



COMMUNITY DEVELOPMENT DEPARTMENT

Council Meeting Date: November 14, 2006
Staff Report #: 06-199

Agenda Item #: E2

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 Permit, and Environmental Impact Report to Construct 33 Two-Story, Single-Family Residential Units and Associated Private Street and Common Areas on a 4.5-Acre Site Located at 75 Willow Road.

RECOMMENDATION

Staff recommends that the City Council approve the following at 75 Willow Road subject to the findings and actions contained in Attachment A:

- General Plan Amendment to change the land use designation from Professional and Administrative Offices to Medium Density Residential;
- Rezoning property from C-1 (Administrative and Professional District, Restrictive) to R-3-X (Apartment – Conditional Development District);
- Conditional Development Permit to establish specific uses and development regulations and architectural designs;
- Tentative Subdivision Map to create 33 single-family lots and associated common areas and private street;
- Below Market Rate (BMR) Housing Agreement to provide five below market rate units on-site;
- Heritage Tree Permit for the removal of 45 heritage trees and relocation of three heritage trees; and
- Environmental Impact Report (EIR) for the proposal.

BACKGROUND

Proposed Project

The applications are required for the demolition of an existing office building and construction of 33 single-family residences, the associated common areas, including several passive open space areas and a pedestrian pathway to the adjacent residential project at 175 Linfield Drive, and a new private street accessed from Willow Road within a 4.5-acre site. The residential units range in size from 1,713 to 2,389 square feet,

exclusive of the attached garage. The development would consist of five primary floor plans, with two of the floor plans having slight variations for four of the units. The units would contain three or four bedrooms and two and one-half bathrooms each. The proposed project includes traditional architectural styles that reflect elements of the Linfield Oaks neighborhood and the nearby Sunset Publishing buildings. The project incorporates 13 different, but compatible, elevations that incorporate a variety of materials and decorative elements.

The proposal requires review and recommendations by the Planning Commission on the General Plan Amendment, Rezoning, Conditional Development Permit, and the EIR. The City Council is the final decision-making body on these applications. The City Council will also consider the recommendations of the Environmental Quality Commission in regard to the proposed Heritage Tree Permit and the recommendations by the Housing Commission in regard to the Below Market Rate (BMR) Agreement.

Planning Commission Review – October 23, 2006

The Planning Commission reviewed the applicant's proposal at its October 23, 2006 meeting. The staff report from this meeting and the draft minutes are included as Attachments J and K, respectively. The Commission generally supported the proposed land use and believed the project was well designed. The Commission voted unanimously (6-0, Commissioner Deziel recused) to support the proposal. The Commission recommended that the City Council approve the proposal with three modifications to the conditions. A discussion of these modifications is included in the Analysis section below.

Subsequent to the Planning Commission meeting on October 23, 2006, staff became aware of a letter concerning the Final Environmental Impact Report (EIR) for the proposed project. To allow the Planning Commission the opportunity to review the letter to determine whether the issues raised could change the Planning Commission's October 23, 2006 action, the item will be brought before the Planning Commission on November 13, 2006. The Planning Commission staff report of November 13, 2006 is included as Attachment L. As of the printing of the report, the outcome of that meeting is unknown. If the Planning Commission reaffirms its action from the October 23, 2006 meeting, the City Council will hear the proposed project at its November 14, 2006 meeting. Staff will provide an update at the meeting of the Planning Commission's discussion from the November 13, 2006 meeting. If the Planning Commission chooses to reconsider the item, a new City Council hearing date will be scheduled and noticed.

Housing Commission Review – Below Market Rate Agreement

The proposed project is subject to requirements of the Below Market Rate (BMR) Program. The applicant is proposing five on-site BMR units, which is slightly greater than the required 15 percent or 4.95 BMR units. If the number of BMR units includes a fraction of a unit, the developer shall provide a whole unit or make a residential in-lieu

payment for the fractional unit. The developer is proposing to round up and provide five BMR units.

The applicant appeared before the Housing Commission at four meetings, during which the applicant modified the project plans and proposal in order to address concerns raised by the Commission regarding the type, size, and distribution of the BMR units.

On September 6, 2006, the Housing Commission recommended approval of the proposed BMR agreement. The staff report for the September 6, 2006 Housing Commission meeting, which includes a brief synopsis of the previous meetings, is included as Attachment M and the minutes of the meeting are included as Attachment N. The draft BMR Agreement is included as Attachment G. The proposed BMR Agreement includes a mix of units, including two Plan Type 1, two Plan Type 4, and one Plan Type 5, which would be distributed throughout the site. The units would contain similar exterior and interior features as market rate units within the development.

During the review of the proposal, staff introduced a possible alternative approach to meeting the project BMR requirement. The alternative would involve the project applicant dedicating funds and/or expertise to assist in and help ensure the feasibility of the Habitat for Humanity project proposed on Terminal Avenue in lieu of the provision of on-site moderate-income BMR units. The basis for the alternative approach is a combination of a strong need for very-low and low-income BMR units, the known difficulties of development on the Terminal Avenue site, and the willingness of the applicant and Habitat for Humanity to explore alternatives. A more detailed discussion is in the September 6, 2006 Housing Commission staff report. The Commission generally supported the alternative concept and recommended that the applicant continue to explore this approach. Commission support for the currently recommended BMR Agreement recognizes that the proposed Agreement may be superseded at a later day by an alternative off-site BMR proposal.

The applicant is actively exploring the alternative approach and working with staff and the City Attorney to define the basis on which to determine whether the alternative provides an equal or greater benefit to the BMR Program when compared to the proposed five on-site BMR units. Staff has added condition # 5.16 to allow the City Council the flexibility to consider the alternative BMR proposal at a later date.

Environmental Quality Commission – Heritage Tree Permit

The subject site contains 199 trees, of which 102 are heritage size. The species vary, but are predominantly eucalyptus along the western and northern edges and a mix of coast redwood, eucalyptus, and deodar cedar within the interior of the site. The applicant proposes to remove 45 heritage trees and 53 non-heritage trees and relocate three heritage trees and nine non-heritage trees. Of the proposed heritage trees for removal, the majority of the trees are eucalyptus. Of the non-heritage size trees proposed for removal, the majority are deodar cedar and white birch. Many of the significant trees along the Willow Road frontage, including several clusters of heritage

redwood trees, are proposed to remain. Additionally, several mature, heritage size trees from the site would be relocated to the frontage along Willow Road, including an elm tree and an olive tree.

The proposed heritage tree removal/relocation and replacement plan requires review and a recommendation by the Environmental Quality Commission (EQC) and review and approval by the City Council. The applicant attended two EQC meetings to discuss the tree removal and replacement plan.

On May 3, 2006, the EQC recommended approval (3-1-1) of a revised landscaping plan. The revised plan included 69 replacement trees, including 51 large trees (37 24-inch box trees and 14 36-inch box trees). The Commission, in general, was pleased with the proposal to plant many larger sized replacement trees (24-inch and 36-inch box sizes), but asked that more of the replacement trees be native species. The staff report and minutes from the meeting are included as Attachments O and P, respectively.

Since the EQC meeting of May 3, 2006, the applicant has further refined the landscaping plan. To address the Commission's comment, the applicant incorporated 24-inch box coast live oak trees into the landscaping palette. Additionally, the applicant increased the number of replacement trees to 76, of which 36 would be 24-inch box and 14 would be 36-inch box. The number of heritage trees to be relocated has been reduced from four to three trees. The tree replacement and landscaping plan are included on Sheets I-44 through I-52 of Attachment I.

ANALYSIS

The project plans are included as Attachment I and a detailed analysis of the project is contained in the staff report for the Planning Commission meeting of October 23, 2006 (Attachment J). The applicant has provided a letter to highlight aspects of the project. The letter is included as Attachment Q. The focus of this report is to discuss issues raised at the October 23, 2006 Planning Commission meeting. Based on the Planning Commission's recommendation, staff has integrated the proposed Planning Commission additions and modifications into the Conditional Development Permit (Attachment F) in underline and strikeout format.

Pedestrian and Vehicular Circulation

The proposed development is accessed via a new private ring road with one ingress and egress from Willow Road. All the units would have access from the new private street, which would be privately maintained by the Homeowners Association (HOA) established for the development. The street would provide two 10-foot travel lanes with the exception of a small portion between the linear park and units 31 and 32, which would narrow to a width of approximately 18.5 feet. The narrower portion of the street would extend for approximately 75-100 feet. Staff believes the width of the street should maintain a constant 20-foot travel lane. Condition 5.15 requires a revised street section showing the increased street width.

At the Planning Commission meeting, the applicant requested that condition 5.15 be modified to retain the decreased width in order to increase the likelihood of the preservation of the existing redwood trees in the passive park. Staff explained to the Commission that the 20-foot road and the proposed four-foot sidewalk was already a reduction in the requirement to help reduce the amount of pervious surface and preserve existing trees. One Commissioner indicated that the proposed street is a closed loop that would have a limited amount of traffic. The Planning Commission recommended to modify condition 5.15 to allow an exception from the minimum 20-foot, two-way travel lane as shown on Sheet I-37 of Attachment I. While staff agrees that the street would have limited number of cars, staff continues to advise that the new private street maintain a minimum 20-foot travel lane. Condition 5.15 has not been modified as presented in Attachment A, but the Council should consider the Planning Commission recommendation and may wish to direct that the condition be modified to include the narrower width street segment.

Tree Preservation

The applicant has proposed a comprehensive landscaping plan which includes the preservation of 53 heritage trees and 35 non-heritage trees, the relocation of 3 heritage trees and 9 non-heritage, and the installation of 50 24-inch and 36-inch box trees and over 20 additional accent trees. The trees would be a mix of species to provide variation in size, color and foliage. The site layout of the project has been designed to maintain an existing courtyard area with mature trees and a water feature that would become the focal point of the development. Many of the existing trees along Willow Road would also be maintained, and as part of the project, a new parkstrip and street trees would be planted along Willow Road in front of the project.

The Planning Commission generally liked the elements of the landscaping plan including the passive park areas and the larger sized screening trees. One Commissioner indicated that it would be desirable to preserve an existing 18-inch deodar cedar tree (#208 on Sheets I-38 and I-45 of Attachment I) and inquired about the preservation of one additional redwood tree (#201 on Sheets I-38 and I-45 of Attachment I). In regard to the redwood tree, the applicant's arborist indicated that the combination of the tree structure with one large trunk and two relatively small trees that branch off and the location of the proposed house was the reason for removal. The arborist also indicated that there was a larger and healthier redwood tree nearby that would be preserved. The Commission recommended modifying condition 5.19 to require a revised landscape plan that shows preservation of tree #208 (18-inch deodar cedar). The proposed change is reflected in the revised conditions of approval included as Attachment F.

Fencing Along Willow Road

The proposed project reflects the style and materials of the surrounding Linfield Oaks neighborhood and Sunset Publishing buildings. The proposed homes along Willow

Road will front onto the street similar to other single-family residences along the street. The front facades of the units will provide an inviting streetscape. At the Planning Commission meeting, the applicant and the Commission discussed modifications from a three-rung to a two-rung cedar wood, split rail fence along Willow Road. The Planning Commission ultimately added 5.21 for revised drawings showing a two-rung split rail fence along Willow Road that is consistent with the existing split rail fence at 85 Willow Road. The applicant is in agreement with the change to a two-rung fence accented with rose bushes to match the Sunset Publishing building.

IMPACT ON CITY RESOURCES

Staff time spent on the development review of this project is fully recoverable through fees charged to the applicant.

Prior to building permit issuance, staff will collect all applicable fees, including, but not limited to, building permit fees and the Building Construction Street Fee. Additionally, the recreation in-lieu fee will be due prior to approval of the final map.

POLICY ISSUES

The project involves a land use change from commercial to residential use. The existing General Plan designation for the subject site is Professional and Administrative Offices, which allows residential uses at a density of 18.5 dwelling units per acre. The General Plan states that the applicable zoning designations are C-1, C-1-A, RC, R-3-C, and C-1-C. The existing zoning district is C-1, which is consistent with the Professional and Administrative Offices designation. However, residential uses are 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 a Medium Density Residential designation, 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.

Staff believes the proposed project is consistent with the proposed land use designation and goals and policies of the General Plan. The project diversifies the City's housing stock by providing single-family residences on smaller lots. Furthermore, the proposed open space areas and pedestrian and bicycle linkages, which connects the neighborhood, are amenities that enhance the quality of the neighborhood. The proposed project is compatible with the character and style of the traditional homes in the Linfield Oaks neighborhood by incorporating similar architectural design and materials.

ENVIRONMENTAL REVIEW

A Draft Environmental Impact Report (EIR) was prepared for the proposed project, and was released for public review from July 18, 2006 to August 31, 2006. Staff received seven comment letters from several public agencies, residents, and a law firm

representing the Linfield Oaks Neighborhood Association. These comments, in addition to comments received at the Draft EIR public hearing on July 31, 2006, are included in the Response to Comments on the Draft EIR. The Response to Comments and the Draft EIR comprise the Final EIR for the project. The comments question the adequacy of the Draft EIR and raise concerns about the loss of trees, traffic impacts and the proposed land use change. The Final EIR was released for public review on October 10, 2006 for a 10-day review period.

Subsequent to the release of the Final EIR, staff became aware of one additional comment letter on the Draft EIR, which was inadvertently not attached to the Response to Comments. The EIR consultant prepared an Addendum to the Final EIR comprised of a response to the letter. The public review period for the Addendum was extended until November 13, 2006.

During the public review period of the Final EIR, staff received two comment letters on the Final EIR, one of which was provided to the Planning Commission at its hearing on the proposed project on October 23, 2006 and the second which was presented to the Planning Commission on November 13, 2006.

As part of the City Council's action on the proposed project, the Council must consider several documents. In order to complete the EIR process and certify the 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 Draft EIR, describing the impact, the mitigation and the determination of significance. The Statement of Certification states that the City has met all procedural requirements of CEQA. The Mitigation Monitoring and Reporting Program (MMRP) establishes responsibility and timing for implementation of all required mitigation measures. The mitigation measures have been taken from the list of mitigations measures listed in Table 2.0-1 of the Draft EIR on pages 2.0-3 through 2.0-10 and as updated in the Final EIR. The Findings for Certification, including the Statement of Certification, and the Mitigation Monitoring and Reporting Program are included as Attachments B and C.

As identified in the Draft EIR, the project will result in significant, unavoidable aesthetic and traffic impacts. The October 23, 2006 Planning Commission staff report (Attachment J) includes a detailed discussion of the environmental impacts. In order to approve the project with significant and unavoidable adverse environmental impacts, the City Council must adopt a Statement of Overriding Considerations. This is a specific finding that the project includes substantial public benefit that outweighs its significant adverse environmental impact. The Statement of Overriding Considerations is part of the Findings for Certification, which is included as Attachment B.

The Planning Commission reviewed and recommended approval of the Final EIR, the Findings for Certification, including the Statement of Overriding Consideration, and the Mitigation Monitoring and Reporting Program at its meeting on October 23, 2006. The

City Council is the final decision-making body on all documents associated with the certification of the Final EIR.

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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. The notice was mailed to owners and residents within a 300-foot radius of the subject property and all owners and residents in the area roughly bounded by Nash 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, November 14, 2006
- B. Findings for Certification of the Environmental Impact Report
- 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 property at 75 Willow Road from Professional and Administrative Offices to Medium Density Residential
- E. Draft Ordinance rezoning property located at 75 Willow Road from C-1 (Administrative and Professional District - Restrictive) to R-3-X (Apartment – Conditional Development District)
- F. Draft Conditional Development Permit for 75 Willow Road, dated November 14, 2006
- G. Draft Below Market Rate Housing Agreement for 75 Willow Road
- H. Location Map
- I. Project Plans
- J. Planning Commission staff report (without attachments) from the meeting of October 23, 2006
- K. Draft minutes of the Planning Commission meeting of October 23, 2006
- L. Planning Commission staff report from the meeting of November 13, 2006
- M. Housing Commission staff report (without attachments) from the meeting of September 6, 2006
- N. Minutes from the Housing Commission meeting of September 6, 2006
- O. Environmental Quality Commission staff report (without attachments) from the meeting of May 3, 2006
- P. Minutes from the Environmental Quality Commission meeting of May 3, 2006
- Q. Letter from SummerHill Homes, dated November 8, 2006

The Following Documents with all of the Attachments were Distributed Previously and are Available for Review During Business Hours at the Planning Division

- City Council Study Meeting on Linfield/Middlefield/Willow Study Area Staff Report, June 22, 2004
- City Council Study Meeting on Linfield/Middlefield/Willow Study Area Staff Report, October 19, 2004
- Neighborhood meeting to receive input on the Linfield/Middlefield/Willow Study Area presentation, April 28, 2005
- City Council Meeting to Review Neighborhood Input and Direction on Future Land Uses and Review Process for Development Proposals in the Linfield/Middlefield/Willow Area, June 14, 2005
- City Council Staff Report to Review the Scope of Work for a Comprehensive Traffic Study for Development Proposals in the Linfield/Middlefield/Willow Area, August 23, 2005
- Environmental Quality Commission Staff Report and Minutes, September 12, 2005
- Planning Commission Study Session Staff Report, September 26, 2005
- Housing Commission Staff Report, October 5, 2005
- City Council Staff Report on LMW Area-Wide Transportation Impact Analysis, March 14, 2006
- Housing Commission Staff Report, April 5, 2006
- Planning Commission Study Session Staff Report, April 24, 2006
- Housing Commission Staff Report, dated July 5, 2006
- Draft Environmental Impact Report, dated July 2006
- Planning Commission Staff Report, July 31, 2006
- Final Environmental Impact Report, dated October 2006
- Planning Commission Staff Report, dated October 23, 2006

ATTACHMENT A

**DRAFT
November 14, 2006**

FINDINGS AND ACTIONS FOR APPROVAL OF 75 WILLOW ROAD

Environmental Review

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

General Plan Amendment

3. Make a finding that the proposed General Plan amendment to change the land use designation of property located at 75 Willow Road from Professional and Administrative Offices to Medium Density Residential for the development of 33 single-family, detached residential units, associated common areas and a private street would be consistent with the adopted General Plan.
4. Approve a resolution amending the General Plan to change the land use designation of property located at 75 Willow Road from Professional and Administrative Offices to Medium Density Residential.

Rezoning

5. Make a finding that the proposed rezoning of property located at 75 Willow Road from C-1 (Administrative and Professional District, Restrictive) to R-3-X (Apartment – Conditional Development District) is consistent with the General Plan land use designation of Medium Density Residential.
6. Introduce an ordinance rezoning property located at 75 Willow Road from C-1 (Administrative and Professional District, Restrictive) to R-3-X (Apartment - Conditional Development District).

Conditional Development Permit

7. Make a finding that the proposed conditional development permit 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 permit allows for development that provides opportunities for the City to increase and diversify its housing stock, provide five Below Market Rate housing units in compliance with the City's guidelines, provides open space within the development and pedestrian pathways to connect the neighborhood, and incorporates quality design and "green" building materials to promote sustainable development.
9. Approve the Conditional Development Permit for the construction of 33 single-family, detached residential units, associated common areas and a private street for property located at 75 Willow Road subject to the terms and conditions of the Conditional Development Permit.

Tentative Subdivision Map

10. Make a finding that the tentative subdivision map has been reviewed by the Engineering Division and has been found to be technically correct and in accordance with the State Subdivision Map Act and the City's Subdivision Ordinance.
11. Approve the Tentative Subdivision Map.

Below Market Rate Agreement

12. Approve the Below Market Rate Housing Agreement for five on-site BMR residential units to comply with the residential requirements of the BMR Program.

Heritage Tree Permit

13. Adopt findings, as per Chapter 13.24 of the Municipal Code, regarding heritage tree removal:
 - a. The removal of 45 heritage trees and the relocation of three heritage trees are generally located in areas of proposed building footprints or infrastructure improvements or potentially hazardous to the new buildings.
 - b. The proposed development preserves 54 heritage trees of greatest concern based on species, size and condition of the trees. The existing trees create several passive open spaces within the development
 - c. A total of 50 replacement trees, including 36 24-inch box and 14 36-inch box trees, are part of the landscaping palette. The trees will have a minimum height of 15 feet at the time of installation. Additionally, the project includes 26 accent trees on site.
14. Approve the heritage tree permit.

**THE CITY OF MENLO PARK CERTIFICATION OF THE
FINAL ENVIRONMENTAL IMPACT REPORT, FINDINGS, APPROVAL OF MITIGATION
MEASURES AND MITIGATION MONITORING AND REPORTING PROGRAM, AND
STATEMENT OF OVERRIDING CONSIDERATIONS
UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT
(Public Resources Code, Section 21000 et seq.)**

75 WILLOW ROAD RESIDENTIAL PROJECT

I. INTRODUCTION

On February 25, 2005, the City received an application from SummerHill Homes for a General Plan Amendment, Rezoning, Conditional Development Permit, and Tentative Subdivision Map at the site for 75 Willow Road Project. The approximately 4.5-acre project site is located at 75 Willow Road, between Middlefield Road and Waverley Street. Site access is from Willow Road. The site is developed with a two-story office building with an area of approximately 39,600 square feet, parking lots, and landscaped areas. The application proposes the following: to demolish the existing building, remove 98 trees (including 45 heritage trees) and relocate 12 trees (including 3 heritage trees), construct 33 single-family detached homes, construct a private road and guest parking spaces, provide about 9,200 square feet of landscaped common open space within the site boundaries, reconstruct the sidewalk along the Willow Road street frontage, and install new street trees and landscaping along the Willow Road street frontage. The proposal would require approval of the following:

- General Plan Amendment: Amendment to the General Plan Land Use Map for the site to change the land use designation for the site from Professional and Administrative Office to Medium Density Residential;
- Zoning Ordinance Amendment/Rezoning: Amendment to the Zoning Map for the site from Zone C-1 (Administrative and Professional, Restrictive) to Zone R-3-X (Medium Density Residential – Conditional Development District);
- Conditional Development Permit;
- Tentative Subdivision Map; and
- Heritage Tree Removal Permits.

California Environmental Quality Act (CEQA) guidelines require preparation of an EIR when a lead agency determines that there is evidence that a project may have a significant effect on the environment. The need to prepare an EIR for the project was established by the City as a result of a preliminary evaluation of the likely environmental effects resulting from construction and operation of the project.

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 April 10, 2006.

On July 18, 2006 the City released a Draft Environmental Impact Report for public review and comment. Copies of the DEIR were distributed to agencies, local governments, elected officials, groups and individuals. The comment period closed on August 31, 2006.

On October 5, 2006, the City of Menlo Park published a Final Environmental Impact Report (FEIR). The Findings and Recommendations made by the City of Menlo Park Planning staff, for recommendation by the Planning Commission and adoption by the City Council, are the City's findings under the 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 and project alternatives which in this Commission's and Council's view, justify approval of the Project.

II. GENERAL FINDINGS AND OVERVIEW

A. Procedural Background

A Notice of Preparation (NOP) for this EIR was distributed on April 10, 2006 to state, regional, and local agencies and interested parties for a 30-day review period. This Draft EIR was circulated for a 45-day review period beginning on July 18, 2006. The City prepared written responses to the comments received during the comment period. The Final EIR was published on October 5, 2006.

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 75 Willow Road Project 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 75 Willow Road Project.
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 75 Willow Road Project prepared by the City, consultants to the City, or responsible or trustee agencies with respect to the City's compliance with the requirements of CEQA and the project Entitlements.
5. 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.

C. 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 75 Willow Road Project, shall continue in full force and effect unless amended or modified by the City.

III. CERTIFICATION OF THE FINAL EIR

The Final EIR and Planning Commission staff report dated October 19, 2006 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 Final EIR prior to approving the project.

The City Council hereby finds that the Final EIR for the 75 Willow Road project is adequate, accurate and objective and reflects the independent judgment of the City; and the Final EIR contains no significant revisions to the Draft EIR.

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 Final EIR in compliance with CEQA and the CEQA Guidelines.

III. FINDINGS AND RECOMMENDATIONS REGARDING SIGNIFICANT AND UNAVOIDABLE IMPACTS

A. Aesthetics

Visual: Project and Cumulative Impacts to Scenic Resources

Implementing the proposed project would result in the removal of 46 heritage trees. The required replacement planting at the project site would meet the City's requirements for replacement of heritage trees. However, the project would not result in plantings of mature trees of the same species in the same locations on the project site, nor would the required replacement trees possess the same features of existing heritage trees.

Mitigation Measures. No mitigation measures are feasible for removal of Heritage Trees given the quantity, size and location of the trees proposed for removal and the fact that any replacement tree will take a number of years to reach comparable sizes as the trees removed.

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: Intersection of El Camino Real/Ravenswood Avenue, Intersection of Middlefield Road/Willow Road, and Intersection of Middlefield Road/Linfield Drive

Project development would contribute to unacceptable levels of service at the intersections of El Camino Real/Ravenswood Avenue (PM peak hour), Middlefield Road/Willow Road, and Middlefield Road/Linfield Drive (both peak hours).

Mitigation Measures.

Traffic 1b: : Intersection of El Camino Real/Ravenswood Avenue

The Circulation Element of the City's General Plan outlines a proposed mitigation plan that includes the addition of a third through lane in the northbound and southbound directions, a northbound right-turn lane, and an exclusive westbound right turn lane.

Traffic 8c: Intersection of Middlefield Road and Willow Road

The Circulation Element of the City's General Plan outlines a proposed mitigation plan that includes the addition of a second southbound left turn lane (using existing right of way) resulting in two dedicated left turn lanes, one through lane and one through-right turn lane; re-striping the eastbound approach; and modifying signal phasing.

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: The mitigation measures for the intersections of El Camino Real/Ravenswood Avenue and Middlefield Road/Willow Road are not considered feasible due to lack of funding to carry out the identified improvements and potentially undesirable consequences of such intersection modifications such as loss of on-street parking, deteriorated pedestrian environments, and offset intersection alignments. No mitigation is feasible for impacts to the intersection of Middlefield Road/Linfield Drive.

2. Remaining Impacts: Traffic impacts to these project area intersections cannot be mitigated, and significant and unavoidable impacts would still exist.

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

The proposed development at 75 Willow Road would result in significant roadway impacts at two of the six roadway segments that are identified as experiencing significant impacts from the three cumulatively proposed projects. Only two segments on Ravenswood Avenue would experience significant impacts: from Laurel Street to Alma Street, and from Alma Street to El Camino Real. Cumulative development would contribute additional daily traffic to eight local street segments. Based on the future cumulative plus 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 impacts to substantially lessen the number of vehicles using the immediate local streets.

