October that certification did not occur until construction was completed; thus, he could not commit to delivering that certification. Commissioner Keith asked if that process was different from the LEED certification. Mr. Pollard said LEED was an international certification program and California Build It Green was a local program, originally started by the City of Berkeley and County of Alameda about seven years prior.

### General Plan Amendment

Chair Deziel said regarding the proposed change in Section E1 and also in E3 that he had expressed it before but would restate that he did not agree with hardwiring projects or property identifiers in the General Plan, particularly if there was no purpose. He said it suggested to future potential developers and residents that there was no logic to changes to the General Plan, except for favoritism. He said he was not suggesting favoritism for this proposed amendment related to this project but rather a good principle that changes to the General Plan should be described as changes to areas and boundaries and the uses allowed therein. He suggested that this change should relate to a particular area and not to a project. Commissioner Bressler said there was an ongoing visioning process for the area and that should be allowed to play out, and this proposal should be viewed as a pre-dated exception, and he would not like to see the area expanded. Chair Deziel said that he did not want the area expanded either but he thought the area could be defined to contain the project. He said he would like to ask staff to bring back a definition of the change using area so it was not attached to the name of the Derry project. Planner Fisher said it would be difficult to do. Chair Deziel showed the methodology he thought would work. Planner Fisher said she understood Chair Deziel's objective, and they could do something along the lines of a legal description. City Attorney McClure confirmed with Chair Deziel that he wanted a definition of the exact land area currently identified by parcel numbers and the project name but without those identifiers used. He said that could be the recommendation of the Planning Commission to Council.

Commissioner Riggs said land use was never identified by somebody's property but was defined by distances and relative locations. He agreed that this should be identified in planning terms.

Commissioner Bims asked related to the current wording if subsequent to this General Plan Amendment there was a subdivision map approval whether that would invalidate the language of the General Plan. City Attorney McClure said it would not as the area was still identifiable, there was a map and it was part of the General Plan and Zoning Ordinance Amendment. Chair Deziel asked what would happen when the parcels were merged. City Attorney McClure said this would show up as PD-8 and the general plan

map and zoning map were overlaid together. He said this was not an uncommon way to deal with general plan amendments and it was very specific. He said general plan maps follow property lines in virtually all jurisdictions and there were not parcels with split zoning or general plan designation. He said the description could be done in different ways, including metes and bounds, but the end result was the same. Chair Deziel said they could be described that way but there was no basis for planning as there was no description of purpose. Commissioner Keith asked how this description had been done historically. City Attorney McClure said problems they had had in the past were maps not specific enough for which there had been questions about the boundary between C-4 El Camino and the R-3 designation behind it. He said with the GIS mapping that had been done that they were able to be much more precise and specific to have general plan and zone designations track parcels' boundaries. Commissioner Keith asked if this description was his recommendation. City Attorney McClure said it was responding to the Settlement Agreement between Menlo Park Tomorrow and the applicant, and confining the precise definition of this general plan amendment to the parcels in question, because a part of that agreement was to limit the general plan designation to these properties and not apply to, for example, 1300 El Camino Real. He said describing by metes and bounds was creating a legal description rather than using existing legal descriptions which were a much easier way to define an area and be precise.

Chair Deziel said the other issue was whether any purpose should be attached to the description as it was customary to have a purpose for an entitlement such as this. City Attorney McClure said the Commission might decide if they wanted to include that in their recommendation to the City Council.

Chair Deziel moved that the Commission make the finding that the proposed General Plan Amendment is consistent with the goals and policies of the adopted General Plan provided that staff revises the characterization of the land identified to define it as an area 1) independent of the project name; 2) independent of the parcels identified; and 3) to state a purpose description for the exception. Commissioner Riggs seconded the motion. He said the purpose was consistency with former efforts of the City Council to include elements discussed but not adopted such as the Housing Element policies which encouraged rezoning targeted parcels near public transit for fire density and residential development. He proposed a draft description such as "beginning at Oak Grove and the southerly Caltrain right-of-way, proceeding approximately 492 feet northwesterly then proceeding approximately 253 feet northeasterly thence approximately 246 feet southeasterly thence approximately 166 feet southwesterly thence approximately 236 feet southeasterly and thence approximately 365 feet northeasterly to the point of origin."

Commissioner Bims said in making a General Plan Amendment it was important to be precise about where the amendment was being made, and it was his understanding that putting parcels in something like the General Plan was problematic, but on the other hand he was concerned with language that used "approximately" as that led to ambiguity. He said one way to solve this would be to look at the descriptions in the

parcel designations and from that language lift language out of there to describe the boundaries. Commissioner Riggs said he was picking up language from the outside parcel boundaries, and that was why he called the description a draft. He said he was asking staff to refine the exact description. Commissioner Bims said that with such a change it would be important for the Commission to see the description again. Commissioner Riggs suggested he could add to the end of the description "which would coincide with the exterior lines of all the parcels heretofore described. City Attorney McClure said that the Commission was recommending and was not making the findings, and could move forward with direction to staff to clean up the language for the recommendation to the Council.

Commissioner Bims said he agreed removing the project name was something the Commission could emphasize as part of the recommendation. Commissioner Keith suggested leaving the parcel numbers in with the other description recommended. Commissioner O'Malley said the intent was to take out the phrase "Derry Project" and define that area differently. He suggested letting staff define the area; and asked what the purpose was. Chair Deziel said the motion allowed staff to define the area. He said the purpose was increased housing near public transit; General Plan commercial goals 1.b to strengthen the downtown vitality and 1.b.4 to strengthen the relationship between the transportation center and downtown.

