On July 12, 2004 the Council of the City of Palo Alto adopted the Negative Declaration, the Site and Design Review and Variance application for an addition to an existing single-family structure in the Open Space Zone District, making the following findings, determination and declarations:

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

A. Cathy Cartmell of Cartmell/Tam Architects, on behalf of David Ditzel, property owner, has requested the City's approval to allow construction of a 1,677 square-foot addition to an existing single family residence and construction of a new swimming pool and accessory facilities and landscaping, including a request for the following variances: construction of a single story addition having a 29' 6" side yard setback, constriction of an exterior stairway and landing having a 46' front yard setback and construction of a new garage having a 69' front yard setback, and total impervious area of 13.5% ("The Project").

B. The project site is a single parcel (APN 351-05-025) of approximately one acre in the Palo Alto Foothills. The site contains a single-family residence. The site is designated on the Comprehensive Plan land use map as Open Space and is located within Open Space (OS) zoning district.

The site will be used as a single-family residence totaling approximately 5,100 square feet.

Accessory to this use would be an in-ground swimming pool, approximately 16' x 32' in size, located at the rear of the single-family home.

D. The City Council reviewed the project on February 10, 2004 and voted not to approve the Site and Design and Variance applications.

E. On April 19, 2004, the City Council voted to reconsider the Project.

SECTION 2. Environmental Review. The City as the lead agency for the Project has determined that the project is subject to environmental review under provisions of the California Environmental Quality Act (CEQA) under Guideline section 15070, Decision to Prepare a Negative or Mitigated Negative Declaration. An environmental impact assessment was prepared for the project and it was determined that, with the implementation of mitigation measures, no potentially adverse impacts would result from the development, therefore, the project would have a less than significant impact on the environment. The Negative Declaration was made available for public review beginning October 29, 2003 through November 17, 2003. The Environmental Impact Assessment and Negative Declaration are contained in Exhibit A of this document.

SECTION 3. Site and Design Review Findings

1. The use will be constructed and operated in a manner that will be orderly, harmonious, and compatible with existing or potential uses of adjoining or nearby sites.

The project does not detract from the natural character of the site. The primary use of the site would remain as a single-family residence requiring only minimal disturbance to land. The project introduces minimal development including two small additions, a swimming pool and a modified driveway that would be in scale with similar development in the area.

2. The project is consistent with the goal of ensuring the desirability of investment, or the conduct of business, research, or educational activities, or other authorized occupations, in the same or adjacent areas.

The project would maintain desirability of investment in the same and adjacent areas, in that the proposed design, size and use of the site is consistent with the existing residences on Page Mill Road and does not increase the intensity of use. The construction of all improvements would be governed by the regulations of the current Zoning Ordinance, the Uniform Building Code, and other applicable codes to assure safety and a high quality of development.
3. Sound principles of environmental design and ecological balance are observed in the project.

The use of permeable materials will help reduce rainwater flows across the land. The proposed design of the driveway, walkways and accessory uses and orchard will follow existing site topography.

4. The use will be in accord with the Palo Alto Comprehensive Plan.

The project proposal complies with the policies of the Land Use and Community Design and the Natural Environment elements of the Comprehensive Plan, including:

Policy L-1: The Comprehensive Plan encourages the preservation of undeveloped land west of the Foothill Expressway and Junipero Serra as open space, with allowances made for very low-intensity development consistent with the open space character of the area. The project site is located southwest of the Foothill Expressway and Junipero Serra Boulevard, within the Open Space district. The Palo Alto Comprehensive Plan land use designation for the project site is Open Space/Controlled Development. Single-family uses are permitted within this district. The project scope is of low intensity, in that the building additions are small, totaling 1,677 square feet. The swimming pool would be located at or near grade at the rear of the house. The entry stairway and landing, located at the front of the house, is of a style than compliments the architectural of the structures. All of the development would be screened by the existing mature vegetation or would be located in areas that are not normally visible from off-site areas.

Policy L-5: The Comprehensive Plan states to maintain the scale and character of the City. Avoid land uses that are overwhelming and unacceptable due to their size and scale. The project proposal would be compatible with other structures in the area and does not detract from the natural character of the site. The proposed improvements would result in minimal impacts to neighboring properties.