2. Remaining Impacts: Traffic impacts to project area streets cannot be mitigated, and significant and unavoidable impacts would still exist.

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

A. Hydrology and Water Quality

Hydrology-3 and Water Quality:

Redevelopment of the project site could introduce sediments and other pollutants into the surface water runoff that could potentially degrade water quality.

Mitigation Measures:

The project applicant shall implement Best Management Practices for water quality treatment on the project site, 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), and #11 (use of on-site infiltration, vegetated swales or other comparable BMPs prior to discharge). BMPs shall include trash collecting devices at storm drain inlets and regular maintenance of such devices. Prior to grading permit issuance the applicant shall submit a grading and drainage plan, which includes BMPs subject to review and approval the City's Engineering Division. (This mitigation measure is identified as Mitigation Measure 4.2 in the Initial Study.)

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: Implementation of the mitigation measure above would reduce introduction of sediments and other pollutants to surface water to a level of less than significant.

2. Remaining Impacts: Any remaining impacts to hydrology would not be significant.

B. Transportation and Circulation***Traffic-1: Impacts to Project Area Intersections***

Project development would contribute to unacceptable levels of service at the intersections of Alma Street/Ravenswood Avenue (AM peak hour) and El Camino Real/Ravenswood Avenue (PM peak hour).

Mitigation Measures:

Traffic-1a: Intersection of Alma Street/Ravenswood Avenue

The following mitigation would bring the intersection of Alma Street and Ravenswood Avenue to an acceptable service level during the AM peak period.

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. This measure would have the effect of redistributing trips throughout the project area street network. Based on the number of vehicle trips involved (less than 50), a quantitative analysis of this redistribution was not conducted. However, based on the operating conditions at the intersection of Laurel Street and Ravenswood Avenue (LOS B), the redistribution of traffic would result in minimal changes. Therefore, the redistribution of traffic would not cause impacts at other study intersections or roadway segments.

Traffic 1c: Project Contributions to Intersection Impacts

Prior to building permit issuance, 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:

Adaptive signal timing improvements at the intersections of Middlefield Road and Ringwood Avenue and Middlefield Road and Ravenswood Avenue: \$2,400.

Installation of video detection devices at the intersections of Middlefield Road and Ringwood Avenue, Middlefield Road and Ravenswood Avenue, and Ravenswood Avenue and Laurel Street: \$44,000.

Upgrades to the Caltrain station bike shelter: \$6,500.

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: Implementation of the mitigation measures above would reduce the contribution to unacceptable levels of service on Alma Street/Ravenswood intersection to a level of less than significant.

2. Remaining Impacts: Any remaining impacts to the intersection of Alma Street/Ravenswood intersection would not be significant.

Traffic-8 Cumulative Impacts: Project Area Intersections

Cumulative development would cause or contribute to unacceptable levels of service at the intersections of Alma Street/Ravenswood Avenue (AM peak hour), El Camino Real/Ravenswood Avenue (PM peak hour), and Middlefield Road/Willow Road (both peak hours).

Mitigation Measures.

Traffic 8a: Intersection of Alma Street/Ravenswood Avenue

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. This measure would have the effect of redistributing trips throughout the project area street network. Based on the number of vehicle trips involved (less than 50), a quantitative analysis of this redistribution was not conducted. However, based on the operating conditions at the intersection of Laurel Street and Ravenswood Avenue (LOS B), the redistribution of traffic would result in minimal changes. Therefore, the redistribution of traffic would not cause impacts at other study intersections or roadway segments.

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: Implementation of the mitigation measures above would reduce the contribution to unacceptable levels of service on Alma Street/Ravenswood intersection to a level of less than significant.

2. Remaining Impacts: Any remaining impacts to the intersection of Alma Street/Ravenswood intersection would not be significant.

C. Geology

Geology 3h: Expansive Soils

The project site is blanketed by about 23 to 27 feet of hard clay with low to moderate expansivity, which has the potential for volume changes during seasonal fluctuations in moisture content.

Mitigation Measure

Expansive soils must be treated or replaced when forming the foundation support. If importation of off-site soils is required during construction, the project sponsor and its contractors shall avoid the use of expansive soils. Concurrent with the demolition permit submittal, a soils report shall be prepared, detailing how expansive soils must be treated or replaced when forming the foundation support. The report shall also incorporate all the recommended measures set forth in the Preliminary Geotechnical Investigation prepared by Lowney Associates. These recommended measures include: site specific preparation and grading techniques, specific foundation design (footings, post tension slab, drilled cast in place concrete piers), concrete slab-on-grade floors, a capillary moisture barrier, and adherence to the UBC seismic design. If importation of off-site soils is required during construction, the project sponsor and its contractors shall avoid the use of expansive soils. The project sponsor's contractors shall keep soils moist at all times before and during construction by either covering exposed soil when construction is not active or regularly watering the exposed soil to maintain a consistent moisture level. The project sponsor's contractors shall keep soils moist at all times before and during construction by either covering exposed soil when construction is not active or regularly watering the exposed soil to maintain a consistent moisture level.

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: Implementation of the mitigation measure above would reduce the impacts from expansive soil to a level of less than significant.

2. Remaining Impacts: Any remaining impacts to the expansivity of soils would not be significant.

D. Air Quality

Air Quality 5a: Air Quality Standards

Construction and grading activities could generate emissions from sources such as on-site stationary equipment, heavy-duty construction vehicles, construction worker vehicles, and other energy use. Fugitive dust is the primary air pollutant emitted by these activities. Although the project's construction-related emissions would be temporary in duration, in the absence of control measures, the emissions could be substantial.

Mitigation would reduce fugitive dust emissions and other construction-related impacts to air quality to a less-than-significant level

Mitigation Measure

Mitigation Measures.

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 the Planning Commission and City Council, this City Council finds that:

1. Effects of Mitigation: Implementation of the mitigation measure above would reduce the construction period impacts to a level of less than significant..

2. Remaining Impacts: Any remaining impacts related to air quality would not be significant.

E. Water Quality

Water 4c: Discharge into San Francisquito Creek

Stormwater from the project and vicinity flows into San Francisquito Creek. Redevelopment of the project site could introduce sediments and other pollutants into the surface water runoff that could potentially degrade water quality.

Mitigation Measure 4.3: See mitigation measure Hydrology-3 above

F. Biological Resources

Biology 7a: Endangered and Threatened Species

The existing office building on the site provides suitable roosting habitat for several special-status bat species. Should these bat species roost on the site, the demolition of the building could result in the loss of an active roost. The loss of an active bat roost would be a potentially significant impact. Mitigation would reduce roost-related impacts to a less-than-significant level.

The project would not disturb any endangered, threatened, or rare species, or their habitats. The project site does not contain suitable habitat for any special-status plant or wildlife species known to occur in the project region. However, the trees on the project site provide suitable nesting habitat for a variety of common bird species known to occur in the project area. Construction-related activities could result in the direct loss of active nests or the abandonment of active nests by adult birds during that year's nesting season. Bird nests with eggs or young are protected under the Migratory Bird Treaty Act

and the California Fish and Game Code. Mitigation would reduce impacts to nesting birds to a less-than-significant level.

Mitigation Measure 7.1: No earlier than 14 days prior to the commencement of demolition activities, a survey shall be conducted by a qualified biologist to determine if active bat roosts are present on the project site. If no bats are observed, then no further action would be required and demolition can proceed. Should an active roost be identified, a determination shall be made regarding whether the roost is used as a night-roost, day-roost, or maternity-roost. Should a night-roost be identified, the roost structure shall be removed during daylight hours while the roost is not in use. Should an active day-roost be identified, roosting bats shall be evicted through the use of humane exclusionary devices. Prior to implementation, the proposed methods for bat exclusion shall be approved by the California Department of Fish and Game. The roost shall not be removed until it has been confirmed by a qualified biologist that all bats have been successfully excluded. Should an active maternity-roost be identified (the breeding season of native bat species in California generally occurs from April 1 through August 31), the roost shall not be disturbed until the roost is vacated and juveniles have fledged, as determined by the biologist.

Mitigation Measure 7.2: The applicant 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 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.

Mitigation Measure 7.3: 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. Clearing and construction within the fenced area shall be postponed or halted until the nest is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting.

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: Implementation of the mitigation measure above would reduce the disturbance of threatened, endangered or rare species and their habitats to a level of less than significant.

2. Remaining Impacts: Any remaining impacts related to threatened and endangered species would not be significant.

Biology 7b: Locally Designated Species

The project would affect locally designated species (e.g., heritage trees). The proposed project would be required to comply with the Menlo Park Heritage Tree Ordinance and the City's Heritage Tree Replacement procedures, which delineate the ratio of trees a developer must replace for every heritage tree removed. Current landscape conceptual plans provided by the applicant shows that the proposed project could feasibly meet the tree planting requirements set by City staff. Mitigation would reduce the potential impacts to a less-than-significant level.

Mitigation Measure 7.4: The project applicant 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 project shall reflect compliance with the ordinance and procedures, and the applicant shall demonstrate that the required number of trees have been planted prior to project occupancy.

Mitigation Measure 7.5: The project applicant shall adhere to the tree protection and preservation plan included in the Tree Survey Report prepared by Walter Bemis, Consulting Arborist. The plan 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).

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: Implementation of the mitigation measure above would reduce the impacts on locally designated species to a level of less than significant.

2. Remaining Impacts: Any remaining impacts related to locally designated species would not be significant.

G. Hazardous Materials

Hazards 9a: Release of Hazardous Substances

Two water wells on site have not been properly abandoned, creating potential pathways for groundwater contamination during construction.

Mitigation Measure 9.1: The project applicant shall remove the wells on the project site and properly abandon them prior to or as part of site redevelopment. The wells shall be abandoned according to the requirements of the Department of Water Resources and San Mateo County Environmental Health Services Division.

No asbestos was found on site during a 1990 study, but there is a potential for asbestos-containing materials to be present in the building that could be released during demolition. Mitigation will ensure that an asbestos survey will be conducted prior to demolition, reducing potential hazard-related impacts to a less-than-significant level.

Mitigation Measure 9.2 Prior to demolition of the existing building, the applicant 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 may have regarding the disposal of lead-based paint materials.

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: Implementation of the mitigation measure above would reduce the release of hazardous substances to a level of less than significant.

2. Remaining Impacts: Any remaining impacts related to hazardous substances would not be significant.

H. Noise

Noise 10b: Exposure to Severe Noise Levels

Construction activities for the proposed project could result in increased short-term noise levels. These noise levels would be temporary and would occur intermittently during the 12-month construction process. The closest sensitive receptors to the project site are multifamily residences to the south of the site. The homes are located just beyond the site boundary, and are separated from the site by a fence and trees. Typical noise levels of construction equipment can range from 76 dB(A) to 89 dB(A) at 50 feet. Based on the types of equipment used, duration, and proximity, the construction activities of the proposed project could result in intermittent (outdoor) noise levels of up to 89 dB(A) at the nearest sensitive receptors. Mitigation would reduce the potential impacts to a less-than-significant level.

Mitigation Measure 10.1: The project applicant 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.

The proposed project would require a total of 7,278 cubic yards of cut and 13,399 yards of fill. Approximately 752 cubic yards of cut material (the existing parking lot asphalt) would be removed from the site; the remaining cut material would be re-used on site. Approximately 6,873 cubic yards of fill material would be imported to the site. Fill dirt is

typically hauled to a site in trucks with a 12- or 24-cubic yard capacity. Using the smaller trucks, project construction would involve about 573 round trips (6,873 cubic yards divided by 12 cubic yards) or 1,146 trips total over the 30-to 45-day grading period. With a 30-day grading period, there would be about 19 round trips (38 total trips) each day. The noise levels produced by heavy-duty trucks such as haul trucks can reach 82 dB(A) at 50 feet from the noise source. Nearby sensitive receptors, including surrounding residential areas, could be affected by construction and construction-related traffic noise; this would be a significant impact. Mitigation would reduce the potential impacts to a less-than-significant level.

Mitigation Measure 10.2: The project construction contractors shall use designated haul routes for all hauling-related trips to and from the project site. The routes shall be chosen by the City with the intent of minimizing noise impacts by keeping truck traffic away from sensitive receptors.

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: Implementation of the mitigation measure above would reduce the construction period impacts on noise to a level of less than significant.

2. Remaining Impacts: Any remaining impacts related to severe noise levels would not be significant.

I. Cultural Resources

Cultural 14b: Archaeological Resources

A records search conducted by the Northwest Information Center (NWIS), at Sonoma State University, indicated that there are no known archeological resources on the project site, and no known historic properties are located on site or within the project area. The project site has already been developed, so the likelihood of finding buried resources is reduced. However, construction activities such as excavation and grading could result in the discovery of previously unidentified archeological resources, a significant impact. Mitigation would reduce the potential impacts to a less-than-significant level.

Mitigation Measure 14.1: 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 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.

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: Implementation of the mitigation measure above would reduce impacts to archaeological resources to a level of less than significant.

2. Remaining Impacts: Any remaining impacts related archaeological resources 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 or 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, provide visual and physical access to the site, and preserve, protect and enhance the natural setting.

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 6.0-6 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, provide visual and physical access to the site, and preserve, protect and enhance the natural setting.

Explanation: Scenario One would not meet most of the project objectives, in that it would not provide market-rate or below-market-rate housing or develop high-quality improvements. Objectives related to tree preservation would be met under Scenarios One. Scenario Two would not meet the project objectives related to housing, but could meet the objectives related to preserving and enhancing the natural setting and tree preservation.

Alternative 2: Medical Office Building

The Medical Office Building Alternative is discussed on page 6.0-15 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, provide visual and physical access to the site, and preserve, protect and enhance the natural setting.

Explanation: The Medical Office Building Alternative would not meet most of the project objectives, in that it would not provide market-rate or below-market-rate housing or develop high-quality improvements. The objectives related to preservation and enhancement of the natural setting and tree preservation would be met.

VI. STATEMENTS OF OVERRIDING CONSIDERATIONS RELATED TO THE PROJECT FINDINGS

The Planning Commission 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 33 units, including units available to affordable to moderate income households.
4. The project will be of high quality housing at a density almost half of the legally allowed maximum, that is compatible with the densities of the surrounding multi-family and single-family residential neighborhood.
5. The project reduces the amount of impervious surface area thereby not exasperating an existing storm drainage system that lacks adequate capacity.
6. The project will contribute \$1,056,000 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 November 14, 2006 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 75 Willow Road project 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.

ATTACHMENT D

DRAFT
November 14, 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 PROPERTY LOCATED AT 75 WILLOW ROAD**

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 property located at 75 Willow Road to allow for the development of 33 single-family, detached residential units, associated common areas and a private street; 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
November 14, 2006

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY OF MENLO PARK, REZONING
PROPERTY LOCATED AT 75 WILLOW ROAD**

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 property located at 75 Willow Road (062-422-130) 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 – Conditional Development District).

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 P. Jellins
Mayor, City of Menlo Park

ATTEST:

Silvia M. Vonderlinden, City Clerk

DRAFT

CONDITIONAL DEVELOPMENT PERMIT

75 Willow Road

November 14, 2006

Redlined Conditions of Approval

*Showing Changes Incorporated at the October 23, 2006 Meeting in
Underline and ~~Strikeout~~ Format*

1. GENERAL INFORMATION:

1.1 Applicant: SummerHill Homes

1.2 Nature of Project: General Plan Amendment, Rezoning, Conditional Development Permit, Tentative Subdivision Map, and Heritage Tree Permit to allow for the construction of 33 single-family residential units, including five (5) Below Market Rate (BMR) units.

1.3 Property Location: 75 Willow Road

1.4 Assessor's Parcel Numbers: 062-422-130

1.5 Area of Property: 4.52 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 **36 percent** of the project site.

2.2 Lot coverage shall not exceed a **25 percent** of the project site.

2.3 Minimum landscaping shall be a minimum **50 percent** of the project site.

2.4 The maximum amount of pavement shall not exceed **25 percent** of the project site.

2.5 Building height shall not exceed **28.5 feet** from the finished grade (32 feet from existing 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. The Community Development Director may extend this date per Municipal Code Section 16.82.170.

4.2 Minor modifications to building exteriors and locations, fence styles and locations, signage, and significant landscape features may be approved by the Community Development Director or designee, based on the determination that the proposed modification is consistent with other building and design elements of the approved Conditional Development Permit and will not have an adverse impact on the character and aesthetics of the site. The Director may refer any request for revisions to the plans to the Planning Commission for architectural control approval. A public hearing could be called regarding such changes if deemed necessary by the Planning Commission.

4.3 Major modifications to building exteriors and locations, fence styles and locations, signage, and significant landscape features may be allowed subject to obtaining an architectural control permit from the Planning Commission, based on the determination that the proposed modification is compatible with the other building and design elements of the approved Conditional Development Permit and will not have an adverse impact on the character and aesthetics of the site. A public hearing could be called regarding such changes if deemed necessary by the Planning Commission.

4.4 Major revisions to the development plan which involve material changes in land use, expansion or intensification of development or a material relaxation in the standards of development set forth in Section 2 above constitute permit amendments that require public hearings by the Planning Commission and City Council.

4.5 Any application for amendment shall be made by at least one property owner, in writing, to the Planning Commission. The Planning Commission shall then forward its recommendation to the City Council for action.

5. PROJECT CONDITIONS:

- 5.1 Development of the project shall be substantially in conformance with the plans by Wilsey Ham and Dahlin Group, dated received by the Planning Division on October 18, 2006, consisting of 53 plan sheets, except as modified by the conditions contained herein.
- 5.2 Within one year from the date of approval of the tentative subdivision map, the applicant shall submit a Final Map for review and approval of the City Engineer. The subdivision map shall use a benchmark selected from the City of Menlo Park benchmark list as the project benchmark and the site benchmark.
- 5.3 Concurrent with Final Map submittal, the applicant shall submit covenants, conditions and restrictions (CC&Rs) for the approval of the City Engineer and the City Attorney. The Final Map and the CC&Rs shall be recorded concurrently. The CC&R's shall include language that:
 - 5.3.1. Prohibits all owners, tenants, and guests from parking any form of vehicle except in defined parking spaces.
 - 5.3.2. Prohibits parking on private streets overnight consistent with the Menlo Park Municipal Code Section 11.24.050.
 - 5.3.3. Requires that each homeowner maintain the garage to accommodate two vehicles.
 - 5.3.4. Requires the Homeowners Association to maintain the common landscaped areas within the subject site and in City's right-of-way along the entire property frontage.
- 5.4 Prior to Final Map approval, the applicant shall pay any applicable recreation fees (in lieu of dedication) per the direction of the City Engineer in compliance with Section 15.16.020 of the Subdivision Ordinance. The estimated value is \$1,056,000 (based on \$4 million value of acreage).
- 5.5 Prior to Final Map approval, the applicant shall submit improvement plans for all on-site and off-site improvements. The plans shall include details for utility systems, curbs, gutters, sidewalks, street lights, etc. The plans shall be subject to review and approval of the Public Works Department.
- 5.6 Concurrent with the improvement plan submittal, the applicant shall submit a Grading and Drainage Plan, including an Erosion and Sedimentation Control Plan, for review and approval of the City Engineer. The Grading and Drainage Plan shall be prepared based on the City's Grading and Drainage Plan Guidelines and Checklist and the Project Applicant Checklist for the National Pollution Discharge Elimination System (NPDES) Permit Requirements.

- 5.7 Prior to recordation of the Final Map, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
- 5.8 Prior to recordation of the Final Map, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
- 5.9 Prior to recordation of the Final Map, the existing structures shall be demolished after obtaining a demolition permit.
- 5.10 Prior to recordation of the Final Map, the applicant shall remove and replace all damaged, significantly worn, cracked, uplifted or depressed frontage improvements (e.g., curb, gutter, sidewalk) and install new improvements per City standards along the entire property frontage subject to the review and approval of the Engineering Division. The applicant shall obtain an encroachment permit prior to commencing any work within the right-of-way or public easements. If determined appropriate and subject to the approval of the Engineering Division, the applicant may enter into an agreement and provide a bond for the completion of the work prior to the recordation of the Final Map.
- 5.11 Prior to recordation of the Final Map, the applicant shall install new utilities to the point of service subject to review and approval of the City Engineer. All electric and communication lines servicing the project shall be placed underground. Each lot/unit shall have separate utility service connections. If determined appropriate and subject to the approval of the Engineering Division, the applicant may enter into an agreement and provide a bond for the completion of the work prior to the recordation of the Final Map.
- 5.12 Prior to grading permit issuance, the applicant shall submit a rough grading plan for review and approval of the Building and Engineering Divisions.
- 5.13 Concurrent with the submittal for a demolition permit and a rough grading permit, the applicant shall submit a plan for construction safety fences around the periphery of the construction area for review and approval of the Building Division. The fences shall be installed according to the plan prior to commencing construction.
- 5.14 Prior to grading permit issuance, the applicant shall pay the applicable Building Construction Street Impact Fee.
- 5.15 Concurrent with the building permit submittal for site improvements, the applicant shall submit a revised plan and street section, showing a minimum of a 20-foot travel lane and a four-foot sidewalk, for the proposed new private street subject to review and approval of the Transportation Division.
- 5.16 Prior to building permit issuance for the first house, the applicant may propose an alternative approach to meeting the BMR requirements. The

alternative approach would include dedicated funds and/or expertise equal to or greater than the value of the on-site BMR units to assist in and help ensure the feasibility of the Habitat for Humanity project proposed on Terminal Avenue. An alternative BMR agreement is subject to review and recommendation by the Housing Commission and review and approval of the City Council and would be in-lieu of some or all on-site BMR units and, if approved, would supersede the BMR agreement, dated _____.

- 5.17 Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.
- 5.18 Prior to demolition and building permit issuance, the applicant shall comply with the requirements of Chapter 12.48 (Salvaging and Recycling of Construction and Demolition Debris) of the City of Menlo Park Municipal Code.
- 5.19 Prior to building permit issuance for the first house, the applicant shall submit a detailed landscape plan, including the size, species, and location, and irrigation plan for review and approval of the Planning Division and the Public Works Department. The plan shall be revised to incorporate the preservation of tree #208 (18-inch deodar cedar). The landscaping plan shall comply with the Water Efficient Landscaping Ordinance (Municipal Code Chapter 12.44). Landscaping within the City right-of-way shall include City approved street plant materials. The landscaping for each house shall be installed prior to final building inspection of the subject house.
- 5.20 Prior to building permit issuance, the applicant shall pay all applicable school impact fees associated with the project.
- 5.21 Concurrent with the building permit submittal, the applicant shall provide a revised detailed drawing of the proposed two-rung split rail fence along Willow Road. A revised Willow Road streetscape shall also be submitted that shows the proposed fencing and homes in context with the adjacent Sunset building and existing split rail fencing subject to the review and approval of the Planning Division.
- 5.215.22 Prior to grading permit issuance, the project applicant shall implement Best Management Practices for water quality treatment on the project site, per the City of Menlo Park Grading and Drainage Plan Guidelines and checklist, subject to review and approval by the Engineering Division. 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), and #11 (use of on-site infiltration, vegetated swales or other comparable BMPs prior to discharge). BMPs shall include trash-collecting devices at storm drain inlets and regular maintenance of such devices. Prior to grading permit issuance the applicant shall also submit a grading and drainage plan, which includes BMPs subject to review and approval the City's Engineering Division. (MM 4.2)

5.23 Prior to building permit issuance, the applicant shall pay \$4,000 to the City to install signage to prohibit left turns and through movements from Alma Street during the AM peak period (similar to current operations during the PM peak period). The signage shall be installed prior to occupancy. The condition is only applicable if the improvement has yet been funded by another project. (MM TRAF- 1a)

5.24 Prior to building permit issuance of the first house, 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:

~~—Alma Street/Ravenswood Avenue right turn only restriction (if the improvement has not yet been funded by another project): \$4,000.~~

- Adaptive signal timing improvements at the intersections of Middlefield Road and Ringwood Avenue and Middlefield Road and Ravenswood Avenue: \$2,400.
- Installation of video detection devices at the intersections of Middlefield Road and Ringwood Avenue, Middlefield Road and Ravenswood Avenue, and Ravenswood Avenue and Laurel Street: \$44,000.
- Upgrades to the Caltrain station bike shelter: \$6,500. (MM TRAF-1c)

5.235.25 Concurrent with the ~~building permit submittal for the first~~ housedemolition permit submittal, a soils report shall be prepared, detailing how expansive soils must be treated or replaced when forming the foundation support. The report shall also incorporate all the recommended measures set forth in the Preliminary Geotechnical Investigation prepared by Lowney Associates. These recommended measures include: site specific preparation and grading techniques, specific foundation design (footings, post tension slab, drilled cast in place concrete piers), concrete slab-on-grade floors, a capillary moisture barrier, and adherence to the UBC seismic design. If importation of off-site soils is required during construction, the project sponsor and its contractors shall avoid the use of expansive soils. The project sponsor's contractors shall keep soils moist at all times before and during construction by either covering exposed soil when construction is not active or

regularly watering the exposed soil to maintain a consistent moisture level. The soils report shall be subject to review and approval by the Building Division. (MM 3.1)

5-245.26 Prior to demolition permit issuance, implement the following air quality control measures, subject to review and approval by the Building Division:

- 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.
- 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.
- Encourage the implementation of the following optional measures:
- 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. (MM 5.1)

5-255.27 No earlier than 14 days prior to the commencement of demolition activities, a survey shall be conducted by a qualified biologist to determine if active bat roosts are present on the project site. If no bats are observed, then no further action would be required and demolition can proceed. Should an active roost be identified, a determination shall be made regarding whether the roost is used as a night-roost, day-roost, or maternity-roost. Should a night-roost be identified, the roost structure shall be removed during daylight hours while the roost is not in use. Should an active day-roost be identified, roosting bats shall be evicted through the use of humane exclusionary devices. Prior to implementation, the proposed methods for bat exclusion shall be reviewed and approved by the Planning Division and California Department of Fish and Game. The roost shall not be removed until it has

been confirmed by a qualified biologist that all bats have been successfully excluded. Should an active maternity-roost be identified (the breeding season of native bat species in California generally occurs from April 1 through August 31), the roost shall not be disturbed until the roost is vacated and juveniles have fledged, as determined by the biologist. (MM 7.1)

5.265.28 Prior to the commencement of grading, the applicant 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 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, and shall be subject to review and approval by the Planning Division. (MM 7.2) 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. Clearing and construction within the fenced area shall be postponed or halted until the nest is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. (MM 7.3)

5.275.29 Prior to building permit issuance for the first house, the project applicant 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 project shall reflect compliance with the ordinance and procedures, and the applicant shall demonstrate that the required number of trees have been planted prior to project occupancy. The final landscaping plans shall be subject to review and approval by the Planning Division. (MM 7.4)

5.285.30 The project applicant shall adhere to the tree protection and preservation plan included in the Tree Survey Report prepared by Walter Bemis, Consulting Arborist. The plan 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). (MM 7.5)

5.295.31 Prior to grading permit issuance, the project applicant shall remove the wells on the project site and properly abandon them prior to or as part of site redevelopment. The wells shall be abandoned according to the requirements of the Department of Water Resources and San Mateo County Environmental Health Services Division, and subject to review and approval by the Building Division. (MM 9.1)

5.305.32 Prior to demolition permit issuance, the applicant shall survey the building for the presence of asbestos and lead-based paint. The survey shall be subject to review and approval by the Building Division. 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 may have regarding the disposal of lead-based paint materials. (MM 9.2)

5.315.33 Prior to demolition permit issuance, the project applicant shall incorporate noise reduction measures into project construction activities, subject to review and approval by the Planning and Building Divisions. 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. (MM 10.1)

5.325.34 Concurrent with the demolition permit submittal, the project construction contractors shall submit a plan designating haul routes for all hauling-related trips to and from the project site during construction. The applicant shall submit a plan with the intent of minimizing noise impacts by keeping truck traffic away from sensitive receptors, subject to review and approval by the Planning and Transportation Divisions. (MM 10.2)

5.335.35 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 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. (MM 14.1)

Recommended for Approval by the
Menlo Park Planning Commission on
October 23, 2006

Arlinda Heineck, Community
Development Director

Approved by the
Menlo Park City Council on
_____, 2006

Silvia M. Vonderlinden, City Clerk

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 _____ ("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 75 Willow Road and consists of assessor's parcel number(s) 062-422-130-5.