Commissioner O'Malley called for the question. Commissioner Keith said she needed to clarify the motion. Commissioner Riggs said his intent was to describe the area by the boundaries, but agreed he was amenable to the parcel numbers being included.

***Note: All motions and modifications are in reference to Attachment C of the March 31, 2008 staff report.***

Commission Action: M/S Deziel/Riggs to recommend making the finding for the General Plan Amendment with the following modifications.

- Eliminate the reference to the project name;
- Add a description of the boundaries of the geographic area of the project;  
and
- Add a purpose statement to the text of the General Plan.

Motion passed 6-0 with Commissioner Bressler abstaining.

There was unanimous consent to recommend approving a resolution for the General Plan Amendment with the following modifications:

- Eliminate the reference to the project name;
- Add a description of the boundaries of the geographic area of the project;  
and
- Add a purpose statement to the text of the General Plan.

## Zoning Ordinance Amendment

Chair Deziel referred to page F.1, 16.57.050 and noted it had the same project characterization as discussed under the General Plan Amendment, but noted that there was not a need for a purpose for the Zoning Ordinance. He suggested not referring to the project and it would be appropriate to refer to the area as in the General Plan Amendment recommendation.

Chair Deziel moved to recommend to Council to make the finding and approve the Zoning Ordinance Amendment and with additional recommendation and under section 16.57.010 to remove the reference to the project name and use an area description consistent with that used in the General Plan. He said he did not know if purpose should be included.

Commission Action: M/S Deziel/Keith to recommend making the finding and approving the Zoning Ordinance Amendment with the following modifications.

- Eliminate the reference to the project name; and
- Add a description of the boundaries of the geographic area of the project.

Motion carried 7-0.

## Rezoning

Commission Action: M/S Riggs/Bims to recommend making the finding and approving the Rezoning.

Motion carried 7-0.

## Planned Development Permit

Chair Deziel said this referred to the project itself, and suggested Commissioners bring up issues in regard to the project.

Commissioner Pagee said she had questions for either the architect or the civil engineer. She said there had been other projects where the Commission were not aware of the elevation compared to existing lots surround the project. Mr. Pollard noted Sheet A3.2 which showed the gas station and perspective drawing, which was drawn in scale. He said the parapet wall of the gas station was 17-feet high. Commissioner Pagee said she was looking at the natural grade for the gas station and what it would be for the project.

Mr. Pollard directed the Commission's attention to sheet TM.6 Grading Plan. He said the west property line down adjacent to the Chevron and Brix was 69.0 along that entire line and the frontage was 68.5 and adjacent grades were 69.0. He said they matched existing grade. He said from the northeast corner of the Brix Restaurant and east the

grade stayed at 69.0 and the existing grade was about 18-inches lower. Commissioner Pagee said this project at some points was almost two feet higher than adjacent grade so that there was a retaining wall. She asked if the height was measured off the new finished grade. Mr. Pollard said that City ordinance required that the height of a building be measured off the average existing grade around the perimeter of the building. Commissioner Pagee asked if a concrete fence at a property line as shown on sheet DL.4 at eight-feet tall whether that was eight-feet tall from the adjacent property or eight feet tall on the project. She said she assumed at the railroad tracks it would be natural grade at eight-feet tall on either side of that fence. Mr. Pollard said that wall would not retain on the project side. He said on sheet TM.8 cross sections CC, C1C1, DD and EE were shown. He said those occurred on various locations across the site. He said the sections were called out on sheet TM.5, and CC was between the Derry property and the proposed 1300 El Camino Real project and what was shown on that property was what was proposed. He said they would match existing grade along the east side and retain a consistent grade around the property and the reason they did that was because the existing grade was falling in the northeast direction, but they needed to retain existing grade because they needed cover over the existing storm drains that run around the perimeter of the property. He said the only place the grade would be higher than the adjacent properties would be behind the nail salon where their project would be about 18-inches above that salon.

Planner Fisher said the question she thought Commissioner Pagee was asking was whether the fence and walls along the property lines where there was a grade difference would be measured from the Derry property or the adjacent property. Mr. Pollard said he believed the height of the fence around the perimeter would be six-feet and would be measured from the Derry property. Commissioner Pagee said that would make the fence considerably higher. Mr. Pollard said the only grade difference was about 1.7-feet behind the nail salon. Commissioner Pagee noted that the grade difference between the project and the back wall of the Chevron station would be minimal then.

Commissioner Pagee said they were looking at a green building and next to a railroad. She had previously suggested double-hung windows and asked if window washing would be part of the HOA's responsibilities. Mr. Pollard said he thought that the windows would be double hung and that the HOA would probably take some responsibility for maintenance of the exterior. Commissioner Pagee said the plans indicated single-hung windows. Mr. Pollard said the architect had indicated the intent was to use double hung windows and that was now noted on sheet A3.7.

Commissioner Bressler referred to item 8, section c.2, and whether this project would adversely affect the community. He said his general concern with this type of project and mitigations was that money was being paid for traffic mitigations and in-lieu fees to compensate the City for more people coming into the City. He said his main concern with this project and others like it was that they were not adding more facilities in a more caring capacity just adding money. He said that all of them should take that into consideration for high-density housing.