Policy L-60: The Comprehensive Plan indicates the project site is located within an Archaeological Resource Area of Low Sensitivity. Palo Alto is known to contain widely dispersed prehistoric sites with shell-ridden components, including human burials and a variety of artifacts. Therefore, cessation of all
grading and construction activities is required, if any archaeological or human remains are encountered. At that time, retention of a qualified archaeologist to address the find in the field, notification of the Santa Clara County Medical Examiner's office, and if native American remains are discovered, evaluation of the finds by a Native American descendent shall be required. The Native American descendent, appointed by the Native American Heritage Commission of the State of California, would provide implementation of additional mitigation measures.

Policy L-69: Preserve the scenic qualities of Palo Alto's roads and trails for motorists, cyclists, pedestrians, and equestrians. The additions would not seriously impede views of the foothills to users of Page Mill Road due to their small scale and profile.

Policy N-7: All development in the foothill portion of the Planning Area should be consistent with the City of Palo Alto Open Space development Criteria. Conformance with the Open Space Development Criteria is discussed below.

The project proposal meets the following Open Space Development Criteria and the intent of the Comprehensive Plan regarding development in designated open space areas.

1. The development should not be visually intrusive from public roadways and public parklands. As much as possible, development should be sited so it is hidden from view. The project scope is of low intensity, in that in that the building additions are small, totaling 1,677 square feet. The swimming pool would be located at or near grade at the rear of the house. The entry stairway and landing, located at the front of the house, is of a style than compliments the architectural of the structures. Although the project is located within the 200' scenic roadway setback along Page Mill Road. The project would have a low profile and would be screened by the existing mature vegetation.

2. Site and structure design should take into consideration impacts on privacy and views of neighboring properties. The site contains ample mature vegetation that assists in screening the project from adjacent properties. The building additions are small and have a low profile that is compatible with the existing structure and the topography of the site. Existing fencing minimizes views of the addition on the adjacent property owners to the south.

3. Built forms and landscape forms should mimic the natural topography. Building lines should follow the lines of
the terrain, and trees and bushes should appear natural from a distance. The siting takes advantage of the existing topography and vegetation to shield the project from off-site views. Mature vegetation would not be disturbed, thereby retaining the existing natural view of the project site.

4. Cut is encouraged when it is necessary for geotechnical stability and to enable the development to blend into the natural topography. Fill is generally discouraged and should never be distributed within the driplines of existing trees. Locate development to minimize the need for grading. Excavation would be required to install the swimming pool. Minimal grading would occur at the driveway and turn-around area. Grading and/or fill would potentially be used at the area near swimming pool to create a level surface, but would not be used in areas adjacent to trees and other foliage.

5. Buildings should use natural materials and earthtone or subdued colors. New building materials, including wood siding, railings, exterior stairway, and new colors are proposed to blend in with the natural environment. Retaining walls constructed for the turn-around area would be made of natural materials.

SECTION 4. SITE AND DESIGN APPROVALS GRANTED. Site and Design Approval is granted by the City Council under Palo Alto Municipal Code Section 18.82.070 for application 03-D-10, subject to the conditions of approval in Section 8 of the Record.

SECTION 5. Variance Findings

A. The following requested variance findings can be made:

1. Because of special circumstances applicable to the subject property, including (but not limited to) size, shape, topography, location, or surroundings, the strict application of the requirements and regulations prescribed in this title substantially deprives such property of privileges enjoyed by other property owners in the vicinity and in the same zoning district as the subject property, in that the site is noncomplying for lot area (lot area of one acre where ten acres is the minimum lot size) and is located entirely within the 200’ scenic setback area along Page Mill Road. The existing house extends into the 30’ required side yard setback. Any addition to the existing building would be located within this setback area. Similarly sized lots in the vicinity are deeper parcels and have buildable area outside of the scenic setback area.
Development within the Open Space district is limited by the maximum impervious area of 3.5 percent. The existing lot area of one acre would allow only 1,524 square feet of impervious area, which would include the building footprint and areas such as driveways and walkways.

2. The granting of the application shall not affect substantial compliance with the regulations or constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and in the same zoning district the subject property; in that the encroachments into the setback areas would be required as a result of the entire lot being located within the 200’ scenic setback and a portion of the house extending into the side yard setback area. The existing impervious coverage would not increase as a result of the project, but would slightly decrease as the driveway would be converted to a pervious material. The variances for setbacks and lot coverage would not constitute a grant special privileges due to the unique non-complying existing features that generally do not exist on other lots. In addition, the project complies with all other zoning requirements for this district.