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 39,600 square feet to thirty three (33) residential units of which five (5) shall be detached below market rate ("BMR Units").

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 4, 10, 14, 19, 32 on Exhibit "C" attached hereto. The floor plans showing the approximate size and layout of the BMR Units are shown on Exhibit D attached hereto.

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

5. 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 and indistinguishable from those to be provided as standard items/features in the market rate units, except for upgrades purchased by individual buyers. In the event individual upgrade items/features are purchased by 80% or more of the market rate units, such individual upgrade items/features shall become the standard for BMR units.

6. 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 6.1 and 6.2, below.

6.1 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.

6.1.1 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.

6.1.2. 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."

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

6.1.4. Calculate the **"Actual Monthly Housing Expenses:"** Add the following costs associated with a particular BMR Unit, as more particularly described in Paragraph 6.2 below, and divide by twelve (12): a) any loan fees, escrow fees and other closing costs (amortized over 360 months) and/or private mortgage insurance associated therewith; b) property taxes and assessments; c) fire, casualty insurance and flood insurance, if required; d) property maintenance and repairs, deemed to be One Hundred Dollars (\$100) per month; e) a reasonable allowance for utilities as set forth in the Guidelines, not including telephones, and f) homeowners association fees, if applicable.

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

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

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

6.2.1. Mortgage Interest Rate. The mean average of contract interest rates on the date that the Sales Price is set, for fixed rate, 30-year "Conforming" mortgages (presently \$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.

6.2.2. 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.

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

6.2.4. Loan to Value Ratio. The maximum ratio of the dollar amount of a Conforming mortgage to the sales price of a home which a lender is willing to approve at a given point in time. For purposes of this Agreement, the Loan to Value Ratio shall be calculated as the mean average of the maximum Loan to Value Ratios as quoted by three local lenders selected on a random basis by the City from a list of lenders who actively make loans to homebuyers and who participate in the Mortgage Credit Certificate program.

6.2.5. Housing Expense Ratio. The mean average of the housing expense ratio as reported on the date that the sales price is set, for fixed rate, 30-year mortgages of \$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.

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

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

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

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

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

6.3. The Sales Price shall be agreed upon in writing by Owner and the Community Development Director or designee no later than the date of the Final Inspection, or at an earlier date agreed to by the Developer and the Community Development Director or designee, and before the process begins to find a buyer.

7. As a condition precedent to a Final Inspection of any market rate unit at least one (1) BMR Unit shall have passed Final Inspection, and no more than nine (9) market rate units shall have passed Final Inspection until a second BMR unit passes Final Inspection. In any event, the last BMR unit must pass Final Inspection before the last market rate unit passes Final Inspection.

8. If there is a standard pre-sale requirement by the BMR applicant's lender for a certain percentage of units in the project to be sold before the BMR applicant's lender

will close escrow on the loan, then the time for the City's purchase or the buyer's purchase will be extended until that requisite number of units has closed.

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

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

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

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

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

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

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

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

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

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

19. The execution and delivery of this Agreement shall not be deemed to be for the benefit of the third party purchasers of the BMR units or any other third party and any and all obligations and responsibilities of Owner under this Agreement are to the City for whose benefit this Agreement has been entered into. No third party purchaser of a BMR or market rate unit, homeowners' association or any other third party shall obtain any

rights or standing to complain that the BMR units were not constructed, designed, sold or conveyed in accordance with this Agreement, or the BMR Ordinance and 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.

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

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

H:/BMR/BMR Agree/Drafts/75 Willow BMR Agreement – September 2006



PLANNING COMMISSION STAFF REPORT

FOR THE PLANNING COMMISSION
MEETING OF OCTOBER 23, 2006
AGENDA ITEM C2

LOCATION:	75 Willow Road	APPLICANT	SummerHill Homes
		PROPERTY OWNER:	EJC Partners L.P.
EXISTING USE:	Office Building		
PROPOSED USE:	Single-Family Detached Residential	APPLICATIONS:	General Plan Amendment, Rezoning, Conditional Development Permit, Tentative Subdivision Map, Heritage Tree Permit, Environmental Review
EXISTING ZONING:	C-1 (Administrative and Professional District, Restrictive)	PROPOSED ZONING:	R-3-X (Apartment – Conditional Development District)
EXISTING GENERAL PLAN DESIGNATION:	Professional and Administrative Offices	PROPOSED GENERAL PLAN DESIGNATION:	Medium Density Residential

PROPOSAL

The applicant is proposing to demolish an existing 40,000 square-foot office building and construct 33 single-family residential units on an approximate 4.5-acre site located at 75 Willow Road. The proposal requires the approval of the following requests:

- **General Plan Amendment:** Change from Professional and Administrative Offices land use designation to Medium Density Residential;

- **Rezoning:** Change from C-1 (Administrative and Professional District, Restrictive) to R-3-X (Apartment – Conditional Development District);
- **Conditional Development Permit:** Establish specific uses and development regulations and architectural designs;
- **Tentative Subdivision Map:** Creation of 33 single-family lots and associated common areas and private street;
- **Heritage Tree Permit:** Removal of 46 heritage trees and relocation of 3 heritage trees; and
- **Environmental Review** of the proposed project in the form of an Environmental Impact Report (EIR).

The proposal requires review and recommendations by the Planning Commission on the General Plan Amendment, Rezoning, Conditional Development Permit, and EIR. The City Council is the final decision-making body on these applications. The City Council will also consider the recommendation of the Environmental Quality Commission in regard to the proposed Heritage Tree Permit and the recommendation by the Housing Commission in regard to the Below Market Rate Housing (BMR) Agreement.

BACKGROUND

Linfield/Middlefield/Willow Area Study

Since 2002, the City has been considering potential land use changes to the existing commercial properties in the Linfield/Middlefield/Willow (LMW) area as part of the review of specific development proposals and overall land use considerations for the area. The proposed project located at 75 Willow Road is one of the sites that have been discussed for an alternative land use by a private applicant. Neighborhood meetings and City Council sessions were conducted to provide input and direction on the process and review of the land uses for the various sites, including 321 Middlefield Road, which is also being considered at the October 23, 2006 Planning Commission meeting. With respect to 75 Willow Road, the City Council in June 2005 provided direction to pursue the potential land use change from office to residential. Additionally, on August 23, 2005, the City Council directed staff to proceed with a comprehensive traffic study of the LMW area (inclusive of 75 Willow Road, 321 Middlefield Road and 8 Homewood Place) with DKS Associates to identify potential traffic impacts and potential mitigation measures. The traffic study is included in the Draft Environmental Impact Report.

Planning Commission Study Sessions

The Planning Commission conducted two study sessions on the proposed project. The first session was held on September 26, 2005 and the second session was held on April 24, 2006. The staff reports are available at the Planning Division during business hours. The study sessions allowed the applicant to receive input from the Planning Commission and members of the public on the proposed project. In general, the Commission liked the site layout, the mix of unit types, and the architectural style and incorporation of quality materials, but questioned the appropriateness of tandem garage spaces on eight of the 33 residences. At the same time, Commissioners and several members of the public raised concern about the appropriateness of the change in land use and the consistency of the proposed project's density with the Linfield Oaks neighborhood.

Since that time, the applicant has worked to address concerns raised by the Commission and members of the public. To address parking issues, the applicant has reduced the number of Plan 4 units, which incorporated the tandem parking arrangement, and have provided an additional on-street parking space. These items and other updated items are further discussed in the Pedestrian and Vehicular Circulation and Parking and Architecture and Materials sections below.

Draft Environmental Impact Report Review

Based on the Initial Study, a Draft Environmental Impact Report (EIR) was prepared and circulated for 45 days, from July 18, 2006 to August 31, 2006. On July 31, 2006, the Planning Commission conducted a public hearing on the Draft EIR. The purpose of the meeting was to receive comments on the document by members of the Commission and the public. The staff report from the July 31, 2006 meeting is included as Attachment H. Minutes from the PC meeting are included in the Response to Comments of the Final EIR, distributed previously to the Planning Commission and available from the Planning Division.

Housing Commission - Below Market Rate Proposal

The BMR Guidelines specify that in residential developments of 20 or more units, the developer shall provide not less than 15 percent of the units at below market rates to very low-, low- or moderate-income households. In this case, the project would be required to provide 4.95 BMR units. If the number of BMR units includes a fraction of a unit, the developer shall provide either a whole unit or make a residential in-lieu payment for the fractional unit. The developer is proposing to round up and provide five on-site BMR units.

The applicant proposes five BMR units, which is slightly greater than the required 15 percent. The applicant has appeared before the Housing Commission at four meetings to receive input and to consider if the proposal meets the Housing Program requirements.

The applicant's proposal has evolved since the first Housing Commission meeting on October 5, 2005. The type of units, the distribution of BMR units amongst the unit types, and square footages have been modified based on input from the Housing Commission and comments provided by staff, the Planning Commission, Environmental Quality Commission and the public.

On September 6, 2006, the Housing Commission recommended approval of the on-site BMR proposal. The staff report for the September 6, 2006 Housing Commission meeting, which includes a brief synopsis of the previous meetings, is included as Attachment I. The Draft BMR Agreement is included as Attachment J.

During the review of the proposal, staff introduced a possible alternative approach to meeting the project BMR requirement. The alternative would involve the project applicant dedicating funds and/or expertise to assist in and help ensure the feasibility of the Habitat for Humanity project proposed on Terminal Avenue in lieu of the provision of on-site moderate-income BMR units. The basis for the alternative approach is a combination of a strong need for very-low and low-income BMR units and the difficulties of development Terminal Avenue site. A more detailed discussion is in the September 6, 2006 Housing Commission staff report. The Commission generally supported the alternative concept and recommended that the applicant further explore this approach. Commission support for the BMR proposal recognizes that the recommended proposal may be superseded at a later day by an alternative off-site BMR proposal.

The applicant is still actively exploring the alternative approach. Should the alternative come to fruition, staff has added a condition to allow the City Council the flexibility to modify the BMR proposal at a later date.

Environmental Quality Commission – Heritage Tree Permit

The subject site contains 199 trees, of which 102 are heritage size. The species vary, but are predominantly eucalyptus along the western and northern edges and a mix of coast redwood, eucalyptus, and deodar cedar within the interior of the site. The applicant proposes to remove 46 heritage trees and 53 non-heritage trees and relocate three heritage trees and nine non-heritage trees. Of the proposed heritage trees for removal, the majority of the trees are eucalyptus and red iron bark. Of the non-heritage size trees proposed for removal, the majority are deodar cedar and white birch. Many of the significant trees along the Willow Road frontage, including several clusters of heritage redwood trees, are proposed to remain. Additionally, several mature, heritage size trees from the site would be relocated to the frontage along Willow Road, including an elm tree and an olive tree.

The proposed heritage tree removal/relocation and replacement plan requires review and a recommendation by the Environmental Quality Commission (EQC) and review and approval by the City Council. The applicant attended two EQC meetings to discuss the tree removal and replacement plan. At the September 12, 2005 meeting, several Commissioners focused on the red iron bark trees along the western border. They felt

this was an effective screening for the existing properties and it would be appropriate for each individual property to seek removal as desired. The City's consulting arborist indicated that these trees were old, and would need to be removed within a few years and recommended that new trees be planted. Furthermore, the applicant indicated that all but one of the adjacent property owners, felt the removal of the eucalyptus trees was appropriate. The eucalyptus tree that was asked to be preserved at the edge of the property at Willow Road will be maintained and is shown on the proposed landscaping plan. As a replacement, the applicant is proposing 36-inch box trees that will have a height of at least 15 feet at the time of installation.

On May 3, 2006, the applicant returned to the EQC for a recommendation. At that meeting, the applicant provided a revised tree replacement plan, which included a few additional trees, which would also be larger than the typical 15-gallon replacement tree. The Commission, in general, was pleased with the proposal to plant many larger sized replacement trees (24-inch and 36-inch box sizes), but asked that more of the replacement trees be native species. The Commission supported the tree removal and replacement plan by a vote of 3-1-1. Since that time, the applicant has incorporated 24-inch box coast live oak trees into the landscaping palette. The staff report and minutes for the May 3, 2006 meeting are included as Attachment L and M, respectively.

ANALYSIS

The purpose of the October 23, 2006 public hearing on this proposal is to give the public and the Planning Commission an opportunity to comment on the project and the Final EIR that has been prepared. Subsequent to receiving public comment, the Commission should formulate and forward to the City Council its recommendation on the proposed project and Final EIR.

Site and Surrounding Context

The 4.5-acre site is generally rectangular in shape and is located at 75 Willow Road, between Waverley Street and Middlefield Road in the Linfield Oaks area. The property is developed with an approximate 40,000-square foot commercial office building, which is partially occupied. The subject site is surrounded by multi-family residential uses to the west and single-family residential units (under construction) to the north at 175 Linfield Drive. Two projects, one at 175 Linfield Drive and one at 110 Linfield Drive were recently approved by the City Council in March 2006 for a combined 56 single-family residential units. Office buildings are located to the north and to the south across Willow Road.

Proposed Project

The proposed project would consist of demolition of the existing office building and the construction of 33 single-family residences, the associated common areas, including several passive open space areas and a pedestrian pathway to the adjacent residential

project at 175 Linfield Drive, and a new private street accessed from Willow Road. The site plan integrates the various components into one comprehensive development plan.

The 33 residential units range in size from 1,713 square feet to 2,389 square feet, exclusive of the attached garage. Five of the units would be Below Market Rate (BMR) housing units. There are five primary floor plans, with two of the floor plans having slight variations for a few of the units. The units would contain three or four bedrooms and two and one-half baths each. The applicant has provided a letter to highlight aspects of the project and changes since the last Planning Commission meeting in July. The letter is included as Attachment K.

Architecture and Materials

The proposed project includes traditional architectural styles that reflect elements of the Linfield Oaks neighborhood and the nearby Sunset Publishing buildings. The project provides 13 different, but compatible elevations, to provide variation and individuality to the homes. The exterior finish of the buildings would utilize a variety of quality materials and decorative elements such as architectural sectional garage doors, simulated divided light wood windows, shutters, planter boxes, and heavy composition shingle roofing. Decorative paving would be used at the front entry of the development as well as on driveways with different patterns to enhance the streetscape. Furthermore, all of the Plan 5 units would include a “hollywood strip” in their driveway. The grass strip inlaid into the driveway between the widths of the wheels can add a decorative element, and also reduce the amount of impervious surface to the site.

At the July 31, 2006 Planning Commission meeting, the Commission commented on the desire to integrate “green building” materials and sustainable building design features into the project. The proposed project would include both standard features, including meeting Energy Star Guidelines for increased energy efficiency, use of recycled content decking, and flyash concrete, a waste product of coal power plants on all foundations. Optional features offered include tankless water heaters, whole house vacuums, and recycled material countertops, which would be at each homeowner’s discretion. An itemized list is included in Attachment K.

Pedestrian and Vehicular Circulation and Parking

The development is accessed via a new private road from Willow Road. The new street would form a loop with one ingress and egress point. The street would provide two 10-foot wide travel lanes with the exception of a small portion between the linear park and units 31 and 32, which would narrow to approximately an 18.5 feet-foot width. The road width should maintain a constant 20-foot travel lane and staff has added a condition to require revised plans. The slight increase in road width could impact several existing non-heritage trees and reduce the overall landscaping and increase the impervious surface on site.

Most of the residential units would face the road with the exception of those units facing Willow Road or those located in a flag lot configuration. However, all vehicular access to the residential units would be from the new internal private street. The site layout provides an attractive streetscape along Willow Road as well as within the project.

Thirty of the units contain a two car, side-by-side garage and three units include a tandem garage arrangement. The Commission had previously raised concern about the appropriateness of a tandem parking situation in the Plan 4 units. Partly in response to the Commission's concern, the applicant explored design alternatives and created Plan 5, which contains similar square footages as Plan 4, but with a two-car, side-by-side garage. The proposed number of tandem parking spaces has been reduced from eight to three. All of the garages would provide a minimum dimension of 20 feet by 20 feet for a two car, side-by-side garage or 10 feet by 40 feet for a two-car tandem garage. Additionally, each of the units would provide a driveway, which on average would provide an additional two, off-street parking spaces. A parking diagram is included in Attachment B. The applicant has indicated that the Conditions, Covenants and Restrictions (CC&Rs) for the development would include provisions to require that the garage be maintained to accommodate two vehicles.

The proposed project would also provide 12 designated street parking spaces, which would be available for guests. The parallel stalls are situated along the inner edge of the ring road and located throughout the development. Similar to the City's regulation, the applicant is proposing to restrict overnight parking on the private street.

The site design considers pedestrian and bicycle linkages within the site and connections to the neighborhood. The applicant proposes to continue the pedestrian and bicycle path from the recently approved residential development at 175 Linfield Drive. The path would connect to a sidewalk within the project site, which would lead to Willow Road where it would have access to the Willow Place bicycle and pedestrian bridge to the City of Palo Alto.

During one of the study sessions, the Planning Commission asked about the possibility of creating a sidewalk along the internal edge of the ring road. The proposed project includes a continuous sidewalk along the outer edge of the ring road where a majority of the homes are accessed. The sidewalk would be a minimum of four feet in width to comply with Americans with Disabilities Act (ADA), but would increase to five feet for the portion between the pedestrian path and the front entrance along the western side of the development, which would likely be the more traveled route to Willow Road given its shorter distance. While a second sidewalk could be desirable, staff does not believe it is warranted from a pedestrian safety perspective. Staff also believes the lack of a second sidewalk allows for the preservation of existing trees, provides larger front and side yards to the various units, and reduces the amount of impervious surfaces.

Heritage Trees and Landscaping

The applicant has proposed a comprehensive landscaping plan which preserves many heritage trees and provides for the installation of 50 24-inch and 36-inch box trees, which would be installed with a minimum height of 15 feet. Some of these trees would be used for screening along the northern and western property lines that are adjacent to residential uses. Additionally, the applicant has offered to upsize seven trees from 15 gallon to 36-inch box size located along the rear property line of 175 Linfield Drive to provide more immediate screening benefit due to the unanticipated removal of the eucalyptus trees along the rear border at the time the project was approved.

The project incorporates several passive open space areas. The main feature is a passive open space area located at the front entrance of the development. This space, with mature landscaping, benches and a water feature, is currently an interior courtyard in the existing building, which is not visible from the street. The applicant proposes to preserve this space and create it as a focal point to the front entrance of the proposed project. The second passive space is smaller and linear and would also incorporate the preservation of existing trees. Both of these open space areas would be accessible by the general public, but would not be dedicated as City parkland. Maintenance of these areas would be provided by the development's Homeowners Association (HOA). The project would also contribute to the City's park system through the payment of the Recreation In-Lieu Fee.

Project Land Use Entitlements

The proposed project would require changes to the General Plan and the Zoning Map. The General Plan designation is Professional and Administrative Offices and the zoning is C-1 (Administrative and Professional District, Restrictive). The applicant is proposing to change the General Plan designation to Medium Density Residential and change the underlying zoning classification to R-3 (Apartment District) to be consistent with the land use designation and the adjacent residential properties along Waverley Street and Linfield Drive. The proposal includes the use of the "X" (Conditional Development) zoning designation in order to consider alternative development standards as described below.

The following table provides the density, floor area ratio, the building coverage, height, paving, and landscaping calculations compared to the requirements of the underlying R-3 zoning district.

Density, FAR, Building Coverage, Height, Paving and Landscaping Comparisons

	75 Willow Road	Maximum Allowed in R-3 District
Density (dwelling unit per acre)	7.3 du/ac	18.5 du/ac
Floor Area Ratio (FAR)	36%	45%
Coverage	25%	30%
Paving	25%	20%
Landscaping	50%	50%
Note: All calculations are based on the gross land area		

The table shows that the project will be within the standard R-3 requirements for all of the items, except for paving, which includes the street, sidewalks and driveways. This figure, however, does not take into consideration the features that have been incorporated into the design of the project to reduce the amount of impervious surface. Some of the driveways include permeable pavers and Hollywood grass strips to reduce the amount of paving. The provided paved areas provides a safe vehicular and pedestrian circulation system. The increase in paving is counterbalanced by a decrease in lot coverage by a corresponding five percent.

In addition to the increase in maximum paving, the applicant is requesting an exception to the following development standards through the Conditional Development zoning and permit process:

- Decrease in the minimum lot area and dimension requirements;
- Decrease in the minimum setback requirements from property lines and buildings; and
- Exception to independently accessible parking spaces for three units.

The following table provides the lot sizes, setbacks and heights compared to the requirements of the underlying R-3 zoning district.

	75 Willow Road	R-3 District Requirement
Lot Area	2,702 sf	7,000 sf
Lot Width	36.5	70 ft. min.
Lot Depth	65	100 ft. min.
Setbacks		
Front	12 ft.	20 ft. min.
Rear	13 ft.	15 ft. min.
Side	5 ft.	10 ft. min.
Side	5 ft.	10 ft. min.
Between Buildings	10 ft.	35 ft. max.
Height	32 ft. (28.2*)	35 ft. max
Note: The listings reflect the extreme condition (minimum or maximum)		
*Measured from finished grade		

The chart reflects the extreme condition for the proposed development. For example, the lot sizes range from 2,702 square feet to 7,173 square feet, with an average lot size of approximately 4,700 square feet. The development provides articulation through the use of front porches (minimum 12-foot setback) and recessed garages, which have a minimum setback of 18 feet from the new street. The maximum height of the residences would be 28.2 feet from finished grade, which can be a similar height to a two-story single-family residence. The applicant proposes to cut and fill the site to achieve the desired grading. The finished grade would range from minus one-foot to plus 3.6 feet, with an average fill of 1.4 feet above existing grade. The maximum height, therefore, measured from existing grade would be a maximum of 32 feet, which is approximately one foot taller than the existing office building. No exceptions are needed for height.

General Plan Amendment and Rezoning

The proposed residential development has been identified as a potential housing site by the City Council. The Planning Commission may wish to consider the goals and policies contained in the General Plan that are related to residential development. Two of the goals most applicable to the proposal are listed below.

- **Land Use I-A:** To maintain and improve the character and stability of Menlo Park's existing residential neighborhoods while providing for the development of a variety of housing types. The preservation of open space shall be encouraged.
- **Housing III-A:** To promote the development of a balanced range of housing types and densities for all economic segments and all geographic areas of the community.

Other land use policies that the Planning Commission may wish to consider relate to encouraging design that improves the stability and character of the individual neighborhood, providing quality design that also encourages open space and the character of Menlo Park, and providing housing opportunities at higher densities throughout the City, particularly near public transit and transportation corridors.

Staff believes that the project is consistent with the proposed land use designation and goals and policies of the General Plan and that it is appropriate to make the required finding. The proposed housing diversifies the City's housing stock by providing single-family residences on smaller lots, provides housing for a range of economic groups with varying square footages, and the includes five BMR units. The proposed layout provides residential units with the incorporation of two open space areas, one of which is being preserved from the existing use, and a pedestrian and bicycle pathway. The pathway provides connectivity within the neighborhood, which should encourage pedestrian activity. The proposed amenities serve and enhance the quality of the neighborhood.

The proposed land use change is appropriate given the location of the site surrounded by two properties with similar land use designations and commercial office buildings. The proposed residential development would be approximately one mile to various local and regional public transportation systems and the downtown area, which is consistent with the policies of the General Plan. The proposed project matches the character and style of the traditional homes of the Linfield Oaks neighborhood by incorporating similar architectural design and materials. With several of the homes fronting onto Willow Road, the development pattern matches those of the single-family residences further west along Willow Road. Staff believes the proposal is consistent with the goals and policies of the General Plan.

Conditional Development Permit

The Conditional Development Permit (CDP) establishes the development regulations for the properties and the conditions of approval. The CDP (Attachment G) includes terms for minor changes to the exterior of the units, landscaping, and fencing through an administrative review process. Major modifications to the exterior of the units, landscaping and fencing may be considered through an architectural control application to the Planning Commission. Modifications involving room additions or other expansion, construction of accessory structures, or a change in land use, development standards or conditions would require an amendment to the CDP and City Council approval.

