



PLANNING COMMISSION STAFF REPORT

FOR THE PLANNING COMMISSION
MEETING OF JULY 10, 2006
AGENDA ITEM C1

LOCATION:	1460 El Camino Real (inclusive of the primary addresses 1452 and 1460 El Camino Real and 1457 and 1473 San Antonio Street)	APPLICANT & PROPERTY OWNER:	John Beltramo, Beltramo's Investment Company, Inc.
EXISTING USE:	Commercial	APPLICATION:	Rezoning, Planned Development Permit, Vesting Tentative Subdivision Map, Heritage Tree Permit, and Environmental Review
PROPOSED USE:	Commercial and Multi-Family Residential		
EXISTING ZONING:	C-4 (General Commercial, Applicable to El Camino Real)		
PROPOSED ZONING:	PD (Planned Development) District		

PROPOSAL

The applicant is proposing to redevelop four existing parcels, which contain the addresses 1452 and 1460 El Camino Real and 1457 and 1473 San Antonio Street, which are collectively known as 1460 El Camino Real. The proposed project consists of the demolition of several single-story retail and storage buildings and the construction of a new 26,800-square-foot, two-story commercial building and 16 attached residential units with associated common areas. The proposal requires the approval of the following requests:

- **Rezoning:** Change from C-4 (General Commercial District, Applicable to El Camino Real) to PD (Planned Development District);

- **Planned Development Permit:** Establish specific uses and development regulations and architectural designs;
- **Vesting Tentative Subdivision Map:** Merge four parcels and subdivide into 18 lots, including 16 residential lots, one common lot for the residential units, and one commercial lot for commercial condominium purposes with a maximum of 40 condominium units;
- **Heritage Tree Permit:** Remove one heritage size tree; 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 Rezoning, Planned Development Permit, Vesting Tentative Map, and EIR. The Council is the final decision-making body on these applications. The City Council will also consider the Heritage Tree Removal Permit and the recommendation by the Housing Commission in regard to the Below Market Rate Housing Agreement.

BACKGROUND

The proposal was initially filed with the City in August 1999. Since that time, the project description and plans have been modified, a Vesting Tentative Map has been filed, and an EIR prepared. More recently, the proposal appeared before the Planning Commission at a study session on February 23, 2004. At this meeting, the Commission expressed general support for the project, including the layout of the site, the pedestrian connections throughout the site, and the general architectural style of the commercial and residential buildings. The Commissioners expressed several concerns as well, including the adequacy of the on-site parking for both the commercial use and for visitor parking for the residential units, and the desire for retail versus office uses to occupy the commercial building.

Based on the Commission's input, the applicant made modifications to the plans to include four uncovered parking spaces in the residential portion of the property. Additionally, the applicant indicated a willingness to allow the 21 parking spaces in the at-grade commercial lot to be used for nights and weekends as guest parking. Staff also expanded the environmental review of the proposed commercial building to include the impacts of uses beyond general office uses, including retail, restaurants, and medical and dental office uses. The analysis of these various types of commercial uses is included in the Draft EIR. The document also addresses the issue of the adequacy of the proposed parking for both the commercial and residential portions of the project.

The Draft EIR circulated for 45 days, from July 1, 2004 to August 16, 2004. During the review period, the Planning Commission conducted a public hearing on July 26, 2004, to receive comments on the Draft EIR and the project itself. The minutes of the Planning Commission hearing and the comments from the public and Planning

Commission are included in the Response to Comments of the Final EIR, which was distributed to all commenters. The Final EIR also includes responses to the comments received during the review period. The FEIR circulated for a period of 10 days, from March 27, 2006 to April 5, 2006. The Draft EIR and Final EIR are available for review during office hours of the Planning Division.

ANALYSIS

The purpose of the July 10, 2006 public hearing is to give the Planning Commission an opportunity to review the project and the Final EIR that has been prepared for the project. Subsequent to receiving public comments, the Commission should formulate and forward to the City Council its final recommendation on the proposed project and Final EIR. The City Council is tentatively scheduled to hold a public hearing on the project on August 1, 2006.

Site and Surrounding Context

For purposes of discussion in this staff report, directional references are based on El Camino Real running north/south. Therefore, the front of the property facing El Camino Real is the westerly side of the property, the rear along San Antonio Street is the easterly side, the left side of the property is the northerly side, and the right side is the southerly side. The subject property is surrounded by residential and institutional uses to the west across El Camino Real, the Beltramo's Wine & Spirits store and an office use to the north, multi-family residential uses to the east across San Antonio Street, and an office, restaurant, and car wash to the south.

The four parcels of the subject site, totaling approximately 1.55 acres, are currently developed with four commercial and storage buildings totaling approximately 12,000 square feet, as well as a number of storage containers. The largest of the four parcels was the former site of Rayberg Lumber, which vacated the site in 1999. The project site is approximately mid-block between Glenwood Avenue and Encinal Avenue.

Project Description

The proposal would involve the demolition of all existing structures on the site and the construction of a two-story commercial building and 16 residential units with associated common areas. The project plans for the proposal are included as Attachment B. Although proposed as one development, the commercial and residential elements of the development would function almost as separate entities, with sole vehicle access for the commercial building from El Camino Real, and sole vehicle access for the residential units from San Antonio Street. However, there would be pedestrian connections between the two portions of the development, as described in greater detail below. It is anticipated that the project would be built in three phases, starting with residential units 1,2,3,4,15, and 16 and a portion of the common area, followed by the remaining residential units, and finally the commercial building in the third phase.

Commercial Building Component

The proposed commercial building would be a two-story structure of approximately 26,800 square feet. The applicant's intent is to use the building for office uses. However, the applicant has expressed interest in maintaining flexibility to allow other compatible uses. At this time, the applicant has an open floor plan to allow for maximum flexibility for future tenants. This would allow the option of leasing the entire building to one tenant or dividing it into smaller tenant spaces, dependent upon the use and the size of the business. The applicant is also proposing up to 40 condominium units within the commercial building to allow for flexibility in the division of space and the opportunity for ownership of individual spaces. The tenant spaces have not yet been defined, but would be delineated through a Condominium Plan, which would be recorded with the County Recorder's Office. Conditions, Covenants and Restrictions (CC&Rs) would be required for the commercial condominiums as well as for the residential portion of the project. This is described in more detail in the *Residential Development Component* section of the report.

The building is pushed forward towards El Camino Real to provide a presence along the street frontage. The building is designed with a single entry courtyard, which is angled to the street. A standing seam metal roof on the second floor would create this main entrance. Accent paving with a raised planter in front of the entrance further defines this space as a focal point. A secondary entrance is proposed on the southern side of the building. Because the building layout is focused around a central entrance, the building design appears to be more conducive to office than retail uses. However, the intent of the building is not limited to office uses. Staff is also working with the applicant to create a four-foot pedestrian walkway on the southern edge of the building towards the two entrances as a means to separate pedestrian and vehicular traffic from the parking lot. The applicant has indicated that the existing seven-foot wide area is needed to maintain a landscape buffer strip for both exterior and interior screening purposes. Staff believes that a landscape buffer and a pedestrian walkway can co-exist and function properly without reducing the required 24-foot driveway aisle. Staff has added a condition to modify the plans to include a four-foot pedestrian pathway along the southern edge and southeastern corner of the commercial building. Should the Planning Commission determine that the condition is unnecessary, the condition can be removed.

The applicant is proposing a building that would incorporate a mix of materials such as a cement plaster finish in beige, clay tile roofing, and aluminum and tinted glass windows. The second floor of the building would be inset into the roofline, which would help reduce the overall mass of the structure. The proposed building would have covered balconies in the center of the second floor elevation on the front, left, and right sides of the building, and would have a covered arcade on the ground floor both in front of the main entry and at the rear of the building. The proposed elements provide articulation and visual interest to the building elevations while also providing functional features for its users.

Residential Development Component

The applicant is proposing to construct 16 residential units and a separate recreation building on the rear half of the property facing San Antonio Street. The development would offer five different floor plans, ranging in size from 1,390 square feet to 1,481 square feet (excluding the garages). Fourteen of the proposed dwelling units contain two stories of living area above a partially submerged, two-car garage. Two of the units would have a surface-level, two-car garage on the same floor as the first floor living area. These two units would be three-bedroom, three bathroom units while the remaining 14 units would be two-bedroom units with two and one-half bathrooms.

As part of the proposed project, the applicant is requesting approvals that would allow for the creation of fee simple lots for each of the residences, which then could be individually sold. Each lot would belong to a homeowners association (HOA) and would adhere to CC&Rs developed for the proposal. Since CC&Rs are required to be prepared for both the commercial and residential portion of the project, the applicant will have the option to prepare separate CC&Rs for the two portions of the project or a single document that addresses both the commercial and residential portions of the project. The CC&Rs are required to be recorded simultaneously with the Final Map that serves to create the lots. At this time, however, the applicant is proposing that all 16 units be rental units.

The 16 townhouse-style, residential units have been arranged on the site in five separate groups, including two buildings of two units, two buildings of three units, and one building of six units. The front entry for each residential unit would vary throughout the development. Along San Antonio Street, two of the units would have front entrances facing the street while the remaining four would have side entrances with a covered porch feature facing San Antonio Street. Since the finished first floor of many of units would be above grade, a short flight of steps would lead up to each covered entry porch. The front entries and porches along San Antonio Street put eyes on the street and tend to create a more inviting streetscape. The proposed residential units are consistent with the recently approved six-unit project that is currently under construction and located south of the site at 1421 San Antonio Street.

In general, the front entries of the residential units would not face one another, but instead the garages would face one another. Building 5 with three units, however, would have front entrances on the same side as the garage doors. This is typically the rear elevation of other units, and therefore, does not have as many details and articulation as the other front elevations. Since the last Planning Commission meeting, the applicant has made a modification to Building 5. The previous west elevation included a break in the second story roofline that softened the appearance and broke up the massing of the structure. The proposed elevation of the two similar units would be on one plane. The Planning Commission may wish to consider whether the design is appropriate and comparable to the other units in the development.

The proposed residential units would have a contemporary townhouse design. The proposed materials include stucco finish, vinyl windows with simulated divided light, and clay tile roofs. Staff has asked for further clarification on the proposed windows and would recommend vinyl clad wood windows or better quality condition. Design features would include covered porches with wood railing and posts, wooden trellises over the outdoor patio areas, chimneys with a stucco finish to match the rest of the building, and a mix of gabled and hipped roof features. Shallow curved arches over the front entries and over the covered porches would be repeated in the curved arched windows. One element, a pop-up dormer, above the second story, was removed from the units since the last Planning Commission meeting. While this was a prominent architectural feature of the units, staff believes the overall design remains cohesive and balanced. Additionally, the overall height of the structures would also be reduced, which would be more in scale with the C-4 zoning district. The height of the residential buildings would be approximately 33 feet from average natural grade measured to the topmost point of the structure. As further discussed below, the proposed height requires an exception through the PD zoning request.

The proposed exercise building is a separate sixth building located at grade, adjacent to the pedestrian access from the commercial lot. The exercise room would be approximately 300 square feet and the exterior of the building would utilize matching materials such as stucco finish and clay tile roofing. The one-story building would be 11 feet, 10 inches in height, which would be in scale and context of the residential buildings. The exercise room is an amenity that would be used to serve the residences and their guests only.

The Draft EIR identifies mechanical ventilation as a mitigation measure for noise. Although not identified on the plans, the applicant has indicated that mechanical ventilation such as air condition units, would be placed on patios or balconies. Staff is concerned about the potential visual and noise impacts of these units and has added a condition to provide a plan showing the location and design of the proposed units, and that the units will comply with the City's Noise Ordinance. If the Planning Commission has concerns, the Commission could direct the applicant to explore other location alternatives or design options.

Parking and Circulation

The proposed project has been designed with separate vehicular access for the commercial and residential components. The commercial building would be accessed by a single driveway on the right side of the property from El Camino Real. The applicant is proposing to provide 21 surface parking spaces to the right and rear of the commercial building, as well as 90 underground parking spaces, for a total of 109 parking spaces. The ramp leading down to the 90 underground parking spaces would be accessed from behind the commercial building. The underground parking would not count towards the total FAR for the site. The proposed parking represents a ratio of approximately four parking spaces per 1,000 gross square feet of floor area. As will be further discussed below, the Planned Development Permit process allows the

Planning Commission and City Council to establish the appropriate parking requirement for the development.

The residential units would be accessed from two driveways on San Antonio Street. These driveways would not connect on the property, so individual residences would be accessed by one or the other driveway, not both. Units 1, 2, 3, 4, 14, 15, and 16 would access the garages from the northernmost driveway while the remaining nine units would access the garages from the southernmost driveway. The driveways would start at grade at the entrances on San Antonio Street, and then would slope downward to enter into the partially submerged garages, which are approximately three and one-half feet below natural grade. Each residential unit would have two covered parking spaces, which meets the City's requirements.

The south driveway would also access the proposed two uncovered parking spaces that are intended for use as guest parking. The applicant is also proposing two additional parking spaces on the commercial parking lot to be dedicated for residential guest parking. These spaces are located behind the commercial building, closest to the residential units, and would be encumbered with easements for the benefit of the lots 1-17 (residential component). Guests using these two parking spaces would have access to the residential portion through a controlled pedestrian access gate between the two portions of the project. Previously, the proposed project allowed pedestrian access through the entire site. The current proposal allows pedestrian access for the benefit of the guest parking spaces on the commercial lot. The Planning Commission may wish to consider the appropriateness and extent of a public pedestrian access easement across both components of the site.

Previously, the applicant proposed to allow the 21 surface parking spaces in the commercial lot to be used as guest parking for the 16 residential units during weeknights and weekends. At this time, the applicant does not wish to pursue this option and believes the two dedicated spaces on the commercial portion of the site, without time limits, and the two spaces on the residential portion are sufficient.

The usage of the 21 at-grade parking spaces in the commercial parking lot for additional residential parking was included in the EIR as a part of the project description on which the environmental impacts were analyzed and viewed as a positive element of the project by the Planning Commission. Staff believes that changing this parking configuration to the proposed four spaces would create a potential inconsistency between the project as described and analyzed in the EIR and the proposal. For this reason, staff is recommending and has included as a condition that the 21 spaces be available for residential parking during evenings and weekends as originally proposed. If the project were not revised to make this change in the parking arrangement, it may require a revision to the EIR, including recirculation of the document for public comments. If the Commission believes that the change in the parking arrangement is minor and would not impact the analysis contained in the EIR, the Commission should explicitly state its basis for this determination and then may consider approving the modified proposal for four spaces dedicated to residential guest parking.

Public Sidewalks

Currently, there is a five-foot-wide sidewalk along the El Camino Real frontage of the subject property. At the Planning Commission study session, the applicant presented street frontage improvements along El Camino Real to include a four-foot wide parkstrip with a six-foot wide sidewalk behind it. The existing sidewalk on El Camino Real, however, has a number of constraints to creating a new sidewalk with a parkstrip in this configuration. Several of the challenges include streetlights, establishing a new street frontage pattern that could not be accomplished on other frontages along the block, and the presence of utilities under the proposed parkstrip area. Staff therefore believes the preferred alternative would be to widen the sidewalk to six feet and install street trees on the frontage of the private property. Because of the existing light standard, the applicant is proposing a one-foot easement for a length of nine feet into the project site and around the light to maintain a 4.3-foot pedestrian clearance. The applicant has provided revised plans to show the modifications to the El Camino Real street frontage as shown on the L-1 of Attachment B.