Commissioner Keith referred to drawing 3 on sheet A3.2 and asked what the three unembellished protrusions from the roof were. Mr. Pollard said they were decorative chimneys. Commissioner Keith said drawing 2 showed another unembellished protrusion and asked if that was an elevator shaft. Mr. Pollard said that drawing had not been revised to show the changes. Commissioner Keith confirmed that all of the towers would have hipped roofs and details. She asked about the choice of landscape bollard lights on L1.3 that showed two different light fixtures. Mr. Pollard said that one was a bollard light and the other light was inset into the wall, and that the landscape light bollard shown was at the recommendation of the landscape architect.

Commissioner Keith asked the applicant to address the TOD reduction. Mr. Pollard said the issue was that they were compelled to stay under the trip counts identified in the EIR so as not to have to redo the EIR. He said they now had fewer residential units but had added 2,400 square feet of retail use. He said within the 12,550 square feet of retail they could use a maximum of 7,800 for restaurant use, within which there were three potentials. He said they were looking at 1,200 square feet for a coffee vendor and two high quality restaurants. He said or they could have a high quality restaurant and a high turnover restaurant that would have coffee service in the morning. He said in the last paragraph of page 15 of the staff report, it was indicated that there was not a lot of data for coffee shops next to train stations. He said that data for residential next to train stations showed that typically 20% of the residents used transit, which seemed to justify the 15% reduction. He said he found two coffee places next to train stations in the peninsula and offered to do a study of the traffic but staff had said that would not provide a large enough data base. He said they would like the Commission to find based on studies that residential next to train stations typically had a 20% transit use that a 15% reduction in residential traffic for the project was reasonable. He said it also seemed reasonable that a coffee shop next to a train station would generate 15% less commercial trips than a coffee shop in a strip mall. He said they were very concerned with the right tenant mix and having the ability to put in 1,200 square feet for a Peet's or other coffee vendor. He said they thought it was a reasonable request from a traffic perspective. Commissioner Keith said the staff report indicated that there might be 20% less residential trips. She said the reasoning was somewhat loose. Mr. Pollard directed the Commission to page 4 of the Hexagon Transportation Consultants' letter and the last paragraph below Table 4. "Recent studies of numerous TODs throughout California, including several residential developments within .25 mile of a Caltrain station have concluded that the average transit commute share for residential TODs is 20% greater than for those living in the surrounding areas."

Commissioner Keith asked Mr. Pollard for his thoughts about the proposed walking path along the railroad. Mr. Pollard said their main concern was the impact to two existing clusters of trees. He said it was a 15-foot space with six existing heritage trees that were intended to remain and most were skewed to one side or another so it was possible to get around those easily. He said however there was a cluster of large redwood trees about 100-feet back from Oak Grove Avenue that was right in the middle of the 15 feet, and there was also a 36-inch trunk diameter oak tree about 200 feet south of Glenwood

Avenue also right in the middle of the 15 feet. He said that five feet around those trees would either be right against the sound wall for the railroad or at the curb of the street on the other side. He said without the path they would leave the area as is and it would not be compacted and the roots of the trees would not be disturbed. He said with the path on one side or the other of the trees they would have to compact the dirt, build either a decomposed granite path or use pavers. He said the arborist report, Exhibit R, page R-16, under Tree Preservation Guidelines, stated: "To minimize injuries recommend that grading operations encroach no more than five times the trunk diameter of the tree." He said the redwood tree in the cluster of redwoods that was closest to the road was 12-inches in diameter, or would need a five-foot clearance. He said there was a space of six feet from this tree to the road. He said to build this path they would have to cover the whole root space of this tree. He said if they do not build the path they could leave the tree in its natural state with no impacts. He said that residents would tend to use the east side of the road as they would be going in and out of the community. He said when a person came from the south, for example, from the train station, the crosswalk across Oak Grove Avenue was on the east side of the new Derry Lane so a person walking from the train station would cross on the east side of Merrill Street then cross Oak Grove Avenue and would then be on the east side of Derry Lane. He said to get to the west to the proposed railroad path a person would have to cross to the other side. He said it would be the same thing for Glenwood Avenue. He said there was no crosswalk to get across Glenwood Avenue on the east side of Derry Lane. Commissioner Keith said that the Public Works Director said this railroad path would provide a community benefit for people to walk with their dogs as there were no driveways to cross. Mr. Pollard said for the west side there were four commercial driveways that had to be crossed, but it was not an inhospitable sidewalk, as it was five-feet across and ADA compliant. He said it was a matter of competing priorities and he had previously been in the situation of building such pathways and working around trees that were desirable to preserve. He said for him the path was a want to have and the trees were a need to have. He said he would rather save the trees as it would not be easy at all to get the path around the trees. Commissioner Keith said that perhaps different materials could be used around the trees; she said it was nice to have a place to walk particularly with young children where there were no driveways. Mr. Pollard said the path would be either pavers or decomposed granite. He said where the trees were the road was in one place 2.5 feet above existing grade and in another place the road was 1-foot below existing grade. He said they would have to add dirt on top of the redwood tree roots and then have to put a retaining wall almost at the base of the tree.

