ATTACHMENT 1

RESOLUTION NO. ______
RESOLUTION OF THE COUNCIL OF THE CITY OF PALO ALTO CERTIFYING
THE ADEQUACY OF THE FINAL ENVIRONMENTAL IMPACT REPORT (FINAL
EIR) FOR THE REVISED HYATT RICKEY’S DEVELOPMENT PROJECT AND
MAKING FINDINGS THEREON PURSUANT TO THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT

The Council of the City of Palo Alto does RESOLVE as follows:

SECTION 1. Background. The City Council of the City of Palo Alto ("City Council") finds, determines, and declares as follows:

A. Solit Interests Group, for Hyatt Equities, LLC ("Applicant") has made application to the City of Palo Alto ("City") for the Hyatt Rickey’s Development Project ("Project"). The initial project applications filed with the City in 1999 proposed the demolition of the existing hotel facilities on the 15.54-acre site and redevelopment of the site with a new 320-room hotel and 302 multiple-family residential dwelling units (apartments). The Project (initial project) was designed as a single development with the hotel and apartments sharing site access, some surface parking and landscaped grounds. The development approvals required for the Project included: 1) Site and Design Review approval (required for a mixed residential and non-residential use project in the CS District); 2) a Conditional Use Permit (required for the proposed hotel floor area ratio, the two Charleston Road project driveways proposed within the L Combining District and surface parking as a principal use on one of the site parcels); and c) an exception from and reduction in the off-street parking standards required by the Palo Alto Municipal Code Zoning Ordinance.

In response to community concerns and in response to the environmental mitigation measures recommended in the Final EIR and discussed in Section 3 below, in May 2004, the Applicant filed plans and materials proposing revisions to the Project (revised project), which present a significantly smaller residential development of the site with 185 residential dwelling units. No hotel land use is proposed with this revised project, and based on representations by the Applicant, it is assumed that the Applicant does not intend to proceed with the initial project application. The revised Project proposes similar land use concepts presented in FEIR Alternative 18.8 (All Residential Alternative) and similar site plan concepts of the initial Project and FEIR Alternatives 18.2, 18.3 and 18.4 (Hotel and Residential
Alternatives). However, the revised Project is significantly smaller in scale and size and with substantially lower densities than the initial Project and the FEIR Alternatives. Furthermore, the revised Project site plan proposes Project access from El Camino Real and Wilkie Way with no Project access provided from Charleston Road. As this revised Project is an all-residential development proposed on a site that is located within the CS-H (Service Commercial – Hotel Overlay) District, Major Architectural Review approval is required in-lieu of the Site and Design Review and Conditional Use Permit applications filed in 1999 for the initial Project. A tentative subdivision map will also be required. Upon formal submittal, these applications will be processed and subject to future public hearings.

Because the Applicant has filed plans and materials proposing revisions to the project (May 2004), the Final EIR is not certified for the original project application filed in 1999, but is certified under the California Environmental Quality Act only for the revised project (May 2004). In part, this certification is thus limited because the focus of both the City Council and the public in reviewing the Final EIR is on the revised project (May 2004). In the event that the Applicant or any other entity sought at a later date to proceed with the original project application or any other project substantially more dense than the revised project (May 2004), the City Council will then consider the certification of the Final EIR for that purpose and afford interested members of the public an opportunity to submit any additional information they believe may be pertinent to the question of whether the Final EIR is adequate for that project.

B. The City as the lead agency for the Project has caused to be prepared a Final Environmental Impact Report ("Final EIR"). Pursuant to State CEQA Guidelines section 15132, the Final EIR consists of the following documents and records: "Volume 1, Draft Environmental Impact Report, March 2002"; "Volume 2, Responses to Comments on the Draft Environmental Impact Report (DEIR) and associated revisions to the DEIR, February 2003"; "Volume 3, Verbatim Written Comments and Public Hearing Minutes, Coded to Correspond to the Summary Comments and Related Responses in Volume 2, February 2003"; "Memorandum to City File No. 99-EIA-9, Minor Modifications, Revisions and Corrections to the Final EIR, June 7, 2004" (Exhibit A which is attached hereto and incorporated herein by reference), and the planning and other City records, minutes, and files constituting the record of proceedings. The Final EIR was prepared pursuant to the California Environmental Quality Act, Public Resources Code section 21000, et seq. ("CEQA"), and the State CEQA Guidelines, California Code of Regulations, Title 14, section 15000, et seq. The Final EIR is on file in the office of the Director of Planning and Community Environment and,
along with the planning and other City records, minutes and files constituting the record of proceedings, is incorporated herein by this reference.

C. The initial Notice of Preparation was distributed on November 1, 1999. A scoping meeting was held on November 15, 1999. The Draft EIR was circulated for public review between March 6, 2002 and April 24, 2002. The Planning and Transportation Commission held a public hearing on the Draft EIR on April 24, 2002, followed by Commission review and comment on the Draft EIR on April 30, 2002. The ARB conducted a review of the Draft EIR on April 18, 2002.

D. The City Council, in conjunction with this resolution, is also approving a Mitigation Monitoring and Reporting Program pursuant to Public Resources Code section 21081.6, which program is designed to ensure compliance with Project changes and mitigation measures imposed to avoid or substantially lessen the significant effects identified in the Final EIR. This Mitigation Monitoring and Reporting Program is described in detail in Exhibit B, which is attached hereto and incorporated herein by this reference. The Mitigation Monitoring and Reporting Program is subject to revision, as needed, in light of the final, complete revised applications filed by the Applicant, and the City Council hereby delegates authority to the Director of the Department of Planning and Community Environment to make such changes in the Mitigation Monitoring and Reporting Program (June 7, 2004) as are necessary to conform the program to the impacts of the final, complete revised application.

E. The City Council has reviewed and considered the information contained in the Final EIR and record of proceedings, including but not limited to, testimony received by the Council during the public hearing on the Final EIR and responses by staff during these public hearing.