Staff believes that the use of the Conditional Development Permit is appropriate. The proposed development meets the major development requirements of floor area ratio, lot coverage, and landscaping. The exceptions related to lot area, setbacks and parking are appropriate given the overall site design and the preservation of the mature trees, which 1) provides an attractive and compatible design comparable to the neighborhood, 2) allows for private open space on each individual lot as well as two common, open space areas that include variety of native trees, plants shrubs and decorative pavers for the nearby residents to enjoy, 3) creates similar orientation of the units along Willow Road to maintain the consistency of development pattern, and 4) integrates sustainable materials and reduces the amount of impervious surface on the site. The development standards and conditions of approval have been created to ensure that the proposed components of the project are built and operating consistent with the intent of the project.

Tentative Subdivision Map

The applicant is proposing to subdivide the 4.5-acre site into 33 lots plus two common areas labeled as Parcel 'A' and Parcel 'B'. The Engineering Division and affected agencies and utilities have reviewed the map and have determined that it is technically correct and in compliance with the State Subdivision Map Act and the City's Subdivision Ordinance subject to the conditions of approval.

ENVIRONMENTAL REVIEW

A Draft Environmental Impact Report (EIR) was prepared for the proposed project, and was released for public comment from July 18, 2006 to August 31, 2006. Staff received seven comment letters from several public agencies, residents, and a law firm representing the Linfield Oaks Neighborhood Association. These comments, in addition to comments received at the Draft EIR public hearing on July 31, 2006, are included in the Response to Comments on the Draft EIR. Staff also received one additional comment letter during the review period, but was inadvertently not attached to the Response to Comments. This letter with responses by the EIR Consultant are included as Attachment N. The Final EIR review period will be extended to include the additional letter. The Response to Comments and the Draft EIR comprise the Final EIR for the project. The comments question the adequacy of the Draft EIR and raise concerns about the loss of trees, traffic impacts and the proposed land use change. Staff also received one letter following the close of the public review period, which is included as Attachment O.

The Final EIR was released for public review on October 10, 2006. Staff plans to continue the review period of the Final until November 13, 2006 at 5:30 p.m. To date, no letters have been received on the Final EIR. Staff would note one clarification in the existing Final EIR document. Item 3.14 in response to comment F-5 indicates that the City has an adopted General Plan and the project does not include an amendment to the plan. To clarify, the proposed project is not requesting an amendment to the General Plan text, but is requesting an amendment to the map for a change in land use designation.

In order to complete the EIR process and certify the 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 Draft EIR, describing the impact, the mitigation and the determination of significance. The Statement of Certification states that the City has met all procedural requirements of CEQA. The Mitigation Monitoring and Reporting Program (MMRP) establishes responsibility and timing for implementation of all required mitigation measures. The mitigation measures have been taken from the list of mitigations measures listed in Table 2.0-1 of the Draft EIR on pages 2.0-3 through 2.0-10 and as updated in the Final EIR. The Findings for Certification, including the Statement of Certification, and the Mitigation Monitoring and Reporting Program are included as Attachments C and D.

As identified in the Draft EIR Analysis of Impacts section below, the project will result in significant, unavoidable aesthetic and traffic impacts. In order to approve the project with significant and unavoidable adverse environmental impacts, the City Council must adopt a Statement of Overriding Considerations. This is a specific finding that the project includes substantial public benefit that outweighs its significant adverse environmental impact. The Statement of Overriding Considerations is part of the Findings for Certification, which is included as Attachment C.

The Planning Commission should review and forward a recommendation to the City Council on the adequacy of the Final EIR, Findings for Certification, the Statement of Overriding Consideration, Statement of Certification and Mitigation Monitoring and Reporting Program. The City Council will be the final decision-making body on all documents associated with the certification of the Final EIR.

EIR Analysis of Impacts

The Draft EIR analyzes the potential environmental impacts of the project on focused impact areas. The Draft EIR, through the Initial Study, determined that the project would have a less-than-significant impact without the need for mitigation on the following impact areas: land use and planning, population and housing, energy and mineral resources, public services, utilities and service systems, and recreation. For most of the remaining environmental impact areas, including, geologic problems, water, air quality, biological resources, hazards, noise, and cultural resources, the Draft EIR, including the Initial Study, concluded that the project would have a less-than-significant impact with the adoption of specific mitigation measures. Most of these mitigation measures are typical and often included with larger development projects. A complete list of these mitigation measures is included in the Mitigation Monitoring and Reporting Program (Attachment F). These mitigation measures would be included as conditions of approval for the project.

The Draft EIR found that two of the environmental impact areas would have significant unavoidable impacts as a result of the project. These are aesthetics and transportation and are explained in more detail below.

Aesthetics

Although the applicant will retain many of the existing heritage trees on site, the Draft EIR concludes that the proposed project and the project's contribution to cumulative tree removals would result in significant unavoidable impacts to scenic resources due to the removal of 46 heritage trees. The City's requirements for removing heritage trees require the replanting of suitable trees, but will take a number of years to grow to sizes comparable to the trees slated for removal. The Draft EIR concludes that there are no feasible mitigation measures to address this visual impact.

Transportation

The transportation analysis considered impacts to signalized and unsignalized intersections, roadway segments, transit, bicycle and pedestrian access, and site access, circulation and parking. The proposed project was considered in the LMW Area-Wide Transportation Impact Analysis which included proposed projects located at 321 Middlefield Road and 8 Homewood Place.

During the LMW Analysis review by the City Council, staff provided a list of mitigation measures that would be shared amongst the applicants. The table, included as Table

4.3-9 of the Draft EIR, identifies the measures, the percent allocation for each improvement by each applicant, and the method for meeting the requirement.

Specific to 75 Willow Road, the following mitigation measures/improvements were identified. As noted later in the report, not all are feasible.

- *Intersection of Alma Street and Ravenswood Avenue:* Prohibition of left and through movements from Alma Street during the AM peak period. The prohibition shall become effective prior to occupancy of the first project completed.
- *Intersection of El Camino Real and Ravenswood Avenue:* Include the addition of a third through lane in the northbound and southbound directions on El Camino Real, a northbound right-turn lane, and an exclusive westbound right turn lane.
- *Project Contributions to Intersection Impacts or Related Benefits:*
 - Adaptive signal timing improvements at the intersection of Middlefield Road and Ringwood Avenue and Middlefield Road and Ravenswood Avenue: \$2,400;
 - Installation of video detection devices at the intersections of Middlefield Road and Ringwood Avenue, Middlefield Road and Ravenswood Avenue, and Ravenswood Avenue and Laurel Street: \$44,000; and
 - Upgrades to the Caltrain bike shelter: \$6,500.

Near-Term Impacts to Project Area Intersections: Peak-Hour Traffic

Together with 321 Middlefield Road and the 8 Homewood Place, the proposed project would affect operating conditions in the AM peak hour at 11 of the 15 study intersections, which are identified on Figure 4.3-1 of the Draft EIR. However, the average delay of nine of the intersection would range from 0.2 and 0.8, which would be below the City's threshold for significance. The northbound approach from Alma Street to Ravenswood Avenue would continue to operate at LOS E and the average delay would increase by 5.2 seconds and would be considered a significant impact.

In the PM peak hour, 14 of the 15 study intersections would be impacted. The intersection at El Camino Real and Ravenswood Avenue would continue to operate at LOS E, and the average delay would increase by approximately 5.4 seconds. The increase in average delay for critical movements on the east and westbound approaches would be approximately 3.6 and 30 seconds, respectively. The increase in delay exceeds the 0.8-second threshold of the City of Menlo Park's Transportation Impact Analysis (TIA) Guidelines and therefore, the project impacts in the PM peak hour to the intersection of El Camino Real and Ravenswood Avenue would be considered significant.

With the proposed mitigation measures, the impact at the intersection of Alma Street and Ravenswood Avenue in the AM peak hour would be reduced to a less than significant level. However, the impact at the intersection of El Camino Real and Ravenswood Avenue would remain significant and unavoidable because implementation of the proposed mitigation measures pose some constraints given the

existing right-of-way limitations and the fact that City does not have jurisdiction over the intersection.

Near Term Impacts to Project Area Streets: Average Daily Trips

The addition of project traffic, added to the near-term scenario, would be greater than the significance criteria in the TIA Guidelines on six of the ten study roadway segments for the three projects in the LMW Study. For the project at 75 Willow Road, individually, the EIR states that the project would result in impacts at two of the six roadway segments as follows:

- Ravenswood Avenue (Laurel Street to Alma Street) and
- Ravenswood Avenue (Alma Street to El Camino Real).

Adaptive signal timing, as identified above in the list of project mitigation measures, has been considered for Ravenswood Avenue. However, the improvement may only decrease the delay by five to 10 percent. Ravenswood Avenue would continue to have a significant and unavoidable impact because adaptive signal timing improves delay, but does not decrease volumes.

Cumulative Impacts to Project Area Intersections: Peak-Hour Traffic

Similar to the near term project scenario, the cumulative scenario would have impacts at the intersections of Alma Street and Ravenswood Avenue and El Camino Real and Ravenswood Avenue. Proposed mitigation would reduce the impact on Alma Street and Ravenswood Avenue, but until mitigation becomes feasible at El Camino Real and Ravenswood Avenue, the impact remains significant and unavoidable.

Under the cumulative scenario, the Middlefield Road and Willow Road intersection would have impacts during the AM and PM peak hours. The impact at the intersection would remain significant and unavoidable because implementation of the proposed mitigation measure would create other impacts and safety concerns.

The traffic volumes in the long-range plus project conditions, including all three projects, would meet a warrant for a traffic signal at the intersection of Middlefield Road and Linfield Drive. However, the installation of the signal could create additional impacts elsewhere, including increased traffic on internal streets in the Linfield Oaks neighborhood. In addition, the signal would mitigate impacts during the PM peak hour, but would cause delays during the remainder of the day. This would be inconsistent with the General Plan Circulation Element for arterial roadway operations and therefore, the proposed mitigation measure is considered infeasible. Because the proposed mitigation is infeasible, the cumulative impact remains significant and unavoidable. Nevertheless, staff and the City Council have identified a desire to improve the safety for pedestrians crossing Middlefield Road either at the intersection with Linfield Drive or in close proximity. The exact improvement has not been identified at this time, but

given the location of the 75 Willow Road project, it is not expected to contribute financially toward a potential improvement.

Cumulative Impacts Project Area Streets: Average Daily Trips

Under the cumulative scenario, two additional roadway segments (Middlefield Road and Laurel Street) would be greater than the significance criteria in the TIA Guidelines for the three projects. For 75 Willow Road, individually, the EIR states that the project would result in impacts to the same two roadway segments as the near term, and not the two additional segments.

CORRESPONDENCE

Staff has received various correspondence letters from residents regarding the project. These have been included in previous documents. Since the Draft EIR review period, staff has received one letter, included as Attachment O. The letter expresses concern about the loss of heritage trees and the creation of a private street. The resident believes the new street should be public and that the removed heritage trees should be moved to public streets and that the trees should be replaced at a one-to-one ratio and planted on or near public streets around the project.

The proposed project intends to create a parkstrip with trees along the frontage of the property where street trees do not exist. Furthermore, the applicant is proposing to install 76 replacement trees, of which 50 are at 24-inch box or greater, for the loss of 46 heritage trees. Additionally, the applicant will be relocating two olive trees (one heritage size and one non-heritage size) to the neighboring property at 85 Willow Road.

RECOMMENDATION

The proposed single-family residential development is well designed, compatible with the surrounding mix of residential and office uses, and appropriate in scale and density for the site. The proposed General Plan Amendment, Rezoning, and Conditional Development Permit are necessary for the development of the proposed project, which is consistent with several goals and policies of the City's General Plan. As indicated in the Draft EIR, the proposed project would have a less than significant impact in all environmental impact areas except for traffic and aesthetics due to loss of trees. Staff believes that the benefits of the proposed project outweigh the potential significant and unavoidable impacts. Staff recommends that the Planning Commission recommend certification of the EIR and Statement of Overriding Considerations, and recommend approval of the General Plan Amendment, Rezoning, the Conditional Development Permit, and the Tentative Subdivision Map as follows:

Environmental Review

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

General Plan Amendment

3. Make a finding that the proposed General Plan amendment to change the land use designation of property located at 75 Willow Road from Professional and Administrative Offices to Medium Density Residential for the development of 33 single-family, detached residential units, associated common areas and a private street would be consistent with the adopted General Plan.
4. Approve a resolution amending the General Plan to change the land use designation of property located at 75 Willow Road from Professional and Administrative Offices to Medium Density Residential.

Rezoning

5. Make a finding that the proposed rezoning of property located at 75 Willow Road from C-1 (Administrative and Professional District, Restrictive) to R-3-X (Apartment – Conditional Development District) is consistent with the General Plan land use designation of Medium Density Residential.
6. Introduce an ordinance rezoning property located at 75 Willow Road from C-1 (Administrative and Professional District, Restrictive) to R-3-X (Apartment - Conditional Development District).

Conditional Development Permit

7. Make a finding that the proposed conditional development permit 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 permit allows for development that provides opportunities for the City to increase and diversify its housing stock, provide five Below Market Rate housing units in compliance with the City's guidelines, provides open space within the development and pedestrian pathways to connect the neighborhood, and incorporates quality design and "green" building materials to promote sustainable development.

9. Approve the Conditional Development Permit for the construction of 33 single-family, detached residential units, associated common areas and a private street for property located at 75 Willow Road subject to the terms and conditions of the Conditional Development Permit.

Tentative Subdivision Map

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

11. Approve the Tentative Subdivision Map.

Deanna Chow
Senior Planner
Report Author

Justin Murphy
Development Services Manager

PUBLIC NOTIFICATION

Public notification consisted of publishing a legal notice in the local newspaper and notification by mail of owners and residents. The notice was mailed to owners and residents within a 300-foot radius of the subject property and all owners and residents in the area roughly bounded by Nash Avenue to the east, San Francisquito Creek to the south, Alma Street to the west, and Ravenswood Avenue to the north. Planning Commission action will be in the form of a recommendation to the City Council.

ATTACHMENTS

- A. Location Map
- B. Project Plans
- C. Findings for Certification of the Environmental Impact Report, including the Statement of Overriding Considerations
- D. Mitigation Monitoring and Reporting Program for the Environmental Impact Report
- E. Draft Resolution amending the General Plan to change the land use designation of the property located at 75 Willow Road from Professional and Administrative Offices to Medium Density Residential
- F. Draft Ordinance rezoning property located at 75 Willow Road from C-1 (Administrative and Professional District, Restrictive) to R-3-X (Apartment – Conditional Development District)
- G. Draft Conditional Development Permit, dated October 23, 2006
- H. Planning Commission staff report for the meeting of July 31, 2006 (without attachments)

- I. Housing Commission staff report for the meeting of September 6, 2006 (without attachments)
- J. Draft Below Market Rate Agreement for 75 Willow Road
- K. Letter from SummerHill Homes, dated October 18, 2006
- L. Environmental Quality Commission staff report for the meeting of May 3, 2006 (without attachment)
- M. Environmental Quality Commission Minutes for the meeting of May 3, 2006
- N. Letter from Don Brawner, dated August 31, 2006 and Response to Comments (to be part of Final EIR)
- O. L. Peter Deutsch, dated October 9, 2006

Previous Documents Available for Review During Business Hours at the Planning Division

- City Council Study Meeting on Linfield/Middlefield/Willow Study Area Staff Report, June 22, 2004
- City Council Study Meeting on Linfield/Middlefield/Willow Study Area Staff Report, October 19, 2004
- Neighborhood meeting to receive input on the Linfield/Middlefield/Willow Study Area presentation, April 28, 2005
- City Council Meeting to Review Neighborhood Input and Direction on Future Land Uses and Review Process for Development Proposals in the Linfield/Middlefield/Willow Area, June 14, 2005
- City Council Staff Report to Review the Scope of Work for a Comprehensive Traffic Study for Development Proposals in the Linfield/Middlefield/Willow Area, August 23, 2005
- Environmental Quality Commission Staff Report and Minutes, September 12, 2005
- Planning Commission Study Session Staff Report, September 26, 2005
- Housing Commission Staff Report, October 5, 2005
- City Council Staff Report on LMW Area-Wide Transportation Impact Analysis, March 14, 2006
- Housing Commission Staff Report, April 5, 2006
- Planning Commission Study Session Staff Report, April 24, 2006
- Housing Commission Staff Report, dated July 5, 2006
- Draft Environmental Impact Report, dated July 2006
- Planning Commission Staff Report, July 31, 2006
- Final Environmental Impact Report, dated October 2006

EXHIBITS TO BE PROVIDED AT MEETING

- Colors and Material Board

Note: Attached are reduced versions of maps and diagrams submitted by the applicant. The accuracy of the information in these drawings is the responsibility of the

applicant, and verification of the accuracy by City Staff is not always possible. The original full-scale maps and drawings are available for public viewing at the Community Development Department.

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**THE CITY OF MENLO PARK CERTIFICATION OF THE
FINAL ENVIRONMENTAL IMPACT REPORT, FINDINGS, APPROVAL OF MITIGATION
MEASURES AND MITIGATION MONITORING AND REPORTING PROGRAM, AND
STATEMENT OF OVERRIDING CONSIDERATIONS
UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT
(Public Resources Code, Section 21000 et seq.)**

75 WILLOW ROAD RESIDENTIAL PROJECT

I. INTRODUCTION

On February 25, 2005, the City received an application from SummerHill Homes for a General Plan Amendment, Rezoning, Conditional Development Permit, and Tentative Subdivision Map at the site for 75 Willow Road Project. The approximately 4.5-acre project site is located at 75 Willow Road, between Middlefield Road and Waverley Street. Site access is from Willow Road. The site is developed with a two-story office building with an area of approximately 39,600 square feet, parking lots, and landscaped areas. The application proposes the following: to demolish the existing building, remove 105 trees (including 46 heritage trees) and relocate 12 trees (including 3 heritage trees), construct 33 single-family detached homes, construct a private road and guest parking spaces, provide about 9,200 square feet of landscaped common open space within the site boundaries, reconstruct the sidewalk along the Willow Road street frontage, and install new street trees and landscaping along the Willow Road street frontage. The proposal would require approval of the following:

- General Plan Amendment: Amendment to the General Plan Land Use Map for the site to change the land use designation for the site from Professional and Administrative Office to Medium Density Residential;
- Zoning Ordinance Amendment/Rezoning: Amendment to the Zoning Map for the site from Zone C-1 (Administrative and Professional, Restrictive) to Zone R-3-X (Medium Density Residential – Conditional Development District);
- Conditional Development Permit;
- Tentative Subdivision Map; and
- Heritage Tree Removal Permits.

California Environmental Quality Act (CEQA) guidelines require preparation of an EIR when a lead agency determines that there is evidence that a project may have a significant effect on the environment. The need to prepare an EIR for the project was established by the City as a result of a preliminary evaluation of the likely environmental effects resulting from construction and operation of the project.

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 April 10, 2006.

On July 18, 2006 the City released a Draft Environmental Impact Report for public review and comment. Copies of the DEIR were distributed to agencies, local governments, elected officials, groups and individuals. The comment period closed on August 31, 2006.

On October 5, 2006, the City of Menlo Park published a Final Environmental Impact Report (FEIR). The Findings and Recommendations made by the City of Menlo Park Planning staff, for recommendation by the Planning Commission and adoption by the City Council, are the City's findings under the 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 and project alternatives which in this Commission's and Council's view, justify approval of the Project.

II. GENERAL FINDINGS AND OVERVIEW

A. Procedural Background

A Notice of Preparation (NOP) for this EIR was distributed on April 10, 2006 to state, regional, and local agencies and interested parties for a 30-day review period. This Draft EIR was circulated for a 45-day review period beginning on July 18, 2006. The City prepared written responses to the comments received during the comment period. The Final EIR was published on October 5, 2006.

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 75 Willow Road Project 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 75 Willow Road Project.
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 75 Willow Road Project prepared by the City, consultants to the City, or responsible or trustee agencies with respect to the City's compliance with the requirements of CEQA and the project Entitlements.
5. 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.

C. 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 75 Willow Road Project, shall continue in full force and effect unless amended or modified by the City.

III. CERTIFICATION OF THE FINAL EIR

The Final EIR and Planning Commission staff report dated October 19, 2006 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 Final EIR prior to approving the project.

The City Council hereby finds that the Final EIR for the 75 Willow Road project is adequate, accurate and objective and reflects the independent judgment of the City; and the Final EIR contains no significant revisions to the Draft EIR.

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 Final EIR in compliance with CEQA and the CEQA Guidelines.

III. FINDINGS AND RECOMMENDATIONS REGARDING SIGNIFICANT AND UNAVOIDABLE IMPACTS

A. Aesthetics

Visual: Project and Cumulative Impacts to Scenic Resources

Implementing the proposed project would result in the removal of 46 heritage trees. The required replacement planting at the project site would meet the City's requirements for replacement of heritage trees. However, the project would not result in plantings of mature trees of the same species in the same locations on the project site, nor would the required replacement trees possess the same features of existing heritage trees.

Mitigation Measures. No mitigation measures are feasible for removal of Heritage Trees given the quantity, size and location of the trees proposed for removal and the fact that any replacement tree will take a number of years to reach comparable sizes as the trees removed.

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: Intersection of El Camino Real/Ravenswood Avenue, Intersection of Middlefield Road/Willow Road, and Intersection of Middlefield Road/Linfield Drive

Project development would contribute to unacceptable levels of service at the intersections of El Camino Real/Ravenswood Avenue (PM peak hour), Middlefield Road/Willow Road, and Middlefield Road/Linfield Drive (both peak hours).

Mitigation Measures.

Traffic 1b: : Intersection of El Camino Real/Ravenswood Avenue

The Circulation Element of the City's General Plan outlines a proposed mitigation plan that includes the addition of a third through lane in the northbound and southbound directions, a northbound right-turn lane, and an exclusive westbound right turn lane.

Traffic 8c: Intersection of Middlefield Road and Willow Road

The Circulation Element of the City's General Plan outlines a proposed mitigation plan that includes the addition of a second southbound left turn lane (using existing right of way) resulting in two dedicated left turn lanes, one through lane and one through-right turn lane; re-striping the eastbound approach; and modifying signal phasing.

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: The mitigation measures for the intersections of El Camino Real/Ravenswood Avenue and Middlefield Road/Willow Road are not considered feasible due to lack of funding to carry out the identified improvements and potentially undesirable consequences of such intersection modifications such as loss of on-street parking, deteriorated pedestrian environments, and offset intersection alignments. No mitigation is feasible for impacts to the intersection of Middlefield Road/Linfield Drive.

2. Remaining Impacts: Traffic impacts to these project area intersections cannot be mitigated, and significant and unavoidable impacts would still exist.

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

The proposed development at 75 Willow Road would result in significant roadway impacts at two of the six roadway segments that are identified as experiencing significant impacts from the three cumulatively proposed projects. Only two segments on Ravenswood Avenue would experience significant impacts: from Laurel Street to Alma Street, and from Alma Street to El Camino Real. Cumulative development would contribute additional daily traffic to eight local street segments. Based on the future cumulative plus 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 impacts to substantially lessen the number of vehicles using the immediate local streets.

2. Remaining Impacts: Traffic impacts to project area streets cannot be mitigated, and significant and unavoidable impacts would still exist.

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

A. Hydrology and Water Quality

Hydrology-3 and Water Quality:

Redevelopment of the project site could introduce sediments and other pollutants into the surface water runoff that could potentially degrade water quality.

Mitigation Measures:

The project applicant shall implement Best Management Practices for water quality treatment on the project site, 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), and #11 (use of on-site infiltration, vegetated swales or other comparable BMPs prior to discharge). BMPs shall include trash collecting devices at storm drain inlets and regular maintenance of such devices. Prior to grading permit issuance the applicant shall submit a grading and drainage plan, which includes BMPs subject to review and approval the City's Engineering Division. (This mitigation measure is identified as Mitigation Measure 4.2 in the Initial Study.)

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: Implementation of the mitigation measure above would reduce introduction of sediments and other pollutants to surface water to a level of less than significant.

2. Remaining Impacts: Any remaining impacts to hydrology would not be significant.

B. Transportation and Circulation***Traffic-1: Impacts to Project Area Intersections***

Project development would contribute to unacceptable levels of service at the intersections of Alma Street/Ravenswood Avenue (AM peak hour) and El Camino Real/Ravenswood Avenue (PM peak hour).

Mitigation Measures:

Traffic-1a: Intersection of Alma Street/Ravenswood Avenue

The following mitigation would bring the intersection of Alma Street and Ravenswood Avenue to an acceptable service level during the AM peak period.

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. This measure would have the effect of redistributing trips throughout the project area street network. Based on the number of vehicle trips involved (less than 50), a quantitative analysis of this redistribution was not conducted. However, based on the operating conditions at the intersection of Laurel Street and Ravenswood Avenue (LOS B), the redistribution of traffic would result in minimal changes. Therefore, the redistribution of traffic would not cause impacts at other study intersections or roadway segments.

Traffic 1c: Project Contributions to Intersection Impacts

Prior to building permit issuance, 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:

Alma Street/Ravenswood Avenue right turn only restriction (if the improvement has not yet been funded by another project): \$4,000.

Adaptive signal timing improvements at the intersections of Middlefield Road and Ringwood Avenue and Middlefield Road and Ravenswood Avenue: \$2,400.

Installation of video detection devices at the intersections of Middlefield Road and Ringwood Avenue, Middlefield Road and Ravenswood Avenue, and Ravenswood Avenue and Laurel Street: \$44,000.

Upgrades to the Caltrain station bike shelter: \$6,500.

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: Implementation of the mitigation measures above would reduce the contribution to unacceptable levels of service on Alma Street/Ravenswood intersection to a level of less than significant.

2. Remaining Impacts: Any remaining impacts to the intersection of Alma Street/Ravenswood intersection would not be significant.

Traffic-8 Cumulative Impacts: Project Area Intersections

Cumulative development would cause or contribute to unacceptable levels of service at the intersections of Alma Street/Ravenswood Avenue (AM peak hour), El Camino Real/Ravenswood Avenue (PM peak hour), and Middlefield Road/Willow Road (both peak hours).

Mitigation Measures.

Traffic 8a: Intersection of Alma Street/Ravenswood Avenue

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. This measure would have the effect of redistributing trips throughout the project area street network. Based on the number of vehicle trips involved (less than 50), a quantitative analysis of this redistribution was not conducted. However, based on the operating conditions at the intersection of Laurel Street and Ravenswood Avenue (LOS B), the redistribution of traffic would result in minimal changes. Therefore, the redistribution of traffic would not cause impacts at other study intersections or roadway segments.