The San Antonio Street frontage does not contain curb, gutter or sidewalks. The applicant proposes to install a five-foot-wide planter strip and a five-foot-wide sidewalk in the City's right-of-way on San Antonio Street, and to install new 24-inch box City street trees per City standards in the right-of-way. The proposed improvements would not only improve the aesthetics of the site, but would also complete the missing pedestrian connection along this block.

Heritage Tree Permit and Landscaping

The proposed project site includes two heritage trees, including one 24-inch coast live oak and one 24-inch redwood tree, and 12 non-heritage trees, including one magnolia along El Camino Real, and 11 photinia street trees along San Antonio Street. The applicant submitted an arborist report, included as Attachment H. The report indicates that the two existing heritage trees are in good health, but the applicant is requesting removal of the redwood tree. The tree is proposed for removal to accommodate one of the entry driveways to the residential component of the project. Preservation of the redwood tree could be complicated as the roots could be impacted by the creation of the ramp for the driveway. Additionally, the applicant is proposing to remove the magnolia tree and all of the photinia street trees in the rear of the property. The removal of non-heritage size trees does not require a permit. The replacement ratio for heritage trees is two new trees for each tree removed. Given the location of the tree with respect to the proposed development, and the proposed landscaping plan, staff believes the removal of the redwood tree is appropriate.

The applicant is proposing to install a substantial amount of landscaping on the property, including installation of trees that could reach heritage size. This landscaping would be installed along the majority of the perimeter of the property, would divide the office portion of the site from the residential portion of the site, would encircle the office

building, and would be scattered throughout the residential portion of the development. The landscaping plan provided by the applicant as Sheet L-1 of Attachment B indicates the planting of over 70 new trees on the site. The trees would be a mix of species and sizes. Most of the new trees would be 15-gallon size specimens, but the applicant proposes to enhance the El Camino Real frontage with seven 24-inch box capital flowering pear trees and also install 10 24-inch box street trees along San Antonio Street. To keep consistency with the pattern of street trees along El Camino Real, staff recommends installation of 24-inch box London Plane trees along the frontage of El Camino Real instead of the capital flowering pear trees. The street trees along the San Antonio street frontage have yet to be determined. Additionally, upon consultation with the Transportation Manager, several of the trees closest to the driveways should be relocated to maintain sight distance visibility for pedestrians. Staff has added a condition for the applicant to submit a landscaping plan that shows the size, number, species, and location for the proposed trees and planting materials subject to review of staff.

Walls and Fences

The project plans show the site delineated by various walls, fences and gates. The plans indicate the left side of the project (as seen from El Camino Real) would have a six-foot retaining wall extending the length of the site. On the right side of the property line, the residential portion would contain a 10-foot tall wall with a two-foot tall wood trellis above, as measured from grade. However, pedestrians walking along the pathway to the units would only see a six-foot tall masonry wall with a two-foot trellis given the grade differentiation to accommodate the design of the site. The entrance of the walkway from San Antonio Street would be framed with stucco columns and a wood trellis. The plan does not clearly indicate, however, whether fencing or a wall would be provided along the right side property line for the commercial component of the project. Although a typical masonry wall is included in the plans on sheet A4.3, staff has added a condition to submit plans that clearly show the location and type of fencing or delineation proposed, including details such as the height and materials. Additionally, staff has concerns about the location of the six-foot masonry wall extending the entire length of the site of the northern property line. The condition also includes revised plans to show the wall set back at a minimum to the face of the commercial building, with the potential for a greater distance upon review by the Transportation Manager for sight distance visibility.

Trash and Recycling

Trash and recycling facilities are shown in several locations on the project plans. A trash enclosure for the commercial building is shown on the northerly property line in the northeast corner of the commercial portion of the project site. Two recycling enclosures would be located on the residential portion of the property, one along the northerly property line and the other along the fence separating the commercial portion of the development from the residential portion of the development. While the plans contain proposed elevations for the various trash and recycling enclosures, which are consistent

with the architectural style of the buildings, the enclosures do not appear to be covered. Staff has added a condition for further review of the proposed trash enclosures.

The applicant is also proposing a six-foot masonry wall at the front left corner of the property to screen a proposed transformer. Staff is working with the applicant and has included a condition to provide appropriate and less visually obtrusive screening of the mechanical equipment.

Signage

The applicant is also requesting approval of a master sign program to provide up to 100 square feet of sign area for both the commercial and residential components. The master sign program request includes one monument sign for the commercial building, several building mounted signs for the individual tenants, and directional signage for the residential development.

The program would allow individual commercial tenant's to use corporate letter styles to achieve an individual look. However, the program would limit the color and materials, total number of signs, and overall height of the letters. The potential locations have been identified on the Master Sign Plan, included as Attachment J. Each of the individual sign request would need to be submitted through the normal administrative sign review process.

Project Land Use Entitlements

The existing General Plan land use designation for the project site is El Camino Real Professional/Retail Commercial which allows for retail services, personal services, professional offices, executive, general, and administrative offices, research and development facilities, banks, savings and loans, convalescent homes, restaurants, cafes, theaters, residential uses, public and quasi-public uses, and similar and compatible uses. The maximum FAR for non-residential uses is in the range of 40 to 75 percent and the maximum residential intensity is 18.5 units per net acre.

The proposal is consistent with the existing land use designation for the property in terms of the commercial and residential land uses, a proposed commercial FAR of 40 percent and overall FAR of 75% and a proposed residential density of 10.3 units per acre.

Additionally, the Planning Commission may wish to consider the land use goals and policies in the General Plan related to the provision of a variety of housing types that maintain and improve the character of the residential neighborhoods, the encouragement of creative development in the El Camino Real corridor and the promotion of commercial uses that provide revenue and/or goods or service needed by the community and that have low environmental and traffic impacts.

The applicant proposes an infill development that would assemble four parcels and revitalize an underdeveloped site along the El Camino Real Corridor, providing additional space for providers of goods and services to locate in the center of the city. By providing a mix of commercial and residential uses, including Below Market Rate housing units, the development would provide complimentary uses in close proximity to one another and to the downtown core and transportation center. The components of the project have been designed to be sensitive to each other, but also act as separate and distinct entities. With each component facing its respective street frontage, the project is designed to enhance both the streetscape of El Camino Real and San Antonio Street. With subterranean and partially submerged parking, the proposed project makes an effort to keep the buildings low in profile and compatible in scale with surrounding buildings. With the installation of over 70 trees, with a mix of species and sizes, including 24-inch box street trees along El Camino Real and San Antonio Street, the development enhances the overall site design. Staff believes the proposal is consistent with the goals and policies of the General Plan.

Planned Development Zoning and Permit

The Planned Development (PD) zoning designation and Planned Development Permit (PD Permit) were created to encourage the merging of parcels in order to foster more innovative design alternatives than could be accomplished with existing, smaller parcels. The PD Permit allows for flexibility in the development standards, except for density and floor area ratio (FAR) which must be consistent with the pre-existing zoning district.

The project site has a pre-existing zoning of C-4 (General Commercial, Applicable to El Camino Real) (hereafter referred to as C-4), but is located within the corridor where PD zoning may be considered. Although the proposal is consistent with the permitted and conditional uses, residential density and FAR allowed under the C-4 zoning, the applicant is pursuing a rezoning from C-4 to PD and approval of a PD Permit to gain flexibility in the application of the development standards, specifically the standards related to parking, height of buildings and lot size. These standards are discussed in more detail below.

As noted above, the PD Permit would include permitted and conditionally permitted uses for the project site that are consistent with the pre-existing C-4 zoning, including general office, medical office, retail, and restaurants in the commercial portion of the project and residential uses. As discussed in the *Parking* section of the report, the mix of commercial uses would be dependent on meeting the parking need of the uses on site as well as not triggering a potential traffic impact.

Additionally, the PD Permit would be consistent with the maximum density and FAR in the C-4 district. The maximum density in the C-4 district is 18.5 dwelling units per acre and the maximum floor area ratio is 75 percent (with a use permit approval) provided that the maximum office FAR does not exceed 40 percent. The applicant is proposing

16 residential units (approximately 10.3 dwelling units per acre), an overall site FAR of 75 percent, and a commercial FAR of 40 percent.

Finally, the PD permit includes the specific development standards and conditions of approval for the proposal as well as provisions for minor changes in the project over time. Minor changes would be allowed to the location and exterior of the buildings, landscaping and fencing that are generally consistent with the PD Permit through an administrative review process. Major modifications involving additional square footage or a change in the land uses or development standards would require an amendment to the PD Permit and approval of the City Council.

The following table provides a comparison of the development standards under the pre-existing C-4 zoning and the proposed PD zoning and Permit. The PD Permit is included as Attachment G.

**Table 1
Lot Area, Lot Dimensions, FAR, Building Coverage, Paving, Landscaping, Parking,
Setbacks and Height Comparisons**

	C-4 District	PD District Proposed Project
Minimum Lot Area	10,000 sf	Residential Lots: 825 to 2,155 sf Commercial: 37,613 sf
Minimum Lot Dimensions	Width: 75 feet Length: 125 feet	Varies
Floor Area Ratio (FAR)	75 % (with a use permit) 40% (office maximum)	75% Total 40% Commercial
Building Coverage	No Maximum	48%
Paving	N/A	29%
Landscaping	Minimum 10%	23%
Parking	<u>Commercial</u> 6 spaces per 1,000 sf (161 spaces required) <u>Residential</u> 2 spaces per unit (32 spaces required)	<u>Commercial</u> 109 spaces <u>Residential</u> 2 spaces per unit plus 4 guest parking spaces

Table 1 (continued)
Lot Area, Lot Dimensions, FAR, Building Coverage, Paving, Landscaping, Parking, Setbacks and Height Comparisons

	C-4 District	PD District Proposed Project
Setbacks	N/A	Front: 9 ft. (El Camino Real) Rear: 10 ft. (San Antonio Street) Side, Left: 10 ft. Side, Right: 6 ft.
Height	30 Feet Maximum	32 ft. (residential component)

Parking

The parking requirement for commercial uses in the C-4 zoning district is six spaces per 1,000 square feet of gross floor area. With a total of 26,800 square feet, the parking requirement for the proposed commercial building is 161 spaces. The applicant is proposing 109 parking spaces, which is approximately four spaces per 1,000 square feet. The Zoning Ordinance allows applicants to request a reduction in the amount of required parking based on the City’s Parking Reduction Guidelines, and the proposed uses on site. The applicant is requesting use of the following reduced parking ratios as outlined in the Guidelines:

USE	PARKING GUIDELINE
Office, Medical	1 space per 200 square feet of gross floor area
Office, General	1 space per 300 square feet of gross floor area
Personal Service	1 space per 200 square feet of gross floor area
Restaurant	1 space per 167 square feet of gross floor area
Retail	1 space per 200 square feet of gross floor area

The proposed total number of parking spaces could accommodate a 100 percent general office building or a combination of uses such as restaurant or retail with general office uses. However, the specific mix of uses would be limited by the proposed 109 spaces. The site could not, as an example, accommodate a 100 percent retail use, or a ground floor retail use with office above, or a 100 percent medical office facility.

Additionally, the EIR prepared for the project reviewed the project in terms of the trip generations for different types of uses. Table 2 of Appendix F of the Draft EIR includes uses with associated trip generation rates. Because many of these uses are not appropriate for the building, such as building material and lumber store and automobile parts sales, staff has simplified the list and bundled the uses into several general categories. The combined uses on the site cannot exceed the total trip generation, which is 209 for the AM peak hour trips and 134 trips for the PM peak hour trips. Additionally, the appropriate parking ratio must also be met. The use categories and

the maximum square footage defined in the PD Permit provide the maximum square footage of uses other than general office.

Height

The maximum height allowed in the C-4 district is 30 feet. The proposed height of the office building is 38 feet to the top of the parapet wall measured from average natural grade. However, parapet walls and rooftop screening used to shield mechanical equipment are excluded from the maximum height of the building. As seen in the cross-section, the building height measured to the top of the roof plate would be approximately 28 feet, and would not require an exception. However, the proposed residential units would be approximately 33 feet in height, measured from average natural grade to the pitch of the roof, and would require an exception.

Lot Size

Finally, the applicant is requesting an exception to the maximum lot size. In the C-4 zoning district, the minimum lot dimensions are 75 feet in width and 125 feet in length with a minimum lot area of 10,000 square feet. The applicant is proposing fee simple lots for each of the 16 residential units and a separate 13, 446 square-foot common lot (lot 17). The residential lots would range in size between 825 to 2,155 square feet, dependent upon the location of the unit and the unit type.

Vesting Tentative Map

The applicant is proposing to merge the existing four parcels and then subdivide the land into 18 lots, including 16 residential units, one common area associated with the residential lots, and one commercial lot for condominium purposes of up to 40 units. The applicant is proposing the subdivision through the Vesting Tentative Map process.

The Vesting Tentative Map process is similar to the tentative map process, except a higher level of detail is initially required. Staff is continuing to work with the applicant to finalize details for improvements to the storm drainage system. Prior to the City Council meeting, tentatively scheduled for August 1, 2006, the vesting tentative map would be revised to meet City requirements for storm drainage. Specific conditions of approval, if any, would be noted at that time.

The approval or conditional approval of a vesting tentative map shall grant a vested right to proceed with development in substantial compliance with ordinances, policies and standards described in effect at the time the vesting tentative map is approved or conditionally approved. 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 conditions of approval.

Below Market Rate Housing Program

The proposed project is subject to the Below Market Rate (BMR) Program. For residential development projects of less than 20 units, the applicant shall provide not less than 10 percent of the units at below market rates to very low-, low-, and moderate-income households. For commercial projects, the BMR Program provides various alternatives to meet the demand for affordable housing. The applicant is proposing to provide BMR units on site as part of the 16 townhouse units. The City's Below Market Rate (BMR) Housing requirement equates to a total of 3 units, including 1.6 BMR units for the residential portion of the proposal and 1.4 units for the commercial portion.

On January 27, 2005, the Housing Commission voted unanimously to approve the proposed BMR agreement. The three units would be similar to the market rate units and would be located on Lots 1, 10, and 15. The agreement states that the affordability restrictions will have a life of 55 years or the life of the project. Additionally, the agreement establishes the rent at 30 percent of the Department of Housing and Urban Development (HUD) Low Income limit, and includes procedures for selecting and qualifying tenants. The Housing Commission staff report is included as Attachment K, the draft BMR Agreement as Attachment H, and the minutes from the January 27, 2005 Housing Commission meeting is included as Attachment L.

At the time the Housing Commission approved the BMR agreement, the applicant proposed a rental project with the opportunity for condominium conversion at a later date. Although the applicant still intends to rent the 16 units, the applicant has requested the subdivision of 16 fee simple lots, which would establish the capability to sell each unit individually. The proposed change would require minor changes in the BMR Agreement to reflect the desire for fee simple lots, but would not affect the proposed number of BMR units. The revised language is being prepared and would be subject to review by the City Attorney and forwarded to the City Council for review and action.