SECTION 2. Certification. For purpose of the revised project (May 2004) only, the City Council certifies that the Final EIR has been completed in compliance with the California Environmental Quality Act. The Final EIR was presented to the City Council and the City Council has reviewed and considered the information contained in the Final EIR, staff reports, oral and written testimony given at public hearings on the Final EIR, and all other matters deemed material and relevant before considering for taking action on the various applications related to the Project. The City Council hereby finds that the Final EIR reflects the independent judgment of the City as lead agency.
SECTION 3. Significant Impacts Which Can Be Mitigated to a Less Than Significant Level. The City Council finds that the Final EIR identifies and adequately assesses the potentially significant environmental effects of the recent revisions to the Project (May 2004) in regard to Land Use; Population, Housing and Employment; Visual Factors (Aesthetics); Transportation and Parking; Public Services and Utilities; Noise; Air Quality; Geology and Soils; Health and Safety (Hazardous Materials); Drainage and Water Quality; Biological Resources; and Cultural and Historic Resources. The City Council finds that, in response to each significant effect listed in this Section 3, all feasible changes or alterations have been required in, or incorporated into, the Project through recent revisions (May 2004) and the application of mitigation measures identified in the Final EIR, which avoid or substantially lessen the significant environmental effects identified in the Final EIR, as summarized below. This follows Public Resources Code section 21081(a)(1) which allows for findings stating that for each significant effect "changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment." Each of the Mitigation Measures summarized below is more fully described in the Final EIR and Mitigation Monitoring and Reporting Program (attached Exhibit B).

In what follows, the impacts and mitigation in the Final EIR are described from the standpoint of the initial project application and then from the standpoint of the revised Project (May 2004). In some cases, the revisions to the Project eliminate the impacts, reduce them to an insignificant level, or in effect implement the mitigation measures in the Final EIR. In other cases, the application of mitigation measures in the Final EIR will be necessary to reduce the impacts of the revised project to a less-than significant level, and will be required as conditions of approval. All of the mitigation measures identified in the Final EIR remain available for application to the revised project should further changes or refinements to the revised project necessitate their application to render an impact insignificant, and the Director of Planning and Community Environment has been delegated authority to make changes in the Mitigation Monitoring and Reporting Program for this purpose.

A. Land Use

Impact 5.1 concerns initial Project conflicts with the 35-foot height limit required for a mixed residential and nonresidential use development in the CS (Service Commercial). This impact will be mitigated to a less-than-significant level by implementation of Mitigation 5-1, which requires that the Project either: 1) comply with the 35-foot building height limit; or 2)
that applications be filed to request approval of a Variance or a rezoning of the property to PC (Planned Community) District, which would permit building heights in excess of 35 feet. The revised Project (May 2004) complies with the required 35-foot height limit, which would mitigate this impact to a less-than-significant level.

Impact 5.2 concerns land use compatibility impacts of the initial Project with the scale, density and height of residential development in the immediate, adjacent neighborhood. This impact will be mitigated to a less-than-significant level by implementation of Mitigation 5-2, which require changes in the initial Project design to improve compatibility with the adjacent neighborhood. The revised Project (May 2004) would implement this mitigation measure by proposing smaller scale buildings along the Charleston Road and Wilkie Way edges of the Project site. The smaller scale buildings are lower in height and density, which provides the required transition to and results in better land use compatibility with the adjacent residential neighborhood.

B. Population, Housing and Employment

Impact 6-1 concerns initial Project compliance with the City affordable housing goals. The recently adopted Palo Alto Comprehensive Plan Housing Element Update (2003) recommends a 20% Below Market Rate (BMR) residential unit component for projects developed on sites that are greater than five (5) acres in size. This impact will be mitigated to a less-than-significant level by implementation of Mitigation 6-1, which has been revised to reflect the current goals and policies of the Housing Element Update. The revised Project (May 2004) include a 20% BMR housing component, which would mitigate this impact.

C. Visual Factors (Aesthetics)

Impact 7-1 concerns the general, visual compatibility of the initial Project and its impact on the scale, density and height of residential development in the immediate, adjacent neighborhood. The initial Project would have substantially increase the intensity, mass and scale of development on the site. This impact will be mitigated to a less-than-significant level by implementation of Mitigation 7-1, which requires changes in the initial Project design to improve compatibility with the adjacent neighborhood. The revised Project (May 2004) would partially implement this mitigation measure by proposing smaller scale buildings along the Charleston Road and Wilkie Way edges of the Project site. The smaller scale buildings are lower in height and density, which provides the required transition to and visual compatibility with the adjacent residential neighborhood. However, additional revisions to the revised project are necessary so that
the detached, single-family homes along the Wilkie Way frontage comply with the R-1 District site development standards.

Impact 7-2 concerns the visual impacts associated with the amount and design of the Project’s surface parking, as viewed from El Camino Real. The initial Project was not designed to adequately site or screen this parking consistent with the El Camino Real Design Guidelines and the South El Camino Real Design Guidelines, endorsed by the City Architectural Review Board in June 2002. This impact will be mitigated to a less-than-significant level by implementation of Mitigation 7-2, which would require changes in the Project design to comply with these design guidelines. The revised Project (May 2004) would implement this mitigation measure by deleting the hotel land use and surface parking lot and placing surface parking behind the residential buildings that front El Camino Real.

D. Transportation and Parking

Impact 8-1 concerns initial Project impacts on Year 2010 operation at the Charleston Road/Alma Street intersection. The initial Project would have caused this intersection to fall below acceptable levels of service during the peak commute hours. This impact will be mitigated to a less-than-significant impact by implementation of Mitigation 8-1, which would require either: 1) the installation of an additional eastbound, right-turn lane from Charleston Road onto southbound Alma Street; or 2) by revising the size and design of the Project so that the additional traffic from the Project does not warrant this right-turn lane. The revised Project (May 2004) would implement this mitigation measure in that the size and scale of the residential density of the Project has been reduced by 40%, the hotel land use has been eliminated from the Project, and site access has been modified (access from El Camino Real and Wilkie Way only) so that the right-turn lane improvement is not warranted.