Commissioner Riggs asked if the fence between Derry and the 1300 El Camino Real project would be the same materials as the sound wall as it was not stipulated on the plans. Mr. Pollard said they expected to build a wood fence there. Commissioner Riggs said the sound wall appeared to be constructed with pre-cast posts and pre-cast panels dropped in, similar to a wall on Marsh Road along the Lindenwood area. He said that wall was not very attractive at six feet and this was going to be eight feet, and indicated he thought it would be distinctly unattractive when it was first built. He asked if the applicant was proposing any thing to soften the look in terms of landscaping. Mr. Pollard directed attention to a note on sheet L1.1: "Concrete wall on eastern property line with

alternating ficus and other vine at 12-inch on center – see civil drawings.” He said this was the standard way to build these walls, noting they had built same one in front of the Vintage Oaks community about 10 years prior, and he thought people would agree that was a very attractive wall. He said they had not selected the color yet but they would finish it attractively.

Commissioner Riggs asked about the chutes for trash and if at those sites there were also recycle chutes. Mr. Pollard said there were also two recycle chutes, one for paper, and one for mixed plastic and metal.

Commissioner Bims asked if the applicant knew what affect proposed grade separation plans would have on placement of a sidewalk on the east side next to the train tracks. Mr. Curt Walsh, Civil Engineer for the project, BKF Engineers, said it was his understanding from speaking with people who developed the previous grade separation plans that the path would probably be eliminated or in conflict with the grade separation improvement. Commissioner Bims asked about the timeframe for that improvement. Mr. Walsh said he could not answer that question, but that he had heard estimates of about 20 years.

Commissioner Bressler said there was an unimproved path along the train tracks on Alma Street that was very well used and people would use the path along the train tracks at this project. He said there was concern about improving that path but not improving it would only be an issue because of ADA access. He said if the path was not improved that it would get used just as it was and would be a valuable amenity as it was. Commissioner O'Malley said he agreed with Commissioner Bressler about the path. Commissioner Pagee said she thought it was a good idea that the Public Works Director was looking for accessibility on sidewalks.

Commissioner Keith said the only change she would like was with the landscape light bollard to find a fixture more appropriate with the Mission style architecture. She said it was too modern looking for that style architecture.

Commission Action: General consent to recommend modifying the landscape bollard lighting to better complement the architectural style of the project.

Commissioner Keith said that she appreciated the Public Works Director's efforts toward accessible sidewalks but she did not think improvement was needed along the railway corridor. Chair Deziel noted a path in Redwood City that went along the creek and was decomposed granite. He said he did not think that material had an impact on trees and that the path could reduce to four feet in places to accommodate trees. He noted however that the curb height would require grade work around the trees. He said he did not think that would impact redwoods however. He asked if the Oak tree would have the same issue. It was noted there was a one-foot difference. He asked staff if the project was recommended with the path. Planner Fisher said the PD permit included conditions that referred to maintenance of the path.



Commission Action: M/S O'Malley/Bressler to recommend the following modification to the project and associated conditions of approval in the PD Permit.

- Exclude construction of the pedestrian path in the vegetated swale.

Motion carried 7-0.

Commissioner Riggs said in October there was consensus that the project had attractive architecture, but concerns had been expressed about what mix of uses would build vitality on this side of El Camino Real. He said there was 12,000 square feet of retail on the first floor and then above another 12,000 square feet of office. He said office use did not create the same vitality as retail space. He referred to the LSA letter reviewing the project use, which addressed only office use. He recalled including in traffic counts use for medical/dental offices, which speakers had indicated was not desirable, but that personal services were desirable on the second floor. He said the City has long expressed its preference against chains and he thought the Commission might want to reinforce that statement as retail was wide open at this point. He said he understood the desire for a coffee shop and he wanted to look at the traffic terminology that referred to a fast food restaurant which was not wanted for the City. He said the larger spaces were designated for restaurants which made sense. He said one of the traffic/use options was to have a quality restaurant at 900 square feet which would only accommodate the kitchen. He asked if 900 square feet was viable for a coffee shop.

Chair Deziel said that at the last study session there had been questions about whether the PDP language limited the second floor to office space. He said that personal services use still seemed to be precluded. He said page P1 was a tentative plan for restaurants but it was not binding. Planner Fisher said those were potential configurations but it was what the applicant thought would be likely. Chair Deziel said the options on page 15 of staff report and the allowed square footages did not match the plan layout. He said page P1 indicated in Building 8 that there was 3,300 square feet including the mezzanine in the tower; he said that space would have to be all restaurant or retail. He said Option 2 on page 15 referred to 5,500 square feet of high quality restaurant space and 2,400 square feet for a high turnover restaurant. He said it was hard to imagine how the spaces could be used that way. He said none of the options on page 15 enabled the configurations on page P1 and there was a disconnect with traffic and proposed uses in Table H3 of the PD permit and did not enable the basic options that were desirable on the first floor. He said the issue on the second floor was that it was only office space, which did not allow for any pedestrian generating uses. He said they could allow pedestrian generating uses within the same traffic numbers, however. He said he would like the Commission to ask staff to flesh out the table on H3 to come up with a reasonable plan. He distributed a handout with some options. He said he had defined a use plan for which Planner Fisher had done a traffic analysis. He said this scenario was to allow half of the second floor to be a health/fitness club at 3,800 square feet and on the first floor 3,300 square feet of high turnover restaurant which he believed matched the square footage in the tower. He said the tower would be a high turnover restaurant with breakfast allowed, which left an

allowance of 3,700 square feet for a high quality restaurant. He said the bottom table of his handout showed the difference between his proposal minus the base EIR traffic budget. This use he proposed would be 35 total daily trips less, and while it would increase one trip during a.m. peak, it would decrease p.m. peak trips by 12. He asked that consideration be made of this reduction in p.m. peak trips as compensatory for one additional a.m. trip. He said this suggested to him that there were a variety of ways they could meet the public's interest in vitality by entitling the second floor for different uses. He said Staff could devise a number of uses that would not exceed a.m. peak traffic counts. He said retail and personal services had the same amount of traffic impact and that even retail could go on the second floor with the same overall beneficial impact as the scenario of the health/fitness club he had outlined. He asked if this was a direction that staff could work with. Planner Fisher said if the Commission wanted to identify other options and provide some direction to staff as to what was being sought, staff could either include those options in the City Council staff report or come back to the Commission with those options. She said it would be possibly helpful to have an idea of the number of options and potential mix of uses the Commission was looking for.