CEQA--ENVIRONMENTAL REVIEW

A Draft Environmental Impact Report (EIR) was prepared for this project, and released for public comment from July 1, 2004 to August 16, 2004. Staff received eight comments from residents, various local and state agencies, and the applicant. These comments, in addition to comments received at the Draft EIR public hearing on July 26, 2004, are included with responses in the Final EIR. The Final EIR was released for public review on March 27, 2006 and ended on April 5, 2006. One letter was received on the Final EIR and has been included as Attachment M.

The Draft EIR analyzes the potential environmental impacts of the project across a wide range of impact areas. The Draft EIR determined that the project would have a less-than-significant impact without the need for mitigation measures on the following impact areas: land use, hydrology and water quality, biological resources, and population and

housing. For most of the remaining environmental impact areas, including geology and soils, hazardous materials, cultural resources, traffic and circulation, air quality, noise, visual quality/aesthetics, and services and utilities, the Draft EIR concluded that the project would have a less-than-significant impact with the adoption of specific mitigation measures. Many of the identified 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 (MMRP) (Attachment E). The mitigation measures are also included as conditions of approval for the project. The Draft EIR did not identify any environmental impact areas for which mitigation would not reduce a potential impact to a less-than-significant level.

Traffic and Circulation

Regarding the impact area of traffic and circulation, the Draft EIR states that under project conditions all City-controlled intersections and local street segments would operate at acceptable levels of service according to the City of Menlo Park's standards. An analysis of the average delay on local approaches at State-controlled intersections determined that four local approaches at four different intersections currently operate at an unacceptable level of service. However, based on the City of Menlo Park's standards, the additional trips from the project would result in a less than significant impact due to the fact that the trips added by the project result in an 0.8 second increase or less of delay. These intersections are El Camino Real at Encinal Avenue (westbound), El Camino Real at Valparaiso Avenue/Glenwood Avenue (eastbound), El Camino Real at Oak Grove Avenue (eastbound), and El Camino Real at Menlo Avenue/Ravenswood Avenue (eastbound).

The Draft EIR identified that the unsignalized intersections in the Town of Atherton (the intersections of Encinal Avenue at Middlefield Road, and Glenwood Avenue at Middlefield Road) operate at an unacceptable level of service. A traffic signal warrant study was conducted and determined that under project conditions as well as existing and background conditions, traffic volumes warrant a signal at Encinal Avenue and Middlefield Road. However, since the project's additional number of trips to the intersection is negligible (less than ten trips), the project is considered to have a less than significant impact on the intersection. The traffic signal warrant study determined that the traffic volumes at the intersection of Glenwood Avenue and Middlefield Road would not warrant a traffic signal.

Under cumulative conditions, project impacts on City-controlled intersections, local roadway segments, and the unsignalized intersections in the Town of Atherton would be less-than-significant. However, five local approaches to four State-controlled intersections would operate at an unacceptable level of service under cumulative conditions both with and without the project. The five local approaches include the four approaches listed above, as well as the westbound approach to the intersection of El Camino Real at Oak Grove Avenue. Under cumulative conditions, the project would have a significant impact during the PM peak hour at the eastbound approach to the intersection of El Camino Real at Valparaiso Avenue/Glenwood Avenue due to a

0.8-second added delay. This added delay would be created by the project's addition of two trips to this intersection, which the Draft EIR concludes is a minimal contribution to the traffic volumes.

The Draft EIR states that the adaptive traffic control system completed on El Camino Real has improved traffic operations at the intersection of El Camino Real at Valparaiso Avenue/Glenwood Avenue. However, the magnitude of improvement is unknown. Therefore, the Draft EIR concludes that the traffic control system is considered a partial mitigation measure for the significant cumulative traffic impact. The Draft EIR concludes that the cumulative traffic impact would be satisfactorily mitigated to a less-than-significant level with additional mitigations for the payment of traffic impact and shuttle fees and through the implementation of the following Transportation Demand Management (TDM) measures. The administration of the TDM plan would be managed by the commercial condominium association as established in the CC&Rs for the development.

- Transit passes - implement a Commuter Check program for all employees working in the commercial building on a regular full-time basis of at least 38 hours per week. Each employee shall be entitled to a \$25/month contribution from the employer.
- Shower rooms - provide two shower rooms and related facilities in the main commercial building.
- Bikes - provide six bicycle holders on the commercial portion of the project.
- Information Center - install an information center in the commercial building displaying appropriate transportation alternatives and TDM information.

The Draft EIR also analyzes site access, on-site circulation, and parking, and makes several recommendations. In terms of site access and circulation, the Draft EIR concludes that, for the most part, the planned site access and internal circulation is logical and generally adequate. The Draft EIR makes two recommendations regarding the two driveway entrances from San Antonio Street. The project plans indicate that the San Antonio Street driveways would have a three-foot flare at the curb. The Draft EIR states that the flare should be increased to a minimum of five feet to minimize temporary encroachment onto the wrong side of a minor street when entering or leaving the driveway. Staff believes that the proposed curb flare meets City standards and would not need to be increased for construction. In addition, the Draft EIR recommends that the ramps have a maximum slope of 15 percent. The proposed residential ramps are 9.5 percent and 10 percent and no further condition is necessary.

In regard to parking, the Draft EIR states that the standard parking generation rates for general office use range from 2.8 to 3.0 parking spaces per 1,000 square feet, and concludes that based on these parking standards, the proposed parking supply would be adequate for the proposed commercial building. However, the Draft EIR makes a recommendation in regard to parking. The first recommendation is to increase the number of handicapped accessible parking spaces in the commercial portion of the development from four spaces to five spaces in order to comply with the Americans with

Disabilities Act (ADA) requirements. Sheets A2.1 and A2.2 of the revised plan corrects the issue of ADA parking.

In a comment letter submitted by the applicant as part of the FEIR, the applicant clarified that the project includes a request for a Vesting Tentative Map for the purposes of creating 16 residential fee simple lots, one common lot for the residential component, and one commercial lot for the purpose of up to 40 condominium units. The Draft EIR had not specified the subdivision of the development. Although noted in the Final EIR, the text of the project description in the DEIR was not amended. Subsequent noticing has identified the Vesting Tentative Map as part of the proposed project. The proposed changes would not result in new or different environmental impacts that were not already identified in the Draft EIR.

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 the 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 mitigation measures summarized in Table 1 of Section 2.0 of the Draft EIR. While the content of the mitigation measures has remained, revisions have been made to better identify implementation timing and responsibility. The revised mitigation measures are included in the MMRP. The Findings for Certification, including the Statement of Certification, and the MMRP are included as Attachments D and E, respectively. The Planning Commission should review and forward a recommendation to the City Council on the adequacy of the Final EIR, the Findings for Certification, and the Mitigation Monitoring Reporting Program. The City Council will be the final decision-making body on all documents associated with the certification of the Final EIR.

CORRESPONDENCE

Staff has received several letters regarding the proposed project. A majority of the letters are from neighboring property owners who are supporters of the project and indicate that the proposed project would upgrade the appearance and use of the site and add appeal to the neighborhood. Many feel that the uses are appropriate, particularly the addition of residential uses along San Antonio Street, and the architecture is attractive.

Staff also received three letters raising concern about the proposed development. One letter is from a commenter on the Draft EIR in response to the Final EIR, and states that the Final EIR does not adequately address concerns raised in comment letters on traffic and school impacts. The third point relates to the legality of a General Plan Amendment. However, the proposed project is not requesting a General Plan Amendment. A second letter was received from a resident in the Willows neighborhood

and indicates that the proposed commercial building is an example of a lack of long-term planning and that projects should be beneficial to local residents and small businesses. The third comment letter raised concern about noise levels from the nearby train tracks. The correspondence has been included as Attachment N.

RECOMMENDATION

The proposed mixed commercial and residential development would redevelop several underutilized parcels of land in northern Menlo Park. The components of the project are compatible with one another and the surrounding land uses, and are appropriate in scale and design. As indicated in the Draft EIR, the proposed project would result in a less than significant impact, with the proposed mitigation, in all of the environmental impacts areas. Staff recommends that the Planning Commission recommend certification of the EIR, and approval of the Rezoning, Planned Development Permit, and Vesting Subdivision Map.

Deanna Chow
Senior Planner
Report Author

Justin Murphy
Development Services Manager

PUBLIC NOTICE & APPEAL PERIOD

Public notification consisted of publishing a legal notice in the local newspaper and notification by mail of owners and residents within a 300-foot radius of the subject property. Planning Commission action will be in the form of a recommendation to the City Council.

ATTACHMENTS

- A. Location Map
- B. Project Plans
- C. Draft Findings and Actions for Approval, July 10, 2006
- D. Findings for Certification of the Environmental Impact Report
- E. Mitigation Monitoring and Reporting Program for the Environmental Impact Report
- F. Draft Ordinance rezoning property located at 1452 and 1460 El Camino Real and 1457 and 1473 San Antonio Street from C-4 (General Commercial, Applicable to El Camino Real) to P-D (Planned Development)
- G. Draft Planned Development Permit for 1452 and 1460 El Camino Real and 1457 and 1473 San Antonio Street, dated July 10, 2006
- H. Draft Below Market Rate Housing Agreement
- I. Arborist Report by Advanced Tree Care, dated March 21, 2004
- J. Master Sign Program

- K. Housing Commission staff report for the meeting of January 27, 2005 (without attachments)
- L. Excerpts from the Minutes of the Housing Commission meeting on January 27, 2005
- M. Correspondence received on the Final EIR:
 - Patti L. Fry, dated April 5, 2006
- N. Correspondence
 - Margaret Petitjean, dated May 22, 2006
 - Ross Wilson, dated April 5, 2006
 - Herschel Cobb and Lyn Jason Cobb, 1444 San Antonio Street, dated April 3, 2006
 - Roderick W. Shepard, Shepard Land Company, dated March 30, 2006
 - William F. Garlock, Garlock & Company, 1450 El Camino Real, dated March 28, 2006
 - John Beltramo, dated March 24, 2006
 - Sally Halstead, 133 Encinal Avenue, dated March 23, 2006
 - Charles Moody, 481 Middle Court, dated March 22, 2006
 - Ron and Julie Bongio, 1464 San Antonio Street, dated March 22, 2006
 - Larry R. Jensen, George & Bob's Service, 1380 Camino Real, dated March 21, 2006
 - Richard Main, 1560 San Antonio Street, #C, dated March 21, 2006

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

- Planning Commission Study Session Staff Report, February 23, 2004
- Draft Environmental Impact Report, dated June 2004
- Staff Report for the Planning Commission meeting of July 26, 2004
- Final Environmental Impact Report, dated March 2006

EXHIBITS TO BE PROVIDED AT MEETING

Color 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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ATTACHMENT C

DRAFT
July 10, 2006

FINDINGS AND ACTIONS FOR APPROVAL 1452 AND 1460 EL CAMINO REAL AND 1457 AND 1473 SAN ANTONIO STREET, COLLECTIVELY KNOWN AS 1460 EL CAMINO REAL

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

Environmental Review

1. Adopt the Findings for Certification of the Environmental Impact Report (Attachment D).
2. Adopt the Mitigation Monitoring and Reporting Program prepared for the project (Attachment E).

Rezoning

3. Make a finding that the proposed rezoning of property with the primary addresses of 1452 and 1460 El Camino Real and 1457 and 1473 San Antonio Street, collectively known as 1460 El Camino Real from C-4 (General Commercial – Applicable to El Camino Real) to P-D (Planned Development District) is consistent with the General Plan land use designation of El Camino Real Professional/Retail Commercial.
4. Introduce an ordinance rezoning property with the primary addresses of 1452 and 1460 El Camino Real and 1457 and 1473 San Antonio Street, collectively known as 1460 El Camino Real, from C-4 (General Commercial – Applicable to El Camino Real) to P-D (Planned Development District) (Attachment F).

Planned Development Permit

5. Make a finding that the proposed Planned 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.
6. Make a finding that the Planned Development Permit allows for development that supports a mix of commercial and residential uses in close proximity to

each other, involves combining smaller parcels for the purpose of creating a more innovative development proposal than would have been possible if the parcels were developed separately, improves an underdeveloped site along El Camino Real, and contributes three below market rate rental units to the City's Below Market Housing Program for property with the primary addresses of 1452 and 1460 El Camino Real and 1457 and 1473 San Antonio Street, collectively known as 1460 El Camino Real, subject to the terms and conditions of the Planned Development Permit.

7. Approve the Planned Development Permit (Attachment G).

Vesting Tentative Map

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

Below Market Rate Agreement

9. Approve the Below Market Rate Housing Agreement for three new BMR residential units to comply with both the residential and commercial requirements of the BMR Program.

Heritage Tree Permit

10. Adopt findings, as per Chapter 13.24 of the Municipal Code, regarding heritage tree removal:
 - a. The one redwood tree proposed for removal is located in an area proposed for the driveway ramp to service a portion of the residential units. Other design alternatives would similarly impact the redwood tree; and
 - b. The proposed landscaping plan includes approximately 70 trees, ranging in size and variety, and would be installed on site and as street trees. Some of the proposed trees have the potential to grow into heritage trees.
11. Approve the heritage tree removal permits.

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

I. INTRODUCTION

On August 10, 1999, the City received an application from 1460 El Camino Real, for merging parcels, rezoning and Planned Development Permit at 1460 El Camino Real Project (the "Project"). The 1.5-acre site consists of four parcels and is commonly referred to as 1460 El Camino Real. The application contemplated construction of a new 26,800 square-foot commercial building, 16 residential units, and subterranean and surface parking space for 109 cars for the commercial development. The proposal would require approval of the following:

- **Vesting Tentative Subdivision Map:** Merge four parcels and subdivide into 18 lots, including 16 residential lots, one common lot for the residential units, and one commercial lot for commercial condominium purposes. The maximum number of commercial condominiums would be 40 units;
- **Rezoning:** Change from C-4 (General Commercial District, Applicable to El Camino Real) to PD (Planned Development District);
- **Planned Development Permit:** Establish specific uses and development regulations and architectural designs;
- **Heritage Tree Permit:** Remove one heritage size tree;
- **Environmental Review** of the proposed project in the form of an Environmental Impact Report (EIR).

California Environmental Quality Act 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 August 4, 2000.

The Draft Environmental Impact Report was prepared, published and distributed to interested agencies and members of the public on July 1, 2004, commencing a 45-day public review period. The public comment period closed on August 16, 2004.

On March 27, 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, as the City's findings under the California Environmental Quality Act ("CEQA") (Pub. Resources Code, §21000 *et seq.*) and CEQA *Guidelines* (Cal. Code of Regulations, Title 14, §15000 *et seq.*) relating to the Project. The Findings provide the written analysis and conclusions of this Commission and Council regarding the Project's environmental impacts, mitigation measures 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 August 4, 2000 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 on July 1, 2004. The City prepared written responses to the comments received during the comment period and included these responses in a Final Environmental Impact Report (FEIR). The Final EIR was made available for public review on March 27, 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 1460 El Camino Real 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 1460 El Camino Real 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 1460 El Camino Real 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

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

D. Severability

If any term, provision, or portion of these Findings or the application of these Findings to a particular situation is held by a court to be invalid, void or unenforceable, the remaining provisions of these Findings, or their application to other actions related to the 1460 El Camino Real Project, shall continue in full force and effect unless amended or modified by the City.

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

A. Geology/Soils

Soils-1: Geologic Hazards

Development of the project would be subject to potentially significant soil/geologic hazards if the recommendations of the geotechnical study are not implemented.