Impact 8-1A concerns secondary initial Project impacts to bicyclists and the bicycle lanes along Charleston Road resulting from the implementation of the eastbound, right-turn lane at the Charleston Road/Alma Street intersection, recommended in Mitigation 8-1. The installation of this right-turn lane would require relocation and/or elimination of the bicycle lanes. This secondary impact is unavoidable and cannot be reduced to a less-than-significant level. However, as noted above, the revised Project (May 2004) would eliminate the need to install a right-turn lane at this intersection. Therefore, the bicycle lanes would be retained and this secondary impact would be eliminated.
Impact 8-1B concerns secondary initial Project impacts associated with the necessary right-of-way to implement Mitigation 8-1 (installation of the eastbound, right-turn lane at the Charleston Road/Alma Street intersection) and retain the existing bicycle lanes. Additional right-of-way would need to be secured/purchased to accommodate the right-turn lane and bicycle lanes, as well as the relocation of the existing railroad crossing gates and signal standards. This secondary impact is unavoidable and cannot be reduced to a less-than-significant level. However, as noted above, the revised Project (May 2004) would eliminate the need to install a right-turn lane at this intersection. Therefore, the securing of additional right-of-way would not be necessary and this secondary impact would be eliminated.

Impact 8-2 concerns initial Project impacts at the Charleston Road/Wilkie Way intersection. The initial Project would have generated an increase in left-turn movements from westbound Charleston Road onto Wilkie Way to access the Wilkie Way driveway. This impact will be mitigated to a less-than-significant level by implementation of Mitigation 8-2, which requires changes in the signal phasing (split phase) at this intersection. Implementation of this mitigation measure will be required as a condition of revised Project approval.

Impact 8-3 concerns initial Project impacts to the traffic flow and operation along Charleston Road, resulting from eastbound left-turn movements into the easterly, main Charleston Road driveway. This impact will be reduced to a less-than-significant level by implementation of Mitigation 8-3, which requires the installation of a left-turn deceleration lane on the westbound Charleston Road approach to this driveway. However, the revised Project (May 2004) would eliminate this potential impact and this mitigation would not be required in that: 1) the revised project proposes that no access driveways along the Charleston Road frontage; and 2) the recently adopted Charleston/Arastradero Corridor Improvement Plan (2004) recommends the installation of a center tree planting median at this location, which would prohibit left-turn movements at this location.

Impact 8-4 concerns initial Project impacts on the traffic flow and operation along Charleston Road, resulting from outbound, left-turn movements from the main Charleston Road driveway onto westbound Charleston Road. This impact will be reduced to a less-than-significant level by implementing Mitigation 8-4, which requires the installation of a left-turn acceleration lane on westbound Charleston Road. However, the revised Project (May 2004) would eliminate this potential impact and this mitigation would not be required in that: 1) the revised project proposes no access driveways along the Charleston Road frontage; and 2) the recently
adopted Charleston/Arastradero Corridor Improvement Plan (2004) recommends the installation of a center tree planting median at this location, which would prohibit left-turn movements at this location.

Impact 8-4A concerns the secondary impact that would result from potential diversion of initial Project traffic from the easterly, main Charleston Road driveway to the Wilkie Way driveway in the event a center median is installed along Charleston Road. The installation of a center median would prohibit all inbound and outbound left-turn movements at this Charleston Road driveway, which would cause the diversion. Implementation of Mitigation 8-4A would reduce this impact to a less-than-significant level by requiring that project access onto Wilkie Way be prohibited or by reducing the number of residential units in the Project by 7.6%. The revised Project (May 2004) would reduce this secondary impact to a less-than-significant level in that: 1) the residential density of the project has been reduced by up to 40%; and 2) the hotel land use component has been eliminated from the Project.

It is noted that the FEIR analyzed project traffic to determine the potential for impacts to the character of Wilkie Way, as a local residential street. This impact was analyzed based on the completion of a Traffic Infusion on Residential Environment (TIRE) Index Assessment, which is summarized in the FEIR. The TIRE Index Assessment was prepared using a threshold of 0.2, consistent with the threshold used for the TIRE Index Assessment in the Palo Alto Comprehensive Plan EIR. The assessment found that the initial Project would not contribute the amount of traffic to Wilkie Way that would reach this 0.2 threshold and, therefore, would not result in a significant traffic impact. As the revised Project (May 2004) would result in fewer vehicle trips at this driveway, this conclusion would not change. For comparative purposes, another TIRE Index Assessment was completed in June 2004 to assess impacts to Wilkie Way from the revised Project (May 2004). This comparative assessment used a more stringent threshold of 0.1 and found that the revised Project (May 2004) would not contribute the amount of traffic to Wilkie Way that would reach the more stringent threshold of 0.1. Using this more stringent threshold of 0.1, the revised Project (May 2004) would generate 305 net new daily trips, which is less than the 0.1 threshold of 380 trips. As part of the project review, it will be recommended that the Wilkie Way driveway be limited to emergency vehicle access only.

Impact 8-5 concerns initial Project impacts to the traffic flow and operation along Charleston Road, resulting from outbound, left-turn movements from the westerly Charleston Road driveway onto westbound Charleston Road. Implementation of Mitigation 8-5 would reduce this impact to a less-than-significant level by prohibiting
left-turns from this driveway onto westbound Charleston Road. The revised Project (May 2004) would eliminate this westerly driveway; therefore, this potential impact would be eliminated.

Impact 8-6 concerns inadequate emergency vehicle access at two locations on the Project site plan. Implementation of Mitigation 8-6 would reduce this impact to a less-than-significant level by requiring that the Project site plan be revised to comply with the emergency vehicle access requirements of the Fire Department. The revised Project (May 2004) incorporate emergency vehicle access, which would reduce this impact to a less-than-significant level.

Impact 8-7 concerns initial Project impacts to neighboring residential streets from inadequate hotel parking supply and the potential for parking overflow into the adjacent residential neighborhood. Implementation of Mitigation 8-7 would reduce this impact to a less-than-significant level by either: 1) revising the hotel parking so that it complies with the City’s off-street parking requirements; or 2) requiring the preparation and implementation of an on-going parking management program, which would monitor hotel event parking over time. The revised Project (May 2004) reduce this impact to a less-than-significant level in that: 1) the hotel land use component has been eliminated from the Project; and 2) the site plan has been designed to comply with the City’s off-street parking standards and requirements.

