



## COMMUNITY DEVELOPMENT DEPARTMENT

Council Meeting Date: March 21, 2006

Staff Report #: 06-055

Agenda Item #: E1

**PUBLIC HEARING:** Consideration of a Request for a General Plan Amendment, Rezoning, Conditional Development Permit, Tentative Subdivision Map, Below Market Rate Housing Agreement, Heritage Tree Removal Permit and Environmental Impact Report to Demolish Two Existing Office Buildings and Construct a Total of 56 Residential Units on Properties Located at 110 Linfield Drive and 175 Linfield Drive, and Approval of a Left Turn Restriction during the Weekday Hours of 7 a.m. to 9 a.m. from Northbound Alma Street to Westbound Ravenswood Avenue.

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### RECOMMENDATION

Staff recommends that the City Council concur with the respective recommendations of the Planning Commission, Housing Commission, and Environmental Quality Commission and approve the following at 110 Linfield Drive and 175 Linfield Drive subject to the findings and actions contained in Attachment A:

- General Plan Amendment to change the land use designation of 110 Linfield Drive and 175 Linfield Drive from Professional and Administrative Offices to Medium Density Residential;
- Rezoning property located at 110 Linfield Drive and 175 Linfield Drive from C-1 (Administrative and Professional District, Restrictive) to R-3-X (Apartment District – Conditional Development);
- Conditional Development Permits to establish specific development regulations and architectural designs for the construction of the 56 residences;
- Tentative Subdivision Map to subdivide the properties for single-family residential use, including the abandonment of a public utility easement;
- Below Market Rate (BMR) Housing Agreements for the provision of eight (8) BMR units and the payment of in-lieu fees;
- Heritage Tree Permit for the removal of 50 heritage trees; and
- Environmental Impact Report (EIR) for the proposal.

In addition, staff recommends that the City Council approve a left turn restriction during the weekday hours of 7 a.m. to 9 a.m. from northbound Alma Street to westbound Ravenswood Avenue.

## **BACKGROUND**

### **Planning Commission Review**

The Planning Commission staff report for the meeting of March 13, 2006 is included as Attachment K. The March 13, 2006 staff report includes the December 12, 2005 staff report as well. For purposes of this staff report, all references to previous Planning Commission staff reports and attachments will be to the March 13, 2006 staff report.

On September 12, 2005, the Planning Commission reviewed the proposal during the 30-day circulation period for comments on the Draft EIR. (The minutes of this Planning Commission meeting are included as Attachment Q of the March 13, 2006 Planning Commission staff report. In addition, comments from the public and Planning Commission are identified in the Response to Comments on the Draft EIR [Attachment D of the March 13, 2006 Planning Commission staff report]).

The Planning Commission reviewed the proposal again on December 12, 2005. At the meeting, the Commission considered correspondence that was received after the printing of the staff report. (The draft excerpt of the minutes of the December 12, 2005 Commission meeting is included as Attachment S to the March 13, 2006 Planning Commission staff report). The Planning Commission voted to continue the item to a future meeting until the Linfield Middlefield Willow Area-wide Transportation Impact Analysis (LMW Analysis) became available and to allow the applicant to respond to issues related to parking and impacts to schools. The LMW Analysis became available on March 6, 2006 and was included in the Commission's packet for the March 13, 2006 meeting under separate cover. In addition, the applicant submitted supplemental material in response to concerns raised by Commissioners at the December 12, 2005 meeting. The material includes discussion of the topics of traffic, storm drainage improvements, school impacts, parking, and an area master plan. Based on the comments at the Planning Commission meeting and the supplemental material provided by the applicant, staff recommended modifications to the conditions of approval.

The Planning Commission reviewed the applicant's proposal at its March 13, 2006 meeting. Draft excerpts of the minutes are included as Attachment L. The Commission voted (3-2) to recommend that the City Council approve the proposal with the following modifications to the staff recommendation:

- Require the applicant to pay the applicable school impact fees (This item was addressed through condition 5.15).
- Modify condition 5.13 to prohibit overnight parking on the private streets, similar to the City's current prohibition on public streets, in the conditions, covenants, and restrictions (CC&R's);
- City Council to consider alternatives to the Median Design Streetscape proposal contained in the LMW Analysis such as the following:
  - Minimize any loss of on-street parking (the median proposal would eliminate on-street parking on the north side of Linfield Drive)
  - Consider the creation of bike lanes on Linfield Drive between Waverley Street and Middlefield Road.

- Consider the implications of median maintenance cost on the affordability of the Below Mark Rate (BMR) housing units as it relates to homeowners association fees.
- Compare the proposals for 110 Linfield Drive and 175 Linfield Drive to the Burgess Classics development in regard to unit sizes (as measured by the number of bedrooms) and the provision of parking.

### **Environmental Quality Commission Review**

The Environmental Quality Commission reviewed the project on multiple occasions. On July 27, 2005, the Environmental Quality Commission recommended approval of the proposed heritage tree removals subject to further refinement to the planting plans to reduce the total number of new trees to be planted and increase the number of tree species that would grow to a minimum height of 30 feet. The staff report and minutes of the Environmental Quality Commission meeting are included as Attachments M and N, respectively of the March 13, 2006 Planning Commission staff report. The applicants have incorporated the changes requested by the Environmental Quality Commission into the project plans.

### **Housing Commission Review**

The Housing Commission reviewed the project on multiple occasions. On August 15, 2005, the Housing Commission recommended approval of the proposed BMR Housing Program subject to changes in which units were being designated as the BMR units and which were subject to payment of the in lieu fee. The staff report and minutes of the Housing Commission meeting are included as Attachments O and P, respectively of the March 13, 2006 Planning Commission staff report. The applicants have incorporated the changes requested by the Housing Commission into the project plans. The draft BMR Housing Agreements for each project site are included as Attachments I and J, respectively.

### **LMW Analysis**

On March 14, 2006, the City Council considered the LMW Analysis prepared to evaluate development proposals at 321 Middlefield Road, 75 Willow Road and 8 Homewood Place. The Council affirmed the adequacy of the analysis of the study, supported the package of mitigations and transportation improvements in concept, and requested further information related to potential improvements. Examples of items requiring further discussion included the Linfield Drive Streetscape, pedestrian safety issues related to the intersection of Linfield Drive and Middlefield Road, and the use of 321 Middlefield Road as overflow parking for 110 Linfield Drive and 175 Linfield Drive.

**ANALYSIS**

The project plans and a detailed analysis are contained in the staff report for the Planning Commission meetings of March 13, 2006 (Attachment K) and by reference the meeting of December 12, 2005. The focus of this Analysis section is on issues raised at the most recent Planning Commission and City Council meetings. Since the Planning Commission meeting on March 13, 2006 and the City Council meeting on March 14, 2006, staff has worked to address issues raised by the Commission and Council.

**Parking**

Staff researched project characteristics of the Burgess Classics development as a means of comparison to the 110 Linfield Drive and 175 Linfield Drive proposals. The following table provides a summary:

	<b>Burgess Classics</b>	<b>110 &amp; 175 Linfield</b>
Off-Street Covered Parking Per Dwelling Unit	1.9	2.0
Off-Street Uncovered Parking per Dwelling Unit	2.0	0.0
Off-Street, Total per Dwelling Unit	3.9	2.0
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Off-Street Covered Parking per Bedroom	0.5	0.6
Off-Street Uncovered Parking per Bedroom	0.6	0.0
Off-Street, Total per Bedroom	1.1	0.6
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Private Street Parking, Total per Dwelling	0.0*	0.4
Private Street Parking, Total per Bedroom	0.0*	0.1
<p>Note: Burgess Classics was approved with 10 parking spaces on private streets that would not meet current requirements for on-street parking.</p>		

Through this comparison, the 110 Linfield Drive and 175 Linfield Drive proposals would have fewer parking spaces available than the Burgess Classics development on a per bedroom basis. The adequacy of parking has been raised on many occasions and the basic response has been that people will self select and only buy if their parking needs can be accommodated in the development, especially because of the City’s prohibition of overnight parking on public streets. The applicant has agreed to impose the same overnight ban on the private streets, with an understanding that nightly permits for individual guests could be pursued similar to the options available on public streets. This prohibition on overnight parking and a requirement that parking can only occur in spaces so designated would appear in the CC&R’s for the development. Therefore, these requirements would be disclosed as part of the sales process for each unit.

Given the other development proposals in the vicinity of 110 Linfield Drive and 175 Linfield Drive, there may be the potential to pursue arrangements for overflow residential parking for special occasions and holiday seasons in adjacent office parking lots. The property at 321 Middlefield Road provides the greatest potential given both its proximity to 110 Linfield Drive and 175 Linfield Drive and the proposal at 321 Middlefield Road to increase the number of parking spaces on-site for medical office uses. Given

the offset peak demand periods for parking, there is good opportunity for the residential proposals to share parking. As an additional condition of approval (5.21), staff is recommending that the applicants of 110 Linfield Drive and 175 Linfield Drive make reasonable, best efforts to negotiate an overflow parking agreement to allow residents of 110 Linfield Drive and 175 Linfield Drive to use the parking facilities at 321 Middlefield Road before and after business hours (generally 7 a.m. to 6 p.m., Monday through Friday).

### **Linfield Drive Streetscape**

Since the inception of the proposal to redevelop the sites at 110 Linfield Drive and 175 Linfield Drive, there have been discussions about potential modifications to the 60-foot wide Linfield Drive between Waverley Street and Middlefield Road. The original ideas called for narrowing the street along the frontages of 110 Linfield Drive and 175 Linfield Drive to a roadway width of approximately 36 feet. Through the LMW Analysis process, the streetscape was viewed in a more comprehensive fashion between Waverley Street and Middlefield Road and not just the project frontage along the 110 Linfield Drive and 175 Linfield Drive properties. Through this Council initiated process, the alternative that received the greatest support was a center median. The other primary options that were considered included narrowing the street as discussed previously and leaving the street as is. The various streetscape alternatives have implications in terms of costs, potential traffic calming benefits, aesthetics, on-street parking, and pedestrian and bicycle facilities. The applicants of 110 Linfield Drive and 175 Linfield Drive are flexible in terms of pursuing various alternatives that meet the approval of the City provided that the costs are within reason. In terms of timing, it is important for a streetscape design to be agreed upon in order for construction drawings for the street improvements to be approved concurrently with construction drawings for the construction of the houses. The applicants are prepared to construct the median proposal with a reimbursement agreement from other development projects that may occur along Linfield Drive. If the Council chooses to pursue an alternative proposal, then the Council should outline a process for pursuing an alternative.

### **Other Transportation Mitigations/Improvements**

The LMW Analysis identified the following mitigations and/or improvements for which 110 Linfield Drive and 175 Linfield Drive would be fully or partially responsible in addition to the aforementioned Linfield Drive streetscape:

#### **Alma/Ravenswood Turn Restriction**

The EIR for 110 Linfield Drive and 175 Linfield Drive, and the LMW Analysis, identified an a.m. peak hour turn restriction as a potential mitigation for northbound Alma Street traffic turning left onto Ravenswood Avenue. The Council affirmed support for this restriction as part of the LMW Analysis discussion on March 14, 2006. Staff is requesting Council authorization to pursue the installation of the signage and collect money from the project applicants.

#### **Linfield/Middlefield Intersection**

Staff recommended the installation of a lighted crosswalk at the intersection of Linfield and Middlefield as part of the LMW Analysis. City Council members questioned whether a lighted crosswalk would adequately address the pedestrian safety issues for people crossing Middlefield Road at Linfield Drive. The Council directed staff to explore alternatives such as a pedestrian activated traffic signal. Given the location at an intersection, this option may not prove feasible, so the only feasible alternative may be full signalization of the intersection. If that is the case, then it would be critical for the traffic signal to incorporate adaptive signal timing technology and connection with the traffic signal at Middlefield Road and Willow Road, to minimize delays on arterials and not make local streets more attractive to cut-through traffic. The costs of installing a traffic signal with adaptive signal timing technology and connections to the Middlefield Road and Willow Road traffic signal is estimated at \$250,000 compared to \$35,000 for a lighted crosswalk. Given that the need for this improvement has been linked more to developments that may occur after the 110 Linfield Drive and 175 Linfield Drive projects and not solely related to the 110 Linfield Drive and 175 Linfield Drive projects, staff is proposing a condition of approval obligating 110 Linfield Drive and 175 Linfield Drive to help fund a future improvement. The condition is included as 6.4 for 110 Linfield Drive and 7.4 for 175 Linfield Drive. The City Council should consider the allocation of the cost of this particular improvement and/or contributing funds from the Transportation Impact Fee fund.

### **Adaptive Signal Timing**

The LMW Analysis also identified contributions by 110 Linfield Drive and 175 Linfield Drive to help fund the installation of adaptive signal timing technology at the Middlefield Road and Willow Road intersection and a partial contribution to future installation of adaptive signal timing technology at the intersections of Middlefield Road and Ravenswood Avenue and Middlefield Road and Ringwood Avenue. The 110 Linfield Drive contribution was identified as \$13,300 and the 175 Linfield Drive contribution was identified as \$17,900. Staff is including a condition of approving requiring payment of these fees prior to building permit issuance. The condition is included as 6.4 for Dr Linfield Drive and 7.4 for 175 Linfield Drive.

### **IMPACT ON CITY RESOURCES**

There is no direct impact on City resources associated with the action recommended in this staff report. Staff time spent on the development review of this project is fully recoverable through fees charged to the applicant.

## **POLICY ISSUES**

The project involves a policy issue with a land use change from commercial to residential. The existing General Plan designation for each property is Professional and Administrative Offices and allows residential uses at a density of 18.5 dwelling units per acre. The existing zoning district is C-1 (Administrative and Professional, Restrict). The C-1 zoning district is consistent with the Professional and Administrative Offices designation, except for the fact that residential is neither a permitted nor conditionally permitted use in the C-1 zoning district. In order to allow residential use, the applicant is pursuing a General Plan Amendment to Medium Density Residential, which also has a maximum density of 18.5 dwelling units per acre, and a rezoning of the property to the applicable R-3-X (Apartment District – Conditional Development) zoning district.