Mitigation Measure: All new structures shall be designed in accordance with the specific recommendations of the geotechnical report prepared by Lowney Associates for the project, which address clearing/site preparation, utilities, subgrade preparation, fill material, compaction, trench backfill, garage excavation support, and surface drainage (refer to Appendix A). Prior to grading permit issuance, all final geotechnical/foundation plans shall be subject to the review and approval of the City Geologist to verify that these documents are consistent with the geotechnical recommendations.

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 potentially significant geologic hazard impacts to a level of less than significant.

2. Remaining Impacts: Any remaining impacts related to geology/soils would not be significant.

Soils-2: Ground Shaking

Ground shaking at the site during an earthquake could damage proposed structures during the design life of the project.

Mitigation Measure: Proposed buildings shall be structurally designed to conform to adopted Uniform Building Code and California Building Code guidelines (for Zone 4).

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 potentially significant ground shaking impacts to a level of less than significant.
2. Remaining Impacts: Any remaining impacts related to ground shaking would not be significant.

B. Hazardous Materials

Hazard-1: Asbestos

Demolition of existing buildings on the site could result in the release of asbestos, which represents a potentially significant health hazard.

Mitigation Measure: All buildings that are proposed for demolition shall be surveyed for asbestos-containing materials under the National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines. All potentially friable asbestos-containing materials shall be removed prior to building demolition in accordance with NESHAP guidelines.

The demolition or removal of asbestos-containing building materials is subject to the limitation of the Bay Area Air Quality Management District (BAAQMD) Regulation 11, Rule 2: Hazardous Materials; Asbestos Demolition, Renovation and Manufacturing. The BAAQMD's Enforcement Division shall be consulted prior to commencing demolition of a building containing asbestos materials.

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 potentially significant asbestos impacts to a level of less than significant.

3. Remaining Impacts: Any remaining impacts related to asbestos would not be significant.

Hazard-2: Lead-Based Paint

Demolition of buildings on the project site could result in the release of lead-based paint, which represents a potentially significant health hazard.

Mitigation Measure: A survey of painted surfaces on all buildings at the site shall be conducted prior to demolition. Based on the results of the survey, if lead-based paint is still bonded to the building surfaces, its removal is not required prior to demolition. If lead-based paint is peeling, flaking, or blistered, it shall be removed prior to demolition in accordance with state requirements. It is assumed that such paint will become separated from the building components during demolition activities; thus, it must be managed and disposed as a separate waste stream. Any debris or soil containing lead paint or coating must be disposed at landfills that have acceptance criteria for the waste being disposed.

The project shall follow the requirements outlined by California Occupational Safety and Health Administration (Cal-OSHA) Lead in Construction Standard, Title 8, California Code of Regulations (CCR) 1532.1 during demolition activities. These regulations include employee training, employee air monitoring, and dust control.

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 potentially significant lead-based paint impacts to a level of less than significant.
2. Remaining Impacts: Any remaining impacts related to lead-based paint would not be significant.

C. Cultural Resources

Cultural-1: Construction Impacts

Although no historic or archaeological resources are expected on the project site, it is possible that archaeological materials may be exposed during construction.

Mitigation Measure: Should previously unidentified cultural resources be discovered during construction, the project sponsor shall cease work in the immediate area until such time as the project sponsor's archaeologist assesses the

significance of the find and makes mitigation recommendations (e.g., manual excavation of the immediate area), if warranted.

Construction monitoring shall be conducted any time ground disturbance (greater than 12 inches in depth) is taking place in the immediate vicinity of a cultural resource discovered, pursuant to the mitigation above. This includes building foundation demolition and construction, tree or tree-root removal, landscape irrigation installation, utility line excavation, etc. If data recovery does not produce evidence of significant cultural resources within the project area, further mitigation shall be limited to construction monitoring, unless additional testing or other specific mitigation measures are determined necessary to ensure avoidance of damage to significant archaeological resources by the project sponsor's archaeologist. A technical report of finding describing the results of all monitoring shall be prepared within a responsible time period in accordance with professional standards. The archaeological monitoring program shall be implemented by an individual meeting the Secretary of Interior Professional Qualifications Standards in Archaeology (36 CFR 61); individual field monitors shall be qualified in the recognition of cultural resources of both the historic and/or prehistoric periods and possess sufficient academic and field training as required to conduct the work effectively and without undue delay.

Section 7050.5(b) of the California Health and Safety Code shall be implemented, as follows. In the event of discovery or recognition of any human remains on the site, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the San Mateo County Coroner has determined, in accordance with Chapter 10 (commencing with Section 27460) of Part 3 of Division 2 of Title 3 of the Government Code, that the remains are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner, and cause of death, and the recommendations concerning treatment and disposition of the human remains have been made to the person responsible for the excavation, or his or her authorized representative, in the manner provided in Section 5097.98 of the Public Resources Code.

The coroner, upon recognizing the remains as being of Native American origin, is responsible for contacting the Native American Heritage Commission within 24 hours. The Commission has various powers and duties to provide for the ultimate disposition of any Native American remains, including the designation of a Native American Most Likely Descendant. Sections 5097.98 and 5097.99 of the Public Resources Code also call for protection to Native American human burials and skeletal remains from vandalism and inadvertent destruction. To achieve this goal, it is recommended that the construction personnel on the project site be instructed as the potential for discovery of cultural or human remains, and the need for proper and timely reporting of such finds, and the consequences of failure thereof.

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 potentially significant cultural resources impacts to a level of less than significant.
2. Remaining Impacts: Any remaining impacts related to cultural resources would not be significant.

D. Air Quality

Air-1: Carbon Monoxide

Proposed underground garages would generate potentially significant elevations in carbon monoxide (CO) concentrations.

Mitigation Measure: All parking garages shall be designed and maintained with proper ventilation systems to maintain CO concentrations at acceptable levels, in accordance with the requirements of the American Society of Heating, Refrigeration, and Air Conditioning (Standard 62-1999).

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 potentially significant carbon monoxide concentration impacts to a level of less than significant.
2. Remaining Impacts: Any remaining impacts related to carbon monoxide concentrations would not be significant.

Air-2: Dust and Exhaust Emissions

The project will result in short-term and intermittent localized increases in dust and exhaust emissions during grading operations.

Mitigation Measure: Implement the following control measures, as appropriate, for proposed development:

- Water all active construction areas at least twice daily.
- Cover all trucks hauling soil, sand, and other loose materials.
- 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.
- Suspend excavation, demolition, and grading activity when winds (instantaneous gusts) exceed 25 mph.

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 potentially significant dust and exhaust emissions impacts to a level of less than significant.
2. Remaining Impacts: Any remaining impacts related to dust and exhaust emissions would not be significant.

E. Noise

Noise-1: Interior Noise

Existing noise levels in the area could cause interior noise levels at the proposed residential units to exceed the state standard of 45 dBA (Title 24 of the State Building Code).

Mitigation Measure: Proposed residential units shall be adequately mechanically ventilated to reduce interior noise levels while allowing occupants to keep their windows opened or closed at their own discretion.

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

1. Effects of Mitigation: Implementation of the mitigation measure above would reduce potentially significant interior noise impacts to a level of less than significant.
2. Remaining Impacts: Any remaining impacts related to interior noise would not be significant.

Noise-2: Mechanical Equipment Noise

Noise from mechanical equipment associated with the proposed office building could impact adjacent proposed or existing residential uses.

Mitigation Measure: The project shall screen, enclose, or otherwise design all outdoor mechanical equipment to attenuate potential noise impacts in compliance with the City of Menlo Park's Noise Ordinance.

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 potentially significant mechanical equipment noise impacts to a level of less than significant.
2. Remaining Impacts: Any remaining impacts related to mechanical equipment noise would not be significant.

Noise-3: Construction Noise

The project would result in potentially significant noise impacts to adjacent sensitive receptors (i.e., nearby residences) during the construction period.

Mitigation Measures:

- Prior to construction, a temporary 8-foot high plywood noise barrier shall be constructed around the perimeter of the project site.
- Limit construction activity to daytime hours (8 AM to 6 PM) with no construction activity on Saturday, Sunday, or holidays.
- Use available noise suppression devices and properly maintain and muffle internal combustion engine-driven construction equipment.
- Utilize noise barriers or noise control blankets to shield stationary equipment from nearby noise-sensitive receptors.
- Designate a disturbance coordinator and post the name and phone number of this person conspicuously at the site. The disturbance coordinator will respond to complaints about noise and take the steps necessary to mitigate the problem.
- Site access should be primarily from El Camino Real with limited access from San Antonio Street.

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 potentially significant construction noise impacts to a level of less than significant.
2. Remaining Impacts: Any remaining impacts related to construction noise would not be significant.

F. Visual Quality/Aesthetics

Visual-1: Exterior Lighting

Lighting from the project could intrude into adjacent residential areas to the southeast, representing a potentially significant visual impact.

Mitigation Measure: The City shall review the project and require appropriate measures to assure that lighting does not increase over existing levels by more than one photometric candlefoot at the property line.

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 potentially significant exterior lighting impacts to a level of less than significant.
2. ***Remaining Impacts:*** Any remaining impacts related to exterior lighting would not be significant.

G. Public Service and Utilities

Public Service-1: Sanitary Sewer Capacity

Adequate capacity may not be available in nearby sanitary sewer lines to accommodate project flows.

Mitigation Measure: Plans and specifications for upgrading any sewer facilities shall be submitted to the West Bay Sanitary District (WBSD) for approval and issuance of the appropriate permits prior to building permit issuance. The project shall upgrade the sewer facilities to which it connects as designated by the WBSD; specific improvements would be determined at the final design level.

Conforming property line cleanouts shall be required within five feet of the property line. Each line is required to maintain a minimum two percent slope from the property line cleanout to the sewer main.

Any lateral lines planned for re-use must be reviewed and approved by the WBSD and must have property line cleanouts. Laterals not to be re-used must be capped off at the sewer main and inspected by WBSD staff.

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 potentially significant sewer capacity impacts to a level of less than significant.
2. Remaining Impacts: Any remaining impacts related to sewer capacity would not be significant.

H. Cumulative Impacts - Traffic

Traffic-1: Valparaiso Avenue and El Camino Real Intersection

The project would cause the critical delay at the eastbound approach to Valparaiso Avenue at El Camino Real to increase by 0.8 seconds, which is the City of Menlo Park's significance standard.

Mitigation Measure: The project shall contribute traffic and shuttle fees in accordance with the City's requirements.

Mitigation Measure: The project shall implement the following Transportation Demand Management (TDM) measures:

- Transit passes - implement a Commuter Check program for all employees working in the commercial building on a regular full-time basis of at least 38 hours per week. Each employee shall be entitled to a \$25/month contribution from the employer.
- Shower rooms - provide two shower rooms and related facilities in the main commercial building.
- Bikes - provide six bicycle holders on the commercial portion of the project.
- Information Center - install an information center in the commercial building displaying appropriate transportation alternatives and TDM information.

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 potentially significant cumulative traffic impacts to a level of less than significant.
2. Remaining Impacts: Any remaining impacts related to cumulative traffic impacts would not be significant.

IV. 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 project objectives are to 1) consolidate parcels on the site, 2) develop a mixed-use office/residential development that is consistent with surrounding commercial and residential uses, and 3) develop more marketable uses on a site that is considered underutilized.

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 123 of the EIR. The no project alternative consists of maintaining the project site in its existing condition. No new

development would occur on the site, and the existing retail uses would continue to operate in their current configuration.

Findings: The No Project Alternative is rejected as an alternative because it would not achieve the objectives of the Project Sponsor for construction of office and residential uses on the site.

Explanation: The No Project Alternative would eliminate the impacts of the project, both adverse and beneficial. However, since this alternative would not allow for the construction of new office or residential development on the site, the project objectives would not be met.

Alternative 2: Modified Use

The Modified Use Alternative is discussed on page 124 of the EIR. The Modified Use Alternative consists of developing a commercial retail use consistent with the C-4 (applicable to El Camino Real) zoning. Under this alternative, approximately 100,000 square feet of commercial retail and/or services use could be developed on the site.

Findings: The Modified Use Alternative is rejected as an alternative because it would not fully achieve all of the objectives of the Project Sponsor for construction of office and residential uses on the site.

Explanation: This alternative would result in potentially greater impacts than the proposed project associated with intensifying development by allowing development of all commercial uses on the site. This alternative would partially meet the project objectives for providing commercial uses, which could include office uses. However, it would not meet the project objectives for development of residential uses.

Alternative 3: Expanded Commercial

The Expanded Commercial Alternative is discussed on page 125 of the EIR. This alternative would not alter the 16 proposed residential units at the rear of the property, but would allow for additional commercial uses beyond general office uses.

Findings: The Expanded Commercial Alternative would meet the objectives of the Project Sponsor to provide residential and commercial development. It would also provide the applicant with greater flexibility in selecting tenants for the commercial building, and could provide greater revenues to the City associated with retail uses on the site. This alternative is, thus, considered the environmentally superior alternative because the alternative offers the benefits of

tenant flexibility and sales tax generation without generating significant environmental impacts.

Explanation: The other environmental impacts of this alternative would be similar to the proposed project, although some commercial uses could increase traffic. This alternative would meet objectives of the Project Sponsor to provide residential and commercial development.