Impact 8-8 concerns initial Project impacts to bicycle safety at the westbound and northbound approaches to the El Camino Real/Charleston Road intersection. The initial Project would have generated additional bicycle trips, contributing to existing, bicycle safety deficiencies at this intersection. Implementation of Mitigation 8-8 would reduce this impact to a less-than-significant level by requiring the Applicant to: 1) dedicate additional right-of-way along the project frontage of El Camino Real and Charleston Road to permit the widening of the bicycle route; and 2) contribute a fair share cost to eliminate the existing “pork chop” island on the northbound El Camino Real approach to this intersection. These measures will be required as a condition of revised Project approval.

Impact 8-9 concerns impacts and damage to existing public roadways associated with initial Project construction. Implementation of Mitigation 8-9 would reduce this impact to a less-than-significant level by requiring that the Applicant prepare and comply with a Construction Logistics Plan, which would include a “before and after” pavement evaluation program. This measure will be required as a condition of revised Project approval.
E. Public Services and Utilities

Impact 9-1 concerns initial Project impacts on and the capacity of the existing, local sewer main. This impact concluded that the existing, 10-inch sewer main along El Camino Real cannot adequately accommodate the additional wastewater load generated by the Project. Implementation of Mitigation 9-1 would reduce this impact to a less-than-significant level by requiring the Applicant to install sewer main upgrades necessary to handle the anticipated peak flows prior to Project occupancy. This measure will be required as a condition of revised Project approval.

Impact 9-2 concerns Project impacts on the existing, local water distribution system. This impact concluded that the residential component of the initial Project may require increased water distribution capacity and the construction of new water distribution facilities. Implementation of Mitigation 9-2 would reduce this impact to a less-than-significant level by requiring the Applicant to analyze the water line infrastructure design and identify the improvements needed to serve the residential use portion of this Project. The analysis would be prepared prior to the issuance of a grading and/or demolition permit and needed improvements would be installed prior to Project occupancy. This measure will be required as a condition of revised Project approval.

Impact 9-3 concerns initial Project impacts on the existing, local natural gas distribution system. This impact concluded that the existing, two-inch gas lines within the Charleston Road and Wilkie Way right-of-ways may not be adequate to accommodate the additional gas demand to serve the Project. In addition, this impact concludes that the Project would require an underground connection across El Camino Real, which would necessitate the approval of the State Department of Transportation (Caltrans). Implementation of Mitigation 9-3 would reduce this impact to a less-than-significant level by requiring the Applicant to install the needed system upgrades prior to Project occupancy. This measure will be required as a condition of revised Project approval.

Impacts 9-4 and 9-5 concern initial Project impacts on police services and cumulative demands for police service. These impact concluded that the Project would result in an increased demand for police service and would contribute to the cumulative citywide increases in demand for police services in the area. Implementation of Mitigation 9-4 would reduce these impacts to a less-than-significant level by: 1) requiring the Applicant to pay the Public Safety Impact fee, should this fee be adopted by the City prior to the issuance of a certificate of occupancy; or 2)
requiring the City to monitor the rate of additional police calls per year associated with the Project area with additional services funded through the City’s General Fund. This measure will be required as a condition of revised Project approval.

Impact 9-6 concerns inadequate Fire Department vehicle access at two locations on the initial Project site plan. Implementation of Mitigation 9-6 would reduce this impact to a less-than-significant level by requiring that the Project site plan be revised to comply with the vehicle access requirements of the Fire Department. The revised Project (May 2004) has been designed to comply with the vehicle access requirements of the Fire Department; therefore, this impact would be reduced to a less-than-significant level.

Impact 9-7 concerns inadequate fire flow for the initial Project. This impact concludes that the fire flows from two hydrants serving the Project site are not adequate to meet Uniform Fire Flow standards. Implementation of Mitigation 9-7 would reduce this impact to a less-than-significant level by requiring upgrades to the off-site water system prior to Project occupancy. This impact would still be significant with the revised Project. Therefore, this measure will be required as a condition of revised Project approval.

Impact 9-8 concerns cumulative impacts associated with the Project on fire and emergency medical services. This impact concludes that the initial Project would result in an increased demand for services and would contribute to the cumulative citywide increases in demand for fire and medical emergency services in the area. Implementation of Mitigation 9-8 would reduce this impact to a less-than-significant level by: 1) requiring the Applicant to pay the Public Safety Impact fee should this fee be adopted by the City prior to the issuance of a certificate of occupancy; or 2) requiring the Applicant to provide a fair share contribution toward the funding of new staff, vehicles and/or equipment; or 3) requiring the City to rely on cumulative contributions to the City’s General Fund to off-set these impacts. This impact would still be significant with the revised Project. Therefore, this measure can be required as a condition of revised Project approval.

Impact 9-9 concerns solid waste disposal impacts associated with construction of the initial Project. Implementation of Mitigation 9-9 would reduce this impact to a less-than-significant level by requiring the preparation of and compliance with a project-specific solid waste management and recycling plan. This impact would still be significant with the revised Project. Therefore, this measure will be required as a condition of revised Project approval.
Impact 9-10 concerns initial Project impacts on park and recreation services. This impact concludes that the initial 1999 Project would generate the demand for a 1.42-acre neighborhood park to serve the park needs of the initial Project residents. Implementation of Mitigation 9-10 would reduce this impact to a less-than-significant level by requiring the Applicant to pay the City-adopted Parks and Community Facilities Impact Fee. Further, this mitigation states that, in the event the Project is designed to incorporate an on-site mini-park that is sufficient to serve the Project residents and satisfy the City’s neighborhood park requirements, a credit to this impact fee may be considered and approved by the City. This impact would still be significant with the revised Project. Therefore, the impact fee payment will be required as a condition of revised Project approval.