Chair Deziel said he thought it was possible to have retail on the second floor, such as a fine arts gallery. He said that any mix of retail, personal services and general office could be made to work within traffic analysis and fit within CEQA. He said he hoped that the applicant, the referendum group and staff could work together to devise a greatly expanded list of uses for the second floor so it would actually provide a benefit.

Recognized by the Chair, Mr. Pollard said he wanted to make a clarification regarding Chair Deziel's observations that none of the options on page 15 of the staff report enabled the table on P1. He said his understanding of Option 1 of the table was any combination of high quality and high turnover restaurants that did not exceed 7,800 square feet, in which the high turnover restaurant did not exceed 6,900 square feet, were possible. He said the two layouts shown on P1 were illustrations of a couple of ways the space could be laid out. He said what they would ultimately do was provide what the tenants wanted for the building. He said in the top portion of Exhibit P showed a 3,500 square foot restaurant in the main building and a 3,800 square foot restaurant in Building 8. He said if one was high quality and one was high turnover those worked for Option 1. Chair Deziel said that Option 1 worked but not the rest of the options, meaning the restaurant space shown on page P-1 would be precluded from being open in the am.

Recognized by the Chair, Mr. David Johnson, the City's Business Development Manager, said the project as presented was greatly strengthened over what had been proposed originally. He said he had shown the options on P1 to a number of real estate professionals, and most recently had shown the design plan to the downtown merchants group, who expressed great acceptance for the plan. He said in fact they did not make any comments about the plan. He said he followed up with individual participants after the meeting about that. The merchants said with so much effort going into this project, with agreement with the participating citizen's group and the

developer, and with the Commission to move the plan forward, that they felt reluctant to offer any additional changes or recommendations to it. He said he was somewhat concerned with the Commission's discussion about the second floor uses as that was a substantial change particularly if it was trip generation driven. He said the benefit of the layout as presented was that the size of the units made them affordable. He said the 1,000 square foot size for retail was a very positive element as the widest range of retailers that might avail themselves of those units were those who could make the \$3,000 to \$3,500 rent a month. He said however that he had trouble fitting the layouts in the staff report with the table on P1 as well, but he thought they would be able to attract the two types of restaurants noted in Option 4. Related to parking, he said they were adding new parking spaces along Derry Lane, no parking would be lost along Oak Grove, and the access to the first level and parking spaces allocated there would seem to work for those seeking this destination. He said he had discussed second floor retail with Mr. Pollard and they looked downtown for other examples, but there were no other areas of second floor retail.

Commissioner Bims asked if Mr. Johnson envisioned people who were residents using the coffee shop in the morning. Mr. Johnson said it would be a mix of persons.

Chair Deziel said the only way Option 1 fit P1 would be a scenario where a high turnover restaurant bigger than 2,400 square feet was not open in the morning. He said the goal should be to have a restaurant open all day which pushed it to Option 2 and that Option did not fit P1. He said the question was not to limit the uses on the second floor but to expand the uses, and his intent to broaden uses was so that the property owner in the future would not have to go to the City Council for a change in use in the future.

Commissioner Riggs said these retail spaces would potentially become condominiums so long term spaces would become defined by their initial tenants; thus, the uses that would be encouraged and allowed were even more important because of this. He said the approval should allow for a fitness center on the second floor. He said he was concerned with the original leasing and what was needed for retail to be successful. He was familiar with one project, and heard about others, in which, like this project, retail was subsidiary to the main project, in this case 108 residential units. He said the retail part of the project he was familiar with had failed. He said there were two issues, the lease up, and mixed uses for the second floor and looking at vitality in the long term.

Mr. Johnson said he was not a planner and he would probably be more flexible on the uses than the planning staff because of zoning issues and uses. He said that Commissioner Riggs made a good point about initial uses that came into the project. He said that they probably would have a quite different use mix if the units were for commercial sale from the outset versus filling the units first and then at some point selling the units. He said it might be best that the units were for sale from the beginning as the buyers would be committed to the success of their businesses as long-term enterprises.

Mr. Pollard said that O'Brien Group owned one of the seven parcels and the Derry family owned the other six parcels. He said O'Brien Group has an option agreement to acquire the other parcels from the Derrys. He said the option agreement envisioned the commercial property and has stipulations regarding that. He said it was the Derry family's desire to in the long term own the entire commercial portion of the project, and regarding the structure of the deal, the primary reason they want the ability to carve the commercial into several condominiums was so that when they completed the project that if the Derry family was not able to acquire the entire project they would have an ability to acquire ownership of a portion of it and require O'Brien Group to retain ownership of the remainder for a period of time until the Derry family essentially amassed the funds to buy the remaining portion. He said the intent was for the commercial property to remain under one or two owners. He said it was possible that could change but it was the intent of the parties and the structure of the deal. He said regarding the timing for the division of this property that the intent would be to separate Building 8 as a separate condominium and the levels 1, 2, and 3 of Building 10 would be separate condominium units. He said it was not their intent to subdivide these buildings into condominiums based on the initial lease up of the space nor to sell to the occupants but to keep ownership with one or two owners as mentioned previously. He said regarding Chair Deziel's comments about more flexibility of use that they, the applicant, were not opposed to exploring the idea of more flexibility provided that it did not create delays in the application processing and also that it did not take away any options built into the permit.