VII. CERTIFICATION OF THE FEIR

The FEIR and City Council staff report dated August __, 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 1460 El Camino Real 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 E

MITIGATION MONITORING AND REPORTING PROGRAM			
1460 El Camino Real Project			
Mitigation	Timing	Implementation Responsibility/ Oversight Responsibility	Monitoring/Reporting Requirement
4.2 Geology and Soils			
All new structures shall be designed in accordance with the specific recommendations of the geotechnical report prepared by Lowney Associates for the project, which address clearing/site preparation, utilities, subgrade preparation, fill material, compaction, trench backfill, garage excavation support, and surface drainage. Prior to grading permit issuance, all final geotechnical/foundation plans shall be subject to the review and approval of the City Geologist to verify that these documents are consistent with the geotechnical recommendations.	Prior to grading permit issuance	Project Applicant /Building Division	Submit final geotechnical/foundation plans
Prior to building permit issuance, the proposed buildings shall be structurally designed to conform to adopted Uniform Building Code and California Building Code guidelines (for Zone 4).	Prior to building permit issuance	Project Applicant/Building Division	UBC and CBC guidelines
4.4 Hazardous Materials			
Prior to demolition permit issuance, all buildings that are proposed for demolition shall be surveyed for asbestos-containing materials under the National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines. All potentially friable asbestos-containing materials shall be removed prior to building demolition in accordance with NESHAP guidelines and BAAQMD Regulation 11, Rule 2: Hazardous Materials; Asbestos Demolition, Renovation and Manufacturing. The BAAQMD's Enforcement Division shall be consulted prior to commencing demolition of a building containing asbestos materials.	Prior to demolition permit issuance	Project Applicant/Building Division	Submit survey for asbestos-containing materials in the building
Prior to demolition permit issuance, a survey of painted surfaces on all buildings at the site shall be conducted. Based on the results of the survey, if lead-based paint is still bonded to the building surfaces, its removal is not required prior to demolition. If lead-based paint is peeling, flaking, or blistered, it shall be removed prior to demolition in accordance with state requirements. It is assumed that such paint will become separated from the building components during demolition activities; thus, it must be managed and disposed as a separate waste stream. Any debris or soil containing lead paint or coating must be disposed at landfills that have acceptance criteria for the waste being disposed.	Prior to demolition permit issuance	Project Applicant/Building Division	Submit a survey of painted surfaces of all buildings

MITIGATION MONITORING AND REPORTING PROGRAM 1460 El Camino Real Project			
Mitigation	Timing	Implementation Responsibility/ Oversight Responsibility	Monitoring/Reporting Requirement
The project shall follow the requirements outlined by California Occupational Safety and Health Administration (Cal-OSHA) Lead in Construction Standard, Title 8, California Code of Regulations (CCR) 1532.1 during demolition activities. These regulations include employee training, employee air monitoring, and dust control.			
4.6 Cultural Resources			
<p>Should previously unidentified cultural resources be discovered during construction, the project sponsor shall cease work in the immediate area until such time as the project sponsor's archaeologist assesses the significance of the find and makes mitigation recommendations (e.g., manual excavation of the immediate area), if warranted.</p> <p>Construction monitoring shall be conducted any time ground disturbance (>12" deep) is taking place in the immediate vicinity of a cultural resource discovered, pursuant to the mitigation above. This includes building foundation demolition and construction, tree or tree-root removal, landscape irrigation installation, utility line excavation, etc. If data recovery does not produce evidence of significant cultural resources within the project area, further mitigation shall be limited to construction monitoring, unless additional testing or other specific mitigation measures are necessary to ensure avoidance of damage to significant archaeological resources by the project sponsor's archaeologist. A technical report of finding describing the results of all monitoring shall be prepared within a responsible time period in accordance with professional standards. The archaeological monitoring program shall be implemented by an individual meeting the Secretary of Interior Professional Qualifications Standards in Archaeology (36 CFR 61); individual field monitors shall be qualified in the recognition of cultural resources of both the historic and/or prehistoric periods and possess sufficient academic and field training as required to conduct the work effectively and without undue delay.</p>	During site preparation and construction and when cultural resources are recovered	Project Applicant and Qualified Archaeologist/Building and Planning Divisions	Submit a monitoring report and mitigations measures, if warranted
In the event human remains are discovered, Section 7050.5(b) of the California Health and Safety Code shall be implemented, as follows. In the event of discovery or	When human remains are	Project Applicant and County	Contact County Coroner

MITIGATION MONITORING AND REPORTING PROGRAM 1460 El Camino Real Project			
Mitigation	Timing	Implementation Responsibility/ Oversight Responsibility	Monitoring/Reporting Requirement
<p>recognition of any human remains on the site, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the San Mateo County Coroner has determined, in accordance with Chapter 10 (commencing with Section 27460) of Part 3 of Division 2 of Title 3 of the Government Code, that the remains are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner, and cause of death, and the recommendations concerning treatment and disposition of the human remains have been made to the person responsible for the excavation, or his or her authorized representative, in the manner provided in Section 5097.98 of the Public Resources Code.</p> <p>The coroner, upon recognizing the remains as being of Native American origin, is responsible for contacting the Native American Heritage Commission within 24 hrs. The Commission has various powers and duties to provide for the ultimate disposition of any Native American remains, including the designation of a Native American Most Likely Descendant. Sections 5097.98 and 5097.99 of the Public Resources Code also call for protection of Native American human burials and skeletal remains from vandalism and inadvertent destruction. To achieve this goal, construction personnel on the site shall be instructed on the potential for discovery of cultural or human remains, proper and timely reporting of such finds, and the consequences of failure thereof.</p>	recovered	Coroner/Building and Planning Divisions	
4.8 Air Quality			
Prior to building permit issuance, all parking garages shall be designed and maintained with proper ventilation systems to maintain CO concentrations at acceptable levels, in accordance with the requirements of the American Society of Heating, Refrigeration, and Air Conditioning (Standard 62-1999).	Prior to building permit issuance	Project Applicant/Building Division	Submit verification with building plans
Prior to demolition permit issuance, the applicant shall submit a dust control plan that will implement the following control measures, as appropriate, for proposed development: X Water all active construction areas at least twice daily.	Prior to demolition permit issuance	Project Applicant or designee/Building Division	Dust Control Plan

MITIGATION MONITORING AND REPORTING PROGRAM 1460 El Camino Real Project			
Mitigation	Timing	Implementation Responsibility/ Oversight Responsibility	Monitoring/Reporting Requirement
<ul style="list-style-type: none"> X Cover all trucks hauling soil, sand, and other loose materials. X 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. X Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at construction sites. X Suspend excavation, demolition, and grading activity when winds (instantaneous gusts) exceed 25 mph. 			
4.9 Noise			
Prior to building permit issuance, the proposed residential units shall be designed with adequate mechanical ventilation to reduce interior noise levels while allowing occupants to keep their windows opened or closed at their own discretion.	Prior to building permit issuance	Project Applicant/Building Division	Submit verification with building plans
Prior to building permit issuance, the applicant shall submit plans for the project that shall screen, enclose, or otherwise design all outdoor mechanical equipment to attenuate potential noise impacts in compliance with the City of Menlo Park's Noise Ordinance.	Prior to building permit issuance	Project Applicant/Building Division	Compliance with Noise Ordinance
Prior to demolition permit issuance, the applicant shall submit a Noise Control Plan to include at least the following items: <ul style="list-style-type: none"> X Prior to construction, a temporary 8-foot high plywood noise barrier shall be constructed around the perimeter of the project site. X Limit construction activity to daytime hours (8 AM to 6 PM) with no construction activity on Saturday, Sunday, or holidays. X Use available noise suppression devices and properly maintain and muffle internal combustion engine-driven construction equipment. X Utilize noise barriers or noise control blankets to shield stationary equipment from nearby noise-sensitive receptors. X Designate a disturbance coordinator and post the name and phone number of this person conspicuously at the site. The disturbance coordinator will respond to complaints about noise and take the steps necessary to mitigate the problem. 	Prior to demolition permit issuance	Project Applicant/Building Division	Noise Control Plan

MITIGATION MONITORING AND REPORTING PROGRAM 1460 El Camino Real Project			
Mitigation	Timing	Implementation Responsibility/ Oversight Responsibility	Monitoring/Reporting Requirement
X Site access should be primarily from El Camino Real with limited access from San Antonio Street.			
4.10 Visual Quality/Aesthetics			
Prior to building permit issuance, the applicant shall submit a photometric study subject to the review and approval of the Planning Division. The City shall review the project and require appropriate measures to assure that lighting does not increase over existing levels by more than one photometric candlefoot at the property line.	Prior to building permit issuance	Project Applicant/Planning Division	Submit a photometric study
4.11 Public Services and Utilities			
Plans and specifications for upgrading any sewer facilities shall be submitted to the WBSD for approval and issuance of the appropriate permits prior to building permit issuance. The project shall upgrade the sewer facilities to which it connects as designated by the WBSD; specific improvements would be determined at the final design level.	Prior to building permit issuance	Engineering and Building Divisions	Submit written approval from West Bay Sanitary District
Conforming property line cleanouts shall be required within five feet of the property line. Each line is required to maintain a minimum two percent slope from the property line cleanout to the sewer main.	Prior to building permit issuance		
Any lateral lines planned for re-use must be reviewed and approved by the WBSD and must have property line cleanouts. Laterals not to be re-used must be capped off at the sewer main and inspected by WBSD staff.	Prior to building permit issuance		
5.0 Cumulative Impacts – Traffic			
Prior to building permit issuance, the project shall contribute traffic and shuttle fees in accordance with the City's requirements.	Prior to building permit issuance	Project Applicant/Building	Payment of fees
Prior to building permit issuance, the applicant shall submit a Transportation Demand Management Program (TDM) to include the following measures (see below) subject to the review and approval of the Transportation Division. Concurrent with the start of occupancy, the applicant shall implement the TDM measures:	Prior to building permit issuance and concurrent with occupancy	Project Applicant/Transportation Division	Submit TDM Plan

MITIGATION MONITORING AND REPORTING PROGRAM 1460 El Camino Real Project			
Mitigation	Timing	Implementation Responsibility/ Oversight Responsibility	Monitoring/Reporting Requirement
X Transit passes - implement a Commuter Check program for all employees working in the commercial building on a regular full-time basis of at least 38 hours per week. Each employee shall be entitled to a \$25/month contribution from the employer. X Shower rooms - provide two shower rooms and related facilities either in the main commercial building or in the underground area. X Bikes - provide six bicycle holders on the commercial portion of the project. X Information Center - install an information center in the commercial building displaying appropriate transportation alternatives and TDM information.			

V:/staffrpt/pc/2006/71006 – 1460 El Camino Real – Attachment E - MMRP

ATTACHMENT F

DRAFT
July 10, 2006

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF MENLO PARK REZONING PROPERTY WITH THE PRIMARY ADDRESSES OF 1452 AND 1460 EL CAMINO REAL AND 1457 AND 1473 SAN ANTONIO STREET

The City Council of the City of Menlo Park does ordain as follows:

SECTION 1. The zoning map of the City of Menlo Park is hereby amended such that certain real property with the primary addresses of 1452 and 1460 El Camino Real and 1457 and 1473 San Antonio Street (061-422-390, 061-422-070, 061-422-380, and 061-422-090) and more particularly described in Exhibit "A" and Exhibit "B" is rezoned from C-4 (General Commercial – Applicable to El Camino Real) to P-D (Planned 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
July 10, 2006

PLANNED DEVELOPMENT PERMIT

1452 and 1460 El Camino Real and 1457 and 1473 San Antonio Street,
Collectively Known as 1460 El Camino Real

1. GENERAL INFORMATION:

- 1.1 Applicant: Beltramo's Investment Company, Inc.
- 1.2 Nature of Project: Rezoning of the project site, Planned Development Permit and Vesting Tentative Subdivision Map for the creation of 16 residential lots with associated common areas and one commercial lot for condominium purposes not to exceed 40 commercial units, the construction of a 26,800-square-foot commercial building and 16 attached townhouse units configured in five separate buildings and a separate common building, with related site improvements including parking, driveways and landscaping.
- 1.3 Property Location: 1452 and 1460 El Camino Real and 1457 and 1473 San Antonio Street, collectively known as 1460 El Camino Real
- 1.4 Assessor's Parcel Numbers: 061-422-390, 061-422-070, 061-422-380, and 061-422-090
- 1.5 Area of Property: 67,500 square feet (1.54 acres)
- 1.6 Present Zoning: C-4 (General Commercial, Applicable to El Camino Real District)
- 1.7 Proposed Zoning: P-D (Planned Development District)

2. DEVELOPMENT STANDARDS:

- 2.1 Floor Area Ratio (FAR) shall not exceed **75 percent** of the project site. Dwelling units per acre shall not exceed **10.3 dwelling units per acre**.
- 2.2 Lot coverage shall not exceed **48 percent** of the lot area.
- 2.3 Minimum landscaping shall be **23 percent** of the lot area.

- 2.4 The maximum amount of pavement shall not exceed **29 percent**.
- 2.5 Building height shall not exceed **30 feet** from the average natural grade for the commercial building and **33 feet** from the average natural grade for the residential units.
- 2.6 Building setbacks shall be in accordance with the approved plans.
- 2.7 Parking requirements shall be defined by use and based on gross floor area. Parking must be met in aggregate for all the uses on the site.
- 2.8 The on-site circulation shall be installed according to the approved plans and maintained through the creation of a maintenance association as specified in the CC & R's for the for the project.
- 2.9 All rooftop equipment shall be fully integrated into the design of the building or fully screened. Landscaping shall screen all utility equipment that is installed outside of a building and cannot be placed underground.

3. USES

- 3.1 The project site includes a 26,800-square-foot, two-story commercial building that may be subdivided into a maximum of 40 commercial condominium units. The forecast traffic generation for the proposed development of the property, based on information contained in the associated Environmental Impact Report, dated June 2004, shall be as follows: AM peak hour trips – 209, PM peak hour trips – 134. No uses, for which the cumulative associated traffic volume generation would exceed any of these totals, shall be allowed within the property. The following table describes the various uses and the maximum square footage allowed:

Use	1st Floor	2nd Floor	Maximum Floor Area (square feet) if Remaining Floor Area is Office Use	Remaining Floor Area (square feet) as Office Use
Professional and Administrative Office	P	P	26,800	Not applicable
Medical Office	P	P	11,200	15,600
Personal Service	P	P	11,200	15,600
Retail	P	P	11,200	15,600
Sale of Alcohol				
Outdoor Sales				
Restaurant (full service)	P	P	9,400	17,400
Outdoor Seating				
Food Service Establishment	P	P	2,300	24,500
Financial Institutions	P	P	2,300	24,500

- 3.2 Administratively permitted uses include the following for the commercial component of the project:
 - 3.2.1 Outdoor seating in conjunction with an approved use; and
 - 3.2.1 Outdoor sales in conjunction with an approved use.
- 3.3 Conditional uses include the following for the commercial component of the project:
 - 3.3.1 Off-sale of alcohol; and
 - 3.3.2 Restaurants where live entertainment is provided.
- 3.4 The project site includes the development of 16 residential units. Permitted uses include the following for the residential component of the project:
 - 3.4.1 Residential units (up to 16); and
 - 3.4.2 Fitness center to serve the residents of the residential component.

4. SIGNS

- 4.1 The Planned Development Permit establishes a Master Sign Program for the site with a maximum allowed sign area of 100 square feet. All signage must be located entirely within the project site and be consistent with the approved master sign program.
- 4.2 All signs must be reviewed and approved through the Sign Permit process with an application and applicable filing fees.

5. TERMS OF THE PERMIT

- 5.1. The Planned Development Permit shall expire **two years** from the date of approval if the applicant does not submit a complete building permit application within that time. The Community Development Director may extend this date per Municipal Code Section 16.82.170.
- 5.2. 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 Planned 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.

- 5.3. 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 Planned 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.
- 5.4. 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.
- 5.5. 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.

6. PROJECT CONDITIONS:

- 6.1. Development of the project shall be substantially in conformance with the following plans recommended for approval to the City Council by the Planning Commission on July 10, 2006 except as modified by the conditions contained herein:
 - Hoover Associates, dated received by the Planning Division on July 6, 2006, consisting of 19 plan sheets; and
 - BKF, dated received by the Planning Division on July 6, 2006, consisting of 5 plan sheets.
- 6.2. 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.
- 6.3. 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.
- 6.4. 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. The applicant shall submit revised plans for screening of the proposed transformer located in front of the commercial building along El Camino Real. The screening shall be

compatible and unobtrusive and subject to the review and approval of the Planning Division.

- 6.5. Heritage trees in the vicinity of construction shall be protected pursuant to the Heritage Tree Ordinance. Prior to issuance of a demolition permit, the applicant shall submit an arborist report to include tree protection measures and preservation techniques for the heritage oak tree, including the installation of tree protective fencing prior to any construction activity.
- 6.6. Within two years from the date of approval of the tentative vesting 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.
- 6.7. Prior to recordation of the Final Map, the existing structures shall be demolished after obtaining a demolition permit.
- 6.8. 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 or bond for such work subject to the review and approval of the Engineering Division. The applicant shall obtain an encroachment permit, from the appropriate reviewing jurisdiction, prior to commencing any work within the right-of-way or public easements. If determined appropriate and subject to the approval of the Engineering Division, the applicant may provide a bond for the completion of the work subsequent to the recordation of the Final Map.
- 6.9. Prior to recordation of the Final Map, the applicant shall install new utilities to the point of service subject to review and approval of the City Engineer. All electric and communication lines servicing the project shall be placed underground. Each lot/unit shall have separate utility service connections. If determined appropriate and subject to the approval of the Engineering Division, the applicant may provide a bond for the completion of the work subsequent to the recordation of the Final Map.
- 6.10. Prior to building permit issuance for the construction of either the commercial or residential component, the approved Final Map shall be recorded at the County Recorder's Office.
- 6.11. Concurrent with the grading permit 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. The Grading and Drainage Plan shall indicate all proposed

modifications in the public right-of-way including frontage improvements and utility installations. The Grading and Drainage Plan shall be approved prior to issuance of a grading permit.