F. Noise

Impact 10-1 concerns exposure of the initial Project hotel and residential components fronting El Camino Real and Charleston Road to noise levels exceeding the exterior noise level limits/standards established by the City of Palo Alto Comprehensive Plan, the City Noise Ordinance and the State Building Code. Implementation of Mitigation 10-1 would reduce this impact to a less-than-significant level by requiring a pre-construction acoustical study to determine appropriate noise insulation measures and other Project design measures to maintain interior noise levels at or below the City and State limits/standards. This impact would still be significant with the revised Project. Therefore, this measure will be required as a condition of revised Project approval.

Impact 10-2 concerns significant, temporary noise impacts associated with Project demolition and construction activities. Project demolition and construction has the potential to expose residences and sensitive noise receptors, including the Independent Living Center to noise levels in excess of 70 decibels. Implementation of Mitigation 10-2 would reduce this impact to a less-than-significant level by requiring the preparation of and conformance with a construction logistics plan that would include, among others: 1) limited hours of construction; 2) implementation of designated truck routes and construction staging areas; and 3) requirements for muffling construction equipment and vehicles. This impact would still be significant with the revised Project. Therefore, this measure will be required as a condition of revised Project approval.

G. Air Quality
Impact 11-1 concerns significant, temporary air quality impacts associated with Project demolition and construction activities. Project demolition and construction has the potential to generate dust emissions including PM10. Implementation of Mitigation 11-1 would reduce this impact to a less-than-significant level by requiring the preparation of and conformance with a dust control plan that would include, among others: 1) regular watering of and hydro-seeding earth-exposed areas during grading and construction; 2) installing dust proof chutes for loading construction debris onto trucks, as well as placing covers over tuck trailers containing debris and earth material; and 3) installing windbreaks such as fencing or planting to keep dust from exiting the site. This plan would be prepared prior to the issuance of a grading and/or demolition permit. This impact would still be significant with the revised Project. Therefore, this measure will be required as a condition of revised Project approval.

H. Geology and Soils

Impact 12-1 concerns impacts to the Project associated with development on the site, which contains expansive soils. The expansive soils found on the Project site include a two- to four-foot thick layer of fill material that has variable consistency. Therefore, the Project structures have the potential to be exposed to differential ground surface settlement, which could damage structures, pavement and infrastructure. Implementation of Mitigation 12-1 would reduce this impact to a less-than-significant level by requiring the preparation of and compliance with a site-specific, detailed geotechnical investigation, which addresses soil settlement and recommendations for soil re-compaction. This investigation would be prepared prior to the issuance of a grading and/or demolition permit. This impact would still be significant with the revised Project. Therefore, this measure will be required as a condition on revised Project approval.

Impact 12-2 concerns the Project exposure to strong seismic shaking in the event of a major earthquake. Given the expansive soils that are found on the Project site, seismic shaking could cause differential settlement, which could damage structures, pavement and infrastructure. Implementation of Mitigation 12-2 would reduce this impact to a less-than-significant level by requiring the preparation of and compliance with a site-specific, detailed geotechnical investigation, which addresses soil settlement and recommendations for soil re-compaction. This investigation would be prepared prior to the issuance of a grading and/or demolition permit. This impact would still be significant with the revised Project. Therefore, this measure will be required as a condition on revised Project approval.
I. Health and Safety (Hazardous Materials)

Impact 13-1 concerns the potential for worker exposure to hazardous substance/materials during Project demolition and construction. Specifically, a high concentration of Methyl tert-Butyl Ether (MTBE) was detected in a monitoring well located near the northwest corner of the Project site. Furthermore, the former presence of an estimated two underground storage tanks containing petroleum products has the potential for the contamination of soil and/or groundwater on the site. Implementation of Mitigation 13-1 would reduce this impact to a less-than-significant level by requiring that a geophysical survey of the site be conducted prior to the issuance of a grading and/or demolition permit. This survey would confirm if all known, former underground storage tanks have been properly removed and that any contaminants have been remediated. This impact would still be significant with the revised Project. Therefore, this measure will be required as a condition of revised Project approval.

Impact 13-2 concerns the potential for worker exposure to asbestos during Project demolition. Specifically, asbestos-containing materials may be present in existing building materials, pavement and site improvements that would be removed for construction of the Project. Implementation of Mitigation 13-2 would reduce this impact to a less-than-significant level by requiring the preparation of and compliance with an Asbestos Abatement Plan. This Plan would include, among others: 1) a requirement to coordinate with the Bay Area Air Quality Management District (BAAQMD) in the completing of a survey of all buildings and improvements to determine the presence and extent of asbestos; 2) identification of measures for handling asbestos-containing materials; and 3) identification of measures for disposal of such materials. This plan would be prepared prior to the issuance of a grading and/or demolition permit. This impact would still be significant with the revised Project. Therefore, this measure will be required as a condition of revised Project approval.

Impact 13-3 concerns the potential for worker exposure to lead-based paints during Project demolition. Specifically, lead-based paints may be present in existing building materials and site improvements, which would be removed for construction of the Project. Implementation of Mitigation 13-3 would reduce this impact to a less-than-significant level by requiring the preparation of a lead-based paint assessment, which would require, among others: 1) collecting and sampling existing paint chips; and 2) identification of measures for paint removal consistent with federal, state and local regulations. This assessment would be prepared prior to the issuance of a grading and/or demolition
permit. This impact would still be significant with the revised Project. Therefore, this measure will be required as a condition of revised Project approval.

J. Drainage and Water Quality

Impact 14-1 concerns initial Project impacts to drainage patterns on adjacent properties and to capacity of the existing, downstream storm water facilities. While the initial Project was not expected to increase site runoff, construction of a new, more efficient drainage system for the initial Project could have potentially increased peak flow rates into the City drainage System ZB, by eliminating on-site storage. Implementation of Mitigation 14-1 would either eliminate or reduce this potential impact to a less-than-significant level by requiring the preparation of a hydrologic study and accompanying drainage calculations to demonstrate the amount of pre-construction and post-construction runoff. This study would be prepared prior to the issuance of a grading and/or demolition permit. This impact would still be significant with the revised Project. Therefore, this measure will be required as a condition of revised Project approval.