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: Implementation of the mitigation measures above would reduce the contribution to unacceptable levels of service on Alma Street/Ravenswood intersection to a level of less than significant.

2. Remaining Impacts: Any remaining impacts to the intersection of Alma Street/Ravenswood intersection would not be significant.

C. Geology

Geology 3h: Expansive Soils

The project site is blanketed by about 23 to 27 feet of hard clay with low to moderate expansivity, which has the potential for volume changes during seasonal fluctuations in moisture content.

Mitigation Measure

Expansive soils must be treated or replaced when forming the foundation support. If importation of off-site soils is required during construction, the project sponsor and its contractors shall avoid the use of expansive soils. The project sponsor's contractors shall keep soils moist at all times before and during construction by either covering exposed soil when construction is not active or regularly watering the exposed soil to maintain a consistent moisture level.

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: Implementation of the mitigation measure above would reduce the impacts from expansive soil to a level of less than significant.

2. Remaining Impacts: Any remaining impacts to the expansivity of soils would not be significant.

D. Air Quality

Air Quality 5a: Air Quality Standards

Construction and grading activities could generate emissions from sources such as on-site stationary equipment, heavy-duty construction vehicles, construction worker vehicles, and other energy use. Fugitive dust is the primary air pollutant emitted by these activities. Although the project's construction-related emissions would be temporary in duration, in the absence of control measures, the emissions could be substantial. Mitigation would reduce fugitive dust emissions and other construction-related impacts to air quality to a less-than-significant level

Mitigation Measure

Mitigation Measures.

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 the Planning Commission and City Council, this City Council finds that:

1. Effects of Mitigation: Implementation of the mitigation measure above would reduce the construction period impacts to a level of less than significant..

2. Remaining Impacts: Any remaining impacts related to air quality would not be significant.

E. Water Quality

Water 4c: Discharge into San Francisquito Creek

Stormwater from the project and vicinity flows into San Francisquito Creek. Redevelopment of the project site could introduce sediments and other pollutants into the surface water runoff that could potentially degrade water quality.

Mitigation Measure 4.3: See mitigation measure Hydrology-3 above

F. Biological Resources

Biology 7a: Endangered and Threatened Species

The existing office building on the site provides suitable roosting habitat for several special-status bat species. Should these bat species roost on the site, the demolition of the building could result in the loss of an active roost. The loss of an active bat roost would be a potentially significant impact. Mitigation would reduce roost-related impacts to a less-than-significant level.

The project would not disturb any endangered, threatened, or rare species, or their habitats. The project site does not contain suitable habitat for any special-status plant or wildlife species known to occur in the project region. However, the trees on the project site provide suitable nesting habitat for a variety of common bird species known to occur in the project area. Construction-related activities could result in the direct loss of active nests or the abandonment of active nests by adult birds during that year's nesting season. Bird nests with eggs or young are protected under the Migratory Bird Treaty Act

and the California Fish and Game Code. Mitigation would reduce impacts to nesting birds to a less-than-significant level.

Mitigation Measure 7.1: No earlier than 14 days prior to the commencement of demolition activities, a survey shall be conducted by a qualified biologist to determine if active bat roosts are present on the project site. If no bats are observed, then no further action would be required and demolition can proceed. Should an active roost be identified, a determination shall be made regarding whether the roost is used as a night-roost, day-roost, or maternity-roost. Should a night-roost be identified, the roost structure shall be removed during daylight hours while the roost is not in use. Should an active day-roost be identified, roosting bats shall be evicted through the use of humane exclusionary devices. Prior to implementation, the proposed methods for bat exclusion shall be approved by the California Department of Fish and Game. The roost shall not be removed until it has been confirmed by a qualified biologist that all bats have been successfully excluded. Should an active maternity-roost be identified (the breeding season of native bat species in California generally occurs from April 1 through August 31), the roost shall not be disturbed until the roost is vacated and juveniles have fledged, as determined by the biologist.

Mitigation Measure 7.2: The applicant 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 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.

Mitigation Measure 7.3: 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. Clearing and construction within the fenced area shall be postponed or halted until the nest is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting.

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: Implementation of the mitigation measure above would reduce the disturbance of threatened, endangered or rare species and their habitats to a level of less than significant.

2. Remaining Impacts: Any remaining impacts related to threatened and endangered species would not be significant.

Biology 7b: Locally Designated Species

The project would affect locally designated species (e.g., heritage trees). The proposed project would be required to comply with the Menlo Park Heritage Tree Ordinance and the City's Heritage Tree Replacement procedures, which delineate the ratio of trees a developer must replace for every heritage tree removed. Current landscape conceptual plans provided by the applicant shows that the proposed project could feasibly meet the tree planting requirements set by City staff. Mitigation would reduce the potential impacts to a less-than-significant level.

Mitigation Measure 7.4: The project applicant 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 project shall reflect compliance with the ordinance and procedures, and the applicant shall demonstrate that the required number of trees have been planted prior to project occupancy.

Mitigation Measure 7.5: The project applicant shall adhere to the tree protection and preservation plan included in the Tree Survey Report prepared by Walter Bemis, Consulting Arborist. The plan 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).

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: Implementation of the mitigation measure above would reduce the impacts on locally designated species to a level of less than significant.

2. Remaining Impacts: Any remaining impacts related to locally designated species would not be significant.

G. Hazardous Materials

Hazards 9a: Release of Hazardous Substances

Two water wells on site have not been properly abandoned, creating potential pathways for groundwater contamination during construction.

Mitigation Measure 9.1: The project applicant shall remove the wells on the project site and properly abandon them prior to or as part of site redevelopment. The wells shall be abandoned according to the requirements of the Department of Water Resources and San Mateo County Environmental Health Services Division.

No asbestos was found on site during a 1990 study, but there is a potential for asbestos-containing materials to be present in the building that could be released during demolition. Mitigation will ensure that an asbestos survey will be conducted prior to demolition, reducing potential hazard-related impacts to a less-than-significant level.

Mitigation Measure 9.2 Prior to demolition of the existing building, the applicant 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 may have regarding the disposal of lead-based paint materials.

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: Implementation of the mitigation measure above would reduce the release of hazardous substances to a level of less than significant.

2. Remaining Impacts: Any remaining impacts related to hazardous substances would not be significant.

H. Noise

Noise 10b: Exposure to Severe Noise Levels

Construction activities for the proposed project could result in increased short-term noise levels. These noise levels would be temporary and would occur intermittently during the 12-month construction process. The closest sensitive receptors to the project site are multifamily residences to the south of the site. The homes are located just beyond the site boundary, and are separated from the site by a fence and trees. Typical noise levels of construction equipment can range from 76 dB(A) to 89 dB(A) at 50 feet. Based on the types of equipment used, duration, and proximity, the construction activities of the proposed project could result in intermittent (outdoor) noise levels of up to 89 dB(A) at the nearest sensitive receptors. Mitigation would reduce the potential impacts to a less-than-significant level.

Mitigation Measure 10.1: The project applicant 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.

The proposed project would require a total of 7,278 cubic yards of cut and 13,399 yards of fill. Approximately 752 cubic yards of cut material (the existing parking lot asphalt) would be removed from the site; the remaining cut material would be re-used on site. Approximately 6,873 cubic yards of fill material would be imported to the site. Fill dirt is

typically hauled to a site in trucks with a 12- or 24-cubic yard capacity. Using the smaller trucks, project construction would involve about 573 round trips (6,873 cubic yards divided by 12 cubic yards) or 1,146 trips total over the 30-to 45-day grading period. With a 30-day grading period, there would be about 19 round trips (38 total trips) each day. The noise levels produced by heavy-duty trucks such as haul trucks can reach 82 dB(A) at 50 feet from the noise source. Nearby sensitive receptors, including surrounding residential areas, could be affected by construction and construction-related traffic noise; this would be a significant impact. Mitigation would reduce the potential impacts to a less-than-significant level.

Mitigation Measure 10.2: The project construction contractors shall use designated haul routes for all hauling-related trips to and from the project site. The routes shall be chosen by the City with the intent of minimizing noise impacts by keeping truck traffic away from sensitive receptors.

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: Implementation of the mitigation measure above would reduce the construction period impacts on noise to a level of less than significant.

2. Remaining Impacts: Any remaining impacts related to severe noise levels would not be significant.

I. Cultural Resources

Cultural 14b: Archaeological Resources

A records search conducted by the Northwest Information Center (NWIS), at Sonoma State University, indicated that there are no known archeological resources on the project site, and no known historic properties are located on site or within the project area. The project site has already been developed, so the likelihood of finding buried resources is reduced. However, construction activities such as excavation and grading could result in the discovery of previously unidentified archeological resources, a significant impact. Mitigation would reduce the potential impacts to a less-than-significant level.

Mitigation Measure 14.1: 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 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.

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: Implementation of the mitigation measure above would reduce impacts to archaeological resources to a level of less than significant.

2. Remaining Impacts: Any remaining impacts related archaeological resources 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 or 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, provide visual and physical access to the site, and preserve, protect and enhance the natural setting.

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 6.0-6 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, provide visual and physical access to the site, and preserve, protect and enhance the natural setting.

Explanation: Scenario One would not meet most of the project objectives, in that it would not provide market-rate or below-market-rate housing or develop high-quality improvements. Objectives related to tree preservation would be met under Scenarios One. Scenario Two would not meet the project objectives related to housing, but could meet the objectives related to preserving and enhancing the natural setting and tree preservation.

Alternative 2: Medical Office Building

The Medical Office Building Alternative is discussed on page 6.0-15 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, provide visual and physical access to the site, and preserve, protect and enhance the natural setting.

Explanation: The Medical Office Building Alternative would not meet most of the project objectives, in that it would not provide market-rate or below-market-rate housing or develop high-quality improvements. The objectives related to preservation and enhancement of the natural setting and tree preservation would be met.

VI. STATEMENTS OF OVERRIDING CONSIDERATIONS RELATED TO THE PROJECT FINDINGS

The Planning Commission 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 33 units, including units available to affordable to moderate income households.
4. The project will be of high quality housing at a density almost half of the legally allowed maximum, that is compatible with the densities of the surrounding multi-family and single-family residential neighborhood.
5. The project reduces the amount of impervious surface area thereby not exasperating an existing storm drainage system that lacks adequate capacity.
6. The project will contribute \$1,056,000 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 October 19, 2006 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 75 Willow Road project 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

The purpose of the 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.

75 Willow Road Mitigation Monitoring and Reporting Plan

Category/Impact	Mitigation Measure	Monitoring/ Reporting Responsibility	Monitoring/ Reporting Requirement
	HYDROLOGY AND WATER QUALITY		
<i>Hydrology-3</i>	<p>Hydrology-3: The project applicant shall implement Best Management Practices for water quality treatment on the project site, 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), and #11 (use of on-site infiltration, vegetated swales or other comparable BMPs prior to discharge). BMPs shall include trash collecting devices at storm drain inlets and regular maintenance of such devices. Prior to grading permit issuance the applicant shall submit a grading and drainage plan, which includes BMPs subject to review and approval the City's Engineering Division. (This mitigation measure is identified as Mitigation Measure 4.2 in the Initial Study.)</p>	Public Works Director	<p>Verify submittal of Storm Drainage, Grading, Erosion, and Sedimentation Control Plans by project sponsor.</p> <p>Periodic inspection to verify implementation of Plan during construction by contractors.</p>
	TRANSPORTATION AND CIRCULATION		
<i>Traffic-1 & 8: Project and Cumulative Impacts to Project Area Intersections</i>	<p>Traffic 1c: Project Contributions to Intersection Impacts Prior to building permit issuance of the first house, 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:</p> <ul style="list-style-type: none"> • Alma Street/Ravenswood Avenue right turn only restriction (if the improvement has not yet been funded by another project): \$4,000. • Adaptive signal timing improvements at the intersections of Middlefield Road and Ringwood Avenue and Middlefield Road and Ravenswood Avenue: \$2,400. • Installation of video detection devices at the intersections of Middlefield Road and Ringwood Avenue, Middlefield Road and Ravenswood Avenue, and Ravenswood Avenue and Laurel Street: \$44,000. • Upgrades to the Caltrain station bike shelter: \$6,500. 	Transportation Manager	Determine that fees for mitigations and/or improvements have been paid prior to building permit issuance.
	INITIAL STUDY SUMMARY		
<i>Geology 3h: Expansive</i>	Mitigation Measure 3.1: Concurrent with the building permit submittal for the first	Building Official	Periodic inspection

75 Willow Road Mitigation Monitoring and Reporting Plan

Category/Impact	Mitigation Measure	Monitoring/ Reporting Responsibility	Monitoring/ Reporting Requirement
<i>Soils</i>	house, a soils report shall be submitted a soils report shall be prepared, detailing how expansive soils must be treated or replaced when forming the foundation support. If importation of off-site soils is required during construction, the project sponsor and its contractors shall avoid the use of expansive soils. The project sponsor's contractors shall keep soils moist at all times before and during construction by either covering exposed soil when construction is not active or regularly watering the exposed soil to maintain a consistent moisture level. The soils report shall be subject to review and approval by the Building Division.		during construction by contractors.
<i>Air Quality 5a: Air Quality Standards</i>	<p>Mitigation Measure 5.1 Basic Control Measures (for all construction sites)</p> <ul style="list-style-type: none"> • 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. <p>Enhanced Control Measures (for individual or combined construction sites of larger than four acres)</p> <ul style="list-style-type: none"> • 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. <p>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)</p> <ul style="list-style-type: none"> • 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. 	Building Official	Prior to demolition permit issuance/Periodic inspection during construction by contractors.

75 Willow Road Mitigation Monitoring and Reporting Plan

Category/Impact	Mitigation Measure	Monitoring/ Reporting Responsibility	Monitoring/ Reporting Requirement
	<ul style="list-style-type: none"> Limit the area subject to excavation, grading, and other construction activity at any one time. 		
<i>Biology 7a: Endangered and Threatened Species</i>	<p>Mitigation Measure 7.1: No earlier than 14 days prior to the commencement of demolition activities, a survey shall be conducted by a qualified biologist to determine if active bat roosts are present on the project site. If no bats are observed, then no further action would be required and demolition can proceed. Should an active roost be identified, a determination shall be made regarding whether the roost is used as a night-roost, day-roost, or maternity-roost. Should a night-roost be identified, the roost structure shall be removed during daylight hours while the roost is not in use. Should an active day-roost be identified, roosting bats shall be evicted through the use of humane exclusionary devices. Prior to implementation, the proposed methods for bat exclusion shall be approved by the California Department of Fish and Game. The roost shall not be removed until it has been confirmed by a qualified biologist that all bats have been successfully excluded. Should an active maternity-roost be identified (the breeding season of native bat species in California generally occurs from April 1 through August 31), the roost shall not be disturbed until the roost is vacated and juveniles have fledged, as determined by the biologist.</p> <p>Mitigation Measure 7.2: The applicant 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 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>Mitigation Measure 7.3: 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. Clearing and construction within the fenced area shall be postponed or halted until the nest is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting.</p>	<p>Community Development Director</p> <p>California Department of Fish and Game.</p>	<p>Verify that a survey has been conducted by project sponsor with a qualified 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, verify that a report has been 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>Mitigation Measure 7.4: The project applicant 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</p>	<p>Community Development Director</p>	<p>Prior to building permit issuance of the first house/Review project</p>

75 Willow Road Mitigation Monitoring and Reporting Plan

Category/Impact	Mitigation Measure	Monitoring/ Reporting Responsibility	Monitoring/ Reporting Requirement
	<p>plans for the project shall reflect compliance with the ordinance and procedures, and the applicant shall demonstrate that the required number of trees have been planted prior to project occupancy.</p> <p>Mitigation Measure 7.5: The project applicant shall adhere to the tree protection and preservation plan included in the Tree Survey Report prepared by Walter Bemis, Consulting Arborist. The plan 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).</p>		plans and arborist report to ensure compliance.
<i>Hazards 9a: Release of Hazardous Substances</i>	<p>Mitigation Measure 9.1: The project applicant shall remove the wells on the project site and properly abandon them prior to or as part of site redevelopment. The wells shall be abandoned according to the requirements of the Department of Water Resources and San Mateo County Environmental Health Services Division.</p> <p>Mitigation Measure 9.2: Prior to demolition of the existing building, the applicant 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 may have regarding the disposal of lead-based paint materials.</p>	Building Official	Review survey to be conducted by project sponsor. Verify that project plans include removal of asbestos-containing materials or lead paint if necessary.
<i>Noise 10b: Exposure to Severe Noise Levels</i>	<p>Mitigation Measure 10.1: The project applicant 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.</p> <p>Mitigation Measure 10.2: Concurrent with the demolition permit submittal, the project construction contractors shall submit a plan designating haul routes for all hauling-related trips to and from the project site during construction. The applicant shall submit a plan with the intent of minimizing noise impacts he project construction contractors shall use designated haul routes for all</p>	Community Development Director	Review noise reduction measures prior to issuance of demolition permit; periodic inspection during demolition and construction by contractors.

75 Willow Road Mitigation Monitoring and Reporting Plan

Category/Impact	Mitigation Measure	Monitoring/ Reporting Responsibility	Monitoring/ Reporting Requirement
	hauling-related trips to and from the project site. The routes shall be chosen by the City with the intent of minimizing noise impacts by keeping truck traffic away from sensitive receptors.		
<i>Cultural 14b: Archaeological Resources</i>	Mitigation Measure 14.1: 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 archeologist 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.	Community Development Director Public Works Director	Participate in meeting to determine appropriate course of action; verify that report has been submitted to appropriate State agencies.

ATTACHMENT E

DRAFT
October 23, 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 PROPERTY LOCATED AT 75 WILLOW ROAD**

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 property located at 75 Willow Road to allow for the development of 33 single-family, detached residential units, associated common areas and a private street; 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 F

DRAFT
October 23, 2006

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY OF MENLO PARK, REZONING
PROPERTY LOCATED AT 75 WILLOW ROAD**

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 property located at 75 Willow Road (062-422-130) 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 – Conditional Development District).

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 G

DRAFT **CONDITIONAL DEVELOPMENT PERMIT**

October 23, 2005

75 Willow Road

1. GENERAL INFORMATION:

- 1.1 Applicant: SummerHill Homes
- 1.2 Nature of Project: General Plan Amendment, Rezoning, Conditional Development Permit, Tentative Subdivision Map, and Heritage Tree Permit to allow for the construction of 33 single-family residential units, including five (5) Below Market Rate (BMR) units.
- 1.3 Property Location: 75 Willow Road
- 1.4 Assessor's Parcel Numbers: 062-422-130
- 1.5 Area of Property: 4.52 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 **36 percent** of the project site.
- 2.2 Lot coverage shall not exceed a **25 percent** of the project site.
- 2.3 Minimum landscaping shall be a minimum **50 percent** of the project site.
- 2.4 The maximum amount of pavement shall not exceed **25 percent** of the project site.
- 2.5 Building height shall not exceed **28.5 feet** from the finished grade (32 feet from existing 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. The Community Development Director may extend this date per Municipal Code Section 16.82.170.
- 4.2 Minor modifications to building exteriors and locations, fence styles and locations, signage, and significant landscape features may be approved by the Community Development Director or designee, based on the determination that the proposed modification is consistent with other building and design elements of the approved Conditional Development Permit and will not have an adverse impact on the character and aesthetics of the site. The Director may refer any request for revisions to the plans to the Planning Commission for architectural control approval. A public hearing could be called regarding such changes if deemed necessary by the Planning Commission.
- 4.3 Major modifications to building exteriors and locations, fence styles and locations, signage, and significant landscape features may be allowed subject to obtaining an architectural control permit from the Planning Commission, based on the determination that the proposed modification is compatible with the other building and design elements of the approved Conditional Development Permit and will not have an adverse impact on the character and aesthetics of the site. A public hearing could be called regarding such changes if deemed necessary by the Planning Commission.
- 4.4 Major revisions to the development plan which involve material changes in land use, expansion or intensification of development or a material relaxation in the standards of development set forth in Section 2 above constitute permit amendments that require public hearings by the Planning Commission and City Council.
- 4.5 Any application for amendment shall be made by at least one property owner, in writing, to the Planning Commission. The Planning Commission shall then forward its recommendation to the City Council for action.

5. PROJECT CONDITIONS:

- 5.1 Development of the project shall be substantially in conformance with the plans by Wilsey Ham and Dahlin Group, dated received by the Planning Division on October 18, 2006, consisting of 53 plan sheets, except as modified by the conditions contained herein.

- 5.2 Within one year from the date of approval of the tentative subdivision map, the applicant shall submit a Final Map for review and approval of the City Engineer. The subdivision map shall use a benchmark selected from the City of Menlo Park benchmark list as the project benchmark and the site benchmark.
- 5.3 Concurrent with Final Map submittal, the applicant shall submit covenants, conditions and restrictions (CC&Rs) for the approval of the City Engineer and the City Attorney. The Final Map and the CC&Rs shall be recorded concurrently. The CC&R's shall include language that:
 - 5.3.1. Prohibits all owners, tenants, and guests from parking any form of vehicle except in defined parking spaces.
 - 5.3.2. Prohibits parking on private streets overnight consistent with the Menlo Park Municipal Code Section 11.24.050.
 - 5.3.3. Requires that each homeowner maintain the garage to accommodate two vehicles.
 - 5.3.4. Requires the Homeowners Association to maintain the common landscaped areas within the subject site and in City's right-of-way along the entire property frontage.
- 5.4 Prior to Final Map approval, the applicant shall pay any applicable recreation fees (in lieu of dedication) per the direction of the City Engineer in compliance with Section 15.16.020 of the Subdivision Ordinance. The estimated value is \$1,056,000 (based on \$4 million value of acreage).
- 5.5 Prior to Final Map approval, the applicant shall submit improvement plans for all on-site and off-site improvements. The plans shall include details for utility systems, curbs, gutters, sidewalks, street lights, etc. The plans shall be subject to review and approval of the Public Works Department.
- 5.6 Concurrent with the improvement plan submittal, the applicant shall submit a Grading and Drainage Plan, including an Erosion and Sedimentation Control Plan, for review and approval of the City Engineer. The Grading and Drainage Plan shall be prepared based on the City's Grading and Drainage Plan Guidelines and Checklist and the Project Applicant Checklist for the National Pollution Discharge Elimination System (NPDES) Permit Requirements.
- 5.7 Prior to recordation of the Final Map, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
- 5.8 Prior to recordation of the Final Map, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.

- 5.9 Prior to recordation of the Final Map, the existing structures shall be demolished after obtaining a demolition permit.
- 5.10 Prior to recordation of the Final Map, the applicant shall remove and replace all damaged, significantly worn, cracked, uplifted or depressed frontage improvements (e.g., curb, gutter, sidewalk) and install new improvements per City standards along the entire property frontage subject to the review and approval of the Engineering Division. The applicant shall obtain an encroachment permit prior to commencing any work within the right-of-way or public easements. If determined appropriate and subject to the approval of the Engineering Division, the applicant may enter into an agreement and provide a bond for the completion of the work prior to the recordation of the Final Map.
- 5.11 Prior to recordation of the Final Map, the applicant shall install new utilities to the point of service subject to review and approval of the City Engineer. All electric and communication lines servicing the project shall be placed underground. Each lot/unit shall have separate utility service connections. If determined appropriate and subject to the approval of the Engineering Division, the applicant may enter into an agreement and provide a bond for the completion of the work prior to the recordation of the Final Map.
- 5.12 Prior to grading permit issuance, the applicant shall submit a rough grading plan for review and approval of the Building and Engineering Divisions.
- 5.13 Concurrent with the submittal for a demolition permit and a rough grading permit, the applicant shall submit a plan for construction safety fences around the periphery of the construction area for review and approval of the Building Division. The fences shall be installed according to the plan prior to commencing construction.
- 5.14 Prior to grading permit issuance, the applicant shall pay the applicable Building Construction Street Impact Fee.
- 5.15 Concurrent with the building permit submittal for site improvements, the applicant shall submit a revised plan and street section, showing a minimum of a 20-foot travel lane and a four-foot sidewalk, for the proposed new private street subject to review and approval of the Transportation Division.
- 5.16 Prior to building permit issuance for the first house, the applicant may propose an alternative approach to meeting the BMR requirements. The alternative approach would include dedicated funds and/or expertise equal to or greater than the value of the on-site BMR units to assist in and help ensure the feasibility of the Habitat for Humanity project proposed on Terminal Avenue. An alternative BMR agreement is subject to review and recommendation by the Housing Commission and review and approval of the City Council and would be in-lieu of some or all on-site BMR units and, if approved, would supersede the BMR agreement, dated _____.
- 5.17 Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning,

Engineering and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.