## **ENVIRONMENTAL REVIEW**

A Draft Environmental Impact Report (EIR) was prepared for this project and released for public review from August 22, 2005 through September 20, 2005. Five comment letters, including two from one household, were received on the Draft EIR. In addition, a number of comments were made at the Planning Commission hearing on September 12, 2005. A formal Response to Comments (Attachment D of the Planning Commission staff report) was prepared to respond to the comments. Together with the Draft EIR, the two documents comprise the Final EIR for the project.

The Final EIR was released for public review on December 1, 2005. The public review period ended on December 12, 2005. Five comment letters were received on the Final EIR. In addition, a number of comments were made at the Planning Commission hearing on December 12, 2005.

In order to complete an EIR process and certify the final document, CEQA requires the preparation of Findings for Certification, a Statement of Certification, and a Mitigation Monitoring and Reporting Program. The Findings for Certification address the significant impacts identified in the EIR, describing the impact, the mitigation and the determination of significance following mitigation. The Statement of Certification states that the City has met all procedural requirements of CEQA. The Mitigation Monitoring and Reporting Program establishes responsibility and time frames for implementation of all required mitigation measures. The Findings for Certification, including the Statement of Certification, and Mitigation Monitoring and Reporting Program are included as Attachments B and C, respectively.

The Final EIR has determined that the Project will result in significant, unavoidable aesthetic and traffic impacts. The December 12, 2005 Planning Commission staff report includes a detailed discussion of the environmental impacts. In order to approve a project with significant and unavoidable adverse environmental impacts, the City must adopt a Statement of Overriding Considerations. This is a specific finding that the project includes substantial public benefits that outweigh its significant adverse environmental impacts warranting approval of the project. The Statement of Overriding Considerations is a part of the Findings for Certification and can be found on pages B-7 and B-8 of Attachment B.

The Planning Commission reviewed and recommended approval of the Draft EIR, Response to Comments, Findings for Certification, including the Statement of Certification and Mitigation Monitoring and Reporting Program, at its meeting of March 13, 2006.

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**PUBLIC NOTICE:** Public notification consisted of publishing a legal notice in the local newspaper and notification by mail of owners and residents within a 300-foot radius of the subject property. In addition, notices were mailed to all owners and residents in the area roughly bounded by Coleman Avenue to the east, San Francisquito Creek to the south, Alma Street to the west, and Ravenswood Avenue to the north.

## ATTACHMENTS

- A. Draft Findings and Actions for Approval, March 21, 2006
- B. Findings for Certification of the Environmental Impact Report, including the Statement of Overriding Considerations
- C. Mitigation Monitoring and Reporting Program for the Environmental Impact Report
- D. Draft Resolution amending the General Plan to change the land use designation of the properties located at 110 Linfield Drive and 175 Linfield Drive from Professional and Administrative Offices to Medium Density Residential
- E. Draft Ordinance rezoning properties located at 110 Linfield Drive and 175 Linfield Drive from C-1 (Administrative and Professional District, Restrictive) to R-3-X (Apartment District – Conditional Development)
- F. Draft Conditional Development Permit for 110 Linfield Drive, dated March 21, 2006
- G. Draft Conditional Development Permit for 175 Linfield Drive, dated March 21, 2006
- H. Draft Conditions of Approval, dated March 21, 2006
- I. Draft Below Market Rate Housing Agreement for 110 Linfield Drive
- J. Draft Below Market Rate Housing Agreement for 175 Linfield Drive
- K. [Planning Commission staff report and plans for the meeting of March 13, 2006](#), which includes by reference the Planning Commission staff report for the meeting of December 12, 2005 (distributed separately and available for review at the City offices and the City website)
- L. Draft excerpt of the Planning Commission minutes of the March 13, 2006 meeting
- M. Draft Environmental Impact Report prepared by Impact Sciences, Inc., dated August [22,] 2005 (distributed separately and available for review at the City offices)

# ATTACHMENT A

## DRAFT FINDINGS AND ACTIONS FOR APPROVAL 110 and 175 Linfield Drive

March 21, 2006

### Environmental Review

1. Adopt the Findings for Certification of the Environmental Impact Report, including the Statement of Overriding Considerations and Statement of Certification, as provided in Attachment B.
2. Adopt the Mitigation Monitoring and Reporting Program prepared for the project as provided in Attachment C.

### General Plan Amendment

3. Make a finding that the proposed General Plan amendment to change the land use designation of properties located at 110 Linfield Drive and 175 Linfield Drive from Professional and Administrative Offices to Medium Density Residential for the development of a total of 56 residential units would be consistent with the adopted General Plan.
4. Approve a resolution amending the General Plan to change the land use designation of properties located at 110 Linfield Drive and 175 Linfield Drive from Professional and Administrative Offices to Medium Density Residential.

### Rezoning

5. Make a finding that the proposed rezoning of properties located at 110 Linfield Drive and 175 Linfield Drive from C-1 (Administrative and Professional District, Restrictive) to R-3-X (Apartment District – Conditional Development) is consistent with the General Plan land use designation of Medium Density Residential.
6. Introduce an ordinance rezoning properties located at 110 Linfield Drive and 175 Linfield Drive from C-1 (Administrative and Professional District, Restrictive) to R-3-X (Apartment District – Conditional Development).

### Conditional Development Permit

7. Make a finding that the proposed conditional development permits will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed planned development, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City.

8. Make a finding that the conditional development permits allow for proposals that provide new opportunities for the City to increase and diversify its housing stock, provide eight Below Market Rate housing units in compliance with the City's guidelines for such units, decreases the amount of impervious surface area on each site, and provides opportunity for common open space for use of future residents of the development.
9. Approve the Conditional Development Permit for the construction of 22 single-family residential units on the property located at 110 Linfield Drive subject to the terms and conditions of the Conditional Development Permit.
10. Approve the Conditional Development Permit for the construction of 34 single-family residential units on the property located at 175 Linfield Drive subject to the terms and conditions of the Conditional Development Permit.

#### Tentative Subdivision Map

11. Make a finding that the tentative subdivision maps have been reviewed by the Engineering Division and has been found to be technically correct and in compliance with the State Subdivision Map Act and the City's Subdivision Ordinance.

#### Left Turn Restriction

12. Approve a left turn restriction during the weekday hours of 7 a.m. to 9 a.m. from northbound Alma Street to westbound Ravenswood Avenue.

**THE CITY OF MENLO PARK FINDINGS REQUIRED UNDER  
THE CALIFORNIA ENVIRONMENTAL QUALITY ACT  
(Public Resources Code, Section 21000 et seq)**

**I. INTRODUCTION**

In April 2004, the City received an application from 110 Linfield Project, LLC and Consolidated Freightways (currently CFC Trust) each for a General Plan Amendment, Rezoning, Conditional Development Permit and Tentative Subdivision Map at the respective sites for the 110 & 175 Linfield Drive Projects (the “Projects”). The application contemplated construction of two single-family residential developments consisting of three and four bedroom, two and three story homes with useable side yards.

In March 2005, consistent with the California Environmental Quality Act, the City of Menlo Park prepared an Initial Study to identify potential environmental impacts associated with the Project. The Initial Study determined that the project could have significant aesthetic, air quality and traffic impacts and on that basis determined that an Environmental Impact Report would be required.

The City of Menlo Park prepared and circulated a Notice of Preparation for the EIR to interested agencies and members of the public and to the State Clearinghouse on March 25, 2005.

The Draft Environmental Impact Report was prepared, published and distributed to interested agencies and members of the public on August 20, 2005, commencing a 30-day public review period. The public comment period closed on September 20, 2005.

On December 1, 2005, the City of Menlo Park published a Final Environmental Impact Report (FEIR). The Findings, Recommendations and Statement of Overriding Considerations set forth below (“Findings”) are made by the City of Menlo Park Planning Staff, for recommendation by the Planning Commission and adoption by the City Council, as the City’s findings under the California Environmental Quality Act (“CEQA”) (Pub. Resources Code, §21000 *et seq.*) and CEQA *Guidelines* (Cal. Code of Regulations, Title 14, §15000 *et seq.*) relating to the Project. The Findings provide the written analysis and conclusions of this Commission and Council regarding the Project’s environmental impacts, mitigation measures, project alternatives, and the overriding considerations, which in this Commission’s and Council’s view, justify approval of the Project, despite its environmental effects.

## **II. GENERAL FINDINGS AND OVERVIEW**

### **A. Procedural Background**

The EIR was published for public review and comment on August 20, 2005. The EIR was made available for review and comment by interested persons and public agencies through September 20, 2005. The City prepared written responses to the comments received during the comment period and included these responses in a Final Environmental Impact Report (FEIR). The Final EIR was made available for public review on December 1, 2005.

### **B. Record of Proceedings and Custodian of Record**

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

1. The Final EIR for the 110 & 175 Linfield Drive Projects and all reports, documents, studies, memoranda, and maps related thereto.
2. The Notice of Preparation and other public notices issued by the City in conjunction with the Draft EIR for the 110 & 175 Linfield Drive Projects.
3. All written and oral comments submitted by agencies or members of the public during the public review period for the EIR and any public hearings or meeting held on Project approvals.
4. All other public reports, documents, studies, memoranda, maps, or other planning documents related to the 110 & 175 Linfield Drive Projects prepared by the City, consultants to the City, or responsible or trustee agencies with respect to the City's compliance with the requirements of CEQA and the project Entitlements.
5. The City of Menlo Park General Plan.
6. All matters of common knowledge to this Commission and Council, including, but not limited to:
  - a. the Menlo Park General Plan and other applicable policies
  - b. the Menlo Park Zoning Ordinance and other applicable ordinances
  - c. information regarding the City's fiscal status
  - d. applicable City policies and regulations
7. Reports, projections, and documentation regarding development within and surrounding the City; and
8. Federal, state, and county laws, regulations, guidelines, and publications.

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

### **D. Severability**

If any term, provision, or portion of these Findings or the application of these Findings to a particular situation is held by a court to be invalid, void or unenforceable, the remaining provisions

of these Findings, or their application to other actions related to the 110 & 175 Linfield Drive Projects, shall continue in full force and effect unless amended or modified by the City.

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

#### A. Aesthetics

##### **Visual-2: Project and Cumulative Impacts to Scenic Resources**

Implementation of the proposed projects would result in the removal of 50 Heritage trees and relocation of one Heritage tree. The required replacement planting at the project site would enhance the visual character of the project sites overall. However, the projects would not result in plantings of mature trees of the same species in the same locations on the project sites, nor would the required replacement trees possess the same features of existing Heritage trees. Therefore, the proposed removal of Heritage trees is considered a significant and unavoidable impact to scenic resources, for each project and both projects combined.

***Mitigation Measures.*** No mitigation measures are feasible. The projects would comply with the City's tree replacement requirements.

***Findings.*** Based upon the EIR and the entire record before the Planning Commission and City Council, this City Council finds that:

1. *Effects of Mitigation:* No mitigation is feasible for removal of Heritage trees.
2. *Remaining Impacts:* Impacts to these scenic resources cannot be mitigated, and significant and unavoidable impacts would still exist.

#### B. Transportation and Circulation

##### **Traffic-1: Project and Cumulative Impacts to Project Area Intersections**

Each project individually and both projects combined would contribute significantly to congestion at the intersection of El Camino Real and Ravenswood Avenue (during the PM peak hour).

***Mitigation Measures.*** The Circulation Element of the City's General Plan outlines a proposed mitigation plan that includes widening the south (El Camino) approach to the intersection to add a third northbound through lane, and reconfiguration of the southbound exclusive right-turn lane to a shared through-right lane. With implementation of the improvement measure, the intersection of El Camino Real and Ravenswood Avenue would operate at an acceptable LOS D under project conditions. However, this measure is not funded. In addition, the El Camino approach to the intersection is within Caltrans' jurisdiction.

**Findings.** Based upon the EIR and the entire record before the Planning Commission and City Council, this City Council finds that:

1. Effects of Mitigation: No mitigation is feasible for the intersection of El Camino Real and Ravenswood Avenue.
2. Remaining Impacts: Traffic impacts to this intersection cannot be mitigated, and significant and unavoidable impacts would still exist for the El Camino Real and Ravenswood Avenue.

**Traffic-2: Project and Cumulative Impacts to Project Area Streets**

The projects would contribute additional daily traffic to six local street segments. The project increase would exceed City thresholds for local streets and minor arterials. Based on the future project scenario, significant and unavoidable impacts would occur on Linfield Drive (two segments), Waverley Street, Willow Road, Middlefield Road, and Ravenswood Avenue.

**Mitigation Measures.** There are no feasible mitigation measures to substantially lessen the number of vehicles using the immediate local streets.

**Findings.** Based upon the EIR and the entire record before the Planning Commission and City Council, this City Council finds that:

1. Effects of Mitigation: No mitigation is feasible for traffic on Linfield Drive (two segments), Waverley Street, Willow Road, Middlefield Road, and Ravenswood Avenue.
3. Remaining Impacts: Traffic impacts to these streets cannot be mitigated, and significant and unavoidable impacts would still exist.

**IV. FINDINGS FOR SIGNIFICANT IMPACTS AVOIDED OR MITIGATED TO LESS THAN SIGNIFICANT LEVEL**

**A. Air Quality**

**Air-1: Construction Impacts**

The proposed project would generate air emissions from construction activities, including fugitive dust, a source of PM<sub>10</sub>.

**Mitigation Measure:** The applicants shall require the construction contractor to implement a dust control program. The program shall be applied to all construction activities involving grading, excavation, use of unpaved areas for staging, extensive hauling of materials, or building

demolition. The dust control program shall include the following measures from Table 2 of the *BAAQMD CEQA Guidelines* as applicable and feasible:

**Basic Control Measures (for all construction sites)**

- Water all active construction areas at least twice daily.
- Cover all trucks hauling soil, sand, and other loose materials *or* require all trucks to maintain at least two feet of freeboard.
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites.
- Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at construction sites.
- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.