Impact 14-2 concerns significant, temporary water quality impacts associated with site grading, demolition and construction. These Project activities would increase on-site soil erosion and potentially cause increased sedimentation and discharge of construction-related pollutants into the City storm water drainage system. Implementation of Mitigation 14-2 would reduce this impact to a less-than-significant level by requiring the preparation of and compliance with a Stormwater Pollution Prevention Plan (SWPPP) to prevent erosion and the discharge of pollutants. The SWPPP would be prepared prior to the issuance of a grading and/or demolition permit. This measure will be required as a condition of Project approval.

Impact 14-3 concerns the potential for significant, long-term water quality impacts associated with completion and operation of the Project. Specifically, the quality of storm water from the developed Project would not meet current standards for the discharge of non-point source urban pollutants. Implementation of Mitigation 14-2 (above) would reduce this impact to a less-than-significant level by requiring the preparation of and compliance with a Stormwater Pollution Prevention Plan (SWPPP). This measure will be required as a condition of Project approval.

K. Biological Resources

Impact 15-1 concerns Project impacts to and loss of significant tree resources on the Project site. Specifically, the
Project has the potential to remove up to 158 existing trees, which include large specimen trees and significant tree groves. Many of the trees found on the site are ‘regulated trees,’ which are subject to the guidelines established City of Palo Alto Tree Technical Manual and City ordinance requirements for tree preservation and protection. This impact would be mitigated to a less-than-significant level by implementing Mitigation 15-1, which requires: 1) revisions to the Project site plan to preserve and protect many of the ‘regulated trees,’ that have been identified and inventoried by the City Managing Arborist (outlined in FEIR Volume 3, Appendix F); and 2) the preparation of and compliance with a Tree Removal and Replacement Plan. The revised Project (May 2004) propose changes in the location of buildings and improvements to preserve and protect some but not all of the ‘regulated trees’ identified for preservation in FEIR Volume 3, Appendix F. Additional revisions to this revised project would be required to fully implement this measure and reduce this impact to a less-than-significant level. The recommendation to prepare and submit a Tree Removal and Replacement Plan will be required as a condition of Project approval.

Secondly, Impact 15-1 concerns Project impacts to potential nesting habitat for the Cooper’s Hawk, a special-status species. Implementation of Mitigation 15-1 would reduce this impact to a less-than-significant level by requiring that, prior to construction, an on-site survey of the site be conducted during the spring nesting season to determine the presence of Cooper Hawk nests on the Project site. If present, measures such as the establishment of a buffer zone would be required during the nesting period. This measure will be required as a condition of revised Project approval.

Impact 15-2 concerns Project impacts to and loss of ‘protected trees’ found on the Project site. Specifically, the Project has the potential to remove up to nine (9), existing ‘protected trees,’ which include large coast live oaks, valley oaks and redwoods. This impact would be mitigated to a less-than-significant level by implementing Mitigation 15-2, which requires: 1) revisions to the Project site plan to preserve and protect the ‘protected trees,’ that have been identified and inventoried by the City Managing Arborist (outlined in FEIR Volume 3, Appendix F); and 2) the preparation of and compliance with a Tree Removal and Replacement Plan. The revised Project (May 2004) propose changes in the location of buildings and improvements to preserve and protect the ‘protected trees’ identified for preservation in FEIR Volume 3, Appendix F. The revised Project would reduce this impact to a less-than-significant level. The recommendation to prepare and submit a Tree Removal and Replacement Plan will be required as a condition of revised Project approval.
Impact 15-3 concerns significant, temporary impacts to existing, tree resources on the site as a result of grading and construction for the Project. This impact would be mitigated to a less-than-significant level by implementing Mitigation 15-3, which requires that tree protection measures be installed prior to site grading or demolition. This measure will be required as a condition of revised Project approval.

L. Cultural and Historic Resources

Impact 16-1 concerns potential disturbance of unknown cultural resources. The Project could disturb, destroy or impact current unknown pre-historic and cultural resources. Implementation of Mitigation 16-1 would reduce this impact to a less-than-significant level by requiring that a qualified archaeologist be present on site during the initial demolition and grading phases of the Project. The qualified archaeologist would monitor these activities and implement the appropriate measures in the event resources are encountered. This measure will be required as a condition of revised Project approval.

SECTION 4. Significant Impacts, Which Cannot Be Fully Mitigated. The City Council finds that the Final EIR identifies three (3) significant, secondary environmental effects of the Project with respect to Traffic and Parking Impacts. These significant, unavoidable impacts include:

1) Secondary Impacts 8-1A (impacts to and loss of bicycle lanes at Charleston Road/Alma Street intersection) and 8-1B (additional public right-of-way needed at Charleston Road/Alma Street intersection), which result from implementation of Mitigation 8-1, requiring the installation of a right-turn lane on southbound Charleston Road at the Alma Street intersection; and

2) Secondary Impact 8-4A (increased traffic at and impacts to Wilkie Way driveway) resulting from implementation of Mitigation 8-4, requiring the installation of center median along Charleston Road, west of Wilkie Way.

As discussed in Section 3 above, feasible changes and revisions have been made to the Project (May 2004), which either eliminate or lessen these secondary impacts to a less-than-significant level. As these impacts have been either eliminated or mitigated to a less-than-significant level, findings presenting a Statement of Overriding Considerations are not required for approval of the revised Project (May 2004).
SECTION 5. The City Council certifies that the Final EIR describes a reasonable range of alternatives to the revised Project (May 2004), which could feasibly obtain the basic objectives of the Project, and that the City Council has evaluated the comparative merits of these alternatives, which are summarized below. In addition, the Final EIR describes a reasonable range of Project access alternatives for the purpose of evaluating impacts, which are described below, under sub-section J. The recent revisions to the Project (May 2004) reflect the environmentally superior alternative that achieves the Applicant’s current objectives.

A. Alternative 18.1 - No Development Alternative

This alternative does not foreclose any site development at a later time but assumes maintenance of the status quo. This means that, in addition to no development occurring, prevailing site conditions and the existing hotel-related uses (344-room facility) would continue to operate. This alternative would not meet the Applicant's basic objectives of redeveloping the site with a mixed hotel and residential project.