- 5.18 Prior to demolition and building permit issuance, the applicant shall comply with the requirements of Chapter 12.48 (Salvaging and Recycling of Construction and Demolition Debris) of the City of Menlo Park Municipal Code.
- 5.19 Prior to building permit issuance for the first house, the applicant shall submit a detailed landscape plan, including the size, species, and location, and irrigation plan for review and approval of the Planning Division and the Public Works Department. The plan shall comply with the Water Efficient Landscaping Ordinance (Municipal Code Chapter 12.44). Landscaping within the City right-of-way shall include City approved street plant materials. The landscaping for each house shall be installed prior to final building inspection of the subject house.
- 5.20 Prior to building permit issuance, the applicant shall pay all applicable school impact fees associated with the project.
- 5.21 Prior to grading permit issuance, the project applicant shall implement Best Management Practices for water quality treatment on the project site, per the City of Menlo Park Grading and Drainage Plan Guidelines and checklist, subject to review and approval by the Engineering Division. 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), and #11 (use of on-site infiltration, vegetated swales or other comparable BMPs prior to discharge). BMPs shall include trash-collecting devices at storm drain inlets and regular maintenance of such devices. Prior to grading permit issuance the applicant shall also submit a grading and drainage plan, which includes BMPs subject to review and approval the City's Engineering Division. (MM 4.2)
- 5.22 Prior to building permit issuance of the first house, 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:

- Alma Street/Ravenswood Avenue right turn only restriction (if the improvement has not yet been funded by another project): \$4,000.
- Adaptive signal timing improvements at the intersections of Middlefield Road and Ringwood Avenue and Middlefield Road and Ravenswood Avenue: \$2,400.
- Installation of video detection devices at the intersections of Middlefield Road and Ringwood Avenue, Middlefield Road and Ravenswood Avenue, and Ravenswood Avenue and Laurel Street: \$44,000.
- Upgrades to the Caltrain station bike shelter: \$6,500. (MM TRAF-1c)

5.23 Concurrent with the building permit submittal for the first house, a soils report shall be prepared, detailing how expansive soils must be treated or replaced when forming the foundation support. If importation of off-site soils is required during construction, the project sponsor and its contractors shall avoid the use of expansive soils. The project sponsor's contractors shall keep soils moist at all times before and during construction by either covering exposed soil when construction is not active or regularly watering the exposed soil to maintain a consistent moisture level. The soils report shall be subject to review and approval by the Building Division. (MM 3.1)

5.24 Prior to demolition permit issuance, implement the following air quality control measures, subject to review and approval by the Building Division:

- 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.
- 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.
- Encourage the implementation of the following optional measures:
 - 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. (MM 5.1)

5.25 No earlier than 14 days prior to the commencement of demolition activities, a survey shall be conducted by a qualified biologist to determine if active bat roosts are present on the project site. If no bats are observed, then no further action would be required and demolition can proceed. Should an active roost be identified, a determination shall be made regarding whether the roost is used as a night-roost, day-roost, or maternity-roost. Should a night-roost be identified, the roost structure shall be removed during daylight hours while the roost is not in use. Should an active day-roost be identified, roosting bats shall be evicted through the use of humane exclusionary devices. Prior to implementation, the proposed methods for bat exclusion shall be reviewed and approved by the Planning Division and California Department of Fish and Game. The roost shall not be removed until it has been confirmed by a qualified biologist that all bats have been successfully excluded. Should an active maternity-roost be identified (the breeding season of native bat species in California generally occurs from April 1 through August 31), the roost shall not be disturbed until the roost is vacated and juveniles have fledged, as determined by the biologist. (MM 7.1)

5.26 Prior to the commencement of grading, the applicant 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 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, and shall be subject to review and approval by the Planning Division. (MM 7.2) 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. Clearing and construction within the fenced area shall be postponed or halted until the nest is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. (MM 7.3)

5.27 Prior to building permit issuance for the first house, the project applicant 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 project shall reflect compliance with the ordinance and procedures, and the applicant shall demonstrate that the required number of trees have been planted prior to

project occupancy. The final landscaping plans shall be subject to review and approval by the Planning Division. (MM 7.4)

- 5.28 The project applicant shall adhere to the tree protection and preservation plan included in the Tree Survey Report prepared by Walter Bemis, Consulting Arborist. The plan 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). (MM 7.5)
- 5.29 Prior to grading permit issuance, the project applicant shall remove the wells on the project site and properly abandon them prior to or as part of site redevelopment. The wells shall be abandoned according to the requirements of the Department of Water Resources and San Mateo County Environmental Health Services Division, and subject to review and approval by the Building Division. (MM 9.1)
- 5.30 Prior to demolition permit issuance, the applicant shall survey the building for the presence of asbestos and lead-based paint. The survey shall be subject to review and approval by the Building Division. 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 may have regarding the disposal of lead-based paint materials. (MM 9.2)
- 5.31 Prior to demolition permit issuance, the project applicant shall incorporate noise reduction measures into project construction activities, subject to review and approval by the Planning and Building Divisions. 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. (MM 10.1)
- 5.32 Concurrent with the demolition permit submittal, the project construction contractors shall submit a plan designating haul routes for all hauling-related trips to and from the project site during construction. The applicant shall submit a plan with the intent of minimizing noise impacts by keeping truck

traffic away from sensitive receptors, subject to review and approval by the Planning and Transportation Divisions. (MM 10.2)

5.33 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 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. (MM 14.1)

Recommended for Approval by the
Menlo Park Planning Commission on
October 23, 2006

Approved by the
Menlo Park City Council on
_____, 2006

Arlinda Heineck, Community
Development Director

Silvia M. Vonderlinden, City Clerk

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MENLO PARK PLANNING COMMISSION DRAFT EXCERPT MINUTES

Regular Meeting
October 23, 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 (Not in Attendance), Keith (Vice-chair), O'Malley, Pagee, Riggs, Sinnott

INTRODUCTION OF STAFF – Deanna Chow, Senior Planner, Justin Murphy, Development Services Manager

A. PUBLIC COMMENTS

There were none.

B. CONSENT

There were no consent items on the agenda.

C. PUBLIC HEARING

2. General Plan Amendment, Rezoning, Conditional Development Permit, Tentative Subdivision Map, Heritage Tree Permit, and Environmental Review/SummerHill Homes/75 Willow Road:

- 1) General Plan Amendment: Change from Professional and Administrative Offices land use designation to Medium Density Residential land use designation;
- 2) Rezoning: Change from C-1 (Administrative and Professional District, Restrictive) to R-3-X (Apartment – Conditional Development District);
- 3) Conditional Development Permit: Establish specific development regulations and architectural designs for the demolition of an existing 40,000-square-foot office building and the construction of 33 single-family residential dwelling units;
- 4) Tentative Subdivision Map: Create 33 lots and associated common areas;
- 5) Heritage Tree Permit: Remove 46 heritage trees, relocate 3 heritage trees, and plant new trees; and
- 6) Environmental Review of the proposed project.

Staff Comment: Planner Chow reported that the applicant was proposing to demolish an existing 40,000 square-foot office building and construct 33 single-family residential units on an approximate 4.5-acre site located at 75 Willow Road. She said the proposal required a recommendation by the Planning Commission to the City Council on a General Plan Amendment, to change the land use designation from Professional and Administrative Offices to

Medium Density Residential; Rezoning, to change from C-1 (Administrative and Professional District, Restrictive) to R-3-X (Apartment – Conditional Development District); Conditional Development Permit, to establish specific uses and development regulations and architectural designs; Tentative Subdivision Map, creation of 33 single-family lots and associated common areas and private street; and the environmental review, which included an adoption of the *Findings for Certification of the Environmental Impact Report* and adoption of the *Mitigation Monitoring and Reporting Program* prepared for the project.

Planner Chow noted that the Draft Environmental Impact Report (DEIR) concluded the proposed project would have less than significant impacts, with the exception of the topics of Aesthetics and Transportation, and those items, with proposed mitigation, would remain significant and unavoidable. She said as part of the Planning Commission's recommendation on the Finding for Certification of the DEIR, the Commission should also consider the *Statement of Overriding Considerations*, which was included as part of Attachment C. She noted that the City Council would be the final decision-making body.

Planner Chow noted that as part of the environmental process, the Planning Commission should consider the DEIR and the response to comments. She said one additional comment was received during the 45-day comment period that was inadvertently omitted from the *Response to Comments* document. She said that this letter and the responses to it were included as Attachment N. She said staff would extend the comment review period of the *Response to Comments* until November 13, 2006 at 5:30 p.m. to allow at least a 10-day review period.

Planner Chow identified several corrections and additions to the staff report and the conditions of approval. She said that the DEIR, the conditions of approval, the *Mitigation Monitoring and Reporting Program*, and the CEQA findings identified traffic mitigation at Ravenswood Avenue and Alma Street in items labeled Traffic 1-a and the first bullet under Traffic 1-c and that the proposed mitigation for this intersection was the prohibition of left turns at the intersection of Alma Street and Ravenswood Avenue during the AM peak hour. She said to clarify the proposed mitigation measure with the timing of the signage, the responsibility of the installation, and the cost, staff was recommending deleting the first bullet under item 5.22 and adding a new condition: *Prior to building permit issuance, the applicant shall pay \$4,000 to the City to install signage to prohibit left turns and through movements from Alma Street during the AM peak period (similar to current operations during the PM peak period). The signage shall be installed prior to occupancy. The condition is only applicable if the improvement has not yet been funded by another project.* She said the proposed change would be consistently modified in the conditions of approval, the *Mitigation Monitoring and Reporting Program* and the CEQA findings.

Planner Chow said that staff was modifying condition 5.23 or Mitigation Measure 3.1 regarding Soils. She said that the modified condition would provide more specifics on the items to be addressed in the Soils Report, which was consistent with the DEIR. She noted that the revised condition would read: *Concurrent with the building permit submittal for the first house, a soils report shall be prepared, detailing how expansive soils must be treated or replaced within forming the foundation support. (New Language) The report shall also incorporate all the recommended measures set forth in the Preliminary Geotechnical Investigation prepared by Lowney Associates. These recommended measures include: site specific preparation and grading techniques, specific foundation design (footings, post tension slab, drilled cast in place*

concrete piers), concrete slab-on-grade floors, a capillary moisture barrier, and adherence to the UBC seismic design. She said that the remaining section of the condition was as written.

Planner Chow said that staff was also recommending an additional condition to read: *Concurrent with the building permit submittal, the applicant shall submit color samples from the manufacturer for the proposed color palette of the development subject to review and approval of the Planning Division.*

Planner Chow said that there was also a correction on page C1-the CEQA Findings in that the number of trees removed should be 99 rather than 105. She said that the applicant had lessened the number of trees to be removed since the release of the DEIR. She noted that staff had received letters since the publication of the staff report from Mr. Frank Carney, Mr. Jonathan Prop, Mr. Stuart Soffer, Mr. Robert Payton, and Mr. Mark Drury.

Commissioner Keith said on page five of the staff report that it indicated one eucalyptus was to be preserved and asked if it was really one or two. Planner Chow said there were two proposed for preservation. Commissioner Keith asked about page seven, third paragraph down, regarding restriction of overnight parking, if that was firm or a proposal. Planner Chow said that it was a condition of approval and there would be no overnight parking on the private street. Commissioner Keith asked about page nine in which it was indicated the applicant would offer seven trees from 15 to 36-inch boxes and whether those were included in the other 50 replacement trees proposed. Planner Chow said the seven trees were proposed for 175 Linfield Drive and the other 50 replacement trees on Willow Road were separate. Commissioner Keith asked about page 13 and the list of "Mitigating Measures" if it should be D.2 not Attachment F. Planner Chow said that it should be attachment D. Commissioner Keith said regarding the mitigation of trees for aesthetic impacts that it was indicated that a number of years would be needed before the trees would be fully grown and how many years that would be. Planner Chow said that it would be 20 to 30 years.

Commissioner Pagee asked in regard to page 11, the first paragraph under Conditional Development Permit (CDP), regarding modifications involving room additions or other expansion construction or accessory structures if that required City Council or Planning Commission approval. Planner Chow said that modifications to the exterior and architectural details would be reviewed by the Planning Commission but anything that would require an amendment to the CDP such as a change to the footprint, square footage and/or additions and new accessory structures would be reviewed by the City Council.

Chair Bims asked Mr. Taylor, Transportation Manager, about the traffic impact as studied in the DEIR and how it analyzed the individual project impact as opposed to the cumulative impact. Mr. Taylor said the projects were considered together and suggested that Mr. Mark Spencer, DKS, could better address the specifics.

Mr. Mark Spencer, DKS Associates, San Jose, said in regard to the question of how this project was looked at independently of other projects in the area, that several months prior the *Linfield Drive-Middlefield Road-Willow Road (LMW) Traffic Analysis* had included the combination of this subject project, 8 Homewood Place and 321 Middlefield Road. He said subsequent to that report DKS Associates were asked to provide a separate independent analysis of the subject project's specific impacts. He said that they looked at the *Project Scenario* in their *Traffic Analysis Model* and removed the effects of 8 Homewood Place and 321 Middlefield Road to see what the effects of this project were and how those compared to the effects and traffic impacts of all three projects when taken in combination with one another.

Chair Bims asked what the highlights of the differences were when the overall and individual were compared. Mr. Spencer said in respect to the intersections that the same two intersections being impacted collectively would be impacted by this project alone as the additional delay could be triggered by not very much additional traffic. He said those two intersections would be impacted by anything that added traffic to the area. He said the difference was in the road segments that are based on daily traffic volumes. He said collectively there were six segments impacts but with just this project there were impacts to only two segments.

Commissioner Keith asked if it was correct that the subject project would not impact traffic on Willow Road from Willow Road to Hwy. 101. Mr. Spencer said independent of the other projects that this project alone would not result in an impact based on the standard impact threshold criteria for roadway segment impacts. He said the project would add traffic to the streets but did not trigger an impact by the definition of an impact. Commissioner Keith asked about the cumulative impacts on Middlefield Road to Willow Road to Hwy. 101. Mr. Spencer said regarding the LMW Traffic Report dated March 2, 2006 reviewed in a City Council Study Review and by staff that subsequently there was an addendum to the report for which they had been asked to look at a few additional intersections as well as two individual project memoranda. He said those memoranda were dated June 26, 2006 and from one of those he read that: *Individual Project EIR Analysis for the Proposed 75 Willow Road Project*. He said there was a table in that memorandum that compared the average daily traffic of the cumulative projects versus that just for 75 Willow Road. He said for the two roadway segments being impacted on Ravenswood from El Camino to Alma that this project would generate an additional 102 daily trips on that segment. He said currently there were almost 24,000 daily trips. He said with cumulative projects in the area that the number jumped from 24,000 to over 26,000 daily trips. He said Middlefield Road between Ringwood to Linfield currently carried a little over 21,000 daily trips and the number would jump to 22,400 daily trips with the cumulative effects of all of the projects. He said this project would generate 40 daily trips which was less than the 100 daily trip trigger of threshold criteria. He said it was also similar to the segment on Middlefield from Linfield to Willow. He said that they looked at Willow between Middlefield and Bay and between Middlefield and Laurel. He said the heaviest traffic on Willow was between Middlefield and Bay with almost 27,000 Average Daily Traffic (ADT). He said they expected that to grow to almost 28,700 with cumulative effects and the subject property would add 26 daily trips of that increase. He said they considered net change and this project also as a fully-occupied office site. He said of the three projects this project contributed the least traffic.

Chair Bims asked how the results done of the analysis of the site as a fully occupied office compared to previous results of study of the site when it was an office. Mr. Spencer said they looked at it two ways. He said they assumed 25 percent occupancy currently of the building based on discussions with staff. He said they subtracted out that 25 percent. He said there was a separate analysis they had done that assumed full occupancy as an office site and would generate 45 AM peak hour trips and 43 PM peak hour trips and a total of 322 daily vehicle trips. He said the current proposal for 33 single-family residences would generate 25 AM peak hour trips and 33 PM peak hour trips and a total of 316 daily vehicle trips.

Public Comment: Ms. Elaine Breeze, SummerHill Homes, Palo Alto, said they were in-fill builders and award-winning designers on the Peninsula. She provided a review of the discussions and outreach with the various City agencies and committees as well as outreach to the community. She said the notice area for the project was almost 1,200 resident households. She said the project had changed considerably based on the input including improving the tree

preservation, the pedestrian, bicycle and vehicular circulation and access of the site, the Linfield Oaks and Sunset Campus' architecture, Willow Road streetscape and the neighborhood context. She said through these collaborations they had developed a proposal that would provide high-quality housing, preserve the beautiful trees in the courtyard area and make them publicly accessible, and provide significant community benefits to the City of Menlo Park with its redevelopment. She said the 12 trees in the courtyard would be preserved with 11 remaining as the focal point of the community and one tree being relocated. She said since July 2006 they had determined that they could save additional trees, including five birch trees and one olive tree and would relocate one of the Heritage olive trees to the border of the Sunset property as desired by Sunset.

Ms. Breeze said that changes since the meeting in July included a reduction of tandem garage spaces and 13 different design plans. She said the pedestrian connection from Willow Road had been widened to five-feet in response to the Transportation Division's direction. She said they were able to add five additional parking aprons as well as one on-site parking space so that there were 4 parking spaces per lot. She said that a significant change was to the sewer in that West Bay Sanitary District suggested they try to connect to the 175 Willow line, an eight-inch sewer. She said they did that and that would eliminate sewer line construction on Willow Road and also allowed a lowering of the back of the site from a foot to a foot and a half, which would reduce the import of soil by over 20 percent and also eliminated the height of some retaining walls. She said the Below Market Rate Units had been absorbed into the site based on the Housing Commission's recommendations from September. She asked that the Commission consider modifying condition 5.15 to add a note at the end *except at Section B1 in order to preserve existing redwoods in passive park.*

Ms. Breeze summarized their tree replacement plan and heritage tree preservation plan. She provided an overview of the different design plans. She discussed their efforts to find someone to take the salvage from the demolition for recycled use. She said they were continuing to discuss with Peninsula Habitat for Humanity and the City about on-site BMR units or doing something different that might provide more value to the City. She said that they would be providing publicly accessible and visible parks and pedestrian/bicycle paths that would be maintained by the Homeowners Association. She said they would also be providing over a million dollars in park in-lieu fees that would fund offsite infrastructure. She said there would be an increased tax basis and the School District would receive \$185,000 in development impact fees. She said there would be about \$112,000 per year through parcel taxes for the Elementary School District. She said there would be \$56,900 in traffic improvements as identified in the DEIR. She said their current interest list was about 20 percent of the area residents.

Commissioner Sinnott asked if the builder had to provide the quality of materials that they had indicated they would use. Planner Chow said that was correct.

Commissioner Pagee suggested regarding the pathway around the center for most of the parking spaces there that the landscaping be low enough to allow passengers to get out of the car without having to step over a hedge. Ms. Breeze said there was a condition of approval for Planning staff to review the landscape plan. She said they would take that as a condition of the plan's review. Commissioner Pagee asked whether the roses and fence along Willow Road would be consistent with those along the Sunset property. Ms. Breeze said that was correct. Commissioner Pagee said she appreciated the decrease in tandem garages but she did not like them at all. She said they had mentioned having the fencing along Willow Road consistent to provide privacy and asked about lot 19 and 21. Ms. Breeze said the question about lot 19 was whether the side yard fence could be connected along the front of lot 19. She said they could

do that with a lattice. Commissioner Pagee said that she had asked about laying out the trees that go between the properties along Waverly and the project properties. She said she thought the applicant was going to verify that the trees would minimize the site lines from the second story of the new homes to the living area of the existing homes. Ms. Breeze said they could field site the trees in that way. She said she wanted to clarify about the fence discussion that their detail in the plans showed a three-rung fence but shorter than what was at Sunset. She said that they would like a two-rung fence that would connect with the two lowest rungs of the Sunset's fence.

The Commission's consensus was they would not continue past 11:30 p.m.

Commissioner Keith noted that if it was possible it would be desirable to preserve cedar tree numbered 208. She asked if they could hear from the arborist about possibly salvaging two of the trunks of redwood tree 201 and still have a house in that site. Mr. Walt Beemus, project arborist, said that the problem was there was one large trunk and tree; two relatively small trees that branch off. He said it was the combination that was keeping them from wanting those trees as that was where the building would be; he said to the left was a much larger and healthy redwood that would be preserved.

Commissioner Pagee asked how the City would determine the number if the builder was to not build BMR units but would contribute funds toward other BMR projects (as previously mentioned possibly with Peninsula Habitat for Humanity). Development Services Manager Murphy said that it would be a negotiated amount and would be based on the specific development.

Commissioner O'Malley said staff had requested 20-feet around the garage access and the developer was requesting that one small portion of that be allowed to be 18 ½ feet. He asked if staff would explain why they preferred 20-feet in that small area. Mr. Taylor, Transportation Manager, said staff had recommended 20 feet of travel width which was the asphalt travel width. He said the Fire District, to make the distinction, uses the curb to curb width. He said the 20 feet provided for two 10-foot lanes. He said that they felt they had reduced the requirement as much as possible at 20-feet and had even tried to reduce the sidewalk width for most of the project to four-feet to help mitigate some of the impervious areas and some of the other impacts. He said as a point of comparison the City standard for multi-family driveways was 24 feet. He said they continued to recommend the 20 feet.

Ms. Mary Boughton, Redwood City, Executive Director for Peninsula Habitat for Humanity, said her organization wanted to build 22 affordable ownership homes for families with very little income in Menlo Park. She said they purchased an adjacent parcel to the Terminal Avenue lot in 2001 for almost \$500,000 for the driveway to this project. She said that they had worked with City staff and invested a great deal of time in the project dealing with challenges such as vibration abatement, sound abatement, sewer mains, railroad tracks, toxins and many more. She said that she and City staff had found themselves stalled by a huge financial divide to resolve these issues, somewhere in the area of \$1.5 million for the 22 homes. She said that Ms. Elaine Breeze had met and worked with them and referred other experts to them. She said she was very grateful and if SummerHill Homes could transfer the BMR allowance to their project that would be wonderful.

Chair Bims closed the public hearing.

Commission Comment: Commissioner Riggs asked if the road narrowing might be accomplished by continuing the asphalt over the gutter to give the appearance of width. Mr.

Taylor said that was one of the recommendations from the developer. He said it was not just the concrete portion that people tended to shy away from in the concrete gutter but the curb itself and people tended to go toward the center. He said they did not feel comfortable recommending anything less than 20 feet. Commissioner Riggs said as this was a closed loop with a restricted amount of traffic and parking in pockets off the streets whether that could soften the standard. Mr. Taylor said that Commissioner Riggs was correct that there would be probably less traffic and less impact but he still needed to recommend 20 feet.

Commissioner Sinnott asked how many feet of roadway was it that the developer wanted narrower. Mr. Taylor said in Section B.1 there would be 18 ½ feet width and about 75 to 100 feet of roadway.

Commissioner Keith asked what the video detection devices were for. Mr. Taylor said that they were at signalized intersections to detect vehicles to change the signals. He said at these intersections there currently were videos for certain movements and in-pavement sensors that were not as reliable as the video detection especially for bicycles.

Commissioner Sinnott moved to recommend to the City Council approval as recommended by staff with the change to the condition regarding the narrowing of Section B.1, preserving cedar tree numbered 208, and to allow for a two-rung fence. Commissioner Riggs seconded the motion.

Commissioner Keith said page 6.0-6 of the DEIR discussed the daily trips and it was important to note with the curb proposal that it would be 25 trips in AM peak hours and 33 in PM peak hours, but if it was an office building there would be 45 in AM peak hours and 43 in the PM peak hours. She said that was better for the traffic impact in the area as opposed to 321 Middlefield Road. She said she doubted the figure of nine children in the new neighborhood.

Commissioner Riggs said it needed to be acknowledged that this was a project that was not a traffic issue. He said SummerHill Homes deserved commendation for the amount of interface they had had with various agencies and the community, including the bargaining to place a couple of eucalyptus trees in the right location. He said the project was an improvement from just about every angle even in the area of "Aesthetics," most of which had to do with the loss of 40 trees but 30 of which were eucalyptus. He said the addition of the park was like a found treasure by taking the courtyard and its trees to make it a feature for the neighborhood. He said the project was well-conceived, well-designed architecturally and good site planning.

Commissioner Keith said that she was happy to hear Ms. Boughton's comments about Habitat for Humanity and the support she had gotten from SummerHill Homes; she hoped that there might be a way to help Habitat get over the financial hump.

Commissioners Pagee and O'Malley indicated that the project was wonderful and they appreciated the applicant bringing it to Menlo Park.

Planner Chow asked for clarification whether the motion included the changes and conditions of approval made by staff earlier in the meeting. Commissioners Sinnott and Riggs said the motion included those items.

Commission Action: M/S Sinnott/Riggs to recommend to City Council to approve as recommended by staff and a recommendation to add "except for section B.1 at the end of condition 5.15, preserve cedar tree numbered 208, and allow for a two-rung fence.

Environmental Review

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

General Plan Amendment

3. Make a finding that the proposed General Plan amendment to change the land use designation of property located at 75 Willow Road from Professional and Administrative Offices to Medium Density Residential for the development of 33 single-family, detached residential units, associated common areas and a private street would be consistent with the adopted General Plan.
4. Approve a resolution amending the General Plan to change the land use designation of property located at 75 Willow Road from Professional and Administrative Offices to Medium Density Residential.

Rezoning

5. Make a finding that the proposed rezoning of property located at 75 Willow Road from C-1 (Administrative and Professional District, Restrictive) to R-3-X (Apartment – Conditional Development District) is consistent with the General Plan land use designation of Medium Density Residential.
6. Introduce an ordinance rezoning property located at 75 Willow Road from C-1 (Administrative and Professional District, Restrictive) to R-3-X (Apartment - Conditional Development District).

Conditional Development Permit

7. Make a finding that the proposed conditional development permit 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 permit allows for development that provides opportunities for the City to increase and diversify its housing stock, provide five Below Market Rate housing units in compliance with the City's guidelines, provides open space within the development and pedestrian pathways to connect the neighborhood, and incorporates quality design and "green" building materials to promote sustainable development.

9. Approve the Conditional Development Permit for the construction of 33 single-family, detached residential units, associated common areas and a private street for property located at 75 Willow Road subject to the terms and conditions of the Conditional Development Permit.

Tentative Subdivision Map

10. Make a finding that the tentative subdivision map has been reviewed by the Engineering Division and has been found to be technically correct and in accordance with the State Subdivision Map Act and the City's Subdivision Ordinance.
11. Approve the Tentative Subdivision Map.

ATTACHMENT G

DRAFT
CONDITIONAL DEVELOPMENT PERMIT
October 23, 2005

75 Willow Road

1. GENERAL INFORMATION:

- 1.1 Applicant: SummerHill Homes
- 1.2 Nature of Project: General Plan Amendment, Rezoning, Conditional Development Permit, Tentative Subdivision Map, and Heritage Tree Permit to allow for the construction of 33 single-family residential units, including five (5) Below Market Rate (BMR) units.
- 1.3 Property Location: 75 Willow Road
- 1.4 Assessor's Parcel Numbers: 062-422-130
- 1.5 Area of Property: 4.52 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 36 percent of the project site.
- 2.2 Lot coverage shall not exceed a 25 percent of the project site.
- 2.3 Minimum landscaping shall be a minimum 50 percent of the project site.

- 2.4 The maximum amount of pavement shall not exceed 25 percent of the project site.
- 2.5 Building height shall not exceed 28.5 feet from the finished grade (32 feet from existing 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. The Community Development Director may extend this date per Municipal Code Section 16.82.170.
- 4.2 Minor modifications to building exteriors and locations, fence styles and locations, signage, and significant landscape features may be approved by the Community Development Director or designee, based on the determination that the proposed modification is consistent with other building and design elements of the approved Conditional Development Permit and will not have an adverse impact on the character and aesthetics of the site. The Director may refer any request for revisions to the plans to the Planning Commission for architectural control approval. A public hearing could be called regarding such changes if deemed necessary by the Planning Commission.
- 4.3 Major modifications to building exteriors and locations, fence styles and locations, signage, and significant landscape features may be allowed subject to obtaining an architectural control permit from the Planning Commission, based on the determination that the proposed modification is compatible with the other building and design elements of the approved Conditional Development Permit and will not have an adverse impact on the character and aesthetics of the site. A public hearing could be called regarding such changes if deemed necessary by the Planning Commission.
- 4.4 Major revisions to the development plan which involve material changes in land use, expansion or intensification of development or a material relaxation in the standards of development set forth in Section 2 above constitute permit amendments that require public hearings by the Planning Commission and City Council.
- 4.5 Any application for amendment shall be made by at least one property owner, in writing, to the Planning Commission. The Planning Commission shall then forward its recommendation to the City Council for action.