- 6.12. Prior to final building inspection, the applicant is required to enter into a "Stormwater Treatment Measures Operation and Maintenance (O & M) Agreement" with the City. With the executed agreement, the property owners are responsible for the operation and maintenance of stormwater treatment measures for the project. The applicant is required to provide access permission to the extent allowable by law for representatives of the City, local vector control district, and Regional Water Quality Control Board staff strictly for the purpose of O & M verification for the specific stormwater treatment system for the project.
- 6.13. The applicant shall comply with the Best Management Practices (BMP) requirements in order to ensure project compliance with the National Pollutant Discharge Elimination System (NPDES) permit. The applicant will adhere to City standards for the collection and disposal of on-site water runoff and for the protection of storm water quality during construction. The project will be subject to the review and approval of the Engineering Division.
- 6.14. Prior to grading permit issuance, the project sponsor 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. The fence may also serve as the fence required by condition 6.33.1 regarding noise mitigation.
- 6.15. 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 and shall include administration of the Transportation Demand Management plan as identified in condition 6.37.
- 6.16. Prior to grading permit issuance, the project sponsor shall provide documentation of the recordation of the Final Map at the County Recorder's Office for review and approval of the Engineering Division and the Planning Division. Application for a grading permit may be made prior to recordation.
- 6.17. Prior to demolition permit issuance, the project sponsor shall submit a plan for the control of dust for the duration of the project. The plan shall list specific measures, including but not limited to routine watering of the site. The plan shall also specifically address how dust would be controlled during weekends and other off-work periods. Finally, the plan shall include a contact name and phone number to receive and address any complaints. This plan shall be submitted for the review and approval of the Planning Division.

- 6.18. Simultaneous with the submittal of a complete building permit application, the project sponsor shall submit a Grading and Drainage Plan for review and approval of the Engineering Division. The plans shall be prepared by a Civil Engineer registered in California and shall be included in the project plans submitted for building permit applications. The project is required to utilize on-site infiltration as much as possible as a means of handling roof and site drainage. The Grading and Drainage Plan shall be approved prior to issuance of a grading permit.
- 6.19. 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.
- 6.20. Prior to grading permit issuance, the applicant shall pay the applicable Building Construction Street Impact Fee.
- 6.21. Prior to building permit issuance, the applicant shall comply with the requirements of Chapter 12.48 (Salvaging and Recycling of Construction and Demolition Debris) of the City of Menlo Park Municipal Code.
- 6.22. Prior to building permit issuance, the applicant shall submit documentation demonstrating that a deed restriction has been recorded with the County of San Mateo against the entire project site indicating that all property is subject to the terms and conditions of the Planned Development Permit.
- 6.23. All new structures shall be designed in accordance with the specific recommendations of the geotechnical report prepared by Lowney Associates for the project, which address clearing/site preparation, utilities, subgrade preparation, fill material, compaction, trench backfill, garage excavation support, and surface drainage. Prior to grading permit issuance, all final geotechnical/foundation plans shall be subject to the review and approval of the City Geologist to verify that these documents are consistent with the geotechnical recommendations. (MM #4.2.1)
- 6.24. Prior to building permit issuance, the proposed buildings shall be structurally designed to conform to adopted Uniform Building Code and California Building Code guidelines (for Zone 4). (MM#4.2.2)
- 6.25. Prior to demolition permit issuance, all buildings that are proposed for demolition shall be surveyed for asbestos-containing materials under the National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines. All potentially friable asbestos-containing materials shall be removed prior to building demolition in accordance with NESHAP guidelines and BAAQMD Regulation 11, Rule 2: Hazardous Materials; Asbestos Demolition, Renovation and Manufacturing. The BAAQMD's Enforcement

Division shall be consulted prior to commencing demolition of a building containing asbestos materials. (MM #4.4.1)

- 6.26. Prior to demolition permit issuance, a survey of painted surfaces on all buildings at the site shall be conducted. Based on the results of the survey, if lead-based paint is still bonded to the building surfaces, its removal is not required prior to demolition. If lead-based paint is peeling, flaking, or blistered, it shall be removed prior to demolition in accordance with state requirements. It is assumed that such paint will become separated from the building components during demolition activities; thus, it must be managed and disposed as a separate waste stream. Any debris or soil containing lead paint or coating must be disposed at landfills that have acceptance criteria for the waste being disposed. The project shall follow the requirements outlined by California Occupational Safety and Health Administration (Cal-OSHA) Lead in Construction Standard, Title 8, California Code of Regulations (CCR) 1532.1 during demolition activities. These regulations include employee training, employee air monitoring, and dust control. (MM#4.4.2)
- 6.27. Should previously unidentified cultural resources be discovered during construction, the project sponsor shall cease work in the immediate area until such time as the project sponsor's archaeologist assesses the significance of the find and makes mitigation recommendations (e.g., manual excavation of the immediate area), if warranted.

Construction monitoring shall be conducted any time ground disturbance (>12" deep) is taking place in the immediate vicinity of a cultural resource discovered, pursuant to the mitigation above. This includes building foundation demolition and construction, tree or tree-root removal, landscape irrigation installation, utility line excavation, etc. If data recovery does not produce evidence of significant cultural resources within the project area, further mitigation shall be limited to construction monitoring, unless additional testing or other specific mitigation measures are necessary to ensure avoidance of damage to significant archaeological resources by the project sponsor's archaeologist. A technical report of finding describing the results of all monitoring shall be prepared within a responsible time period in accordance with professional standards. The archaeological monitoring program shall be implemented by an individual meeting the Secretary of Interior Professional Qualifications Standards in Archaeology (36 CFR 61); individual field monitors shall be qualified in the recognition of cultural resources of both the historic and/or prehistoric periods and possess sufficient academic and field training as required to conduct the work effectively and without undue delay. (MM# 4.6.1)

- 6.28. In the event human remains are discovered, Section 7050.5(b) of the California Health and Safety Code shall be implemented, as follows. In the event of discovery or recognition of any human remains on the site, there

shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the San Mateo County Coroner has determined, in accordance with Chapter 10 (commencing with Section 27460) of Part 3 of Division 2 of Title 3 of the Government Code, that the remains are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner, and cause of death, and the recommendations concerning treatment and disposition of the human remains have been made to the person responsible for the excavation, or his or her authorized representative, in the manner provided in Section 5097.98 of the Public Resources Code.

The coroner, upon recognizing the remains as being of Native American origin, is responsible for contacting the Native American Heritage Commission within 24 hrs. The Commission has various powers and duties to provide for the ultimate disposition of any Native American remains, including the designation of a Native American Most Likely Descendant. Sections 5097.98 and 5097.99 of the Public Resources Code also call for protection of Native American human burials and skeletal remains from vandalism and inadvertent destruction. To achieve this goal, construction personnel on the site shall be instructed on the potential for discovery of cultural or human remains, proper and timely reporting of such finds, and the consequences of failure thereof. (MM# 4.6.2)

- 6.29. Prior to building permit issuance, all parking garages shall be designed and maintained with proper ventilation systems to maintain CO concentrations at acceptable levels, in accordance with the requirements of the American Society of Heating, Refrigeration, and Air Conditioning (Standard 62-1999). (MM# 4.8.1)

- 6.30. Prior to grading permit issuance, the applicant shall submit a dust control plan that will implement the following control measures, as appropriate, for proposed development:
 - 6.30.1 Water all active construction areas at least twice daily;
 - 6.30.2 Cover all trucks hauling soil, sand, and other loose materials;
 - 6.30.3 Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all;
 - 6.30.4 Unpaved access roads, parking areas, and staging areas at construction sites;
 - 6.30.5 Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; and
 - 6.30.6 Suspend excavation, demolition, and grading activity when winds (instantaneous gusts) exceed 25 mph. (MM# 4.8.2)

- 6.31. Prior to building permit issuance, the proposed residential units shall be designed with adequate mechanical ventilation to reduce interior noise

levels while allowing occupants to keep their windows opened or closed at their own discretion. (MM# 4.9.1)

- 6.32. Prior to building permit issuance, the applicant shall submit plans for the project that shall screen, enclose, or otherwise design all outdoor mechanical equipment to attenuate potential noise impacts in compliance with the City of Menlo Park's Noise Ordinance. The applicant shall submit plans, which show the location and design of the proposed mechanical units, and evidence that the units comply with the City's Noise Ordinance subject to review and approval of the Planning Division. (MM# 4.9.2)
- 6.33. Prior to demolition permit issuance, the applicant shall submit a Noise Control Plan to include at least the following items:
 - 6.33.1 Prior to construction, a temporary 8-foot high plywood noise barrier shall be constructed around the perimeter of the project site;
 - 6.33.2 Limit construction activity to daytime hours (8 AM to 6 PM) with no construction activity on Saturday, Sunday, or holidays;
 - 6.33.3 Use available noise suppression devices and properly maintain and muffle internal combustion engine-driven construction equipment;
 - 6.33.4 Utilize noise barriers or noise control blankets to shield stationary equipment from nearby noise-sensitive receptors;
 - 6.33.5 Designate a disturbance coordinator and post the name and phone number of this person conspicuously at the site. The disturbance coordinator will respond to complaints about noise and take the steps necessary to mitigate the problem; and
 - 6.33.6 Site access should be primarily from El Camino Real with limited access from San Antonio Street. (MM# 4.9.3)
- 6.34. Prior to building permit issuance, the applicant shall submit a plan showing lighting details and specifications, including a photometric study subject to the review and approval of the Planning Division. The City shall review the project and require appropriate measures to assure that lighting does not increase over existing levels by more than one photometric candlefoot at the property line. (MM# 4.10.1)
- 6.35. Plans and specifications for upgrading any sewer facilities shall be submitted to the West Bay Sanitary District (WBSD) for approval and issuance of the appropriate permits prior to building permit issuance. The project shall upgrade the sewer facilities to which it connects as designated by the WBSD; specific improvements would be determined at the final design level.

Conforming property line cleanouts shall be required within five feet of the property line. Each line is required to maintain a minimum two percent slope from the property line cleanout to the sewer main.

Any lateral lines planned for re-use must be reviewed and approved by the WBSD and must have property line cleanouts. Laterals not to be re-used must be capped off at the sewer main and inspected by WBSD staff. (MM# 4.11.1)

- 6.36. Prior to building permit issuance, the project shall contribute traffic and shuttle fees in accordance with the City's requirements. The traffic impact fee is \$1.60 per square foot of net new commercial and \$708 per new residential unit. The shuttle fee is \$0.105 per square foot of new commercial uses paid on an annual basis. (MM# 5.0.1)
- 6.37. Prior to building permit issuance, the applicant shall submit a Transportation Demand Management Program (TDM) to include the following measures (see below) subject to the review and approval of the Transportation Division. The TDM program shall be included in the CC&Rs for the commercial component. Concurrent with the start of occupancy, the applicant shall implement the TDM measures.
 - 6.37.1 Transit passes - implement a Commuter Check program for all employees working in the commercial building on a regular full-time basis of at least 38 hours per week. Each employee shall be entitled to a \$25/month contribution from the employer.
 - 6.37.2 Shower rooms - provide two shower rooms and related facilities either in the main commercial building or in the underground area.
 - 6.37.3 Bikes - provide six bicycle holders on the commercial portion of the project.
 - 6.37.4 Information Center - install an information center in the commercial building displaying appropriate transportation alternatives and TDM information. (MM# 5.0.2)
- 6.38. Prior to building permit issuance, the applicant shall submit a detailed landscape plan, including the size, species, and location, and irrigation plan for review and approval of the Planning Division and Department of Public Works. The plan shall allow for sight distance visibility and comply with the Water Efficient Landscaping Ordinance (Municipal Code Chapter 12.44). The street trees along El Camino Real shall also be identified as London Plane trees. Landscape shall be installed prior to final building inspection of each phase.
- 6.39. Prior to building permit issuance, the applicant shall revise the plans to show vinyl-clad or better quality windows on the residential units.
- 6.40. Prior to recordation of the Final Map, the applicant shall provide parking easements for 21-guest parking spaces located at-grade on the adjacent commercial lot. Guest parking shall be made available during nights (6 p.m. to 8 a.m.) and weekends.

- 6.41. Prior to building permit issuance, the applicant shall submit revised plans to include a minimum four-foot pedestrian walkway along the southern edge and southeastern corner of the commercial building subject to the approval of the Planning and Transportation Divisions. Appropriate landscaping can also be included adjacent to the walkway.
- 6.42. Prior to building permit issuance, the applicant shall submit revised plans showing clearly the location of all existing and proposed walls and include details about the height and materials. Additionally, the revised plans shall include a modified setback for the proposed six-foot masonry wall along the northern property line equal to the setback of the commercial building and subject to the review of the Planning and Transportation Divisions.
- 6.43. Prior to building permit issuance, the applicant shall submit revised plans to show the trash enclosures are covered subject to the review and approval of the Planning Division.

Recommended for Approval by the
Menlo Park Planning Commission on
July 10, 2006

Approved by the
Menlo Park City Council on

Arlinda Heineck, Community
Development Director

Silvia Vonderlinden, City Clerk

v:\staff\p\pc\2206\071006-1460 El Camino Real-Attachment G-PD Permit.doc

WHEN RECORDED MAIL TO:

CITY OF MENLO
PARK 701 Laurel Street
Menlo Park, CA 94025-3483

**AFFORDABILITY RESTRICTION AGREEMENT
(Rental)**

This "Agreement" is made as of this _____ day of _____, 2006 by and between THE CITY OF MENLO PARK, a California municipality ("City") and Beltramo's Investment Company, Inc, a _____ company ("Developer"), with respect to the following:

RECITALS

- A. Developer 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 1460 El Camino Real and consists of assessor's parcel number 061-422-390, 061-422-070, 061-422-380, and 061-422-090.
- B. Pursuant to the City's Municipal Code Chapter 16.96 ("BMR Ordinance"), and the City of Menlo Park BMR Housing Program Guidelines as adopted by the City Council of Menlo Park and amended from time to time ("Guidelines"), Developer is required to enter into this Agreement for the benefit of the City to insure compliance with the BMR Ordinance and Guidelines, which is a prerequisite to obtaining final development approvals and "Final Inspection" from the Building Division.
- C. As required by, and in full compliance with the BMR Ordinance and Guidelines, Developer plans to develop the Property with a residential project ("Project") which includes, without limitation, sixteen (16) units of which three (3) units are to be rented to qualified "Lower Income" households, as defined below. The "Lower Income" rental units are hereinafter referred to as "BMR Units" (individually, "BMR Unit").
- D. Provided Developer converts the Project into condominiums in accordance with the City's ordinances, Developer shall have the right to sell the BMR Units in accordance with the BMR Ordinance and Guidelines then in effect and as provided in this Agreement.