Planner Chow noted the time and asked if the Commission wanted to vote to continue past 11:30 p.m. Chair Deziel asked if the Commissioners wanted to continue past 11:30 p.m. Commissioner Bressler said he did not.

Commissioner Bims asked Mr. Johnson if he had a preference for any of the four options listed on page 15 of the staff report. Mr. Johnson said Option 4.

Commissioner Bressler said he saw nothing wrong with people coming back for use permits if they saw uses they wanted, and then the use could be reviewed. He said he did not really like the idea of giving more flexibility for other uses as there was a process in place for that. Chair Deziel said the structure of the approval did not allow for use permits and any future change would require a change to the PDP and perhaps to the Development Agreement too by City Council. He said that if Commissioner Bressler wanted to suggest that then they could outline possible uses.

Chair Deziel said that Option 1 would not allow for a high turnover restaurant that could be open in the morning. He said Option 2 would allow the high turnover restaurant to be a morning restaurant but that limited the high turnover restaurant to be no larger than 2,400 square feet. He said this was driven by limiting to 46 a.m. trips. He said that lead to Options 3 and 4, which were acknowledging that there could not be a morning high turnover restaurant and replacing the morning high turnover restaurant with a fast food restaurant, or coffee place, instead. He said the developer had gone to

the traffic consultant for help in getting at least enough square footage for a coffee shop. He said they came back with 1,200 square feet and the need to do the trip credit, which was not acceptable to staff. He said Options 2, 3 and 4 were all trying to get to one scenario, which was a reasonable option for a restaurant that was open in the morning. He said he looked at Option 2 to see how they could get to that goal and he added the use of a health/fitness club on the second floor, and if the 46 trips were allowed to be 47 trips, then the project could have the high turnover restaurant in the morning. He said the tradeoff was that trips were reduced by 12 in the afternoon. He said Option 2 should be reshaped to allow for the plan desired. He said Option 4 precluded a good size high quality restaurant. He said Option 4 would not meet the community's needs.

Recognized by the Chair, City Attorney McClure said he had spoken with Mr. Chip Taylor, the City's Transportation Division Manager, and there was a problem with what Chair Deziel was suggesting. He said if the numbers were changed it might work for that specific example being offered, but if flexibility was put into it and allowed something to change to a different use on the second floor, then the numbers were thrown out of whack in either the a.m. or the p.m. He said if the health/fitness club was put on the second floor to allow greater square footage for the fast food restaurant, and then the use went back to office, the numbers would be off. He said that the Planning Commission could not do the analysis; the analysis had to be done by an expert either by Mr. Taylor or an outside transportation consultant. He suggested that the Commission needed to either to move forward with the project recommendation or with a recommendation that if staff and the applicant could analyze options and build more flexibility into it, then the Commission would support having more flexibility in the project uses or with what they would like to see within the traffic numbers.

Chair Deziel said he thought if there was a small level of tolerance for traffic number changes, he believed that staff could come back with a wide range of uses for the second floor and more reasonable uses for the first floor. He asked Mr. Brown to respond to that idea. Mr. Brown asked if Chair Deziel wanted to defer recommendation of approval or denial and have the project come back to the Commission. Chair Deziel said staff had provided two options, one of which was to provide direction for change that staff could implement and the other was to ask staff for some uses that would work based on analysis of traffic numbers, and have that come back to the Commission. He asked Mr. Brown if there would be tolerance for tradeoffs of peak a.m. and peak p.m. trips that had actual overall reduction. Mr. Brown said Menlo Park Tomorrow did not want to enter into the discussion of what exactly would go into the commercial and retail spaces. He said that a health/fitness club on the second floor was a horrible idea. He said their stipulation was to generate no more a.m. or p.m. trips as they had allowed for more commercial space than what was originally envisioned. He said the Menlo Park Tomorrow negotiators worked as a team and he would not comment on what Chair Deziel was asking.

Commissioner O'Malley said he was not interested in anything that would cause the Commission's recommendation to be extended beyond the present time.

Commissioner Keith said she recalled a request for other options, but she did not want to do anything that would compromise the project moving forward or delayed it further. She said they could say that they had requested other options separate from the recommendation. Commissioner Riggs said no one wanted to delay the project, but he did not think a two week delay was significant. He said they had discussed the benefits of vitality the project could bring to that side of El Camino Real. He said there had to be options for the developer to put something more dynamic on the second floor. He said second floor retail was common in urban environments. He said that the recommendation did not need to be continued to the next meeting if staff would agree to analyze other uses for the second floor.

Commissioner Bims said his perspective was that Option 4 was desired by the applicant, it was agreeable to Menlo Park Tomorrow, and Mr. Johnson had indicated it was preferred. He said if it did not work the applicant could come back for a use permit for a different use. City Attorney McClure said the applicant could come back to amend the PD Permit and it was not a use permit process. He said the request would need to go before the Planning Commission for review and recommendation and then to the City Council for approval. He said it was basically a public hearing process and there would have to be traffic analysis and some CEQA evaluation. He said in speaking to Mr. Taylor that it would not be possible to do traffic analysis and bring something back to the Commission in two weeks. He said he did not know what the traffic numbers were for personal services so it could not be allowed on the second floor if it resulted in different numbers.