**Enhanced Control Measures (for individual or combined construction sites of larger than four acres)**

- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
- Enclose, cover, water twice daily, or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).
- Limit traffic speeds on unpaved roads to 15 miles per hour (mph).
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways. Replant vegetation in disturbed areas as quickly as possible.

**Optional Measures (strongly encouraged at construction sites that are large in area, located near sensitive receptors, or which for any other reason may warrant additional emissions reductions)**

- Install wheel washers for all existing, or wash off the tires or tracks of all trucks and equipment leaving the site.
- Install windbreaks, or plant trees/vegetative windbreaks at the windward side(s) of construction areas.
- Suspend excavation and grading activity when sustained winds exceed 25 mph.
- Limit the area subject to excavation, grading, and other construction activity at any one time.

***Findings.*** Based upon the EIR and the entire record before this Planning Commission, this Planning Commission finds that:

1. *Effects of Mitigation:* Implementation of the mitigation measure above would reduce construction period impacts to a level of less than significant.
2. *Remaining Impacts:* Any remaining impacts related to air quality would not be significant.

## V. PROJECT ALTERNATIVES

### A. Background - Legal Requirements

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

### B. Identification of Project Objectives

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

The general goal of the proposed project is construction of residential infill housing projects to provide market rate and below market housing, develop high-quality improvements, and improve existing drainage conditions in the community.

### C. Alternatives Analysis in EIR

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

#### ***Alternative 1: No Project Alternative***

The No Project Alternative is discussed on page 6.0-7 of the EIR.

*Findings:* The No Project Alternative, both scenario one and two, is rejected as an alternative because it would not achieve the objectives of the Project Sponsor or of the City for construction of residential infill housing to provide market rate and below market housing, develop high-quality improvements, and improve existing drainage conditions in the community.

Explanation: This alternative would partially meet the project objectives related to tree preservation, under scenario one, and would meet the project objectives related to high-quality improvements, drainage, and tree preservation, under scenario two. However, because neither of the scenarios under this alternative would include development of any housing, the project's objectives would only be partially met.

### ***Alternative 2: Medical Office Building***

The Medical Office Building Alternative is discussed on page 6.0-12 of the EIR.

Findings: The Medical Office Building alternative is rejected because it would not achieve the objectives of the Project Sponsor or of the City for construction of residential infill housing to provide market rate and below market housing, develop high-quality improvements, and improve existing drainage conditions in the community.

Explanation: This alternative would partially meet the project objectives related to tree preservation. However, because this alternative would not include development of any housing, the project's objectives would only be partially met.

## **VI. STATEMENTS OF OVERRIDING CONSIDERATIONS RELATED TO THE PROJECT FINDINGS**

The City Council of the City of Menlo Park adopts and makes the following Statement of Overriding Considerations regarding the significant, unavoidable impacts of the project and anticipated benefits of the project.

### **Significant Unavoidable Impacts**

With respect to the foregoing findings and in recognition of those facts that are included in the record, the City has determined that the project will result in significant unavoidable impacts to **aesthetics** and **transportation**, as disclosed in the Final EIR prepared for this project. The impacts would not be reduced to a less than significant level by feasible changes or alterations to the project.

### **Overriding Considerations**

The City Council finds that each of the overriding considerations set forth below constitutes a separate and independent ground for finding that the benefits of the project outweigh its significant adverse environmental impacts and is an overriding consideration warranting approval of the project. The City Council of the City of Menlo Park specifically adopts and makes this Statement of Overriding Considerations regarding the significant unavoidable impacts of the project and the anticipated benefits of the project. The City Council finds that this project has eliminated or significantly lessened all significant impacts on the environment where feasible.

## **Benefits of the Project**

The City Council has considered the Final EIR, the public record of proceedings on the proposed project, and other written materials presented to the city as well as oral and written testimony at all public hearings related to the project, and does hereby determine that implementation of the project as specifically provided in the project documents would result in the following substantial public benefits.

1. The housing project implements the goals and policies of the Housing Element, including the conversion of non-residential parcels to residential use (Goal III-A and Policy III.A.10).
2. The project involves the demolition of buildings that have the potential for jobs and replaces them with buildings with the potential for employed residents thereby reducing the City's jobs housing imbalance.
3. The housing project contributes to meeting the City's Regional Housing Needs Determination by providing 56 units, including eight (8) units affordable to moderate income households.
4. The project will provide eight (8) below-market-rate housing units, thereby addressing the current demand for affordable housing as reflected by the 465 people currently on the City's Below-Market-Rate Waiting List. Additionally, the project will contribute approximately \$70,500 to the City Below Market Rate Housing Fund, which is used primarily for Purchase Assistance Loans (PAL).
5. The project will contribute to streetscape improvements (e.g., new curb, gutter, sidewalk, landscaping, etc.) along Linfield Drive to reduce the desirability of using Linfield Drive for cut-through traffic, reducing average speeds and potentially the number of vehicles using Linfield Drive.
6. The project will contribute to storm water system improvements along Linfield Drive in order to minimize occurrence of flooding, which currently occurs during severe storms, beyond the normal requirement for the project.
7. The project reduces the amount of impervious surface area thereby not exasperating an existing storm drainage system that lacks adequate capacity.
8. The project will contribute \$1,344,000 toward the recreation-in-lieu fund to be utilized to increase availability of City's recreation facilities.

## **VII. CERTIFICATION OF THE FEIR**

The FEIR and City Council staff report dated **March 21, 2005** was presented to the City Council, acting as the decision making body of the lead agency for the project, and the City Council reviewed and considered the information contained in the FEIR prior to approving the project.

The City Council hereby finds that the FEIR for the 100 & 175 Linfield Drive projects is adequate, accurate and objective and reflects the independent judgment of the City; and the FEIR contains no significant revisions to the DEIR.

The City Council of the City of Menlo Park, acting as the decision-making body for the lead agency for the project, hereby does CERTIFY THE COMPLETION of said FEIR in compliance with CEQA and the CEQA Guidelines.

## **MITIGATION MONITORING AND REPORTING PLAN**

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The purpose of the Mitigation Monitoring and Reporting Plan (MMRP) is to ensure that measures adopted to mitigate or avoid significant impacts are effectively implemented. This is achieved by describing the mitigation monitoring program for the proposed project elements, and identifying the roles and responsibilities of government agencies in implementing and enforcing the adopted mitigation measures. The MMRP provides the recommended framework for Lead Agency monitoring and reporting on the implementation of mitigation measures defined under the California Environmental Quality Act (CEQA). Public Resources Code, Section 21081.6, requires a public agency to adopt an MMRP when it certifies an environmental review document under CEQA that specifies mitigation measures to reduce environmental effects that would otherwise be significant.

## 110 & 175 Linfield Drive Mitigation Monitoring and Reporting Plan

Category/Impact	Mitigation Measure	Monitoring/ Reporting Responsibility	Monitoring/ Reporting Requirement
	<b>AIR QUALITY</b>		
<i>Air-1: Construction Impacts</i>	<p><b>AirQuality-1:</b> The applicants shall require the construction contractor to implement a dust control program. The program shall be applied to all construction activities involving grading, excavation, use of unpaved areas for staging, extensive hauling of materials, or building demolition. The dust control program shall include the following measures from Table 2 of the <i>BAAQMD CEQA Guidelines</i> as applicable and feasible:</p> <p><b>Basic Control Measures (for all construction sites)</b></p> <ul style="list-style-type: none"> <li>• Water all active construction areas at least twice daily.</li> <li>• Cover all trucks hauling soil, sand, and other loose materials <i>or</i> require all trucks to maintain at least two feet of freeboard.</li> <li>• Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites.</li> <li>• Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at construction sites.</li> <li>• Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.</li> </ul> <p><b>Enhanced Control Measures (for individual or combined construction sites of larger than four acres)</b></p> <ul style="list-style-type: none"> <li>• Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).</li> <li>• Enclose, cover, water twice daily, or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).</li> <li>• Limit traffic speeds on unpaved roads to 15 miles per hour (mph).</li> <li>• Install sandbags or other erosion control measures to prevent silt runoff to public roadways.</li> <li>• Replant vegetation in disturbed areas as quickly as possible.</li> </ul> <p><b>Optional Measures (strongly encouraged at construction sites that are large in area, located near sensitive receptors, or which for any other reason may warrant additional emissions reductions)</b></p> <ul style="list-style-type: none"> <li>• Install wheel washers for all existing, or wash off the tires or tracks of all trucks and equipment leaving the site.</li> </ul>	Public Works Director	<p>Submittal of Construction and Air Quality Management Plan prior to issuance of grading or building permits by project sponsor.</p> <p>Implementation of Plan during construction by contractors.</p>

## 110 & 175 Linfield Drive Mitigation Monitoring and Reporting Plan

Category/Impact	Mitigation Measure	Monitoring/ Reporting Responsibility	Monitoring/ Reporting Requirement
	<ul style="list-style-type: none"> <li>• Install windbreaks, or plant trees/vegetative windbreaks at the windward side(s) of construction areas.</li> <li>• Suspend excavation and grading activity when sustained winds exceed 25 mph.</li> <li>• Limit the area subject to excavation, grading, and other construction activity at any one time.</li> </ul>		
	<b>TRAFFIC AND CIRCULATION</b>		
<i>Traffic-1 &amp; 9: Project and Cumulative Impacts to Project Area Intersections</i>	<p><b>Traffic-1a: Intersection of Alma Street and Ravenswood Avenue</b> The following mitigation would bring the intersection of Alma Street and Ravenswood Avenue to an acceptable service level during the AM peak period.</p> <p>The City shall prohibit left and through movements from Alma Street during the AM peak period (similar to current operations during the PM peak period). The prohibition shall become effective prior to the occupancy of the first project completed.</p>	Transportation Manager	Submittal of a formal request to restrict turns for a recommendation by the Transportation Commission and approval by the City Council prior to issuance of grading or building permits by project sponsor.
	<b>INITIAL STUDY SUMMARY</b>		
<i>Geology 3h: Expansive Soils</i>	<p><b>Mitigation Measure 3.1:</b> The project applicants shall incorporate all the recommended measures set forth in the Preliminary Geotechnical Investigation prepared by Treadwell &amp; Rollo. These recommended measures include: specific site preparation and grading techniques, specific foundations design (footings, post tension slab, drilled cast-in-place concrete piers), concrete slab-on-grade floors, a capillary moisture barrier, and adherence to UBC seismic design.</p>	Building Official	The Building Official will review the geotechnical investigation documents to ensure that they include engineering practices to reduce the potential

## 110 & 175 Linfield Drive Mitigation Monitoring and Reporting Plan

Category/Impact	Mitigation Measure	Monitoring/ Reporting Responsibility	Monitoring/ Reporting Requirement
			geologic hazards.
<i>Water 4a. Absorption Drainage, Surface Runoff</i>	<b>Mitigation Measure 4.1:</b> Detailed hydrology/hydraulic calculations shall be prepared and approved by the City prior to Tentative Map approval. The developer of the 110 Linfield Drive site shall provide detailed calculations showing the volume of water required for on-site detention of the 10-year storm event. If needed, larger underground storm drainpipes shall be installed.	Public Works Director	Submittal of detailed calculations for review of Public Works Director prior to Tentative Map Approval.
<i>Water 4b. Exposure to Flooding</i>	<b>Mitigation Measure 4.2:</b> The applicants shall provide estimated calculations of pre- and post-project conditions at known flooding areas in the vicinity (per consultation with the City). The applicants shall also provide detailed hydrology/hydraulic calculations indicating the estimated hydraulic grade line at each site for the 10-year and 100-year storms. Top-of-curb elevations for each project shall be modified as needed (per consultation with the City) to meet City requirements. Finished floor elevations shall be modified as needed per consultation with the City. These revisions shall be made and approved by the City prior to Tentative Map approval.	Public Works Director	Submittal of detailed calculations for review of Public Works Director prior to Tentative Map Approval.
<i>Water 4c: Discharge Into San Franciscquito Creek</i>	<b>Mitigation Measure 4.3</b> The project applicants shall implement Best Management Practices for water quality treatment on the project site to the maximum extent practicable, per the City of Menlo Park Grading and Drainage Plan Guidelines and checklist. Specific guidelines that would apply to the project site include (but would not be limited to) #1 (use of on-site infiltration as much as possible as a means of handling roof and site drainage); #4 (design of the site drainage so the storm water will flow to on-site lawn or pervious landscaped areas, or detention/retention and filtration systems through vegetated/grassed swales or underground pipes), #5 (drainage from roof downspouts to on-site lawn or pervious landscaped areas, or detention/retention and filtration systems through vegetated/grassed swales), #6 (As an alternative roof downspouts may connect to underground pipes with pop-up drainage emitters at the end of pipes), and #11 (use of on-site infiltration, vegetated swales or other comparable BMPs prior to discharge), #18 (If the storm drainage design for thee project consists of the on-site Stormwater Treatment Measures, such as vegetated/grassed swales or CDS [Continuous Deflective Separation] unit, the property owners [Homeowners Association] are required to enter into a “Stormwater Treatment Measures Operation and Maintenance Agreement” with the City. The BMPs shall be shown on the drainage plan and reviewed by the City prior to approval of the Tentative Map.	Public Works Director	Submittal of Storm Drainage, Grading, Erosion, and Sedimentation Control Plans by project sponsor.  Implementation of Plan during construction by contractors.
<i>Biology 7a: Endangered and Threatened Species</i>	<b>Mitigation Measure 7.1:</b> The applicants shall retain a qualified biologist (with selection to be approved by the City) to conduct nest surveys on the site prior to construction or site preparation activities occurring during the nesting/breeding season of native bird species (typically February through August). The survey area shall include all potential nesting habitat on the project site	Community Development Director	Survey to be conducted by project sponsor with a qualified