5. PROJECT CONDITIONS:

- 5.1 Development of the project shall be substantially in conformance with the plans by Wilsey Ham and Dahlin Group, dated received by the Planning Division on October 18, 2006, consisting of 53 plan sheets, except as modified by the conditions contained herein.
- 5.2 Within one year from the date of approval of the tentative subdivision map, the applicant shall submit a Final Map for review and approval of the City Engineer. The subdivision map shall use a benchmark selected from the City of Menlo Park benchmark list as the project benchmark and the site benchmark.
- 5.3 Concurrent with Final Map submittal, the applicant shall submit covenants, conditions and restrictions (CC&Rs) for the approval of the City Engineer and the City Attorney. The Final Map and the CC&Rs shall be recorded concurrently. The CC&R's shall include language that:
 - 5.3.1. Prohibits all owners, tenants, and guests from parking any form of vehicle except in defined parking spaces.
 - 5.3.2. Prohibits parking on private streets overnight consistent with the Menlo Park Municipal Code Section 11.24.050.
 - 5.3.3. Requires that each homeowner maintain the garage to accommodate two vehicles.
 - 5.3.4. Requires the Homeowners Association to maintain the common landscaped areas within the subject site and in City's right-of-way along the entire property frontage.
- 5.4 Prior to Final Map approval, the applicant shall pay any applicable recreation fees (in lieu of dedication) per the direction of the City Engineer in compliance with Section 15.16.020 of the Subdivision Ordinance. The estimated value is \$1,056,000 (based on \$4 million value of acreage).
- 5.5 Prior to Final Map approval, the applicant shall submit improvement plans for all on-site and off-site improvements. The plans shall include details for utility systems, curbs, gutters, sidewalks, street lights, etc. The plans shall be subject to review and approval of the Public Works Department.
- 5.6 Concurrent with the improvement plan submittal, the applicant shall submit a Grading and Drainage Plan, including an Erosion and Sedimentation Control Plan, for review and approval of the City Engineer. The Grading and Drainage Plan shall be prepared based on the City's Grading and Drainage Plan Guidelines and Checklist and the Project Applicant Checklist for the National Pollution Discharge Elimination System (NPDES) Permit Requirements.
- 5.7 Prior to recordation of the Final Map, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
- 5.8 Prior to recordation of the Final Map, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.

- 5.9 Prior to recordation of the Final Map, the existing structures shall be demolished after obtaining a demolition permit.
- 5.10 Prior to recordation of the Final Map, the applicant shall remove and replace all damaged, significantly worn, cracked, uplifted or depressed frontage improvements (e.g., curb, gutter, sidewalk) and install new improvements per City standards along the entire property frontage subject to the review and approval of the Engineering Division. The applicant shall obtain an encroachment permit prior to commencing any work within the right-of-way or public easements. If determined appropriate and subject to the approval of the Engineering Division, the applicant may enter into an agreement and provide a bond for the completion of the work prior to the recordation of the Final Map.
- 5.11 Prior to recordation of the Final Map, the applicant shall install new utilities to the point of service subject to review and approval of the City Engineer. All electric and communication lines servicing the project shall be placed underground. Each lot/unit shall have separate utility service connections. If determined appropriate and subject to the approval of the Engineering Division, the applicant may enter into an agreement and provide a bond for the completion of the work prior to the recordation of the Final Map.
- 5.12 Prior to grading permit issuance, the applicant shall submit a rough grading plan for review and approval of the Building and Engineering Divisions.
- 5.13 Concurrent with the submittal for a demolition permit and a rough grading permit, the applicant shall submit a plan for construction safety fences around the periphery of the construction area for review and approval of the Building Division. The fences shall be installed according to the plan prior to commencing construction.
- 5.14 Prior to grading permit issuance, the applicant shall pay the applicable Building Construction Street Impact Fee.
- 5.15 Concurrent with the building permit submittal for site improvements, the applicant shall submit a revised plan and street section, showing a minimum of a 20-foot travel lane and a four-foot sidewalk, for the proposed new private street subject to review and approval of the Transportation Division *except at Section B1 in order to preserve existing redwoods in passive park.*
- 5.16 Prior to building permit issuance for the first house, the applicant may propose an alternative approach to meeting the BMR requirements. The alternative approach would include dedicated funds and/or expertise equal to or greater than the value of the on-site BMR units to assist in and help ensure the feasibility of the Habitat for Humanity project proposed on Terminal Avenue. An alternative BMR agreement is subject to review and recommendation by the Housing Commission and review and approval of the City Council and would be in-lieu of some or all on-site BMR units and, if approved, would supersede the BMR agreement, dated _____.
- 5.17 Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.

- 5.18 Prior to demolition and building permit issuance, the applicant shall comply with the requirements of Chapter 12.48 (Salvaging and Recycling of Construction and Demolition Debris) of the City of Menlo Park Municipal Code.
- 5.19 Prior to building permit issuance for the first house, the applicant shall submit a detailed landscape plan, including the size, species, and location, and irrigation plan for review and approval of the Planning Division and the Public Works Department. The plan shall comply with the Water Efficient Landscaping Ordinance (Municipal Code Chapter 12.44). Landscaping within the City right-of-way shall include City approved street plant materials. The landscaping for each house shall be installed prior to final building inspection of the subject house.
- 5.20 Prior to building permit issuance, the applicant shall pay all applicable school impact fees associated with the project.
- 5.21 Prior to grading permit issuance, the project applicant shall implement Best Management Practices for water quality treatment on the project site, per the City of Menlo Park Grading and Drainage Plan Guidelines and checklist, subject to review and approval by the Engineering Division. 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), and #11 (use of on-site infiltration, vegetated swales or other comparable BMPs prior to discharge). BMPs shall include trash-collecting devices at storm drain inlets and regular maintenance of such devices. Prior to grading permit issuance the applicant shall also submit a grading and drainage plan, which includes BMPs subject to review and approval the City's Engineering Division. (MM 4.2)
- 5.22 *Prior to building permit issuance, the applicant shall pay \$4,000 to the City to install signage to prohibit left turns and through movements from Alma Street during the AM peak period (similar to current operations during the PM peak period). The signage shall be installed prior to occupancy. The condition is only applicable if the improvement has not yet been funded by another project.*
- 5.23 Prior to building permit issuance of the first house, 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:

- ~~Alma Street/Ravenswood Avenue right turn only restriction (if the improvement has not yet been funded by another project): \$4,000.~~
- Adaptive signal timing improvements at the intersections of Middlefield Road and Ringwood Avenue and Middlefield Road and Ravenswood Avenue: \$2,400.
- Installation of video detection devices at the intersections of Middlefield Road and Ringwood Avenue, Middlefield Road and Ravenswood Avenue, and Ravenswood Avenue and Laurel Street: \$44,000.
- Upgrades to the Caltrain station bike shelter: \$6,500. (MM TRAF-1c)

5.24 Concurrent with the building permit submittal for the first house, a soils report shall be prepared, detailing how expansive soils must be treated or replaced when forming the foundation support. *The report shall also incorporate all the recommended measures set forth in the Preliminary Geotechnical Investigation prepared by Lowney Associates. These recommended measures include: site specific preparation and grading techniques, specific foundation design (footings, post tension slab, drilled cast in place concrete piers), concrete slab-on-grade floors, a capillary moisture barrier, and adherence to the UBC seismic design.* If importation of off-site soils is required during construction, the project sponsor and its contractors shall avoid the use of expansive soils. The project sponsor's contractors shall keep soils moist at all times before and during construction by either covering exposed soil when construction is not active or regularly watering the exposed soil to maintain a consistent moisture level. The soils report shall be subject to review and approval by the Building Division. (MM 3.1)

5.25 Prior to demolition permit issuance, implement the following air quality control measures, subject to review and approval by the Building Division:

- 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.
- 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.
- Encourage the implementation of the following optional measures:
 - 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. (MM 5.1)
- 5.26 No earlier than 14 days prior to the commencement of demolition activities, a survey shall be conducted by a qualified biologist to determine if active bat roosts are present on the project site. If no bats are observed, then no further action would be required and demolition can proceed. Should an active roost be identified, a determination shall be made regarding whether the roost is used as a night-roost, day-roost, or maternity-roost. Should a night-roost be identified, the roost structure shall be removed during daylight hours while the roost is not in use. Should an active day-roost be identified, roosting bats shall be evicted through the use of humane exclusionary devices. Prior to implementation, the proposed methods for bat exclusion shall be reviewed and approved by the Planning Division and California Department of Fish and Game. The roost shall not be removed until it has been confirmed by a qualified biologist that all bats have been successfully excluded. Should an active maternity-roost be identified (the breeding season of native bat species in California generally occurs from April 1 through August 31), the roost shall not be disturbed until the roost is vacated and juveniles have fledged, as determined by the biologist. (MM 7.1)
- 5.27 Prior to the commencement of grading, the applicant 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 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, and shall be subject to review and approval by the Planning Division. (MM 7.2) 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. Clearing and construction within the fenced area shall be postponed or halted until the nest is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. (MM 7.3)
- 5.28 Prior to building permit issuance for the first house, the project applicant 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 project shall reflect compliance with the ordinance and procedures, and the applicant shall demonstrate that the required number of trees have been planted prior to project occupancy. The final landscaping plans shall be subject to review and approval by the Planning Division. (MM 7.4)
- 5.29 The project applicant shall adhere to the tree protection and preservation plan included in the Tree Survey Report prepared by Walter Bemis, Consulting

- Arborist. The plan 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). (MM 7.5)
- 5.30 Prior to grading permit issuance, the project applicant shall remove the wells on the project site and properly abandon them prior to or as part of site redevelopment. The wells shall be abandoned according to the requirements of the Department of Water Resources and San Mateo County Environmental Health Services Division, and subject to review and approval by the Building Division. (MM 9.1)
- 5.31 Prior to demolition permit issuance, the applicant shall survey the building for the presence of asbestos and lead-based paint. The survey shall be subject to review and approval by the Building Division. 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 may have regarding the disposal of lead-based paint materials. (MM 9.2)
- 5.32 Prior to demolition permit issuance, the project applicant shall incorporate noise reduction measures into project construction activities, subject to review and approval by the Planning and Building Divisions. 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. (MM 10.1)
- 5.33 Concurrent with the demolition permit submittal, the project construction contractors shall submit a plan designating haul routes for all hauling-related trips to and from the project site during construction. The applicant shall submit a plan with the intent of minimizing noise impacts by keeping truck traffic away from sensitive receptors, subject to review and approval by the Planning and Transportation Divisions. (MM 10.2)
- 5.34 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 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. (MM 14.1)

- 5.35 *Concurrent with the building permit submittal, the applicant shall submit color samples from the manufacturer for the proposed color palette of the development subject to review and approval of the Planning Division.*

Motion carried 6-0 with Commissioner Deziel not in attendance.

ADJOURNMENT

The meeting adjourned at 11:30 p.m.

Staff Liaison: Justin Murphy, Development Services Manager

Prepared by: Brenda Bennett, Recording Secretary

Approved by Planning Commission on _____.



MEMORANDUM

DATE: November 13, 2006

TO: Planning Commission

FROM: Deanna Chow, Senior Planner
Community Development Department

RE: **Agenda Item C2: Possible Reconsideration of the Planning Commission's action on October 23, 2006 to Recommend Approval of a General Plan Amendment, Rezoning, Conditional Development Permit, Tentative Subdivision Map and Environmental Impact Report for a Residential Project at 75 Willow Road**

BACKGROUND

Planning Commission Meeting – October 23, 2006

On October 23, 2006, the Planning Commission conducted a public hearing on the following items for the demolition of an existing office building and the development of 33 single-family residences at 75 Willow Road:

- General Plan Amendment: Change from Professional and Administrative Offices land use designation to Medium Density Residential;
- Conditional Development Permit: Establish specific uses and development regulations and architectural designs;
- Tentative Subdivision Map: Creation of 33 single-family lots and associated common areas and private street; and
- Environmental Review of the proposed project in the form of an Environmental Impact Report (EIR).

At the meeting, the Planning Commission considered various items, including the staff report and related documents, presentations by the applicants, and verbal and written communication from the public prior to making a motion on the proposed project. A copy of the October 23, 2006 staff report and related documents are available for review at the Planning Division office. At the meeting, the only member of the public that spoke was a representative from Habitat for Humanity. She commented on the applicant's effort in working with the organization to find a solution to construct 22 new affordable

residential units at the Terminal Avenue site. The Planning Commission recommended to approve the proposed project subject to the findings and conditions in the staff report and those added at the meeting to address roadway widths, the preservation of trees, clarification on mitigation measures in the EIR, and a minor change to the fencing along Willow Road (6-0, Commissioner Deziel recused). Revised conditions of approval including the recommended changes are shown in underline and strikeout format in Attachment A.

The proposal requires review and recommendation by the Planning Commission on the above-mentioned requests, and the City Council is the final decision-making body. In addition, the City Council will also consider the recommendation of the Environmental Quality Commission in regard to the proposed Heritage Tree Permit for the removal of 46 heritage trees and relocation of 3 heritage trees, and the recommendation by the Housing Commission in regard to the Below Market Rate Housing (BMR) Agreement.

Additional Letter on the Final EIR Submitted Prior to the End of the Review Period

On October 24, 2006, the day following the Planning Commission meeting, staff became aware of a letter concerning the Final Environmental Impact Report (EIR) for the proposed project. The letter for the proposed project at 75 Willow Road is included as Attachment B. (A letter was also received for the proposed project at 321 Middlefield Road, which was also heard by the Planning Commission on October 23, 2006.) Although the correspondence was submitted by fax the afternoon of October 23, 2006, staff was unaware of the submittal and thus the letter was not provided at the Planning Commission meeting that evening. Because the letter was submitted during the public review period for the Final EIR, but was not made available to the Planning Commission during its review of the project, staff believes it essential to provide the Commission an opportunity to review the letter and determine whether to reconsider its action on the project based on the information contained in the letter. The consideration of the certification of the Final EIR was part of the Commission's action on October 23, 2006.

While staff believes the comment letter on the Final EIR does not provide new substantive material, staff has placed the item on the November 13, 2006 agenda to allow the Planning Commission the opportunity to reconsider its action. The letter claims that that Final EIR is inadequate in its response to concerns raised in the Draft EIR, and continues to state that the Draft EIR is inadequate and should be recirculated. The information contained in the letter on the Final EIR does not provide new information that was not previously stated or addressed through previous documents, which were considered at the Planning Commission meeting on October 23, 2006. The environmental consultant has prepared a letter, included as Attachment C, to address issues raised in the October 23, 2006 letter submitted by the Law Offices of Brian Gaffney on behalf of the Linfield Oaks Neighborhood Association (Attachment B). The consultant's letter reiterates how the environmental documents prepared for the proposed project address issues that were previously raised. The applicant has also submitted a letter addressing the concerns raised in the additional letter. The applicant's letter is included as Attachment D.

PLANNING COMMISSION OPTIONS

The following section outlines the Planning Commission's options for discussion at its meeting on November 13, 2006. In both scenarios, the Planning Commission should first consider the merits of the additional letter. As part of its consideration, the Planning Commission should accept public comments. The Commission should discuss whether the additional letter impacts its previous decision. The Commission could then proceed to either 1) uphold its October 23, 2006 action to approve the proposed project or 2) vote to reconsider the item. Both options are further discussed below in the respective sections.

Option 1: Motion to Reaffirm the Planning Commission's October 23, 2006 Action

If the Planning Commission believes the additional letter does not provide new substantial information that would change its previous decision, the Planning Commission should make a motion to that affect, thereby reaffirming its previous action of October 23, 2006 to recommend approval of the proposed project, including the Draft and Final EIRs, to the City Council. Since the Planning Commission would not be reconsidering the proposed item, the previous recommendation to the City Council would stand. The City Council would then conduct a public hearing on the proposed project at its November 14, 2006 meeting. The City Council is the final decision-making body on the proposed project.

Option 2: Motion to Reconsider the Planning Commission's October 23, 2006 Action

If the Planning Commission believes the additional letter provides substantial new information that would result in a change to the Commission's previous action, the Commission should reconsider the item. In order for the Planning Commission to reconsider the item, a motion would need to be made by a Commissioner who voted in the affirmative on October 23, 2006 to recommend approval of the proposed project. A majority of the Planning Commission would need to support the motion in order for the item to be reconsidered. If the motion is supported, the previous action would become void and the Planning Commission would then reconsider the item and take a new action. The Planning Commission could recommend approving, modifying or denying the proposed application. Subsequently, the item would be deferred from the November 14, 2006 City Council meeting to give staff and the public time to review the action. The City Council meeting would be rescheduled and renoticed to a date uncertain at this time.

CORRESPONDENCE

At the time of printing of the memorandum, staff had not received additional correspondence from the public on the Addendum to the Final EIR or the opportunity for the potential reconsideration of the item. If comments are received, staff will provide them to the Planning Commission at the meeting of November 13, 2006.

RECOMMENDATION

Staff believes that the Planning Commission recommendation and conditions of approval as stated in the October 23, 2006 staff report and those identified at the October 23, 2006 meeting are appropriate and take into consideration concerns raised throughout the process on the proposed project. The additional letter does not identify new issues or impacts and staff believes the Final EIR adequately addresses similar comments that were previously raised. The Planning Commission's action considered these comments and therefore, staff recommends that the Planning Commission reaffirm its decision from the October 23, 2006 meeting to recommend approval of the proposed project at 75 Willow Road.

ATTACHMENTS

- A. Findings and Conditions of Approval, dated October 23, 2006
- B. Correspondence from Law Offices of Brian Gaffney, dated October 23, 2006
- C. Correspondence from Impact Sciences, dated November 9, 2006
- D. Correspondence from Berliner Cohen, dated November 2, 2006

Previous Documents Available for Review During Business Hours at the Planning Division

- City Council Study Meeting on Linfield/Middlefield/Willow Study Area Staff Report, June 22, 2004
- City Council Study Meeting on Linfield/Middlefield/Willow Study Area Staff Report, October 19, 2004
- Neighborhood meeting to receive input on the Linfield/Middlefield/Willow Study Area presentation, April 28, 2005
- City Council Meeting to Review Neighborhood Input and Direction on Future Land Uses and Review Process for Development Proposals in the Linfield/Middlefield/Willow Area, June 14, 2005
- City Council Staff Report to Review the Scope of Work for a Comprehensive Traffic Study for Development Proposals in the Linfield/Middlefield/Willow Area, August 23, 2005
- Environmental Quality Commission Staff Report and Minutes, September 12, 2005
- Planning Commission Study Session Staff Report, September 26, 2005
- Housing Commission Staff Report, October 5, 2005
- City Council Staff Report on LMW Area-Wide Transportation Impact Analysis, March 14, 2006
- Housing Commission Staff Report, April 5, 2006
- Planning Commission Study Session Staff Report, April 24, 2006
- Housing Commission Staff Report, dated July 5, 2006
- Draft Environmental Impact Report, dated July 2006
- Planning Commission Staff Report, July 31, 2006

- Final Environmental Impact Report, dated October 2006
- Planning Commission Staff Report, dated October 23, 2006

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FINDINGS AND ACTIONS

75 Willow Road

October 23, 2006

Redlined Conditions of Approval

*Showing Changes Incorporated at the October 23, 2006 Meeting in
Underline and ~~Strikeout~~ Format*

Environmental Review

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

General Plan Amendment

3. Make a finding that the proposed General Plan amendment to change the land use designation of property located at 75 Willow Road from Professional and Administrative Offices to Medium Density Residential for the development of 33 single-family, detached residential units, associated common areas and a private street would be consistent with the adopted General Plan.
4. Approve a resolution amending the General Plan to change the land use designation of property located at 75 Willow Road from Professional and Administrative Offices to Medium Density Residential.

Rezoning

5. Make a finding that the proposed rezoning of property located at 75 Willow Road from C-1 (Administrative and Professional District, Restrictive) to R-3-X (Apartment – Conditional Development District) is consistent with the General Plan land use designation of Medium Density Residential.
6. Introduce an ordinance rezoning property located at 75 Willow Road from C-1 (Administrative and Professional District, Restrictive) to R-3-X (Apartment - Conditional Development District).

Conditional Development Permit

7. Make a finding that the proposed conditional development permit 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 permit allows for development that provides opportunities for the City to increase and diversify its housing stock, provide five Below Market Rate housing units in compliance with the City's guidelines, provides open space within the development and pedestrian pathways to connect the neighborhood, and incorporates quality design and "green" building materials to promote sustainable development.
9. Approve the Conditional Development Permit for the construction of 33 single-family, detached residential units, associated common areas and a private street for property located at 75 Willow Road subject to the terms and conditions of the Conditional Development Permit.

Tentative Subdivision Map

10. Make a finding that the tentative subdivision map has been reviewed by the Engineering Division and has been found to be technically correct and in accordance with the State Subdivision Map Act and the City's Subdivision Ordinance.
11. Approve the Tentative Subdivision Map.

DRAFT
CONDITIONAL DEVELOPMENT PERMIT
October 23, 2006

1. GENERAL INFORMATION:

1.1 Applicant: SummerHill Homes

1.2 Nature of Project: General Plan Amendment, Rezoning, Conditional Development Permit, Tentative Subdivision Map, and Heritage Tree Permit to allow for the construction of 33 single-family residential units, including five (5) Below Market Rate (BMR) units.

1.3 Property Location: 75 Willow Road

1.4 Assessor's Parcel Numbers: 062-422-130

1.5 Area of Property: 4.52 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 **36 percent** of the project site.

2.2 Lot coverage shall not exceed a **25 percent** of the project site.

2.3 Minimum landscaping shall be a minimum **50 percent** of the project site.

2.4 The maximum amount of pavement shall not exceed **25 percent** of the project site.

2.5 Building height shall not exceed **28.5 feet** from the finished grade (32 feet from existing 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. The Community Development Director may extend this date per Municipal Code Section 16.82.170.
- 4.2 Minor modifications to building exteriors and locations, fence styles and locations, signage, and significant landscape features may be approved by the Community Development Director or designee, based on the determination that the proposed modification is consistent with other building and design elements of the approved Conditional Development Permit and will not have an adverse impact on the character and aesthetics of the site. The Director may refer any request for revisions to the plans to the Planning Commission for architectural control approval. A public hearing could be called regarding such changes if deemed necessary by the Planning Commission.
- 4.3 Major modifications to building exteriors and locations, fence styles and locations, signage, and significant landscape features may be allowed subject to obtaining an architectural control permit from the Planning Commission, based on the determination that the proposed modification is compatible with the other building and design elements of the approved Conditional Development Permit and will not have an adverse impact on the character and aesthetics of the site. A public hearing could be called regarding such changes if deemed necessary by the Planning Commission.
- 4.4 Major revisions to the development plan which involve material changes in land use, expansion or intensification of development or a material relaxation in the standards of development set forth in Section 2 above constitute permit amendments that require public hearings by the Planning Commission and City Council.
- 4.5 Any application for amendment shall be made by at least one property owner, in writing, to the Planning Commission. The Planning Commission shall then forward its recommendation to the City Council for action.

5. PROJECT CONDITIONS:

- 5.1 Development of the project shall be substantially in conformance with the plans by Wilsey Ham and Dahlin Group, dated received by the Planning

Division on October 18, 2006, consisting of 53 plan sheets, except as modified by the conditions contained herein.

- 5.2 Within one year from the date of approval of the tentative subdivision map, the applicant shall submit a Final Map for review and approval of the City Engineer. The subdivision map shall use a benchmark selected from the City of Menlo Park benchmark list as the project benchmark and the site benchmark.
- 5.3 Concurrent with Final Map submittal, the applicant shall submit covenants, conditions and restrictions (CC&Rs) for the approval of the City Engineer and the City Attorney. The Final Map and the CC&Rs shall be recorded concurrently. The CC&R's shall include language that:
 - 5.3.1. Prohibits all owners, tenants, and guests from parking any form of vehicle except in defined parking spaces.
 - 5.3.2. Prohibits parking on private streets overnight consistent with the Menlo Park Municipal Code Section 11.24.050.
 - 5.3.3. Requires that each homeowner maintain the garage to accommodate two vehicles.
 - 5.3.4. Requires the Homeowners Association to maintain the common landscaped areas within the subject site and in City's right-of-way along the entire property frontage.
- 5.4 Prior to Final Map approval, the applicant shall pay any applicable recreation fees (in lieu of dedication) per the direction of the City Engineer in compliance with Section 15.16.020 of the Subdivision Ordinance. The estimated value is \$1,056,000 (based on \$4 million value of acreage).
- 5.5 Prior to Final Map approval, the applicant shall submit improvement plans for all on-site and off-site improvements. The plans shall include details for utility systems, curbs, gutters, sidewalks, street lights, etc. The plans shall be subject to review and approval of the Public Works Department.
- 5.6 Concurrent with the improvement plan submittal, the applicant shall submit a Grading and Drainage Plan, including an Erosion and Sedimentation Control Plan, for review and approval of the City Engineer. The Grading and Drainage Plan shall be prepared based on the City's Grading and Drainage Plan Guidelines and Checklist and the Project Applicant Checklist for the National Pollution Discharge Elimination System (NPDES) Permit Requirements.
- 5.7 Prior to recordation of the Final Map, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project.
- 5.8 Prior to recordation of the Final Map, the applicant shall comply with all

requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.