Commissioner Bressler said that if Commissioner Bims wanted to make a motion, he would second it. He liked the idea of there being impact analysis when use was changed. He said it bothered him when there were exceptions to that process.

Commissioner Bims moved to recommend making the finding and approve the actions of items 8, 9 and 10 in the PD Permit with a change to 2.4 that minimum landscaping should be 20% rather than 21%. Commissioner Bressler seconded the motion.

Recognized by the Chair, Commissioner Keith asked City Attorney McClure how much time would be needed by staff to do the analysis discussed. City Attorney McClure said the Transportation Manager thought it would take six to eight weeks at a minimum.

Commissioner Riggs said that Commissioner Deziel had developed a proposed mix use this morning which staff was able to put numbers with traffic counts to this afternoon. He said there was a traffic report and it gave the formula, and by using the formula, certain examples could be rendered. He said there were four examples of uses on page 15 that were of limited use. He said they could have examples that were better attuned to Building 8 and Building 10 so that they were more readily viable and more useful in review whether it be by a Commission or a Council. He said such a process seemed doable.

Mr. Chip Taylor, Transportation Division Manager, said he had just reviewed the table. He said the snapshot put together by Chair Deziel did appear to work if the numbers were all correct, but if later it was desired to transfer the health and fitness club to office space or to have flexibility for either, the office use had a higher trip generation number in the a.m. peak hours and if that use was switched that would increase the 47 a.m. peak trip hours to 48 or 49 and a higher number than what was in the original EIR. Commissioner Riggs said he understood that would cause an effect for any restaurant that was open in the morning. Mr. Taylor said that was why they had to go through all of the different scenarios and it was not just the time to put those tables together but staff had a lot of other projects going on as well. He said it would take time to fit the consultant and that work in with the other projects, as well as understanding what all the scenarios were as there was an infinite number of scenarios that could be developed as numbers and volumes started being moved around to fit with what was in the EIR for traffic. Commissioner Riggs said the EIR and the traffic report were reference documents and they should be able to use them. He said the four examples provided did not relate to the floor plan and if they had four examples that related to the floor plan there would not be the frustration. He said a lot of work had gone into the project but this fell short, and it ignored something the Commission had requested on two occasions, and in requesting the information had indicated it was relevant to the decision. He said with the one example devised by Chair Deziel that a request for three more examples was reasonable.

City Attorney McClure said the applicant was entitled to apply for a project and the Commission needed to review the project the applicant applied for. He said at some point the Commission had to act on the application. He said the Commission could ask for all the information they wanted but if the applicant did not have to pay to provide it.

Commissioner Riggs said this was an important project and if any other application had come forward without information the Commission had requested twice before then the Commission would just move to continue the project. He said it was not appropriate to have the attitude of "take it or leave it."

Chair Deziel said what provided flexibility was a combination of backing off of the total amount of restaurant a little bit and allowing a little bit of tolerance for the a.m. peak trips. He said just backing off 800 square feet of restaurant would open up a wide range of options for the second floor. Mr. Taylor said it depended upon what those uses ended up being and if they ultimately went over the a.m. peak and p.m. peak and total daily trip generation that was in the EIR and settlement agreement and even if it was only one trip difference, analysis would have to be done to see if that was acceptable.

Chair Deziel said he would make a substitute motion. Mr. Pollard asked if he could speak. Recognized by the Chair, he said he appreciated the effort to create some flexibility and the balance was to allow some flexibility without allowing it to become unwieldy. He said one idea he had was the Commission could direct staff and the applicant to work on a couple of different alternative scenarios that would provide

flexibility along certain dimensions and one specific alternative would look at providing a fixed amount of personal services and health/fitness on the second floor. He said a second was to provide an alternative that backed off from the total amount of restaurant on the ground floor so that the high turnover restaurant able to be open in the morning could be 3,300 square feet. He said those would be productive things.

Commissioner Deziel said his substitute motion was to recommend that the Council make the findings 8 and 9 and approval of the PD Permit as attached with the reduction of minimum landscaping from 21% to 20% with the following statement: *Staff expands the permitted use table on H3 for the first and second floors to include to the extent possible any mix of fitness, office, personal services and retail on the second floor. On the first floor to enable the plan on page P1 to be feasible with a high turnover restaurant operating in the morning in one of the two designated restaurant sites using the larger left hand restaurant on page P1; that staff and referendum group make reasonable assumptions about parking requirements and consider the second floor nature of the use. Regarding traffic, that staff and referendum group a) make reasonable assumptions about trip reductions due to walking proximity to residential and downtown, and b) allow tolerance for limits of individual a.m. and p.m. peak limits if overall benefits are achievable.* Commissioner Riggs seconded the motion. He said the chart for uses to fit within the trip generation was done by LSA and transferred into the staff report. City Attorney McClure said that LSA was the City's consultant.

Commissioner O'Malley asked Mr. Pollard previously if the substitution motion matched what Mr. Pollard agreed was worthwhile. Mr. Pollard said it was. Commissioner O'Malley asked if this would require negotiation with Menlo Park Tomorrow. Mr. Pollard said that would be not necessary as any example would remain under trip generations specified in the EIR.