## 110 & 175 Linfield Drive Mitigation Monitoring and Reporting Plan

Category/Impact	Mitigation Measure	Monitoring/ Reporting Responsibility	Monitoring/ Reporting Requirement
	<p>within 200 feet of the grading boundaries. If the 200-foot distance encompasses trees on adjacent properties, the biologist shall survey the trees using binoculars. The survey shall be conducted no more than 14 days prior to commencement of construction activities.</p> <p><b>Mitigation Measure 7.2:</b> If active nests of bird species protected by the Migratory Bird Treaty Act and/or the California Fish and Game Code (which, together, apply to all native nesting birds) are present in the construction zone or within 200 feet of this area, temporary construction fencing shall be erected within the project site at a minimum of 100 feet around the nest site. This temporary buffer may be greater depending on the bird species and construction activity, as determined by the biologist.</p> <p><b>Mitigation Measure 7.3:</b> At the discretion of the biologist, clearing and construction within the fenced area shall be postponed or halted until juveniles have fledged and there is no evidence of a second nesting attempt. The biologist shall serve as a construction monitor during those periods when construction activities will occur near active nest areas to ensure that no inadvertent impacts on these nests will occur.</p>	California Department of Fish and Game.	<p>biologist (ornithologist) no more than 14 days prior to the initiation of construction in the period of February through April and no more than 30 days in the period of May through August.</p> <p>If raptors are encountered, a report will be submitted by the qualified biologist (ornithologist) to the Community Development Director and the California Department of Fish and Game.</p>
<i>Biology 7b: Locally Designated Species</i>	<p><b>Mitigation Measure 7.4:</b> The project applicants shall comply with the Menlo Park Heritage Tree Ordinance and the City's Heritage Tree Replacement procedures, and with the tree replacement ratios recommended by City staff. The final landscaping plans for the projects shall reflect compliance with the ordinance and procedures, and the applicants shall demonstrate that the required number of trees have been planted prior to project occupancy.</p> <p><b>Mitigation Measure 7.5:</b> The project applicants must adhere to the tree protection and preservation plan included in the Tree Survey Reports prepared by Arborwell. The plan</p>	Community Development Director	The Community Development Director shall review the project plans and arborist report to ensure compliance.

## 110 & 175 Linfield Drive Mitigation Monitoring and Reporting Plan

Category/Impact	Mitigation Measure	Monitoring/ Reporting Responsibility	Monitoring/ Reporting Requirement
	includes measures related to the tree protection zone (TPZ), pruning and brush clearance, fencing and signage, fertilization, pest and disease control, and tree health and maintenance (including root cutting).		
<i>Hazards 9a: Release of Hazardous Substances</i>	<b>Mitigation Measure 9.1:</b> Prior to demolition of the existing buildings, the applicants shall survey the building for the presence of asbestos and lead-based paint. If asbestos is found, the applicant shall comply with Bay Area Air Quality Management District Regulation 11, Rule 2 (Hazardous Materials, Asbestos Demolition, Renovation, and Manufacturing) when demolishing the building. If lead-based paint is present, the applicant shall determine whether paint must be separated from the building materials (e.g., chemically or physically). The paint waste shall be evaluated independently from the building material to determine its proper management. According to the California Department of Toxic Substances Control, if paint is not removed from the building material during demolition (and is not chipping or peeling), the material could be disposed of as construction debris (a non-hazardous waste). The appropriate landfill operator shall be contacted in advance or determine any specific requirement they any have regarding the disposal of lead-based paint materials.	Building Official	Survey to be conducted by project sponsor.
<i>Noise 10b: Exposure to Severe Noise Levels</i>	<p><b>Mitigation Measure 10.1:</b> The project applicants shall incorporate noise reduction measures into project construction activities. These measures may include, but shall not be limited to, the use of mufflers and other devices on equipment, locating stationary construction equipment away from sensitive receptors, shutting off idling equipment, notifying adjacent residences, and businesses in advance of construction work, and installing temporary barriers around construction noise sources. These are technically feasible measures that would reduce the noise levels of the construction equipment to 75 to 80 dB(A) at 50 feet. As with all construction equipment, noise levels would diminish rapidly with distance from the construction site at a rate of approximately 6 dB(A) per doubling of distance.</p> <p><b>Mitigation Measure 10.2:</b> The project construction contractors shall use designated haul routes for all hauling-related trips to and from the project sites. The routes shall be chosen by the City with the intent of minimizing noise impacts. Haul trucks shall not use any streets within the Linfield Oaks neighborhood other than Linfield Drive (between the project sites and Middlefield Road).</p>	Community Development Director	<p>During design and construction phase by contractors.</p> <p>The Community Development Director will review the project design documents to ensure that they include the required noise mitigation measures.</p>
<i>Cultural 14b: Archaeological Resources</i>	<b>Mitigation Measure 14.1:</b> If archeological resources such as chipped stone or groundstone, historic debris, building foundations, or human bone or any other indicators of cultural resources are discovered during ground-disturbing activities, construction activities will halt and a qualified archeologist shall be consulted to assess the significance of the find. If any find is determined to be significant, representatives of the City, construction contractor, and the	Community Development Director  Public Works	To be implemented if any significant cultural resources are

## 110 & 175 Linfield Drive Mitigation Monitoring and Reporting Plan

Category/Impact	Mitigation Measure	Monitoring/ Reporting Responsibility	Monitoring/ Reporting Requirement
	archaeologist shall meet to determine the appropriate course of action. In the event that human remains are discovered, an appropriate representative of the Native American groups and the County Coroner shall be notified and consulted, as required by state law. All cultural materials recovered as part of the monitoring program would be subject to scientific analysis, professional museum curation, and report prepared according to current professional standards.	Director	encountered.  If cultural resources are encountered, a report will be submitted by the qualified archaeologist to the Community Development Director and Public Works Director.

**ATTACHMENT D**

**DRAFT  
MARCH 21, 2006**

**RESOLUTION NO. \_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK  
AMENDING THE GENERAL PLAN TO CHANGE THE LAND USE DESIGNATION  
FOR CERTAIN PROPERTIES LOCATED AT  
110 LINFIELD DRIVE AND 175 LINFIELD DRIVE**

WHEREAS, the Planning Commission of the City of Menlo Park has considered the adoption of an amendment to the General Plan to change the land use designation for certain properties located at 110 Linfield Drive and 175 Linfield Drive to allow for the development of 54 single-family detached residential units, including eight Below Market Rate housing units; and

WHEREAS, the provisions of the Government Code, 65350, et. seq. have been complied with; and

WHEREAS, the City Council of the City of Menlo Park has considered the comments of the Planning Commission in regard to amending the General Plan;

NOW THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the City Council of the City Menlo Park that the General Plan Amendment to change the land use designation for the project site from Professional and Administrative Offices to Medium Density Residential, particularly described in Exhibit "A" and Exhibit "B", be adopted.

I, Silvia M. Vonderlinden, 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 \_\_\_th day of \_\_\_\_\_, 2006 by the following vote:

AYES: Council Members:  
NOES: Council Members:  
ABSENT: Council Members:  
ABSTAIN: Council Members:

I further certify that the foregoing copy of said Resolution is a true and correct copy of the original on file in the office of the City Clerk, Civic Center, Menlo Park, California.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City, this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
City Clerk

**ATTACHMENT E**

**DRAFT  
MARCH 21, 2006**

**ORDINANCE NO. \_\_\_\_**

**An Ordinance of the City of Menlo Park, Rezoning Property Located  
at 110 Linfield Drive and 175 Linfield Drive**

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 located at 110 Linfield Drive (062-421-060) and 175 Linfield Drive (062-422-110) and more particularly described in Exhibit "A" and Exhibit "B" is rezoned from C-1 (Administrative and Professional District, Restrictive) to R-3-X (Apartment District – Conditional Development).

**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 \_\_\_\_ day of \_\_\_\_\_, 2006.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said Council on the \_\_\_\_ day of \_\_\_\_\_, 2006, by the following vote:

AYES: Council Members:  
NOES: Council Members:  
ABSENT: Council Members:  
ABSTAIN: Council Members:

APPROVED:

\_\_\_\_\_  
Nicholas Jellins  
Mayor, City of Menlo Park

ATTEST:

\_\_\_\_\_  
Silvia M. Vonderlinden  
City Clerk

**ATTACHMENT F**

***DRAFT***  
**CONDITIONAL DEVELOPMENT PERMIT**  
***March 21, 2006***

**110 Linfield Drive**

**1. GENERAL INFORMATION:**

- 1.1 Applicant: 110 Linfield Project, LLC
- 1.2 Nature of Project: General Plan Amendment and rezoning of the project site to allow for the construction of 22 single-family residential units, including three (3) Below Market Rate (BMR) units.
- 1.3 Property Location: 110 Linfield Drive
- 1.4 Assessor's Parcel Numbers: 062-421-060
- 1.5 Area of Property: 2.07 acres
- 1.6 Present Zoning: C-1 (Administrative and Professional District, Restrictive)
- 1.7 Proposed Zoning: R-3-X (Apartment - Conditional Development District)

**2. DEVELOPMENT STANDARDS:**

- 2.1 Floor Area Ratio (FAR) shall not exceed **43 percent** of the project site.
- 2.2 Lot coverage shall not exceed **26 percent** of the lot area.
- 2.3 Minimum landscaping shall be **55 percent** of the lot area.
- 2.4 The maximum amount of pavement shall not exceed **19 percent** of the lot area.
- 2.5 Building height shall not exceed **37 feet** from the finished grade.
- 2.6 Building setbacks and parking shall be in accordance with the approved plans.
- 2.7 The on-site circulation shall be installed according to the approved plans.

### 3. USES

- 3.1 Permitted uses in the R-3-X District: Single-family residences
- 3.2 Conditionally permitted uses in the R-3-X District: None

### 4. TERMS OF THE PERMIT

- 4.1 The Conditional Development Permit shall expire one year from the date of approval if the applicant does not submit a complete building permit application within that time.
- 4.2 Modifications of residential units and properties may be considered under the following terms:
  - 4.2.1 Minor modifications to building exteriors, fence styles and locations and significant landscape features in yards adjacent to streets may be approved by the Community Development Director or designee, based on the determination that the proposed modification is consistent with other building and design elements of the approved Conditional Development Permit and will not have an adverse impact on a contiguous neighbor. The Director may refer any request for revisions to the plans to the Planning Commission for architectural control approval. A public hearing could be called regarding such changes if deemed necessary by the Planning Commission.
  - 4.2.2 Major modifications to building exteriors, fence styles and locations and significant landscape features in yards adjacent to streets may be allowed subject to obtaining an architectural control permit from the Planning Commission, based on the determination that the proposed modification is compatible with the other building and design elements of the approved Conditional Development Permit and will not have an adverse impact on a contiguous neighbor. A public hearing could be called regarding such changes if deemed necessary by the Planning Commission.
  - 4.2.3 Modifications involving room additions or other expansions of residences, construction of accessory structures, whether enclosed or open, or a change in the land use, development standards or conditions established in the Conditional Development Permit would require an amendment of the Conditional Development Permit.
- 4.3 This permit may be amended by a majority vote of the City Council. Application for amendment shall be made by at least one of the property owners, in writing, to the Planning Commission. The Planning Commission shall then forward its recommendation to the City Council for action.

5. STANDARD CONDITIONS:

*See separate attachment. Insert after the City Council meeting.*

6. PROJECT SPECIFIC CONDITIONS:

*See separate attachment. Insert after the City Council meeting.*

7. MITIGATIONS:

*See separate attachment. Insert after the City Council meeting.*

Recommended for Approval by the  
Menlo Park Planning Commission on  
March 13, 2006

Approved by the  
Menlo Park City Council on  
\_\_\_\_\_, 2006

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Arlinda Heineck, Community  
Development Director

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Silvia M. Vonderlinden, City Clerk

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## ATTACHMENT G

# ***DRAFT*** **CONDITIONAL DEVELOPMENT PERMIT**

*March 21, 2006*

**175 Linfield Drive**

### 1. GENERAL INFORMATION:

- 1.1 Applicant: HMH Engineers
- 1.2 Nature of Project: General Plan Amendment and rezoning of the project site to allow for the construction of 34 single-family residential units, including five (5) Below Market Rate (BMR) units.
- 1.3 Property Location: 175 Linfield Drive
- 1.4 Assessor's Parcel Numbers: 062-422-110
- 1.5 Area of Property: 3.29 acres
- 1.6 Present Zoning: C-1 (Administrative and Professional District, Restrictive)
- 1.7 Proposed Zoning: R-3-X (Apartment - Conditional Development District)

### 2. DEVELOPMENT STANDARDS:

- 2.1 Floor Area Ratio (FAR) shall not exceed **41 percent** of the project site.
- 2.2 Lot coverage shall not exceed **25 percent** of the lot area.
- 2.3 Minimum landscaping shall be **50 percent** of the lot area.
- 2.4 The maximum amount of pavement shall not exceed **25 percent** of the lot area.
- 2.5 Building height shall not exceed **37 feet** from the finished grade.
- 2.6 Building setbacks and parking shall be in accordance with the approved plans.
- 2.7 The on-site circulation shall be installed according to the approved plans.