This alternative would not provide needed new housing units within the City, nor would it provide new Below Market Rate (BMR) housing units to further the City's assisted housing needs. The Palo Alto Comprehensive Plan Housing Element Update (1999-2006) identifies the subject property as a housing site, offering an opportunity for a minimum yield of 120 dwelling units. Furthermore, the Housing Element Update estimates that Palo Alto’s fair share of the region’s unmet housing needs is 967 dwelling units. This project alternative would not recognize or implement the Housing Element Update. Lastly, the City has an obligation under State law to provide opportunities for development of units for low- and moderate-income households, which can be partially met by the BMR housing units that will be provided by the Project (discussed under Section 3, sub-section B, above).

B. Alternative 18.2 - Hotel/Residential with Lower Density and Park Alternative - City Option A

This alternative assumes a hotel and residential development program that is similar to the initial 1999 Project with the same hotel size (320 rooms) but the residential use component would be reduced in size to 207 dwelling units and residential building heights not exceeding 35 feet. A neighborhood park/open space element is proposed at the northeast corner of the site. Shared access is proposed with the contiguous Elk’s Club property. The site plan and cross-sections for this alternative are shown on Exhibits 18.3 and 18.4 of the Draft EIR (FEIR Volume 1).
This alternative would reduce environmental impacts and the design and scale would be more compatible with the immediate neighborhood, an on-site park would be gained, the hotel land use would be retained and new housing units would be provided consistent with and achieving the goals of the Housing Element Update. However, the Secondary Impacts 8-1A and 8-1B (Charleston Road/Alma Street intersection) would remain at a significant, unavoidable level. Secondary Impact 8-4A would be eliminated.

C. Alternative 18.3 – Hotel/Residential with Lower Density Residential and Park – City Option B

This alternative assumes a hotel and residential development program that is similar to the initial 1999 Project with the same hotel size (320 rooms) but the residential use component would be reduced in size to 120 dwelling units and both hotel and residential building heights would not exceed 35 feet. A neighborhood park/open space element is proposed at the northeast corner of the site. Shared access is proposed with the contiguous Elk’s Club property. Further, all vehicular access to the site would be provided via El Camino Real with no access from either Charleston Road or Wilkie Way. The site plan and cross-sections for this alternative are shown on Exhibits 18.5 and 18.6 of the Draft EIR (FEIR Volume 1).

This alternative would reduce environmental impacts and the design and scale would be more compatible with the immediate neighborhood, an on-site park would be gained, the hotel land use would be retained and new housing units would be provided. However, while this alternative would reduce the significant, unavoidable Secondary Impacts 8-1A and 8-1B (Charleston Road/Alma Street intersection) to a less-than-significant level and eliminate Secondary Impact 8-4A, it would yield the minimum number of residential units planned and recommended for this site in the Housing Element Update (minimum of 120 dwelling units).

D. Alternative 18.4 – Hotel/Residential with Lower Density Residential and Park – Applicant’s Option

This alternative was formulated by the Applicant’s architect as an alternative to the Alternatives 18.2 and 18.3. This alternative assumes a hotel and residential development similar to the initial 1999 Project with building heights of up to 50 feet and similar site access. This alternative increases the size of the hotel (365 rooms), reduces the size of the residential component (246 dwelling units), and includes a small neighborhood park/open space at the northeast corner of the site. The site plan
This alternative is basically the equivalent to the initial 1999 Project with some improved design elements. While some of the impacts identified for the Project would be reduced with this alternative, including a reduction in visual compatibility impacts along Charleston Road and Wilkie Way, Secondary Impacts 8-1A and 8-1B (Charleston Road/Alma Street intersection) and Secondary Impact 8-4A (Charleston Road/Wilkie Way intersection) would remain at a significant, unavoidable level. The number of residential units would be consistent with and achieve the goals of the Housing Element Update.

E. Alternative 18.5 – Hotel/Residential Consistent with Zoning

This alternative assumes a hotel and residential program that is similar in size, design and access to the initial 1999 Project but would be designed to meet the CS District height limit of 35 feet, which is the required building height limit for a mixed residential and nonresidential use projects. This alternative proposes a slightly smaller 293-room hotel and 272 residential dwelling units. The site plan and cross-sections for this alternative are shown in Exhibits 18.9 and 18.10 of the DEIR (FEIR Volume 1).

F. Alternative 18.6 – Hotel and Residential on Separate Sites

This alternative assumes redevelopment of the site with hotel and residential use, except that the property would be divided so that each land use component would be on separate sites. The hotel component would occupy the western 8.83-acre portion of the 15.84-acre property, housing a smaller hotel facility of 166 rooms. The residential component would occupy the eastern 7-acre portion of the 15.84-acre property proposing 164 residential units. Site access is similar to the initial 1999 Project, except that no
access is proposed from Wilkie Way. The site plan and cross-sections for this alternative are shown on Exhibits 18.11 and 18.12 of the Draft EIR (FEIR Volume 1).

This alternative would reduce environmental impacts and the design and scale would be more compatible with the immediate neighborhood, the hotel land use would be retained and new housing units would be provided consistent with and achieving the goals of the Housing Element Update. The Secondary Impacts 8-1A and 8-1B (Charleston Road/Alma Street intersection) and Secondary Impact 8-4A (Wilkie Way traffic impacts) would be reduced to a less-than-significant level.

G. Alternative 18.7 – Hotel/Residential Alternative with Larger Hotel

This alternative assumes a hotel and residential program similar to the initial 1999 Project, assuming a maximum building height of 50 feet, the same site access and site plan layout. The hotel component would be larger (375 rooms) and the residential component would be slightly smaller (281 dwelling units) than the initial 1999 Project. The site plan and cross-sections for this alternative are shown on Exhibits 18.13 and 18.14 of the Draft EIR (FEIR Volume 1).