- 5.9 Prior to recordation of the Final Map, the existing structures shall be demolished after obtaining a demolition permit.
- 5.10 Prior to recordation of the Final Map, the applicant shall remove and replace all damaged, significantly worn, cracked, uplifted or depressed frontage improvements (e.g., curb, gutter, sidewalk) and install new improvements per City standards along the entire property frontage subject to the review and approval of the Engineering Division. The applicant shall obtain an encroachment permit prior to commencing any work within the right-of-way or public easements. If determined appropriate and subject to the approval of the Engineering Division, the applicant may enter into an agreement and provide a bond for the completion of the work prior to the recordation of the Final Map.
- 5.11 Prior to recordation of the Final Map, the applicant shall install new utilities to the point of service subject to review and approval of the City Engineer. All electric and communication lines servicing the project shall be placed underground. Each lot/unit shall have separate utility service connections. If determined appropriate and subject to the approval of the Engineering Division, the applicant may enter into an agreement and provide a bond for the completion of the work prior to the recordation of the Final Map.
- 5.12 Prior to grading permit issuance, the applicant shall submit a rough grading plan for review and approval of the Building and Engineering Divisions.
- 5.13 Concurrent with the submittal for a demolition permit and a rough grading permit, the applicant shall submit a plan for construction safety fences around the periphery of the construction area for review and approval of the Building Division. The fences shall be installed according to the plan prior to commencing construction.
- 5.14 Prior to grading permit issuance, the applicant shall pay the applicable Building Construction Street Impact Fee.

~~5.15 Concurrent with the building permit submittal for site improvements, the applicant shall submit a revised plan and street section, showing a minimum of a 20-foot travel lane and a four-foot sidewalk, for the proposed new private street subject to review and approval of the Transportation Division.~~

5.165.15 Prior to building permit issuance for the first house, the applicant may propose an alternative approach to meeting the BMR requirements. The alternative approach would include dedicated funds and/or expertise equal to or greater than the value of the on-site BMR units to assist in and help ensure the feasibility of the Habitat for Humanity project proposed on Terminal Avenue. An alternative BMR agreement is subject to review and recommendation by the Housing Commission and review and approval of the

City Council and would be in-lieu of some or all on-site BMR units and, if approved, would supersede the BMR agreement, dated _____.

5.175.16 Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Planning, Engineering and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes.

5.185.17 Prior to demolition and building permit issuance, the applicant shall comply with the requirements of Chapter 12.48 (Salvaging and Recycling of Construction and Demolition Debris) of the City of Menlo Park Municipal Code.

5.195.18 Prior to building permit issuance for the first house, the applicant shall submit a detailed landscape plan, including the size, species, and location, and irrigation plan for review and approval of the Planning Division and the Public Works Department. The plan shall be revised to incorporate the preservation of tree #208 (18-inch deodar cedar). The landscaping plan shall comply with the Water Efficient Landscaping Ordinance (Municipal Code Chapter 12.44). Landscaping within the City right-of-way shall include City approved street plant materials. The landscaping for each house shall be installed prior to final building inspection of the subject house.

5.205.19 Prior to building permit issuance, the applicant shall pay all applicable school impact fees associated with the project.

5.20 Concurrent with the building permit submittal, the applicant shall provide a revised detailed drawing of the proposed two-rung split rail fence along Willow Road. A revised Willow Road streetscape shall also be submitted that shows the proposed fencing and homes in context with the adjacent Sunset building and existing split rail fencing subject to the review and approval of the Planning Division.

5.21 Prior to grading permit issuance, the project applicant shall implement Best Management Practices for water quality treatment on the project site, per the City of Menlo Park Grading and Drainage Plan Guidelines and checklist, subject to review and approval by the Engineering Division. 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), and #11 (use of on-site infiltration, vegetated swales or other comparable BMPs prior to discharge). BMPs shall include trash-collecting devices at storm drain inlets and regular maintenance of such devices. Prior to grading permit issuance the applicant shall also submit a grading and drainage plan, which includes BMPs subject to review and approval the City's Engineering Division. (MM 4.2)

5.22 Prior to building permit issuance, the applicant shall pay \$4,000 to the City to install signage to prohibit left turns and through movements from Alma Street during the AM peak period (similar to current operations during the PM peak period). The signage shall be installed prior to occupancy. The condition is only applicable if the improvement has yet been funded by another project. (MM TRAF- 1a)

5.23 Prior to building permit issuance of the first house, 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:

~~—Alma Street/Ravenswood Avenue right turn only restriction (if the improvement has not yet been funded by another project): \$4,000.~~

- Adaptive signal timing improvements at the intersections of Middlefield Road and Ringwood Avenue and Middlefield Road and Ravenswood Avenue: \$2,400.
- Installation of video detection devices at the intersections of Middlefield Road and Ringwood Avenue, Middlefield Road and Ravenswood Avenue, and Ravenswood Avenue and Laurel Street: \$44,000.
- Upgrades to the Caltrain station bike shelter: \$6,500. (MM TRAF-1c)

5.235.24 Concurrent with the ~~building permit submittal for the first~~ housedemolition permit submittal, a soils report shall be prepared, detailing how expansive soils must be treated or replaced when forming the foundation support. The report shall also incorporate all the recommended measures set forth in the Preliminary Geotechnical Investigation prepared by Lowney Associates. These recommended measures include: site specific preparation and grading techniques, specific foundation design (footings, post tension slab, drilled cast in place concrete piers), concrete slab-on-grade floors, a capillary moisture barrier, and adherence to the UBC seismic design. If importation of off-site soils is required during construction, the project sponsor and its contractors shall avoid the use of expansive soils. The project sponsor's contractors shall keep soils moist at all times before and during construction by either covering exposed soil when construction is not active or regularly watering the exposed soil to maintain a consistent moisture level. The soils report shall be subject to review and approval by the Building Division. (MM 3.1)

5.245.25 Prior to demolition permit issuance, implement the following air quality control measures, subject to review and approval by the Building Division:

- 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.
- 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.
- Encourage the implementation of the following optional measures:
- 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. (MM 5.1)

5.255.26 No earlier than 14 days prior to the commencement of demolition activities, a survey shall be conducted by a qualified biologist to determine if active bat roosts are present on the project site. If no bats are observed, then no further action would be required and demolition can proceed. Should an active roost be identified, a determination shall be made regarding whether the roost is used as a night-roost, day-roost, or maternity-roost. Should a night-roost be identified, the roost structure shall be removed during daylight hours while the roost is not in use. Should an active day-roost be identified, roosting bats shall be evicted through the use of humane exclusionary devices. Prior to implementation, the proposed methods for bat exclusion shall be reviewed and approved by the Planning Division and California Department of Fish and Game. The roost shall not be removed until it has been confirmed by a qualified biologist that all bats have been successfully excluded. Should an active maternity-roost be identified (the breeding season of native bat species in California generally occurs from April 1

through August 31), the roost shall not be disturbed until the roost is vacated and juveniles have fledged, as determined by the biologist. (MM 7.1)

5.265.27 Prior to the commencement of grading, the applicant 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 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, and shall be subject to review and approval by the Planning Division. (MM 7.2) 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. Clearing and construction within the fenced area shall be postponed or halted until the nest is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. (MM 7.3)

5.275.28 Prior to building permit issuance for the first house, the project applicant 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 project shall reflect compliance with the ordinance and procedures, and the applicant shall demonstrate that the required number of trees have been planted prior to project occupancy. The final landscaping plans shall be subject to review and approval by the Planning Division. (MM 7.4)

5.285.29 The project applicant shall adhere to the tree protection and preservation plan included in the Tree Survey Report prepared by Walter Bemis, Consulting Arborist. The plan 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). (MM 7.5)

5.295.30 Prior to grading permit issuance, the project applicant shall remove the wells on the project site and properly abandon them prior to or as part of site redevelopment. The wells shall be abandoned according to the requirements of the Department of Water Resources and San Mateo County Environmental Health Services Division, and subject to review and approval by the Building Division. (MM 9.1)

5.305.31 Prior to demolition permit issuance, the applicant shall survey the building for the presence of asbestos and lead-based paint. The survey shall

be subject to review and approval by the Building Division. 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 may have regarding the disposal of lead-based paint materials. (MM 9.2)

5.315.32 Prior to demolition permit issuance, the project applicant shall incorporate noise reduction measures into project construction activities, subject to review and approval by the Planning and Building Divisions. 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. (MM 10.1)

5.325.33 Concurrent with the demolition permit submittal, the project construction contractors shall submit a plan designating haul routes for all hauling-related trips to and from the project site during construction. The applicant shall submit a plan with the intent of minimizing noise impacts by keeping truck traffic away from sensitive receptors, subject to review and approval by the Planning and Transportation Divisions. (MM 10.2)

5.335.34 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 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. (MM 14.1)

Recommended for Approval by the
Menlo Park Planning Commission on
October 23, 2006

Arlinda Heineck, Community
Development Director

Approved by the
Menlo Park City Council on
_____, 2006

Silvia M. Vonderlinden, City Clerk



Community Development Department
701 Laurel Street/Menlo Park, CA 94025-3483
(650) 330-6706/Fax (650) 327-1759

MEMORANDUM

DATE: September 6, 2006
TO: Housing Commission
FROM: Arlinda Heineck, Community Development Director

SUBJECT: Agenda Item #C1: Below Market Rate (BMR) Agreement for 75 Willow Road

The applicant, SummerHill Homes (SummerHill), is proposing to demolish an approximately 40,000 square-foot office building and construct 33 residential units on a 4.5-acre site located at 75 Willow Road. This proposal triggers the Below Market Rate (BMR) Housing Program requirements.

BACKGROUND

The applicant has appeared before the Housing Commission at three previous meetings for consideration of a proposal for meeting the BMR Housing Program requirements for the project. A summary of each meeting is provided below.

Meeting of October 5, 2005

The original BMR proposal included five BMR units in two different plan types, one of which was a duplex configuration. The BMR units were the smallest of the development with between 1,483 and 1,617 square feet compared to the market rate units with between 2,070 and 2,389 square feet. Additionally, all of the BMR units had tandem garages while the market rate units had side-by-side garages.

The Housing Commission expressed concern over the difference in the size of the BMR units when compared to the market-rate units and that the BMR units had separate and distinct floor plans, including one duplex housing two BMR units. Commissioners were also concerned that the tandem parking garages of the BMR units were distinctly different than the market rate units. In conclusion,

the Commission could not support the BMR proposal because it was not comparable to the market rate units. The Housing Commission directed SummerHill to revise its proposal and return to the Commission with a proposal that is more consistent with the BMR Guidelines.

Meeting of April 5, 2006

The applicant presented a second proposal to the Commission at its April 5, 2006 meeting in response to comments received from the Housing, Environmental Quality and Planning Commissions, City staff, and the Menlo Park Fire Protection District. The proposal represented a significant change to the site layout and BMR unit proposal. The revised proposal deleted the BMR duplex. In doing so, the developer proposed that all five BMR units, as well as three market rate units would have a Plan 4 design. Plan 4 was also increased in size by 96 square feet to a total of 1,713 square feet, however, remained the smallest plan in terms of square footage. Plan 4 also continued to be the only plan type with a tandem garage.

The Commission acknowledged appreciation for the changes to the site layout and the distribution of the BMR units, but continued to express concern regarding the density of the project, the average size of the BMR units compared to the market rate units and the use of tandem garages.

Meeting of July 5, 2006

The applicant presented a third proposal that included one Plan 1 BMR unit and four Plan 4 BMR units. The Plan 1 unit would be a three-bedroom unit and, of the Plan 4 units, two would be three bedrooms with a loft and two would be four bedrooms. During the Commission's discussion and based on a concern expressed by the Commission regarding the square footages of the BMR units compared to the market-rate units, the applicant offered a variation on the proposal. The variation was for two Plan 1 BMR units and three Plan 4 BMR units. The Plan 1 units would have three-bedrooms and the Plan 4 units would have four-bedrooms. The Commission expressed support for the proposed variation and directed that the applicant return to a future meeting with a draft BMR Agreement that reflected the revised proposal.

Alternative Approach to Meeting the BMR Requirement

In addition to review of the applicant's proposal at the July 5 meeting, staff introduced the possibility of taking a different approach to meeting the project's BMR requirement. The alternative approach would involve a tangible contribution to the provision of very low- or low-income housing in lieu of the provision of on-site moderate-income BMR units as part of a larger development project. Specifically, the Commission considered an alternative in which the

applicant for the project at 75 Willow Road would dedicate funds and/or expertise to assist in and help ensure the feasibility of the Habitat for Humanity project proposed on Terminal Avenue. In exchange, fewer, if any, BMR units would be constructed at the 75 Willow Road project site. The Commission generally supported the alternative concept and recommended that the applicant pursue exploration of the approach to determine its feasibility.

The applicant has been and is continuing to actively explore the alternative. The applicant has submitted correspondence summarizing the status to date (Attachment C). It is the applicant's intent to return to the Commission at its October 2006 meeting to present a specific proposal. In the meantime, the applicant is requesting Housing Commission consideration and final recommendation on the proposal currently before the Commission, recognizing that the recommended proposal may be superseded at a later date by an alternative proposal.

ANALYSIS

The BMR Guidelines specify that in residential developments of 20 units or more, the developer shall provide not less than 15 percent of the units at below market rates to very low, low and moderate income households. Further, if the number of BMR units required includes a fraction of a unit, the developer shall provide either a whole unit, the preferred form of participation, or make a pro rate residential in lieu payment for the fractional unit. In this case, the project would be required to provide 4.95 BMR units (15 percent of 33 units). Rather than pay an in-lieu fee on the fraction of the BMR unit, the developer is proposing five BMR units. The BMR proposal for 75 Willow Road meets the requirement for the number of BMR units.

Draft BMR Agreement

The applicant has submitted a draft BMR Agreement (Attachment A) and project plans (Attachment B) for review by the Commission. The agreement and plans are based on the direction provided by the Housing Commission at its July 5, 2006 meeting. In accordance with Chapter 5 of the BMR Guidelines, the characteristics to be considered in the BMR units are listed and discussed below.

Size

BMR units must be generally of the same size in terms of number of bedrooms and square footage as the market rate units.

In response to the Commission's direction, the current proposal has introduced a new plan type, Plan 5. Plan 5 is a four-bedroom unit of similar size to the Plan 4 unit but with a side-by-side garage. The Plan 4 units continue to have tandem

garages. The introduction of a fifth plan type allows for an additional BMR unit to have a side-by-side garage, resulting in three BMR units with side-by-side garages and two BMR units with tandem garages. This would compare to the market rate units in which 27 units have side-by-side garages and one unit a tandem garage. Staff would note that at the July 6 meeting, the Commission supported the inclusion of tandem parking within the project recognizing that the use of tandem garages would allow for the retention of mature trees, would not affect the affordability of the BMR units and that market conditions would be responsive to the mix of garage types. Additionally, the Commission noted that the BMR units would include a mix of side-by-side and tandem garages.

The table below provides detailed information on the current proposal.

Plan Type	Number of Bedrooms	Square Footage	Parking Pattern	Market Rate Units	BMR Units
Plan 1	3	2,070	Side-by-Side	5	2
Plan 2	3 + loft; option for 4	2,299	Side-by-Side	7	0
Plan 2s	3 + loft; option for 4	2,334	Side-by-Side	3	0
Plan 3	3 + loft; option for 4	2,389	Side-by-Side	7	0
Plan 3s	3 + loft; option for 4	2,399	Side-by-Side	1	0
Plan 4	4 with loft option	1,713	Tandem	1	2
Plan 5	4	1,719	Side-by-Side	4	1

Staff believes the proposal reflects the Commission's direction at the July 6 meeting and provides for BMR units with a variety of plan types and sizes.

Location

The BMR units should be distributed evenly throughout the site.

In the current proposal, the BMR units are located on all four sides of the property, as well as in the center area. The Commission has previously expressed support for the distribution.

Exterior Appearance

The BMR units should be indistinguishable from the exterior.

The project includes a diversity of architectural styles. With changes in the project plans over the past revisions, including elimination of the duplex unit and

incorporation of three plan types in the BMR unit mix, staff believes that the BMR units will be indistinguishable from the market rate units.

Design, Materials and Appliances

The design and materials of the BMR units should be of a comparable quality as the market rate units, but need not be of luxury quality. The BMR units should contain standard appliances common to new units, but need not have luxury accessories, such as Jacuzzi tubs.

The applicant has confirmed through the BMR Agreement that standard interior designs, materials, finishes and appliances will be the same for the market rate and BMR units. The applicant intends to offer upgraded packages to future buyers. The BMR Agreement states that if 80 percent or more of the buyers choose upgrades, the upgrades will become part of the standard interior features and installed in the BMR units.

RECOMMENDATION

The proposed BMR Agreement is before the Commission for a recommendation that will be forwarded to the Planning Commission and City Council to consider during deliberations on the project. The City Council will be the final decision-making body on the BMR Agreement as well as other aspects of the project proposal.

Staff is recommending that the Commission recommend approval of the BMR Agreement as outlined below.

1. Determine that the number of BMR units is appropriate and meets the requirements of the BMR Housing Program and Guidelines.
2. Determine that the mix of BMR unit sizes is appropriate and will serve to address the needs of households on the current BMR Waiting List.
3. Determine that the BMR units are distributed evenly throughout the project site.
4. Determine that the exterior appearance of the BMR units is indistinguishable from the market rate units and therefore is consistent with the BMR Guidelines.
5. Determine that the interior design, materials, finishes and appliances will be the same for the market rate and BMR units and is therefore consistent with the BMR Guidelines.

ATTACHMENTS

- A. Draft BMR Agreement for 75 Willow Road (excluding exhibits)
- B. Project Plans
- C. Habitat for Humanity/SummerHill Homes Update, undated

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HOUSING COMMISSION MINUTES

Regular Meeting
September 6, 2006
5:30 p.m.

Administrative Building Conference Room, First Floor
701 Laurel Street, Menlo Park, CA 94025-3483

CALL TO ORDER

Chairperson Anne Moser called the meeting to order at 5:30 p.m. in the Administrative Building City Council Conference Room.

ROLL CALL

Housing Commission Members Present: Patricia Boyle (Vice Chair); Elza Keet; Elizabeth Lasensky; Carol Louchheim; Anne Moser (Chair); Clarice O'Neal; Sandy Venning.

Housing Commission Members Absent: None.

Staff Present: Arlinda Heineck, Community Development Director; Deanna Chow, Senior Planner; Megan Norwood, Management Analyst.

A. PUBLIC COMMENT – None.

B. REPORTS AND ANNOUNCEMENTS

1. Vice Chair Boyle reported that Housing Leadership Day will be held in Redwood Shores on October 20, 2006. She said that scholarships to attend are available and that Housing Commissioners may be able to attend free of charge.
2. Commissioner Louchheim reported that she will not be able to attend the October Housing Commission meeting.

C. BUSINESS ITEMS

1. Consideration of and recommendation on Below Market Rate (BMR) Agreement for a residential project located at 75 Willow Road.

Director Heineck introduced the item by announcing that there will be a meeting next week with the City Attorney, City Manager, SummerHill Homes, Habitat for Humanity, and herself to explore SummerHill's alternate proposal for meeting the BMR requirements for the residential project located at 75 Willow Road. In response to a question from Commissioner Keet, Director Heineck explained that the purpose of the meeting is to further identify and discuss the costs to develop BMR units on-site at 75 Willow Road versus SummerHill providing assistance to Habitat for development of the Terminal Avenue project (the alternate proposal). She said that at minimum the costs are meant to be an even trade.

Regarding SummerHill's Draft BMR Agreement for 75 Willow Road, Commissioner O'Neal asked why not all of the development's proposed floor plan types have representative BMR units. Director Heineck replied that at its last meeting of July 5, 2006 the Commission had directed SummerHill to return to it with the currently proposed draft BMR Agreement; therefore she said that she would defer to the Commission to answer Commissioner O'Neal's question. Vice Chair Boyle responded that the proposed bedroom counts for BMR units are OK but that there is a difference in square footage between the BMR units and the market-rate units.

SummerHill's Elaine Breeze said that a strict application of the BMR requirements would provide four larger BMR units (square footage) plus an in-lieu fee. However, she said, SummerHill is proposing to instead provide five BMR units. She asked the Commission if it would prefer four larger BMR units or five smaller BMR units. She reminded the Commission that it had chosen the five unit option at the July Housing Commission meeting. Commissioner Louchheim commented that, on average, the BMR units have 327 fewer square feet per BMR unit than market rate unit.

Director Heineck explained that the BMR Guidelines have never made a reference to floor plan type. She said that the Guidelines only specify that BMR units must be generally of the same size in terms of number of bedrooms and square footage as the market rate units. Vice Chair Boyle commented that we need to quantify this requirement, as well as the value of an "in-kind" service.

Regarding the alternative approach to meeting the BMR requirement, Chair Moser asked if households on the BMR Waiting List would be eligible for the Habitat homes and, if so, if they would receive priority for them. Mary Boughton, Peninsula Habitat for Humanity Executive Director, replied that the City can set the rules, and that Habitat can do it that way if that is how the City wishes to do it.

The Commissioners continued to discuss concerns over what constitutes "similar" in relation to the BMR Guideline's requirement that BMR units must be "similar to" or generally the same size as market rate units. Related to this, they also discussed their concern about the difference in square footage between the BMR units and the market rate units at 75 Willow Road. Director Heineck commented that the applicant was intending to return to the Commission in October to further explore the alternative approach to meeting the BMR requirements. She explained that the October Housing Commission meeting will take place before the project goes to the Planning Commission or the City Council.

Commissioner Keet said that with the recently approved large Stanford hotel BMR in-lieu fee payment, she would rather see some of that go to help Habitat rather than getting zero on-site BMR units at 75 Willow Road. She explained that the Stanford hotel fees could be used for Habitat, rather than SummerHill providing the assistance as an alternative approach to meeting their BMR requirements. Director Heineck said that such a proposal would have to be examined for feasibility and that it would require research. Chair Moser commented that with all the BMR units coming up, there will be a greater demand for PAL loans and that PAL may be a better use of BMR funds.

Chair Moser asked if the motion on the table should reflect the possibility of a change later on, for the alternative BMR proposal. Elaine Breeze explained that SummerHill is seeking approval of the proposed BMR Agreement as it is, without reference to the possibility of an alternative approach to meeting the BMR requirements, because they are two separate things. Following some further discussion of how to word the motion, Commissioner Keet made the motion.

M/S Keet/Boyle to recommend the BMR Agreement as proposed for a residential project located at 75 Willow Road; 6-1 with Commissioner O'Neal opposed.

Commissioner O'Neal said that the proposed BMR Agreement goes against the BMR Guidelines. Director Heineck responded that the size requirement as stated in the Guidelines is a general statement subject to the interpretation of the Housing Commission. Therefore she said that the proposal is not in conflict with the BMR Guidelines. Commissioner Keet commented that the Commission shouldn't deviate from the rules all the time but that it is okay to be flexible sometimes. She said however that she agrees with Commissioner O'Neal that doing so is dangerous.

Elaine Breeze apologized for not having the alternative proposal ready and available for presentation to the Commission at the present meeting. She explained that it was requiring more research and work than they had thought. She said that much of what Habitat would be seeking assistance on (from SummerHill) has to do with engineering related issues that are not directly related to what Habitat does, which is build homes. She said that it has been a truly cooperative effort and she referred to the summary in the Commission's staff report. She said that evaluation of the alternative approach involves an analysis of how much it would cost to produce BMR units at 75 Willow so that they can tell what the value of their assistance to Habitat would be. Several staff from Peninsula Habitat for Humanity were present, including the Executive Director Mary Boughton. Habitat staff commented that having SummerHill's help has been great because the Terminal Avenue site is such a difficult one. Following a brief discussion by the Commission on possible uses of the BMR fund, Mary Boughton thanked the Housing Commission for its open mind and for considering SummerHill's alternative proposal for meeting their BMR requirements.

2. Consideration of and possible recommendation on Proposition 1C, Housing and Emergency Shelter Trust Fund Act of 2006.

Director Heineck introduced the item and referred the Commission to her staff report dated September 6, 2006. Commissioner Keet said that she is concerned that consideration of this item is not in the purview of the Housing Commission and read the Commissioners the Housing Commission Charter. She expressed concern that the issue goes beyond the local scope of the Housing Commission. The Commission discussed this and several Commissioners commented that consideration of Proposition 1C does serve housing in Menlo Park.

Commissioner Louchheim asked what the Commission would be asking the City Council to do in relation to Proposition 1C. Commissioner Lasensky responded that

the Commission would be asking the Council to take a position on it. Director Heineck clarified that the Housing Commission cannot endorse Proposition 1C but that it can recommend that the City Council do so.

Director Heineck commented that the appointed Housing Commission representative can go to any upcoming City Council meeting. After a brief discussion, Vice Chair Boyle offered to attend the City Council meeting saying that she will do so at the September 19, 2006 meeting. She asked about the process for developing talking points for the presentation. Director Heineck explained that one option was for Vice Chair Boyle to prepare talking points based on the information provided to the Commission and that Director Heineck could then forward it to the rest of the Commission for comment back to Director Heineck. The Director noted that a second option would be for the Commission to form a subcommittee of members to work on behalf of the Commission.

M/S Louchheim/Lasensky to appoint Vice Chair Boyle and Commissioner Lasensky to prepare talking points and for Vice Chair Boyle to present the Commission's recommendation to support Proposition 1C to the City Council; 6-1 with Commissioner Keet opposed.

3. Discussion of possible uses of the Below Market Rate Fund.

Vice Chair Boyle introduced the item and said that PAL has been a priority use of the BMR Fund. She explained that the BMR Fund will be receiving an approximately \$2.5 million in lieu payment related to the Stanford hotel and office project on Sand Hill Road and that there will be additional in lieu payments related to other developments as well. She commented that the City will also be receiving many BMR units in the near future. Director Heineck reminded the Commission that one of its project priorities is to evaluate the PAL Program. She said that the Clarum development will provide an educational opportunity to see how many buyers will need and/or desire PAL loans in order to purchase the Below Market Rate units in the project.

Chair Moser said that she would like to help seniors but wants to see how it goes with Clarum and PAL loans. She said that this will tell us if we need to continue to use the BMR Fund for PAL loans or for something else. Director Heineck said that the Clarum BMR units are on target to sell from December 2006 through May 2007.

4. Approval of July 5, 2006 Minutes.

M/S Boyle/O'Neal to approve the July 5, 2006 minutes as presented; 7-0.

D. INFORMATION ITEMS:

1. Monthly Report on the Housing Rehabilitation Loan Program for June and July 2006.

The Commissioners accepted the report.

2. Correspondence related to Request for Modification of the Below Market Rate (BMR) Guidelines.

The Commissioners accepted Director Heineck's staff report and concluded that no further action by the Commission was warranted at this time.

E. ADJOURNMENT: The meeting was adjourned by consensus at 7:15 pm.

Respectfully submitted,

Megan Norwood
Management Analyst