### 3. USES

- 3.1 Permitted uses in the R-3-X District: Single-family residences
- 3.2 Conditionally permitted uses in the R-3-X District: None

### 4. TERMS OF THE PERMIT

- 4.1 The Conditional Development Permit shall expire one year from the date of approval if the applicant does not submit a complete building permit application within that time.
- 4.2 Modifications of residential units and properties may be considered under the following terms:
  - 4.2.1 Minor modifications to building exteriors, fence styles and locations and significant landscape features in yards adjacent to streets may be approved by the Community Development Director or designee, based on the determination that the proposed modification is consistent with other building and design elements of the approved Conditional Development Permit and will not have an adverse impact on a contiguous neighbor. The Director may refer any request for revisions to the plans to the Planning Commission for architectural control approval. A public hearing could be called regarding such changes if deemed necessary by the Planning Commission.
  - 4.2.2 Major modifications to building exteriors, fence styles and locations and significant landscape features in yards adjacent to streets may be allowed subject to obtaining an architectural control permit from the Planning Commission, based on the determination that the proposed modification is compatible with the other building and design elements of the approved Conditional Development Permit and will not have an adverse impact on a contiguous neighbor. A public hearing could be called regarding such changes if deemed necessary by the Planning Commission.
  - 4.2.3 Modifications involving room additions or other expansions of residences, construction of accessory structures, whether enclosed or open, or a change in the land use, development standards or conditions established in the Conditional Development Permit would require an amendment of the Conditional Development Permit.
- 4.3 This permit may be amended by a majority vote of the City Council. Application for amendment shall be made by at least one of the property owners, in writing, to the Planning Commission. The Planning Commission shall then forward its recommendation to the City Council for action.

5. STANDARD CONDITIONS:

*See separate attachment. Insert after the City Council meeting.*

6. PROJECT SPECIFIC CONDITIONS:

*See separate attachment. Insert after the City Council meeting.*

7. MITIGATIONS:

*See separate attachment. Insert after the City Council meeting.*

Recommended for Approval by the  
Menlo Park Planning Commission on  
March 13, 2006

Approved by the  
Menlo Park City Council on  
\_\_\_\_\_, 2006

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Arlinda Heineck, Community  
Development Director

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Silvia M. Vonderlinden, City Clerk

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## ATTACHMENT H

### **DRAFT** **CONDITIONS OF APPROVAL (Revised)** **March 21, 2006**

#### **110 Linfield Drive and 175 Linfield Drive**

*Note: Formatted for eventual insertion in the respective Conditional Development Permits.*

#### 5. CONDITIONS FOR EACH SITE:

- 5.1. Prior to building permit issuance, the applicant shall comply with all West Bay Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
- 5.2. Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the new construction.
- 5.3. 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 utilities shall be placed underground. 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.
- 5.4. Prior to building permit issuance, the applicant shall submit a plan for construction safety fences around the site for review and approval of the Building Division. The fences shall be installed according to the plan prior to commencing construction.
- 5.5. Prior to building permit issuance, the applicant shall submit detailed plans for review and approval of the Transportation Manager. The plans shall include the following:
  - 5.5.1. Adequate site distance visibility at the intersection of the proposed private streets with the public streets;
  - 5.5.2. A pedestrian circulation plan showing sidewalks, crosswalks, ramps, etc.;
  - 5.5.3. Geometric data on any medians or traffic circles on the proposed private streets;
  - 5.5.4. Demonstration that the dead-end streets have adequate back up room for vehicles; and
  - 5.5.5. A signage and striping plan.

- 5.6. Prior to building permit issuance, the applicant shall submit improvement plans for the right-of-way fronting the property. The plans shall include details for curbs, gutters, sidewalks, landscaping irrigation, lighting, etc. The plans shall be subject to review and approval of the Public Works Department.
- 5.7. Prior to building permit issuance, the applicant shall submit final Storm Drainage, Grading, Erosion and Sedimentation Control Plans for review and approval by the Public Works Department. The final plans shall be prepared by a Civil Engineer registered in California, shall be in accordance with the preliminary plans, and shall be included in the project plans submitted for building permit applications. The following specific elements shall be shown on the Plans:
  - 5.7.1. All existing utilities and proposed utility work;
  - 5.7.2. Square footages of existing (pre-development) and proposed (post-development) on-site impervious areas and the change in the square footage of impervious area upon completion of the proposed project;
  - 5.7.3. Detailed storm drainage calculation for the proposed storm drain system and the existing City storm drain system;
  - 5.7.4. Post-construction structural controls in the project design where feasible, and Best Management Practices (BMPs) for reducing contamination in stormwater runoff as permanent features of the project;
  - 5.7.5. All storm drain water, if not handled by on-site infiltration, must drain to a natural waterway, the public street, or public storm drain system; and
  - 5.7.6. Compliance with all applicable National Pollutant Discharge Elimination System (NPDES) Permit requirements.
- 5.8. Prior to ~~building-grading~~ permit issuance, the applicant shall submit detailed plans for the construction of a new 36 inch storm drain line in Linfield Drive from the proposed entrance to the 175 Linfield Drive site to a new connection point with the Middlefield Road storm drain system according to the study performed by BKF Engineers, dated March 1, 2006. The storm drain shall be designed to City standards subject to the review of the City Engineer. The storm drain shall be constructed in conjunction with the on-site project improvements and completed prior to occupancy of the first residential unit. The City shall enter into a non-recourse reimbursement agreement with the applicant, whereby the City shall agree to levy and use its best efforts to collect a storm drainage fee from all future development within the Linfield Drive drainage basin. The total amount of fees reimbursed to the applicant shall not exceed the total cost to design and install the improvements less the amount the applicant is required to contribute to the storm drain system based on their proportionate size of the project. The agreement shall be entered into at the time of approval of the final map.
- 5.9. Prior to building permit issuance, the applicant shall submit a detailed landscape and irrigation plan for review and approval of the Community Development and Public Works Departments. The plan shall comply with the regulations for Water Efficient Landscaping (Municipal Code Chapter 12.44)

and be consistent with San Mateo Countywide Stormwater Pollution Prevention Program (STOPPP) regarding the selection of pest resistant plants to minimize pesticide use. Landscaping within the City right-of-way shall include City approved street plant materials. The landscaping shall be installed prior to final building inspection of the last residence.

- 5.10. Heritage trees in the vicinity of the construction project shall be protected pursuant to the Heritage Tree Ordinance. Prior to building permit issuance, the applicant shall implement the tree protection plan and technique recommendations in the arborist report for all applicable heritage trees.
- 5.11. Prior to building permit issuance, the applicant shall submit detailed color and material samples for review and approval by the Planning Division. The windows shall be either true divided light or simulated divided light (grids on the inside and outside and a spacer bar in between).
- 5.12. Prior to building permit issuance, the applicant shall comply with the requirements of Chapter 12.48 (Salvaging and Recycling of Construction and Demolition Debris) of the City of Menlo Park Municipal Code.
- 5.13. Prior to the recordation of the final map, the applicant shall submit CC & R's (covenants, conditions and restrictions) to the Public Works Department for the approval of the City Engineer and the City Attorney. The final map and the CC & R's shall be recorded concurrently. The CC&R's shall include language that:
  - 5.13.1. Prohibits all owners, tenants, and guests from parking any form of vehicle except in defined parking spaces;
  - 5.13.2. Prohibits parking on private streets overnight consistent with the Menlo Park Municipal Code Section 11.24.050.
  - 5.13.2.5.13.3. Requires the Homeowners Association to maintain the landscaped area in City's right-of-way along the entire property frontage.
- 5.14. Prior to building permit issuance, the final map shall be approved by the City Council and recorded at the County Recorder's Office.
- 5.15. Prior to building permit issuance, the applicant shall pay all applicable school impacts fees associated with the project.

~~5.16. Prior to building permit issuance, the applicant shall participate in funding and/or constructing transportation improvements directed by the City Council according to the Linfield-Middlefield-Willow Area-wide Transportation Impact Analysis. Improvements may include, but may not be limited to, the payment of fees towards transportation improvements or the construction of transportation improvements for which the applicant shall design according to City standards and construct prior to occupancy of the first residential unit and be eligible to seek reimburse from other development projects in the vicinity.~~

5.16. Prior to grading permit issuance, the applicant shall submit detailed plans for the construction of streetscape improvements along Linfield Drive from Waverley Street to Middlefield Road according to the Linfield Middlefield Willow Area-wide Transportation Impact Analysis, performed by DKS Associates, dated March 2, 2006, or as subsequently directed by the City Council. The streetscape shall be designed to City standards subject to the review of the City Engineer. The streetscape shall be constructed in conjunction with the on-site project improvements and completed prior to occupancy of the first residential unit. The maximum cost of the streetscape improvements shall not exceed \$400,000. The City shall enter into a non-recourse reimbursement agreement with the applicant, whereby the City shall agree to levy and use its best efforts to collect a streetscape fee from all future development along Linfield Drive. The total amount of fees reimbursed to the applicant shall not exceed the total cost to design and install the improvements less the amount the applicant is required to contribute to the streetscape system based on their proportionate size of the project. The agreement shall be entered into at the time of approval of the final map.

5.17. Prior to building permit issuance, the applicant shall submit revised plans indicating that the interior clear dimensions of all garages is a minimum of 20 feet by 20 feet subject to review and approval of the Planning Division.

5.18. Prior to building permit issuance, the applicant shall submit a construction vehicle parking plan for review and approval of the Planning Division.

5.19. Prior to building permit issuance, the applicant shall pay the applicable Building Construction Street Impact Fee.

5.20. Prior to building permit issuance, the applicant shall enter into an agreement with the City of Menlo Park Police Department to permit patrol and enforcement of on-site parking limitations, including extension of approval to cite and tow all illegally parked vehicles. The agreement shall be subject to review and approval of the Police Department.

5.21. Prior to building permit issuance, the applicant shall use reasonable, best efforts to negotiate an overflow parking agreement to allow residents of the project site to use the parking facilities at 321 Middlefield Road before and after business hours (generally 7 a.m. to 6 p.m., Monday through Friday).

## 6. CONDITIONS SPECIFIC TO 110 LINFIELD DRIVE

6.1. Development of the project shall be substantially in conformance with the plans prepared by BKF Engineers, Dahlin Group Architecture, and HMH Landscape Architecture, dated received November 14, 2005 consisting of 45 plan sheets and recommended for approval to the City Council by the Planning Commission on December 12, 2005 except as modified by the conditions contained herein.

- 6.2. Prior to approval of the final map, the applicant shall incorporate the following changes subject to review and approval of the Engineering Division:
  - 6.2.1. The subdivision name and private street names shall be shown on the map;
  - 6.2.2. Show all proposed easements for utilities, features or activities that cross a property line;
  - 6.2.3. On-street parking on Homewood Place shall be limited to one side of the street and Detail 7 on Sheet TM-7 shall be corrected to reflect this requirement.
  - 6.2.4. The applicant shall dedicate a Public Access Easement for the portion of the sidewalk along Homewood Place located on private property.
  - 6.2.5. Other changes as deemed necessary by the Engineering Division.
- 6.3. Prior to approval of the final map, the applicant shall pay the recreation in lieu fee in accordance with Section 15.16.020 of the Menlo Park Subdivision Ordinance. Based on current market value estimates, the fee would be \$528,000.

6.4. Prior to issuance of a building permit, the applicant shall pay fees as contributions to the following mitigations and/or improvements identified in the Linfield Middlefield Willow Area-wide Transportation Impact Analysis, performed by DKS Associates, dated March 2, 2006, or as subsequently directed by the City Council:

- 6.4.1. Alma Street/Ravenswood Avenue left turn restriction: \$1,560
- 6.4.2. Linfield Drive/Middlefield Road pedestrian improvements/traffic signal: a bond or cash deposit for \$62,000 refundable if the fair share cost of the improvement is less than \$62,000 or if the City does not pursue an improvement within three (3) years after final inspection of the last residential unit.
- 6.4.3. Adaptive Signal Timing Improvements at the intersections of Middlefield Road and Willow Road, Middlefield Road and Ringwood Avenue and Middlefield Road and Ravenswood Avenue: \$13,300.

## 7. CONDITIONS SPECIFIC TO 175 LINFIELD DRIVE

- 7.1. Development of the project shall be substantially in conformance with the plans prepared by HMM Engineers, Dahlin Group Architecture, and HMM Landscape Architecture, dated received November 14, 2005 consisting of 46 plan sheets and recommended for approval to the City Council by the Planning Commission on December 12, 2005 except as modified by the conditions contained herein.
- 7.2. Prior to approval of the final map, the applicant shall incorporate the following changes subject to review and approval of the Engineering Division:
  - 7.2.1. The private street names shall be shown on the map;

- 7.2.2. Show all proposed easements for utilities, features or activities that cross a property line;
  - 7.2.3. The "Retaining Wall Detail" on sheet TM-5 indicating the proposed retaining wall would straddle the property line shall be revised so that the retaining wall is located entirely on the subject property.
  - 7.2.4. The applicant shall dedicate a Public Access Easement for pedestrian and bicycle access from the rear of the property to Linfield Drive in order to connect with a future access point at 75 Willow Road.
  - 7.2.5. The applicant shall obtain the necessary approvals and record the abandonment of the public utility easement.
  - 7.2.6. Other changes as deemed necessary by the Engineering Division.
- 7.3. Prior to approval of the final map, the applicant shall pay the recreation in lieu fee in accordance with Section 15.16.020 of the Menlo Park Subdivision Ordinance. Based on current market value estimates, the fee would be \$816,000.

7.4. Prior to issuance of a building permit, the applicant shall pay fees as contributions to the following mitigations and/or improvements identified in the Linfield Middlefield Willow Area-wide Transportation Impact Analysis, performed by DKS Associates, dated March 2, 2006, or as subsequently directed by the City Council:

- 7.4.1. Alma Street/Ravenswood Avenue left turn restriction: \$2,440
- 7.4.2. Linfield Drive/Middlefield Road pedestrian improvements/traffic signal: a bond or cash deposit for \$62,000 refundable if the fair share cost of the improvement is less than \$62,000 or if the City does not pursue an improvement within three (3) years after final inspection of the last residential unit.
- 7.4.3. Adaptive Signal Timing Improvements at the intersections of Middlefield Road and Willow Road, Middlefield Road and Ringwood Avenue and Middlefield Road and Ravenswood Avenue: \$17,900.

v:\staffrpt\cc\2006\032106 - 110 and 175 linfield\032106 - 110 and 175 linfield - attach h - conditions.doc

## ATTACHMENT I

### BELOW MARKET RATE FOR-SALE AGREEMENT

This "Agreement" is made as of this \_\_\_\_ day of \_\_\_\_\_ 2006 by and between THE CITY OF MENLO PARK, a California municipality ("City") and The Burge Family Trust ("Owner"), with respect to the following:

#### RECITALS

A. Owner is the owner of certain real property located in the City of Menlo Park, County of San Mateo, State of California (the "Property"), more particularly described in Exhibit "A" attached hereto. The Property is commonly known as 110 Linfield Drive and consists of assessor's parcel number(s) 062-422-080.