This alternative is basically the equivalent to the initial 1999 Project in terms of project design, scale and resulting impacts. However, this alternative would result in a substantial increase in daily and peak hour trip generation from the initial 1999 Project, which includes increased impacts to intersections that would experience significant, unavoidable effects. While this alternative would meet and achieve the housing goals of the Housing Element Update, it would result in fewer units than the initial 1999 Project.

H. Alternative 18.8 – All Residential

This alternative assumes a redevelopment of the site with an all-residential land use program. This alternative presents development of up to 475 apartment units, which would be consistent with the maximum permitted density of the Palo Alto Comprehensive Plan Multiple-Family Residential land use designation (adopted for this site) and the density permitted under the current CS District zoning (30 dwelling units per acre). This alternative is designed to comply with the RM-30 District standards, which include a 35-foot building height limit. The site plan and cross-sections for this alternative are shown on Exhibits 18.15 and 18.16 of the Draft EIR (FEIR Volume 1).
This alternative would reduce environmental impacts and the scale would be more compatible with the immediate neighborhood. This alternative would yield significantly more residential units than the amount of housing anticipated in the recent Housing Element Update (minimum of 120 residential units). This alternative would result in a significant reduction in the amount of daily traffic currently being generated from the site (12% less than the existing hotel, so Secondary Impacts 8-1A and 8-1B (Charleston Road/Alma Street intersection) would be reduced to a less-than-significant level. However, Secondary Impact 8-4A (Wilkie Way traffic impacts) would remain at a significant, unavoidable level. Furthermore, the project density would not transition to lower densities along the property edges abutting the adjacent residential neighborhoods.

I. Alternative 18.9 – All Hotel

This alternative assumes a redevelopment of the site with an all-hotel land use program. This alternative presents a hotel complex development with 500 rooms. This alternative is designed to be consistent with the Palo Alto Comprehensive Plan and current CS District zoning, which permits a maximum floor area ratio of 0.4. This alternative presents building heights of up to 35 feet. The site plan and cross-sections for this alternative are shown on Exhibits 18.17 and 18.18 of the Draft EIR (FEIR Volume 1).

This alternative, in part, would reduce environmental impacts and the scale would be more compatible with the immediate neighborhood. However, this alternative would yield no residential units, and therefore, would not meet the goals and policies of the Housing Element Update. While some of the traffic impacts would be reduced to a less-than-significant level, Secondary Impacts 8-1A and 8-1B (Charleston Road/Alma Street intersection) and Secondary Impact 8-4A (Wilkie Way traffic impacts) would remain at a significant, unavoidable level.

J. Alternative 18.10 – Hotel/Residential Access Variations

Four site access alternatives were assessed to determine the amount of resulting traffic impacts from the initial 1999 Project at three of the local intersections (El Camino Real/Charleston Road, Charleston Road/Wilkie Way and Charleston Road/Alma Street intersections). Access Alternative A presents access to the site via El Camino Real only (no Charleston Road or Wilkie Way access). Alternative B presents access to the site via El Camino Real and a Charleston Road access with a right-turn inbound/outbound only (no Wilkie Way access). Alternative C presents access to the site via El Camino Real (two driveways) and
Charleston Road (two driveways) no access from Wilkie Way access0. Alternative D presents hotel access exclusively from El Camino Real (two driveways) and residential access exclusively from Charleston Road (one driveway).

The Final EIR concludes that the four site access alternatives would result in varying impacts at the three local intersections. Alternative A is the environmentally superior access option, which reduces traffic impacts at these local intersections to a less-than-significant level, with the exception of a significant, AM peak hour impact at the El Camino Real/Charleston Road intersection. Alternative B would eliminate traffic impacts at the Charleston Road/Wilkie Way intersection but impacts at the Charleston Road/Alma Street intersection (Secondary Impacts 8-1A and 8-1B) would remain at a significant, unavoidable level, unless the Project is reduced in size. Alternatives C and D would reduce traffic impacts at the Charleston Road/El Camino Real and the Charleston Road/Wilkie Way intersections to a less-than-significant level; however, impacts at the Charleston Road/Alma Street intersection (secondary impacts 8-1A and 8-1B) would remain at a significant, unavoidable level, unless the Project is reduced in size. In addition, the significant impacts associated with inbound and outbound left-turn movements at the Charleston Road driveway(s) would remain significant under access Alternatives C and D.

**SECTION 6. Impacts Found Not To Be Significant.** The City finds that the Final EIR neither expressly identifies, nor contains any substantial evidence identifying, significant environmental effects of the Project with respect to any of the environmental impacts dismissed through the scoping process with "no" responses on the initial Environmental Assessment (contained in Volume 1 - Draft EIR, Appendix 22.1) and with respect to the potential impacts identified as not significant in Section 19.5 of FEIR Volume 1 (Draft EIR).

**SECTION 7.** Substantial evidence supporting each and every finding made herein is contained in the Final EIR and in the record of proceedings on the Project.

**SECTION 8.** The Council finds that there is no substantial evidence to support a conclusion that significant new information has been added to the Final EIR so as to warrant re-circulation of the EIR pursuant to Public Resources Code Section 21092.1 and CEQA Guidelines Section 15088.5. The City Council finds that the new information added to the Final EIR did not change the EIR in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a
feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the City or the Applicant has declined to implement. None of the new information added to the Final EIR disclosed any new significant environmental impact which would result from the project or from a new mitigation measure proposed to be implemented; or that any substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance; or that a feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project but the City or the Applicant has declined to implement them. This finding is based upon all the information presented in the Final EIR and record of proceedings.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:                        APPROVED:

______________________________ ____________________________
City Clerk                      Mayor

APPROVED AS TO FORM:

______________________________
City Manager

______________________________
City Attorney

______________________________
Director of Planning
and Community Environment

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ATTACHED EXHIBITS:

EXHIBIT A: Memorandum summarizing minor modifications, revisions and corrections to the Final EIR; June 7, 2004 (previously submitted in the Council Packet of June 10, 2004).

EXHIBIT B: Mitigation Monitoring and Reporting Program; June 7, 2004 (previously submitted in the Council Packet of June 10, 2004).