Commissioner Riggs said that they had been very conservative about using any TOD credits and with trip generations that could become very important. He asked if the Commission should make a statement about TOD credits. Mr. Taylor said it would be beneficial as to what would be acceptable to the Commission, noting that one study showed 20% but another study said that was not verifiable. Chair Deziel asked if that would be on the residential or on the commercial. Mr. Taylor said that it would be relevant if the Commission thought credits should apply to both residential and commercial.

Commissioner Keith asked if the substitute motion would allow for the project to proceed to City Council as planned. Planner Fisher said that it would take two to three months to do the work involved in the substitute motion. Commissioner Keith asked if staff saw a way to draft a motion to get more vitality on the second floor and still allow the project to move forward. Planner Fisher said there was not as this created complexity in changes to the second floor that needed to be analyzed. City Attorney McClure in response to Commissioner Riggs' question about moving the project forward to the Council with direction for staff to do analysis concurrently to potentially save time said that at the most only a week would be gained. He said noticing would



need to occur and which could not occur until the analyses and numbers were defined. He said there had to be a proposal made to the traffic consultant, development of a contract amendment and LSA would have to fit this work within whatever work they currently were engaged with; then Mr. Taylor would have to review the report. He said finally it would have to be determined how this would be written into the PD permit.

Commission Action: M/S Deziel/Riggs to make a substitute motion to recommend that the Council make the findings 8 and 9 and approval of the PD Permit as attached with the reduction of minimum landscaping from 21% to 20% with the following statement: *Staff expand the permitted use table on H3 for the first and second floors to include to the extent possible any mix of fitness, office, personal services and retail on the second floor. On the first floor to enable the plan on page P1 to be feasible with a high turnover restaurant operating in the morning in one of the two designated restaurant sites using the larger left hand restaurant on page P1; that staff and referendum group make reasonable assumptions about parking requirements and consider the second floor nature of the use. Regarding traffic, that staff and referendum group a) make reasonable assumptions about trip reductions due to walking proximity to residential and downtown, and b) allow tolerance for limits of individual a.m. and p.m. peak limits if overall benefits are achievable.*

Motion failed 2-5 with Commissioners Deziel and Riggs voting in favor.

Chair Deziel said the original motion was on the table which he moved to amend to add a communication warning the Council that the permitted use table did not allow either of the restaurant spaces in P1 project to be open in the morning with a recommendation that this should be corrected, and adding that the Commission recommends that they should allow community serving uses other than office use as was discussed by the Commission several times, such as personal services and fitness clubs on the second floor. Commissioner Keith seconded the motion to amend.

Commission Action: M/S Deziel/Keith to amend the original motion to add a communication warning the Council that the permitted use table does not allow either of the restaurant spaces in P1 project to be open in the morning with a recommendation that this should be corrected, and adding that the Commission recommends that the Council should allow community serving uses other than office use as was discussed by the Commission several times, such as personal services and fitness clubs on the second floor.

Motion carried 5-2 with Commissioner Bims and Bressler not in support.

Commission Action: M/S Bims/Bressler to recommend making the findings and approving the PD Permit with the following modification and advisory.

- Amend section 2.4 to require a minimum of 20 percent on-site landscaping.

- Staff shall inform the City Council that there is a disconnect between the PD Permit use table and the potential ground floor commercial leasing schemes provided by the applicant, and shall advise them that community serving uses (such as fitness and personal service) should be allowed to be located on the second floor of the project, but have not been included in the PD Permit use table.

Motion carried 7-0.

### Tentative Map

Commission Action: M/S Deziel/Pagee to recommend rescinding the previous approval, making the finding, and approving the Tentative Map.

Motion carried 7-0.

### Development Agreement

Chair Deziel said the \$2,000,000 public benefit was not really there with the loss of \$960,000 in recreation in-lieu fees. He said he thought if the Council was offered \$1,000,000 for five BMR units, they would take it. He said he did not see benefit in the \$2,000,000 but he did see benefit in the project such as delivering 114 commercial parking stalls, retail and extending the downtown

Commission Action: M/S Riggs/Bims to recommend making the finding and approving the Development Agreement (with the corrected typo in section 3.3.1).

Motion carried 7-0.

### Environmental Review

Chair Deziel said no changes were made to the project to require a change to the addendum. Commissioner Riggs proposed allowing a five percent transit-oriented development (TOD) reduction for residential trips and 15 percent TOD reduction for ground floor retail and restaurant trips.

Commission Action: M/S Riggs/Bims to recommend making the finding that the Addendum to the Certified Environmental Impact Report provides adequate environmental documentation of the changes to the project with the following modification.

- Allow a five percent transit-oriented development (TOD) reduction for residential trips and a 15 percent TOD reduction for ground floor retail and restaurant trips.

Motion carried 3-1 with Commissioner Pagee opposed and Commissioners Bressler, Keith, and O'Malley abstaining.

#### **D. REGULAR BUSINESS**

There were no Regular Business agenda items.

#### **E. COMMISSION BUSINESS**

##### **1. Review of upcoming planning items on the City Council agenda.**

A. Oak Knoll School Negative Declaration

B. Planned Development Permit Extension, Vesting Tentative Map Extension, and Planned Development Permit Amendment - 1452 & 1460 El Camino Real and 1457 & 1473 San Antonio Street

#### **F. REPORTS AND ANNOUNCEMENTS**

#### **ADJOURNMENT**

The meeting adjourned at 11:57 p.m.

Staff Liaison: Deanna Chow, Senior Planner

Prepared by: Brenda Bennett, Recording Secretary