B. Pursuant to City Municipal Code Chapter 16.96, the City's BMR Housing Ordinance ("BMR Ordinance"), and the BMR Housing Program Guidelines ("Guidelines"), attached as Exhibit B, Owner is required to enter into this Agreement for the benefit of the City to insure compliance with the City's BMR Ordinance and Guidelines, which is a prerequisite to obtaining final development approvals and "Final Inspection" of the units from the Building Division.

C. As required by, and in full compliance with the City's BMR Ordinance and Guidelines, Owner plans to reconstruct and convert the existing office building of approximately 17,500 square feet to twenty two (22) residential units of which three (3) shall be detached below market rate ("BMR Units"). In addition, Owner shall pay in-lieu BMR fees to the City for two market rate units as provided herein.

D. The BMR Units shall be sold to third parties who meet the eligibility requirements set forth in the BMR Ordinance and Guidelines, and with prices determined in accordance with this Agreement.

E. This Agreement is for the benefit of Owner and the City. The deeds to the BMR Units shall contain restrictions that limit the sales price of the BMR Units in accordance with the BMR Ordinance and Guidelines. These deed restrictions relating to the three (3) BMR Units shall be binding on the future owners of those units.

NOW, THEREFORE, the parties agree as follows:

1. The three (3) detached BMR units are to be completed and sold in accordance with the BMR Ordinance and Guidelines with the appropriate deed restrictions.

2. For the purposes of Section 7 of the Guidelines, a unit shall be deemed "available for purchase" when the City has issued a letter that states that the BMR unit meets the BMR Program's requirement and satisfies the BMR Agreement's provisions. The letter will be issued when the BMR Unit is substantially ready for occupancy as reasonably determined by the Housing and Redevelopment staff, and when a unit has passed Final Inspection by the Building Division.

3. The locations of the three (3) BMR units are shown as BMR Unit #'s 4, 13, 19 on Exhibit "C" attached hereto. The floor plans showing the size and layout of the BMR Units are shown on Exhibit D attached hereto.

4. The locations of the two (2) BMR units for which in lieu fees shall be paid are shown as Unit #'s 14 and 20, on Exhibit C attached hereto ("In-Lieu Units"). The in lieu fees to be paid for the In-Lieu Units shall be set at three percent (3%) of the sales price of the In-Lieu Unit(s) sold, to be paid through escrow, as set forth in Section 4.3 of the Guidelines.

5. The streetscape elevations of the BMR Units will be as approved by the Planning Commission.

6. The exterior materials used in construction of the BMR Units will be similar and indistinguishable from those to be used on the market rate units. The interior finishes of the BMR Units shall be similar to those of the market rate units, except for upgrades purchased by individual buyers.

7. Each BMR Unit shall be affordable to households which are income eligible, as described in the Guidelines and are of the smallest household size eligible for the BMR Unit on the BMR Waiting List maintained by the City on the date that the Sales Price is set, as more particularly described below. The BMR Sales Price shall be calculated according to the following formula by reference to the definitions and standards set forth in Sections 7.1 and 7.2, below.

7.1 The "**Sales Price**" shall be calculated by adding the cash down payment, defined in 7.2.10., below, to the Maximum Mortgage Amount, defined in Section 7.1.6, below, less lender and escrow fees and costs incurred by the Buyer. The Sales Price shall be set before the commencement of the sale process for the BMR Units.

7.1.1 Calculate the "**Smallest Household Size**": The household with the smallest number of persons eligible for the BMR Unit, as shown in Table C (Occupancy Standards) of the BMR Guidelines.

7.1.2. Identify the current "**Maximum Eligible Income**", as shown in the Guidelines at Section 11, Table A, for the Smallest Household Size in the column titled "110% of Median."

7.1.3. Calculate the "**Maximum Allowable Monthly Housing Expenses**:" Multiply the Maximum Eligible Income by thirty three percent (33%) and divide by twelve (12).

7.1.4. Calculate the "**Actual Monthly Housing Expenses**:" Add the following costs associated with a particular BMR Unit, as more particularly described in Paragraph 7.2 below, and divide by twelve (12): a) any loan fees, escrow fees and other closing costs (amortized over 360 months) and/or private mortgage insurance associated therewith; b) property taxes and assessments; c) fire, casualty insurance and flood insurance, if required; d) property maintenance and

repairs, deemed to be One Hundred Dollars (\$100) per month; e) a reasonable allowance for utilities as set forth in the Guidelines, not including telephones, and f) homeowners association fees, if applicable.

7.1.5. Calculate the **“Maximum Monthly Mortgage Payment Amount:”** Subtract the Actual Monthly Housing Expenses from the Maximum Allowable Monthly Housing Expenses.

7.1.6. Determine the **“Maximum Mortgage Amount:”** Determine the amount of mortgage that a lender would loan, based upon the Maximum Monthly Mortgage Payment Amount and based upon the down payment found to be the lowest that lenders are willing to accept in a survey of lenders as described below. Survey and take the average of at least three local lenders who regularly make home loans at a typical housing expense ratio to first-time buyers in the price range of the BMR home on the day that the price is set. The mortgage amount shall be for a 30-year fixed rate mortgage with standard fees, closing costs and no points, and shall be less than or equal to the Maximum Monthly Mortgage Amount.

7.2. The calculation of the Sales Price shall be based upon the factors defined below. These definitions conform to the eligibility and underwriting standards established by the major secondary mortgage market investors, such as the Federal National Mortgage Association (“Fannie Mae”) and the Federal Home Loan Mortgage Corporation (“Freddie Mac”).

7.2.1. Mortgage Interest Rate. The mean average of contract interest rates on the date that the Sales Price is set, for fixed rate, 30-year "Conforming" mortgages (presently \$359,650 or less, as such amount may be adjusted from time to time as the maximum amount of FHA Conforming mortgages), or for jumbo mortgages if applicable, as quoted by three local retail lenders. The three local retail lenders shall be selected at random by the City from the list of lenders certified by San Mateo County to make first mortgage loans with Mortgage Credit Certificates.

7.2.2. Points. The mean average of points quoted by three local lenders that make mortgage loans to first time home buyers in Menlo Park on the date that the Sales Price is set for fixed rate, 30 year mortgages of \$359,650 or less, or for jumbo mortgages if applicable, which lenders are selected on a random basis by the City. Points are a one-time fee paid to a lender for making a loan. One point is equal to one percent of the loan amount.

7.2.3. Lender/Escrow Fees. The mean average of fees charged by three local lenders that make mortgage loans to homebuyers, which lenders are selected on a random basis by the City, plus escrow company fees, for such items as title insurance, appraisal, escrow fees, document preparation and recording fees.

7.2.4. Loan to Value Ratio. The maximum ratio of the dollar amount of a Conforming mortgage to the sales price of a home which a lender is willing to approve at a given point in time. For purposes of this Agreement, the Loan to Value Ratio shall be calculated as the mean average of the maximum Loan to Value Ratios as quoted by three local lenders selected on a random basis by the City from

a list of lenders who actively make loans to homebuyers and who participate in the Mortgage Credit Certificate program.

7.2.5. Housing Expense Ratio. The mean average of the housing expense ratio as reported on the date that the sales price is set, for fixed rate, 30-year mortgages of \$359,650 or less, or for jumbo mortgages if applicable, by three local lenders that make mortgage loans to homebuyers in Menlo Park, which lenders are selected on a random basis by the City. Housing expense is defined as the sum of the annual mortgage payment (including principal and interest), and annual payments for taxes, homeowners' dues, insurance, property maintenance and repairs, a reasonable allowance for utilities according to the San Mateo County Housing Authority Utility Financial Allowance Chart which is periodically updated and amended, and any secondary financing. To determine the ratio, this sum is divided by gross annual income.

7.2.6. Homeowners Insurance. Calculated as the mean average of the annual cost of insurance quoted by two or three local brokers, based on their experience, for a housing unit of the price, room configuration, location, construction material and structure type of the subject BMR Unit. Flood insurance costs, if required shall be calculated by this same method.

7.2.7. Private Mortgage Insurance. The mean average of the annual cost of private mortgage insurance quoted by two or three local lenders, based on their experience, for a housing unit of the price, location, and structure type of the subject BMR Unit.

7.2.8. Taxes. The tax rate as reported by the San Mateo County Assessor's Office.

7.2.9. Homeowners' Dues. Reported by the developer and as set forth in the Public Report issued by the California Department of Real Estate for the project.

7.2.10. Down Payment. Cash portion paid by a buyer from his own funds, as opposed to that portion of the purchase price which is financed. For the purpose of calculating the BMR Price, the down payment will be defined as the mean average of the smallest down payment required by the two or three local lenders surveyed.

7.3. The Sales Price shall be agreed upon in writing by Owner and the Housing and Redevelopment Manager no later than the date of the Final Inspection, or at an earlier date agreed to by the Developer and the Housing and Redevelopment Manager, and before the process begins to find a buyer.

8. As a condition precedent to a Final Inspection of any market rate unit at least one (1) BMR Unit shall have passed Final Inspection, and no more than eight (8) market rate units shall have passed Final Inspection until a second BMR unit passes Final Inspection. In any event, the last BMR unit must pass Final Inspection before the last market rate unit passes Final Inspection.

9. If there is a standard pre-sale requirement by the BMR applicant's lender for a certain percentage of units in the project to be sold before the BMR applicant's lender will close escrow on the loan, then the time for the City's purchase or the buyer's purchase will be extended until that requisite number of units has closed.

10. This Agreement shall be binding on and inure to the benefit of the parties hereto and any respective assigns and or owners of the property. Either party may freely assign this Agreement without the consent of the other. However, to be valid, an assignment of this Agreement must be in writing.

11. This Agreement is a covenant running with the land for the benefit of the City and all lands owned by the City within the limits of the City.

12. If any legal action is commenced to interpret or enforce this Agreement or to collect damages as a result of any breach of this Agreement, the party prevailing shall be entitled to recover all reasonable attorney's fees and costs incurred in such action from the other party.

13. Owner shall record this Agreement in the Office of the County Recorder of San Mateo prior to the recording of a final subdivision map for any portion of the Property and shall provide a copy of such recorded agreement to the City.

14. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

15. The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.

16. The exhibits attached hereto are hereby incorporated herein by this reference for all purposes.

17. This Agreement supersedes any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between the parties as to the subject matter hereof.

18. If any portion of this Agreement as applied to either party or to any circumstances shall be adjudged by a court to be void or unenforceable, such portion shall be deemed severed from this Agreement and shall in no way effect the validity or enforceability of the remaining portions of this Agreement.

19. Any and all obligations or responsibilities of Owner under this Agreement shall terminate upon the recording of the grant deeds conveying the BMR Units to qualified third party purchasers in accordance with the terms and provisions of this Agreement, the recording of the deed restrictions against such BMR Units, and/or the payment of the in lieu fees, if applicable, to be paid through escrow, as set forth in Section 4.3 of the Guidelines.

20. The execution and delivery of this Agreement shall not be deemed to be for the benefit of the third party purchasers of the BMR units or any other third party and any and all obligations and responsibilities of Owner under this Agreement are to the City for

whose benefit this Agreement has been entered into. No third party purchaser of a BMR or market rate unit, homeowners' association or any other third party shall obtain any rights or standing to complain that the BMR units were not constructed, designed, sold or conveyed in accordance with this Agreement, or the BMR Ordinance and Guidelines as a result of this Agreement. Furthermore, the acceptance of this Agreement by the City, the acceptance of the interior specifications for the BMR units and the conveyance of the BMR units to qualified third parties shall conclusively indicate that Owner has complied with this Agreement and the BMR Ordinance and Guidelines.

21. To the extent of any conflict between the terms and provisions of the Guidelines attached hereto as Exhibit B and the terms and provisions of the Agreement, the terms and provisions of this Agreement shall prevail.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

City of Menlo Park	
By: _____ David S. Boesch,	By: _____
Its: City Manager	Its:

List of Exhibits

- Exhibit A: Property Description
- Exhibit B: BMR Guidelines
- Exhibit C: BMR Unit Locations
- Exhibit D: BMR Floor Plans

## ATTACHMENT J

### BELOW MARKET RATE FOR-SALE AGREEMENT

This "Agreement" is made as of this \_\_\_\_ day of \_\_\_\_\_ 2006 by and between THE CITY OF MENLO PARK, a California municipality ("City") and K. Morgan Enterprises Inc., as Trustee, The CFC Trust, (formerly Consolidated Freightways) ("Owner"), with respect to the following:

#### RECITALS

A. Owner is the owner of certain real property located in the City of Menlo Park, County of San Mateo, State of California (the "Property"), more particularly described in Exhibit "A" attached hereto. The Property is commonly known as 175 Linfield Drive and consists of assessor's parcel number(s) 062-422-110.

B. Pursuant to City Municipal Code Chapter 16.96, the City's BMR Housing Ordinance ("BMR Ordinance"), and the BMR Housing Program Guidelines ("Guidelines"), attached as Exhibit B, Owner is required to enter into this Agreement for the benefit of the City to insure compliance with the City's BMR Ordinance and Guidelines, which is a prerequisite to obtaining final development approvals and "Final Inspection" of the units from the Building Division.