- E. The BMR Units shall be rented or sold at below market rates to third parties who meet certain eligibility requirements, all as set forth in the BMR Ordinance and Guidelines.
- F. This Agreement is for the benefit of Developer and the City and shall run with the land.

NOW, THEREFORE, Developer hereby declares and covenants:

1. AFFORDABILITY RESTRICTION FOR BMR UNITS.

- a) Applicability. These restrictions apply to BMR Units and, except as otherwise provided herein, shall remain in full force and effect during the life of the Project and shall apply to Developer, Developer's heirs and assigns and all subsequent owners. As used herein, the "life of the Project" shall mean the earlier of (1) fifty-five (55) years from the date of recordation of this Agreement, or (2) such time as the structures constructed and approved as part of the Project are replaced by a newly approved project, subject to such affordability restrictions applicable at the time, or the existing structures are legally converted to nonresidential use. In the event a portion, but not the entire Project is so used, the portion remaining shall be subject to these restrictions in the same proportion as originally applicable to the entire Project.
- b) Eligible Tenant; Restriction to Affordable Rent.
 - (i) Developer or successor shall only rent or otherwise cause or allow the rental of any BMR Unit to qualified lower income households who either live or work in the City ("Eligible Tenant"). The term "Lower Income" shall mean households having a gross income below the HUD Low Income for San Mateo County (the "Income Qualifying Percentage"), as such is set forth in the Guidelines and as may be subsequently revised from time to time, adjusted for household size as set forth in the Guidelines. The Guidelines in effect as of the date of recordation of this Agreement (the "Effective Date") are attached hereto as Exhibit B. Developer or its successor shall only rent any BMR Unit at the Maximum Rental Rates established by the Guidelines from time to time, provided that the Maximum BMR Rental Rates shall not be decreased below those rates in effect in the Guidelines as of the Effective Date. The rent shall be no greater than thirty percent (30%) of the most recently published HUD Low Income Limit. The rent may be increased from time to time to reflect any changes to the then current HUD Low Income Limit. The Developer shall not charge for water and/or garbage service. Notwithstanding any change in the qualifying Maximum Annual Income to Rent and Maximum BMR Rent set forth in the revised Guidelines, the Income Qualifying Percentage as set forth hereinabove shall not be decreased for the term of this Agreement.
 - (ii) Within fifteen (15) days from which the City receives notification from the Developer, or its successor or agent, of an impending availability or vacancy of any BMR Unit (the "Notice of Availability"), the City shall provide the Developer with the name of an Eligible Tenant(s) to occupy such vacant BMR Unit, together with a copy of the applicable Rent Standards and Income Guidelines then in effect under the Guidelines.

- (iii) The Eligible Tenant selected by the City shall submit to Developer concurrently with the City's notice, the Eligible Tenant's references and credit history and such other information as may be required by Developer's standard application to rent form. Upon receipt of such documents properly completed, Developer shall have ten (10) days to review them and to either deny or approve the Eligible Tenant based on the foregoing information by delivering a written notice (the "Notice of Acceptance") to both the Eligible Tenant and to the City. If the Developer shall fail to deliver the Notice of Acceptance to City and Eligible Tenant within said ten (10) day period, Developer shall be deemed to have disapproved the Eligible Tenant. An approved Eligible Tenant shall have ten (10) days from receipt of the Notice of Acceptance from Developer to accept the offer of tenancy by executing a lease (the "Lease") with Developer on Developer's standard form. Developer's standard form of Lease shall be subject to the approval of the City which shall not be unreasonably withheld. The Lease shall have an initial term of one (1) year and thereafter, unless renewed for a longer period by the Developer and the Eligible Tenant, the tenancy shall be a periodic tenancy terminable by either party giving to the other at least a sixty (60) day prior written notice. If the tenancy is to end at the end of the initial term, either party must give the other notice of such intention sixty (60) days prior to the end of the initial term. The lease shall also require that at the time the Notice of Acceptance is delivered, the Eligible Tenant shall make a non-refundable deposit of not more than one-half of one month's rent to be applied to the first month's rent. Prior to occupancy, the Eligible Tenant shall pay the second half of the first month's rent plus one (1) month's rent as a security deposit. The selected Eligible Tenant shall be allowed up to thirty (30) days from the Notice of Acceptance to move into the available BMR Unit, at which time the Lease term shall commence.
- (iv) If Developer denied approval of a proposed Eligible Tenant, then City shall have seven (7) days following receipt of such notice to inform Developer of another Eligible Tenant and upon such notice the above procedure shall again be followed until an Eligible Tenant is placed in the vacant BMR Unit. If the City shall fail to inform Developer after said seven (7) day period, Developer may, after written notice to the City and failure by the City to provide another Eligible Tenant within five (5) days of such notice, rent the BMR Unit to any Eligible Tenant.
- (c) Location of BMR Units. The number and square footage of BMR Units by bedroom, bathroom, unit number and location (if verifiable at time of execution of this Agreement) is set forth in Exhibit C, attached hereto. Developer shall have the right to change the location of one or more BMR Units from time to time subject to the City's prior approval which shall not be unreasonably withheld or delayed. Upon any change of location of one or more BMR Units, Developer and City shall execute and record an amended BMR Agreement to reflect the change.
- (d) Interior Finishes of BMR Units; Maintenance of BMR Units. All interior amenities of the BMR Units such as fixtures, appliances, materials and other features shall be comparable to and maintained to the same standards as the non-BMR units in the Project and shall contain standard amenities available in market rate rental units. Any BMR Units for sale need not contain optional upgrades paid for by any purchasers of

the non-BMR Units, and Developer may install such optional upgrades and luxury items in non-BMR Units. The City shall have the right to inspect the BMR Units to determine whether they are being maintained pursuant to this Paragraph, provided such inspection is done in accordance with the Lease and minimizes interference with the tenant's occupancy. BMR Units shall be maintained and code violations removed by the Developer within a reasonable time period of discovery.

(e) Recertification of Income; Redesignation of BMR Units for Non-Qualifying Households.

(i) On an annual basis on or before July 1 of each year, Developer or subsequent owner shall submit a report (the "Annual Report") in conformance with the Guidelines to the City which contains with respect to each BMR Unit, the name of the Eligible Tenant, the rental rate and the income and household size of the occupants. The Annual Report shall be based on information supplied by the Tenant or occupant of each BMR Unit in a certified statement executed yearly by the Tenant on a form provided or previously approved by the City. Execution and delivery thereof by the Tenant may be required by the terms of the Lease as a condition to continued occupancy at the BMR rate. In order to verify the information provided, City shall have the right to inspect the books and records of Developer and its rental agent or bookkeeper upon reasonable notice during normal business hours. The Annual Report shall also provide a statement of the Developer's management policies, communications with the tenants and maintenance of the BMR Unit(s), including a statement of planned repairs to be made and the dates for such repairs.

(ii) If, at the time of recertification, a Tenant's household income exceeds the eligibility requirements set forth in the Guidelines ("Ineligible Tenant"), the Ineligible Tenant shall no longer be qualified to rent the BMR Unit and the Lease shall provide that the Lease term shall expire and the Tenant shall vacate the BMR Unit on or prior to sixty (60) days after delivery of a notice of ineligibility by the Developer or City to the Tenant. Upon expiration of the Lease term pursuant to the foregoing, if the Tenant has not vacated the BMR Unit as required, Developer shall promptly take steps to evict the Ineligible Tenant and replace the BMR Unit with an Eligible Tenant as soon as reasonably possible, using the procedures described in this Agreement

(f) Continued Availability at Restricted Level. If and when any BMR Unit is vacated for any reason whatsoever by an Eligible Tenant, the BMR Unit shall then be rented or otherwise made available as a BMR Unit to a new Eligible Tenant, as set forth herein.

2. DEFAULT AND REMEDIES.

(a) Covenants Running With The Land. The Developer hereby subjects the Property and the BMR Units to the covenants and restrictions set forth in this Agreement. Developer hereby declares its express intent that the covenants and restrictions set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Developer's successors in interest; provided, however, that on the termination of this

Agreement, said covenants and restrictions shall expire. Each and every contract, lease or other instrument covering the Property or improvements constructed on the Property or any portion thereof or interest therein (a "Contract") shall conclusively be held to have been executed, delivered and accepted subject to this Agreement regardless of whether the terms of this Agreement are set forth in such Contract and regardless of whether the other party or parties to such Contract have actual knowledge of this Agreement. The Developer hereby declares its understanding and intent that:

- (i) The covenants and restrictions contained in this Agreement shall be construed as covenants running with the land pursuant to California Civil Code section 1468 and not as conditions which might result in forfeiture of title by Developer;
- (ii) The burden of the covenants and restrictions set forth in this Agreement touch and concern the Property in that the Developer's legal interest in the Property and all improvements thereon are rendered less valuable thereby; and
- (iii) The benefit of the covenants and restrictions set forth in this Agreement touch and concern the land by enhancing and increasing the enjoyment and use of the Property and BMR Units by Eligible Tenants, the intended beneficiaries of such covenants and restrictions.

All covenants and restrictions contained herein without regard to technical classification or designation shall be binding upon the Developer and its successors in interest for the benefit of the City, and such covenants and restrictions shall run in favor of the City for the entire period during which such covenants and restrictions shall be in force and effect, without regard to whether the City is an owner of any land or interest therein to which such covenant and restrictions relate.

(b) Non-Complying BMR Units.

- (i) In the event of any breach of any of the covenants or restrictions set forth herein ("Default"), in addition to and without limitation of any other rights and remedies set forth this Agreement or otherwise available to any party legally entitled to enforce this Agreement and (a) if the Default is not cured within thirty (30) days after notice by City is provided to Developer, or (b) if such Default cannot reasonably be cured within the thirty (30) day period and Developer has not commenced the curing of such Default, then City shall have the right to lease and Developer shall lease to City on demand for a rental of \$1.00 per BMR Unit per year any and all of the "Non-Complying BMR Units" (as defined below). Developer shall exercise due diligence and take all legal steps necessary, including eviction, to vacate any Non-Complying BMR Units. "Non-Complying BMR Units" shall mean a BMR Unit which is occupied and/or leased in violation of this Agreement. Determination of such a violation may be based on information provided in the Annual Report or determined by City in its reasonable discretion based on information otherwise available to it.
- (ii) Notwithstanding any term or condition of the lease under which the City leases a Non-Complying BMR Unit pursuant to this subsection, Developer hereby consents

to and grants City the right to assign such lease or sublet such BMR Unit(s) to an Eligible Tenant or to any non-profit housing provider (a "Provider") in the community for \$1.00 per year on the condition that such Provider subleases such BMR Unit(s) or assigns such lease(s) to an Eligible Tenant on the same terms of this Agreement. If the City assigns or sublets to any Provider, notwithstanding any term or condition of the lease between the Developer and the City, the Developer hereby consents to and grants such Provider the right to assign such lease or sublet such BMR Unit to any Eligible Tenant on the same terms of this Agreement. If the City leases any BMR Unit(s) or a Provider subleases any BMR Unit(s) or is the assignee of any lease(s) from the City, the City or Provider, as the case may be, to the extent necessary to ensure compliance with this Agreement, shall sublease such BMR Unit(s) or assign such lease(s) to any Eligible Tenant on the same terms as this Agreement. Any rent paid under such a sublease or assignment shall be paid to the Developer after the City, or Provider, as the case may be, has been reimbursed for any reasonable expenses incurred by it in connection with exercising the rights and remedies set forth in this subsection, provided, that if the Developer is in default under any encumbrance in connection with the financing of the Project or any improvements thereon, such rent shall be paid to the party legally entitled thereto.

- (c) Excess Rent. In the event that and to the extent that the Developer receives rents or other payments from the operation of the BMR Units in excess of what Developer is permitted to charge and receive pursuant to this Agreement, after thirty (30) days notice by City to Developer, Developer agrees and covenants to pay to the City the full amount of such excess, including statutory interest thereon, for all periods prior to and during the 30 day notice period on demand by the City. The Developer agrees and intends that the payment of such excess, absent other remedies described in this Agreement to ensure for the term hereof that rents or other payments do not exceed those Developer is permitted to charge and receive pursuant to this Agreement, shall not alone be an adequate remedy to accomplish the purposes of this Agreement.
 - (d) All Remedies Available and Cumulative. In the event of any Default, the City shall have the right to exercise all its rights and remedies, and to maintain any action at law or suits in equity or other real property proceedings, including without limitation, specific performance, to enforce the covenants and restrictions and the curing of any breach or violation thereof. No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage or waive the right of the City to enforce the provisions hereof in the future for any continuing or new breach or violation of any of the covenants or restrictions contained in this Agreement. All rights and remedies of any party legally entitled to enforce this Agreement shall be cumulative and the exercise of any such right or remedy shall not impair or prejudice and shall not be a waiver of the right to exercise any other such rights and remedies.
3. CONVERSION TO A FOR-SALE BMR UNIT. In the event Developer or successor in interest decides to convert the Project to a common interest for-sale project, Developer shall comply with any and all City subdivision requirements for such conversion. If the requisite approvals are obtained to convert the project and Developer desires to sell any converted BMR Unit, Developer shall notify the City of the intent to sell. Such BMR

Unit shall be deemed a For-Sale Unit, which shall only be available to Lower Income buyers, as more particularly defined in Paragraph 1(b)(1) above, and according to the terms of this Paragraph and the Guidelines. Further the City's Below Market Rate Agreement, in form attached hereto as Exhibit D, must be executed and recorded against the converted BMR Unit prior to any sale. If a subdivision map is recorded, the initial BMR sale prices will be set according to the terms of the City's Below Market Rate Agreement. Prior to any sale of a BMR Unit to a third party, the Developer shall first offer such unit to the then Eligible Tenant of the BMR Unit.

- (i) If an Eligible Tenant seeks to purchase the BMR Unit, the City will release the BMR Unit from the rental restrictions set forth in this Agreement at the close of escrow and the unit shall exist as a For-Sale BMR Unit.
- (ii) If an Eligible Tenant does not seek to purchase the BMR Unit, the Eligible Tenant shall vacate the Unit upon expiration of the current lease term, whereupon Developer may sell the Unit in accordance with the Below Market Rate Agreement.

4. AGREEMENT TO BE ATTACHED. The Developer shall attach a copy of this Agreement to any lease or sale contract with respect to any BMR Unit.
5. SUCCESSORS, ASSIGNS. The provisions contained in this Agreement shall bind the Developer, its successors in interest and assigns and shall inure to the benefit of the City.
6. LIENOR'S REMEDIES. The provisions of this Agreement do not limit the right of any obligee to exercise any of its remedies for the enforcement of any pledge or lien upon the Project; provided, however, that in the event of any foreclosure, under any mortgage, deed of trust or other lien or encumbrance, or a sale pursuant to any power of sale included in any such mortgage or deed of trust, or in the case of a deed in lieu of foreclosure, the purchaser (or other transferee) and their successors in interest and assigns and the Project shall be, and shall continue to be, subject to all of the covenants and restrictions set forth in this Agreement.
7. AMENDMENTS. The City and its successors and assigns, on the one hand, and the Developer and its successors in interest and assigns, on the other, shall have the right to consent and agree to changes in, or to eliminate in whole or in part, any of the covenants or restrictions contained in this Agreement without the consent of any tenant, lessee, easement holder, licensee, mortgagee, trustee, beneficiary under a deed of trust or any other person or entity having any interest less than a fee in the Project. This Agreement shall not be amended, modified or terminated except upon the written consent of the City and upon the recordation of an amendment hereto duly executed and acknowledged by Developer or successor in interest and the City.
8. SEVERABILITY. If any provision of this Agreement, or the application thereof to any person, place, or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable, or void, the remainder of this Agreement and such provisions as applied to other persons, places, and circumstances shall remain in full force and effect.
9. NON DISCRIMINATION. The Developer covenants and agrees for itself, its successors,

assigns and any successor in interest to the Property that, unless otherwise permitted by law, there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, family status (minor children or no minor children), national origin, ancestry or disability in the lease, sublease, use, occupancy, tenure, or enjoyment of the Property, nor shall the Developer or any person claiming under or through Developer, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants or sublessees at the Project.