C. As required by, and in full compliance with the City's BMR Ordinance and Guidelines, Owner plans to reconstruct and convert the existing office building of approximately 38,000 square feet to thirty four (34) residential units of which five (5) shall be detached below market rate ("BMR Units"). In addition, Owner shall pay in-lieu BMR fees to the City for one market rate unit as provided herein.

D. The BMR Units shall be sold to third parties who meet the eligibility requirements set forth in the BMR Ordinance and Guidelines, and with prices determined in accordance with this Agreement.

E. This Agreement is for the benefit of Owner and the City. The deeds to the BMR Units shall contain restrictions that limit the sales price of the BMR Units in accordance with the BMR Ordinance and Guidelines. These deed restrictions relating to the five (5) BMR Units shall be binding on the future owners of those units.

NOW, THEREFORE, the parties agree as follows:

1. The five (5) detached BMR units are to be completed and sold in accordance with the BMR Ordinance and Guidelines with the appropriate deed restrictions.

2. For the purposes of Section 7 of the Guidelines, a unit shall be deemed "available for purchase" when the City has issued a letter that states that the BMR unit meets the BMR Program's requirement and satisfies the BMR Agreement's provisions. The letter will be issued when the BMR Unit is substantially ready for occupancy as reasonably determined by the Housing and Redevelopment staff, and when a unit has passed Final Inspection by the Building Division.

3. The locations of the five (5) BMR units are shown as BMR Unit #'s 1, 7, 9, 13 and 19 on Exhibit "C" attached hereto. The floor plans showing the size and layout of the BMR Units are shown on Exhibit D attached hereto.

4. The locations of the one (1) BMR unit for which in lieu fees shall be paid, is shown as Unit # 25 on Exhibit C attached hereto ("In-Lieu Units"). The in lieu fees to be paid for the In-Lieu Unit shall be set at three percent (3%) of the sales price of the In-Lieu Unit sold, to be paid through escrow, as set forth in Section 4.3 of the Guidelines.

5. The streetscape elevations of the BMR Units will be as approved by the Planning Commission.

6. The exterior materials used in construction of the BMR Units will be similar and indistinguishable from those to be used on the market rate units. The interior finishes of the BMR Units shall be similar to those of the market rate units, except for upgrades purchased by individual buyers.

7. Each BMR Unit shall be affordable to households which are income eligible, as described in the Guidelines and are of the smallest household size eligible for the BMR Unit on the BMR Waiting List maintained by the City on the date that the Sales Price is set, as more particularly described below. The BMR Sales Price shall be calculated according to the following formula by reference to the definitions and standards set forth in Sections 7.1 and 7.2, below.

7.1 The "**Sales Price**" shall be calculated by adding the cash down payment, defined in 7.2.10., below, to the Maximum Mortgage Amount, defined in Section 7.1.6, below, less lender and escrow fees and costs incurred by the Buyer. The Sales Price shall be set before the commencement of the sale process for the BMR Units.

7.1.1 Calculate the "**Smallest Household Size**": The household with the smallest number of persons eligible for the BMR Unit, as shown in Table C (Occupancy Standards) of the BMR Guidelines.

7.1.2. Identify the current "**Maximum Eligible Income**", as shown in the Guidelines at Section 11, Table A, for the Smallest Household Size in the column titled "110% of Median."

7.1.3. Calculate the "**Maximum Allowable Monthly Housing Expenses**:" Multiply the Maximum Eligible Income by thirty three percent (33%) and divide by twelve (12).

7.1.4. Calculate the "**Actual Monthly Housing Expenses**:" Add the following costs associated with a particular BMR Unit, as more particularly described in Paragraph 7.2 below, and divide by twelve (12): a) any loan fees, escrow fees and other closing costs (amortized over 360 months) and/or private mortgage insurance associated therewith; b) property taxes and assessments; c) fire, casualty insurance and flood insurance, if required; d) property maintenance and

repairs, deemed to be One Hundred Dollars (\$100) per month; e) a reasonable allowance for utilities as set forth in the Guidelines, not including telephones, and f) homeowners association fees, if applicable.

7.1.5. Calculate the **“Maximum Monthly Mortgage Payment Amount:”** Subtract the Actual Monthly Housing Expenses from the Maximum Allowable Monthly Housing Expenses.

7.1.6. Determine the **“Maximum Mortgage Amount:”** Determine the amount of mortgage that a lender would loan, based upon the Maximum Monthly Mortgage Payment Amount and based upon the down payment found to be the lowest that lenders are willing to accept in a survey of lenders as described below. Survey and take the average of at least three local lenders who regularly make home loans at a typical housing expense ratio to first-time buyers in the price range of the BMR home on the day that the price is set. The mortgage amount shall be for a 30-year fixed rate mortgage with standard fees, closing costs and no points, and shall be less than or equal to the Maximum Monthly Mortgage Amount.

7.2. The calculation of the Sales Price shall be based upon the factors defined below. These definitions conform to the eligibility and underwriting standards established by the major secondary mortgage market investors, such as the Federal National Mortgage Association (“Fannie Mae”) and the Federal Home Loan Mortgage Corporation (“Freddie Mac”).

7.2.1. Mortgage Interest Rate. The mean average of contract interest rates on the date that the Sales Price is set, for fixed rate, 30-year "Conforming" mortgages (presently \$359,650 or less, as such amount may be adjusted from time to time as the maximum amount of FHA Conforming mortgages), or for jumbo mortgages if applicable, as quoted by three local retail lenders. The three local retail lenders shall be selected at random by the City from the list of lenders certified by San Mateo County to make first mortgage loans with Mortgage Credit Certificates.

7.2.2. Points. The mean average of points quoted by three local lenders that make mortgage loans to first time home buyers in Menlo Park on the date that the Sales Price is set for fixed rate, 30 year mortgages of \$359,650 or less, or for jumbo mortgages if applicable, which lenders are selected on a random basis by the City. Points are a one-time fee paid to a lender for making a loan. One point is equal to one percent of the loan amount.

7.2.3. Lender/Escrow Fees. The mean average of fees charged by three local lenders that make mortgage loans to homebuyers, which lenders are selected on a random basis by the City, plus escrow company fees, for such items as title insurance, appraisal, escrow fees, document preparation and recording fees.

7.2.4. Loan to Value Ratio. The maximum ratio of the dollar amount of a Conforming mortgage to the sales price of a home which a lender is willing to approve at a given point in time. For purposes of this Agreement, the Loan to Value Ratio shall be calculated as the mean average of the maximum Loan to Value Ratios as quoted by three local lenders selected on a random basis by the City from

a list of lenders who actively make loans to homebuyers and who participate in the Mortgage Credit Certificate program.

7.2.5. Housing Expense Ratio. The mean average of the housing expense ratio as reported on the date that the sales price is set, for fixed rate, 30-year mortgages of \$359,650 or less, or for jumbo mortgages if applicable, by three local lenders that make mortgage loans to homebuyers in Menlo Park, which lenders are selected on a random basis by the City. Housing expense is defined as the sum of the annual mortgage payment (including principal and interest), and annual payments for taxes, homeowners' dues, insurance, property maintenance and repairs, a reasonable allowance for utilities according to the San Mateo County Housing Authority Utility Financial Allowance Chart which is periodically updated and amended, and any secondary financing. To determine the ratio, this sum is divided by gross annual income.

7.2.6. Homeowners Insurance. Calculated as the mean average of the annual cost of insurance quoted by two or three local brokers, based on their experience, for a housing unit of the price, room configuration, location, construction material and structure type of the subject BMR Unit. Flood insurance costs, if required shall be calculated by this same method.

7.2.7. Private Mortgage Insurance. The mean average of the annual cost of private mortgage insurance quoted by two or three local lenders, based on their experience, for a housing unit of the price, location, and structure type of the subject BMR Unit.

7.2.8. Taxes. The tax rate as reported by the San Mateo County Assessor's Office.

7.2.9. Homeowners' Dues. Reported by the developer and as set forth in the Public Report issued by the California Department of Real Estate for the project.

7.2.10. Down Payment. Cash portion paid by a buyer from his own funds, as opposed to that portion of the purchase price which is financed. For the purpose of calculating the BMR Price, the down payment will be defined as the mean average of the smallest down payment required by the two or three local lenders surveyed.

7.3. The Sales Price shall be agreed upon in writing by Owner and the Housing and Redevelopment Manager no later than the date of the Final Inspection, or at an earlier date agreed to by the Developer and the Housing and Redevelopment Manager, and before the process begins to find a buyer.

8. As a condition precedent to a Final Inspection of any market rate unit at least one (1) BMR Unit shall have passed Final Inspection, and no more than eight (8) market rate units shall have passed Final Inspection until a second BMR unit passes Final Inspection. In any event, the last BMR unit must pass Final Inspection before the last market rate unit passes Final Inspection.

9. If there is a standard pre-sale requirement by the BMR applicant's lender for a certain percentage of units in the project to be sold before the BMR applicant's lender will close escrow on the loan, then the time for the City's purchase or the buyer's purchase will be extended until that requisite number of units has closed.

10. This Agreement shall be binding on and inure to the benefit of the parties hereto and any respective assigns and or owners of the property. Either party may freely assign this Agreement without the consent of the other. However, to be valid, an assignment of this Agreement must be in writing.

11. This Agreement is a covenant running with the land for the benefit of the City and all lands owned by the City within the limits of the City.

12. If any legal action is commenced to interpret or enforce this Agreement or to collect damages as a result of any breach of this Agreement, the party prevailing shall be entitled to recover all reasonable attorney's fees and costs incurred in such action from the other party.

13. Owner shall record this Agreement in the Office of the County Recorder of San Mateo prior to the recording of a final subdivision map for any portion of the Property and shall provide a copy of such recorded agreement to the City.

14. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

15. The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.

16. The exhibits attached hereto are hereby incorporated herein by this reference for all purposes.

17. This Agreement supersedes any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between the parties as to the subject matter hereof.

18. If any portion of this Agreement as applied to either party or to any circumstances shall be adjudged by a court to be void or unenforceable, such portion shall be deemed severed from this Agreement and shall in no way effect the validity or enforceability of the remaining portions of this Agreement.

19. Any and all obligations or responsibilities of Owner under this Agreement shall terminate upon the recording of the grant deeds conveying the BMR Units to qualified third party purchasers in accordance with the terms and provisions of this Agreement, the recording of the deed restrictions against such BMR Units, and the payment of the in lieu fees, to be paid through escrow, as set forth in Section 4.3 of the Guidelines.

20. The execution and delivery of this Agreement shall not be deemed to be for the benefit of the third party purchasers of the BMR units or any other third party and any and all obligations and responsibilities of Owner under this Agreement are to the City for

whose benefit this Agreement has been entered into. No third party purchaser of a BMR or market rate unit, homeowners' association or any other third party shall obtain any rights or standing to complain that the BMR units were not constructed, designed, sold or conveyed in accordance with this Agreement, or the BMR Ordinance and Guidelines as a result of this Agreement. Furthermore, the acceptance of this Agreement by the City, the acceptance of the interior specifications for the BMR units and the conveyance of the BMR units to qualified third parties shall conclusively indicate that Owner has complied with this Agreement and the BMR Ordinance and Guidelines.

21. To the extent of any conflict between the terms and provisions of the Guidelines attached hereto as Exhibit B and the terms and provisions of the Agreement, the terms and provisions of this Agreement shall prevail.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

City of Menlo Park	
By: _____ David S. Boesch,	By: _____
Its: City Manager	Its:

List of Exhibits

- Exhibit A: Property Description
- Exhibit B: BMR Guidelines
- Exhibit C: BMR Unit Locations (Exhibit inadvertently labels Unit #16 as an in lieu unit)
- Exhibit D: BMR Floor Plans



## MENLO PARK PLANNING COMMISSION DRAFT EXCERPT MINUTES

Regular Meeting

March 13, 2006

7:00 p.m.

City Council Chambers

701 Laurel Street, Menlo Park, CA 94025

**CALL TO ORDER** – 7:00 p.m.

**ROLL CALL** – Bims (Chair), Deziel, Keith (Vice-chair), Pagee, Riggs, Sinnott

**INTRODUCTION OF STAFF** – Deanna Chow, Senior Planner; Megan Fisher, Assistant Planner; Justin Murphy, Development Services Manager; Thomas Rogers, Assistant Planner

### **A. PUBLIC COMMENTS**

There were none.

### **B. CONSENT CALENDAR**

There were no items on the consent calendar.

### **C. PUBLIC HEARINGS**

1. **General Plan Amendment, Rezoning, Conditional Development Permit, Tentative Subdivision Map, Environmental Review/110 Linfield Project, LLC/110 Linfield Drive**: Requests for the following: 1) General Plan Amendment to change the existing Professional and Administrative Offices land use designations to Medium Density Residential, 2) Rezoning the properties from C-1 (Administrative and Professional District, Restrictive) to R-3-X (Apartment - Conditional Development District), 3) Conditional Development Permit to establish specific development regulations and review architectural designs for the demolition of an office building of approximately 17,500 square feet and the construction of 22 residential units, and 4) Tentative Subdivision Map for the creation of 22 lots and associated common areas. The proposal requires the preparation of an Environmental Impact Report.

Staff Comment: Development Services Manager Murphy noted that Commissioner Deziel was not present and had recused himself from consideration of items C.1 and C.2 due to a prior potential financial interest. He said that staff had no additional comments to the written staff report.

Public Comment: Mr. Kevin Fryer, Mission Valley Properties, said he was representing CFC Trust, the property owners of 175 Linfield Drive. He said this was a continuation of a hearing in December. He thanked staff for their work on the project and in particular Development Services Manager Murphy.

Mr. Fryer said the benefits of the project included the provision of 56 new homes and 8 Below Market Rate units (BMR) to the City; he noted that the project was one of the first in the City to meet the onsite 15 percent BMR requirement. He said they had voluntarily participated in the Linfield, Middlefield, and Willow Traffic Study and they were willing to condition the approval of their project on a fair share contribution to any of the traffic investments that would be implemented as a result of the study. He said in the area traffic study that one of the mitigations suggested was streetscape improvements for Linfield Drive. He said they were voluntarily willing to participate in the streetscape improvements.