10. NOTICES. Any and all written communications required or permitted by this Agreement or by law to be served or given upon either party hereto by the other party hereto, shall be in writing and deemed served and given when personally delivered. In lieu of personal service, notices may be delivered by U.S. mail, certified or registered, return receipt requested, in which event the notice shall be deemed received only (a) when actually received, as evidenced by an executed receipt for delivery or (b) if never actually received by the addressee, on the date of first notice of attempted delivery, as reflected by postal service notation. Further, notice may be delivered by electronic telecommunication of such written notice in which event notice shall be deemed given when such written telecommunication is received by the party to be notified, provided an original document is mailed promptly following such electronic telecommunication. Any notice to be delivered to City shall be addressed to:

City of Menlo Park
Attn: Director of Community
Development 701 Laurel Street
Menlo Park, CA 94025-3483

With a copy to:

City of Menlo Park
Attn: Housing and Redevelopment Manager
701 Laurel Street
Menlo Park, CA 94025-3483

and to Developer at:

Beltramo's Investment Co., Inc. Attn: John Beltramo
1540 El Camino Real
Menlo Park, CA 94025-4199

With a copy to:

Beltramo Investment Company, Inc. Attn: Dan Beltramo
1540 El Camino Real
Menlo Park, CA 94025-4199

11. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the law of the State of California.

12. ATTORNEYS' FEES. The parties hereto agree that if legal action is commenced to enforce any provision of this Agreement, or to settle any claim or controversy arising out of or relating to this Agreement, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees and costs. Any attorneys' fees incurred for the benefit of all the parties shall be deemed an expense of ownership and maintenance and shall be apportioned among the parties equally.
13. INCONSISTENCY. 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 this Agreement, the terms and provisions of this Agreement shall prevail.
14. INVALIDITY. If any term, covenant, condition, restriction or reservation in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

IN WITNESS WHEREOF, the Developer has executed this Agreement as of the date first written above.

DEVELOPER:

CITY:

By: _____ By: _____

ATTEST: _____

List of Exhibits

- Exhibit A: Property Description
- Exhibit B: BMR Guidelines
- Exhibit C: Location of BMR Rental Units
- Exhibit D: BMR For-Sale Agreement

STATE OF CALIFORNIA)

) ss:

COUNTY OF _____)

On _____ 2005, before me, the undersigned Notary Public, personally appeared, _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

STATE OF CALIFORNIA)

) ss:

COUNTY OF _____)

On _____ 2005, before me, the undersigned Notary Public, personally appeared, _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

EXHIBIT A

LEGAL DESCRIPTION

The Land situated in the State of California, County of San Mateo, City of Menlo Park and is described as follows:

EXHIBIT B

[ATTACH BMR Units and location]



HOUSING AND REDEVELOPMENT
701 Laurel Street/Menlo Park, CA 94025-3483
(650) 330-6706/Fax (650) 327-1759

MEMORANDUM

DATE: January 27, 2005
TO: Housing Commission
FROM: Gretchen Hillard, Housing and Redevelopment Manager
SUBJECT: Proposal to fulfill Below Market Rate Housing Requirement in Proposed Development at 1460 El Camino Real

PROPOSAL

The Housing Commission will review and consider recommending to the Planning Commission and City Council the proposed Affordability Restriction Agreement (Rental) with the Beltramo's Investment Company to satisfy the BMR requirements for a mixed use development at 1460 El Camino Real at the February 2, 2005 meeting. The developer, Beltramo's Investment Company, is proposing a mixed use development of 26,800 square feet in two stories of office on El Camino Real and 16 townhomes with garages one-half story down extending to San Antonio Avenue. Two three-bedroom town homes and 14 two-bedroom townhomes are proposed, including three two-bedroom BMR unit town homes distributed throughout the site. (Attachment A)

The Housing Commission reviewed the Beltramo's proposal in a study session at its May 5, 2004 meeting. (Attachment B) The current proposal is the same as reviewed on May 5, 2004, except that the proposal no longer includes a first preference for private school teachers who teach up to grade twelve in schools that are located within a one half mile radius of the project.

RENTAL BELOW MARKET RATE AGREEMENT

Beltramo's Investment Company's proposal represents the first Below Market Rate rental units to be developed in Menlo Park. During the months intervening between May 2004 and the present, the City Attorney developed a Below Market Rate rental housing agreement form titled Affordability Restriction Agreement (Rental), (Attachment C). The Beltramo's Investment Company proposal is the first to use the new Affordability Restriction Agreement (Rental).

The proposed rental BMR Agreement states that the Affordability Restrictions will have a life of 55 years or the life of the project. The Agreement establishes HUD Low Income for San Mateo County as the maximum eligible income, and establishes the rent as 30 percent of the HUD Low Income limit. Procedures for selecting and qualifying the tenants, and renting the BMR units are established. The BMR Agreement establishes the same criteria for location, interior finishes and maintenance of the BMR rental unit as are proposed in the BMR rental guidelines. Procedures for annual recertification, notice to over-income tenants, and for remedies in case of default and

non-complying units are also established, as well as procedures for conversion to a for-sale unit, including an option for the residing, eligible tenant to purchase the BMR unit.

BELOW MARKET RATE FOR-SALE AGREEMENT

The City's Below Market Rate For-Sale Agreement is attached to the Beltramo's BMR rental agreement as an exhibit. The Below Market Rate For-Sale Agreement has been revised extensively to be easier to read and understand, especially the section that describes the method for calculating the purchase price.

BELOW MARKET RATE RENTAL GUIDELINES

The draft Below Market Rate Housing Guidelines have been amended to include a BMR Rental Program in order for the Beltramo's Rental BMR Agreement to be effective. Additions to the Below Market Rate Housing Guidelines are proposed to establish a framework for the new BMR rental program. The BMR Rental Guidelines are described in a separate Memorandum.



HOUSING COMMISSION MINUTES

Regular Meeting

February 2, 2005

5:30 pm

City Council Conference Room, First Floor
701 Laurel Street, Menlo Park, CA

CALL TO ORDER

Chairperson Carol Louchheim 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, John Donald, Elza Keet, Chair; Carol Louchheim, Vice-Chair;

Anne Moser (ar. 5:32 PM), Jack O'Malley, Clarice O'Neal

Housing Commission Member Absent: None

Staff Present: Arlinda Heineck, Community Development Director, Gretchen Hillard, Housing and Redevelopment Manager; Justin Murphy, Development Services Manager

A. PUBLIC COMMENT - None.

B. REPORTS AND ANNOUNCEMENTS – None

C. BUSINESS ITEMS

1. Welcome new member, Jack O'Malley The Commissioners introduced themselves and welcomed Jack O'Malley to the Housing Commission.
2. Approval of January 5, 2005 Minutes Carol Louchheim proposed that Item C.2., paragraph 2, fifth sentence be changed to read, "Elza Keet stated that she would urge the Council to insist on an equal number of affordable units to be assisted by any other use than the PAL Program." (M/S Keet/Boyle 5-0-1, O'Malley abstained).
3. San Antonio study session and recommendation to City Council of BMR Agreement John Hansen and Niles Tanakatsubo introduced themselves as representatives for the proposed project at 1421 and 1423 San Antonio Street. John Hansen stated that the Planning Commission held two study sessions to consider proposals for other uses over a year ago. The Planning Commission gave high priority to housing at the site. Six units is the maximum allowed by zoning. They are saving a large oak tree. The housing proposal is to construct six detached two story townhouses with three bedrooms and two car garages, and about 1600 to 1700 square feet of floor area. Elza Keet stated that there were only two units next to the carwash because of the noise. Niles Tanakatsubo stated there would be an eight foot wall with a trellis on top to attenuate the noise. Carol Louchheim stated that the Housing Commission needed to consider whether they could provide a BMR unit. John Hansen said that the zoning didn't allow an additional unit, and that to provide one of the six units as a BMR unit was not financially feasible. Patricia Boyle made the motion to approve the proposal as presented, that

is, that the developer pay inlieu fees out of escrow for each unit as follows: one percent of the sales price for units 2, 4 and 5 and two percent of the sales price for units 1, 3 and 6. (M/S Boyle/O'Malley & Keet, 7-0)

4. Recommendation to City Council of Beltramo's (1460 El Camino Real) BMR Agreement John Beltramo and Jeff Trant introduced themselves. Carol Louchheim opened the discussion by addressing the number of BMR units that are proposed.

John Donald stated that there are only three 2 bedroom units, and that it is good that two bedroom units are proposed as BMR units because there are so few smaller BMR units that smaller households are eligible for. Other Commissioners stated that teachers tend to have smaller households, and so would be eligible for the smaller units. The discussion turned to the fact that the Beltramos had withdrawn their request for preference for teachers at schools within a half-mile radius. John Beltramo verified that the preference request had been withdrawn. John Donald stated that the proposal meets the requirements. He said that he reads the guidelines to state that the required unit contribution is rounded up for both commercial and residential developments; however he's OK with the proposal.

Patricia Boyle cited from the Minutes Kirsten Keith's suggestion that the Beltramos sell another BMR unit to the City. John Beltramo and Jeff Trant stated they did not want to do that. Carol Louchheim pointed out that that would put the City in the rental business. Anne Moser asked if the developer can establish a preference. Staff explained that only the City Council could establish a preference. Jack O'Malley stated that he was in favor of the proposal. Patricia Boyle said that she likes the mixed use aspect of the development. Elza Keet stated she did too. Patricia Boyle made the motion to recommend approval the BMR Agreement with the Beltramo's Development Company as proposed. (M/S Boyle/O'Neal 7-0).

5. Consideration of a recommendation to add a BMR Rental Program to the Below Market Rate Housing Program Guidelines Gretchen Hillard briefly summarized the current need for the BMR rental program Guidelines to structure a program, now that the first BMR rental units are proposed. The Carol Louchheim suggested that the Commission review and vote on the guidelines section by section.

The Commissioners approved Section 3.1.1 (M/S Keet/Boyle 7-0)

After discussion the Commissioners approved Section 3.2.2 with the following change: Insert after the first sentence in the new paragraph, "in effect at the time of conversion." and Change "at the time" to "When" at the beginning of the second sentence in the new paragraph. Also in the last sentence in the new paragraph, change "one (1) year" to "two (2) years", and add at the end of that last sentence in the new paragraph, "regardless of the place of residence of the displaced BMR tenant."

In the same motion the Commissioners approved amending the sentence in Section 6.3.1 to change "one year" to "two (2) years", and add at the end of that sentence, "regardless of the place of residence of the displaced BMR tenant." (M/S Moser/Keet, 7-0)

Elza Keet opened the discussion on Section 4.1.2 by asking about the rent rates in Table B. Carol Louchheim gave evidence that local apartment rents in several complexes are at the same level and lower than the Low Income rents in Table B. She asked Gretchen Hillard to describe the income guidelines, which are the basis for the rent rates. Gretchen Hillard described Table A, explaining that the discrepancy between "Low Income" and its traditional meaning of "80% of median" had diverged because of the high rents in San Mateo County, and the need for Section 8 rents to keep up with market rate rents. Patricia Boyle asked if there is any way to reduce the BMR rents, since they were close to market rate. John Beltramo said

that very few rental buildings had been built in a very long time in Menlo Park because it has not been economic. Reducing the rent would affect the feasibility of the project. Jeff Trant stated that the lender needs to be assured that rents won't go down. Jack O'Malley made the motion to approve Section 4.1.2 as proposed.

(M/S O'Malley/Boyle 6-0-1, Keet abstaining.)

Addressing Section 8.1.1 Income Limits upon Occupancy of BMR Rental Units, Elza Keet asked if there could be a percent of income increase allowed rather than an exact income ceiling. Otherwise, what incentives do the tenants have to earn more? Patricia Boyle addressed both 8.1.1 and 8.1.7 Annual Recertification of BMR Units, saying that there are others whose lot does not improve. She would like a longer time factor, like a year. John Donald posed, what if the tenant's income comes back down when they come back for the annual recertification? The Commissioners agreed that the tenant would be eligible to remain. The Commissioners agreed by consensus that the policy should be to give a grace year, that the tenant would have to fail recertification twice, and then would be given a 60 day notice.

Based on John Beltramo's suggestion, the Commissioners directed staff to rewrite Section 8.1.2 to be consistent with Section 4.1.2 and voted to approve the change. (M/S O'Malley/Boyle 7-0)

The Commissioners agreed to approve Sections 8.1.4, 8.1.5, 8.1.6, 8.1.7, and 8.1 as proposed. (M/S Keet/Boyle 7-0)

Clarice O'Neal made a motion to approve the BMR Guidelines changes as stated above. Anne Moser stated that she was uncomfortable with putting the developer in the position of leasing BMR units. She would prefer that the City have the relationship with the tenant. Patricia Boyle asked what recourse or appeal right the tenant would have if they disagreed with the City's determination about their eligibility. Arlinda Heineck replied that the City would have to look at the specifics of the situation. Jack O'Malley called for a vote. (M/S O'Malley/O'Neal, 7-0)

6. Discussion of approaches to address the fact the housing developers mostly develop three and four bedroom units, and as a result one and two person households on the BMR Waiting List must wait much longer for an opportunity to purchase a BMR unit Patricia Boyle stated that the Housing Leadership Council did not take a position on this. The HLC's focus is raising funds to support development. Mid-Peninsula Citizens for Fair Housing is the likely non-profit to take an interest. The item was placed on the March agenda.

D. INFORMATION ITEMS

1. California Housing Trust Summit - Gretchen Hillard reported that staff would attend this workshop on Housing Funds for managers of housing funds statewide in late February.
2. Survey of local school districts to determine if they have housing programs for their employees - Anne Moser reported that she had sent 33 letters. Staff was very helpful. She heard from Las Lomitas and Menlo Park City School districts, which have no programs. The California Foundation has housing in Menlo Park, East Palo Alto and Palo Alto, and two Brentwood teachers are using that housing. Menlo Park Presbyterian Church has two buildings with a total of nine units for its staff. Las Lomitas and Menlo Park School Districts have Education Foundations to raise funds for their districts. She proposed to talk to the chairs to suggest the use of funds for teacher housing. The Commissioners supported this idea.
3. Loan Review Committee - Commissioners volunteered for March through August.

E. ADJOURNMENT Carol Louchheim thanked the Commissioners for the hard work of the evening. The meeting was adjourned by consensus at 7:15 P.M.

Respectfully submitted,

Gretchen Hillard
Housing and Redevelopment Manager

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