Mr. Fryer said that flooding was an issue in the Linfield corridor during the wet season and their project would meet the City's requirements for storm drains by onsite drainage and somewhat larger pipes. He said they worked with Planning staff and Mr. Ruben Niño, the City's engineer, and they had taken the lead on developing several versions of a Linfield Drive Storm Drain Improvement Plan. He said there was staff consensus on the plan and it was described in the staff report. He said these improvements would have immediate benefit and some long-term benefit as the proposed plan would work with future improvements to the storm drain system.

Mr. Fryer addressed encroachments on the 20-foot by 20-foot clear requirement for garages that were of concern at the last public hearing for this project. He said the encroachment in two units was from a step down into the garage and in others from a water heater in the garage; he said they mitigated the encroachments by bringing the step back into the house in the two units and replacing the water heaters in those units where there was encroachment with tankless water heaters. He said that all garages proposed would meet the City's requirement for garages.

Mr. Fryer said the traffic study found that there would be 565 daily trips for the project. He said if they occupied the existing office space with tenants, the traffic study indicated that would result in 611 daily trips. He said the proposed project's impacts on intersections and street segments as compared with office occupancy traffic impacts were pretty much a wash.

Mr. Fryer said the estimated annual property tax revenue for the project was \$530,000, which would include a \$90,000 increase in property tax proceeds that would go to the elementary school district; and a \$45,000 increase for existing elementary school district bonds and parcel taxes. He said that was in addition to a one-time school impact fee calculated at the maximum fee per square foot allowed by the State or \$218,000, \$131,000 of which would go directly to the elementary school district.

Mr. Fryer said that in addition to the open space of the proposed project, the project would pay a park-in-lieu fee of approximately \$1.334 million dollars and those funds were potentially available as cross-over funds for improvements to existing school sports facilities.

Mr. Fryer said they had contracted with Economic and Planning Systems to study the impact of the project on the City's general fund; he said the study found that not only would the project pay for itself, but it would result in a surplus to the City's general fund of \$26,000 annually.

Mr. Fryer said it was a project they were proud of and hoped for the Commission's support.

Commissioner Keith said that the applicant had indicated they were taking a lead on the Linfield Drainage Improvement Plan and asked if the applicant was willing to contribute some fee to a future Storm Drain Fund. Development Services Manager Murphy said that there was a study,

which was looking at the feasibility of creating a storm drain fund. Mr. Fryer said they would consider it if were an actual fund and there was some information on what the fees would be.

Commissioner Keith confirmed that the school impact fee calculation was based on \$2.24 per square foot. She said that the fee had increased in January to \$2.66 per square foot. She asked whether the project was willing to pay the increased fee. Mr. Fryer said that they would. In response to a question from Commissioner Keith, Development Services Manager Murphy said the request for the fee payment would be from the school district, but the City would require proof of payment before issuance of a building permit.

In response to a question from Commissioner Keith, Development Services Manager Murphy said there was no bike lane proposed for the Linfield Drive streetscape improvements. He said part of that was based off the City's Master Plan for bikes as that shows Willow Road as the route with a bicycle facility. Commissioner Keith asked if a bike lane could be included. Development Services Manager Murphy said it could be done but something else would need to be modified. Commissioner Keith asked if the applicant preferred medians to bike lanes. Mr. Fryer said that their concern was implementation of the improvements and that the design was up to the City and the community. Commissioner Keith asked if they would consider solar panels on the roofs. Mr. Fryer said they would consider this but they would need time to analyze what that would mean to terms of cost and viability for the project.

Commissioner Pagee confirmed that the maintenance of the green space was handled through a Homeowner's Association (HOA) and asked if the BMR units would pay a HOA fee in addition to house payment. Mr. Fryer indicated that was correct. She asked if the HOA fee had been calculated within the affordability of the BMR. Development Services Manager Murphy said that fee was a separate component of the calculation. He said the HOA in this instance would not be maintaining structures so that would help the affordability.

Commissioner Pagee asked whether maintenance of landscaping within proposed Linfield streetscape improvements would be covered by the projects' HOA. Mr. Fryer indicated that if the improvements were developed so that there was landscaping attached to the projects, the HOA would take care of that maintenance.

Commissioner Pagee asked if they had considered a water feature in the landscaping design. Mr. Fryer said they could consider including one. Commissioner Pagee asked if 8 Homewood Place were developed as residential whether there would be continuity of design. Mr. Fryer said that residential development on that site was not definite, but if the Linfield properties were constructed prior to development of Homewood Place that applicant would need to design a project that would fit with the surrounding neighborhood. Commissioner Pagee asked about storm runoff handling onsite. Mr. Fryer said there were onsite improvements to meet storm drain treatment requirements so that water would be held and treated and then released.

Commissioner Sinnott said the architecture was very nice but she wondered about the materials. Mr. Fryer provided a colors and materials board. Commissioner Sinnott said she was concerned about parking and she thought that four-bedroom houses needed at least three parking spaces.

Commissioner Keith asked what the size of the replacement trees would be. Mr. Fryer said they would be 15-gallon. Commissioner Keith asked if they would be willing to increase size of the

tree. Mr. Fryer said they would, but they would need to look at the cost involved and the viability of larger trees to grow healthy.

In response to a question from Commissioner Keith, Development Services Manager Murphy said that use of median strips on Linfield would eliminate parking on one side of the street. He said there were three concepts in the street improvement proposals: narrowing the street, leaving the street as is, and installing a median.

Mr. Stu Soffer, Menlo Park, said he appreciated an e-mail he received from Mr. Fryer regarding the changes the applicants had made to the design in response to concerns. He said that planning in this community area was being done piecemeal. He said that comprehensive planning was needed. He said there were nine General Plan Amendments coming up. He said that State law state that if there were four General Plan Amendments within a year that the provisions of the General Plan could be challenged. He said that it would be better to redo the General Plan and do a comprehensive plan for the City. He said that project should be developed as standard R-1 lots.

Chair Bims closed public comment on C.1. and opened consideration of C.2.

2. **General Plan Amendment, Rezoning, Conditional Development Permit, Tentative Subdivision Map, Environmental Review/HMH Engineers/175 Linfield Drive:**

Requests for the following: 1) General Plan Amendment to change the existing Professional and Administrative Offices land use designations to Medium Density Residential, 2) Rezoning the properties from C-1 (Administrative and Professional District, Restrictive) to R-3-X (Apartment - Conditional Development District), 3) Conditional Development Permit to establish specific development regulations and review architectural designs for the demolition of an office building of approximately 38,500 square feet and the construction of 34 residential units, and 4) Tentative Subdivision Map for the creation of 34 lots and associated common areas and abandonment of a public utility easement five feet in width at the southwesterly portion of the existing lot. The proposal requires the preparation of an Environmental Impact Report.

Public Comment: Commissioner Keith asked Mr. Fryer to show the location of the three-story units on the parcel.

Chair Bims closed the public hearing.

Commission Comment: Commissioner Sinnott said her concern was the parking adequacy; she said that approving as proposed would create an under-parked project. She said there were places on the sites where more parking could be gained. Commissioner Keith said she tended to agree with Commissioner Sinnott on parking; she said that the calculation for determining the number of children was based on the square foot and used 2,500 square feet. She said there were many families with children who lived in homes smaller than 2,500 square feet. Commissioner Sinnott said that if the applicant were willing to give up some of the four-bedroom units that she would agree to the parking. She said that the developer was getting a General Plan Amendment and the smallest lot size ever given a developer in the City.

Commissioner Keith said that a three-story residence in this area was setting precedence.

Commissioner Pagee agreed about the parking. She said the project would not be able to stay within the prohibition of overnight street parking. She said that there would be limited sunlight on the homes because of the three-story units. She said that there needed to be a bike lane on Linfield Drive and a safe crossing at the Middlefield Road intersection for school children.

In response to questions from Commission Riggs, Mr. Fryer said the developer and the builder understood their prospective market and their team had years of experience in developing and building residential developments. He said the tradeoff for the buyers was less land for a newly constructed house. He said the elements of the design impacted who would find these units attractive. He said an example of a prospective buyer would be a young married couple with no children yet but who had a desire to buy a detached home. He said he thought there was more than one niche of buyer that these homes would be attractive to. Commissioner Riggs said that many residents did not put any of their cars in the garages and used them for storage. He asked if there had been parking issues on other projects they had done. Mr. Fryer said that when in-fill projects were done there were tradeoffs and parking was one of those issues that might suffer because of the priority of other amenities. He said that people who bought these homes would figure out how to stay within the constraints.

Commissioner Keith asked if the applicant would consider fewer of the three-story homes to accommodate more parking. Mr. Fryer said that he could not agree to that right now as the three-story element was important to the economic feasibility of the project.

Chair Bims summarized concerns including adequacy of parking because of four-bedroom units; not enough passive solar and a request for solar panels; and traffic study. He asked if there had been enough input on traffic study. Commissioner Riggs said they had received the traffic study prior to the meeting and of approximately five projects being looked at that none of the projects individually had big impacts. He said it was only on marginal intersections that cumulatively there were significant impacts. Commissioner Keith said page one of the executive summary stated that these three projects would generate 112 net new a.m. peak hour trips and 192 net new p.m. peak hour trips for a total 2,053 new daily vehicle trips. She said if the project were to proceed that it would need to contribute significantly to future traffic improvements; she said perhaps another lighted crossing on Middlefield Road. Commissioner Riggs said the traffic study addressed the issues in a cumulative way, but the burden of all mitigation should not fall on this project. He said there were some traffic issues that could not be resolved.

Chair Bims said the buyers would know the limitations of the parking and would work within those constraints; he said the problem was guest parking and on-street parking while not an optimal solution would relieve guest parking. He said the benefit of no median would allow more on-street parking and possibly a bike lane.

Commissioner Keith said she would not like the median and wanted more parking, wider sidewalks and bike lanes. Commissioners Sinnott and Pagee agreed with Commissioner Keith.

Commissioner Riggs moved to recommend approval to the City Council as recommended by staff. Chair Bims seconded the motion and added friendly amendments: condition for the applicant to contribute fair share in all traffic measures implemented because of the LMW Traffic Study; condition to pay prevailing school impact fee at time of application; and condition that on-street parking be provided instead of a median on Linfield Drive.

Development Services Manager said the condition for the applicant to contribute fair share in all traffic measures implemented because of the LMW Traffic Study was covered in condition B.16. He said the school impact fee was a requirement and could be added as a condition. He suggested that the comments on the Linfield Drive streetscape improvements be made as a separate recommendation to the Council.

Commissioner Riggs said that he accepted Chair Bims' friendly amendments.

Commissioner Sinnott said that she could not support recommending approval until there was a condition that the project would provide adequate parking. Commissioner Pagee said the applicant had designed a project that tried to make everyone happy, but parking was inadequate.

Commissioner Riggs said perhaps the Commission could specify in the recommendation that there be a prominent sales disclosure of the presentation of the units for sale and in the sale contract stating that the City of Menlo Park has strict regulations on parking. He suggested that Planning staff should review and approve the language of the disclosure. Commissioner Keith said that deed restrictions could be recorded against parking. Commissioner Riggs said that he thought the community would be self-policing regarding parking. Commissioner Pagee said the project had private streets and would not fall under Menlo Park's public street prohibition of overnight parking and would create overflow parking on Linfield Drive.

Recognized by the Chair, Mr. Fryer said that either the sales disclosure or deed restrictions would be fine. Commissioner Riggs said that the streets were private within the project and asked how it would be policed to prevent overnight street parking. Mr. Fryer said that one of the conditions of approval that they agreed to with staff was that the HOA would agree to require that all owners and guests park in designated parking spaces and were prohibited from parking overnight on the private streets as part of the HOA's CC&Rs. Commissioner Sinnott asked how the 20 guest parking spaces were allocated among the 56 units. Mr. Fryer said the spaces were not assigned to particular units and there were limitations on hours of parking on the street.

Commissioner Keith asked about requiring solar panels. Commissioner Riggs said he did not think it was fair to assign that to the project although he strongly supported solar panels. He said there were a lot of advantages to the City from the project and about three disadvantages. He said the project would add attractive housing to the City's housing stock; the project would solve a flooding problem with the sites and streets; it would make various financial contributions to the City; and the applicant had been willing to step up even further on several items.

Chair Bims asked Mr. Fryer if he would respond. Mr. Fryer said regarding solar panels that there was a lot of detail to analyze to see if they would be feasible and it would require more than they could commit to now. Commissioner Riggs suggested to Commissioner Keith that perhaps another separate recommendation to the Council regarding solar panels could be added.

Commissioner Sinnott suggested that Classic Communities' parking be reviewed as to ratio of parking spaces to number of bedroom, guest parking accommodations, whether parking has been a problem as a comparison to this project.

Commission Action: M/S Riggs/Bims to recommend to the City Council approval of the project to include findings related to the approval of the Environmental Impact Report, findings related to the approval of the General Plan Amendment and re-zoning, the Conditional Development Permit, the Tentative Subdivision Map for both 110 and 175 Linfield Drive and the conditions of the approval with following modifications: add condition 5.20 to reference the project's responsibility to pay the school impact fees effective at the time of payment; modify condition 5.13 to add 5.13.3 that CC&Rs would prohibit overnight parking on the internal streets; add a 12<sup>th</sup> recommendation to the Council to pursue a street improvement plan on Linfield Drive that did not eliminate on-street parking, had no median, and provided bike lanes; and a 13<sup>th</sup> recommendation for staff to prepare a comparison of parking ratios to number of bedrooms of Classic Homes, number of guest spaces, and whether parking has been a problem for this development and to provide this information to the Council for their consideration.

Motion carried 3-2 with Commissioners Pagee and Sinnott voting against and Commissioner Deziel recused.