3. The granting of the application is consistent with the Palo Alto Comprehensive Plan and the purposes of the Zoning Ordinance, as described in Section 3 of this document.

4. The granting of the application will not be injurious to property or improvements in the vicinity and will not be detrimental to the public health, safety, and general welfare, or convenience, in that the proposed additions were sited to keep the building footprint compact and utilize areas that have already been developed. The new garage would be sited on part of the existing driveway. Siting the project in an area of the lot already developed respects the native vegetation. The project would respect existing site topography and vegetation to shield the project from off site views. As the project involves single story additions the project maintains a low profile to minimize off site visual impact on the neighbors and the opens space areas.

B. On June 7, 2004 the City Council adopted new variance requirements and findings (Palo Alto Municipal Code, Section 18.76.030), which took affect on July 7, 2004. The variance findings in this Record of Land Use Action reflect the newly adopted requirements. These findings are based on the evidence submitted at the City Council hearing on July 12, 2004. These findings are also based on the evidence previously submitted, to the extent such evidence is relevant to the newly adopted
requirements.

SECTION 6. VARIANCE APPROVALS GRANTED. Variance Approval is granted by the City Council under Palo Alto Municipal Code Section 18.82.070 for application 03-V-15, subject to the conditions of approval in Section 8 of the Record.

SECTION 7. Plan Approval.

The plans submitted for Building Permit shall be in substantial conformance with those plans prepared by Cathy Cartmell of Cartmell/Tam Architects titled “Ditzel Residence”, dated July 7, 2004, except as modified to incorporate the conditions of approval in Section 8. A copy of the plans is on file in the Department of Planning and Community Environment. The conditions of approval in Section 6 shall be printed on the cover sheet of the plan set submitted with the Building Permit application.

SECTION 8. Conditions of Approval.

Department of Planning and Community Environment
Planning Division

1. The plans submitted for a Building Permit shall be in substantial conformance with plans received on July 7, 2004, except as modified to incorporate the following conditions of approval and any additional conditions placed on the project by the Planning Commission or City Council. The following conditions of approval shall be printed on the cover sheet of the plan set submitted with the Building Permit application.

2. The storage shed that is currently on the site to the north of the driveway shall be removed prior to finalization of the building permit.

3. The temporary greenhouse shall be considered a temporary structure for the private accessory use of a garden on the subject property. The greenhouse shall be constructed without a foundation and composed of rigid frame that can be easily disassembled. The structure may be covered by netting, plastic fabric or similar materials having a color that blends in with the surrounding natural environment.
4. The approved building materials and color scheme shall be shown on the building permit drawings for all buildings, structures, and other features. The stair color of the fence surrounding the propane tank shall be reviewed by staff prior to issuance of the building permit.

5. Driveway Retaining Wall- Fill shall only be used to the minimum amount necessary to meet code requirements. The approximate amount of fill shall be printed on the building permit plan sets. The concrete wall shall incorporate an earthtone color (integral color or paint) to blend in with the natural environment.

6. A lighting plan shall be submitted to the Planning Division for review and approval by staff prior to building permit issuance. The lighting plan shall show all fixtures to be used on the site. Provide fixture type and product cut sheets, quantities to be used, and voltage ratings. Any security lighting on the accessory building shall be installed at or below the plate line. Security lighting fixtures shall include motion-based activation sensors and the bulbs and/or filaments shall be shielded so that they cannot be seen from off site views.

7. All new windows and glass doors shall be of a non-reflective material.

8. If during grading and construction activities, any archeological or human remains are encountered, construction shall cease and a qualified archaeologist shall visit the site to address the find. The Santa Clara County Medical Examiner's office shall be notified to provide proper direction on how to proceed. If any Native American resources are encountered during construction, construction shall cease immediately until a Native American descendent, appointed by the Native American Heritage Commission of the State of California, is able to evaluate the site and make further recommendations and be involved in mitigation planning.

Planning Division Arborist

PRIOR TO SUBMITTAL OF DEMOLITION, GRADING OR BUILDING PERMIT

9. Tree protection shall be implemented for the following trees to be preserved which are at risk from project impacts. The plans shall show a tree protection zone (TPZ) as a bold dashed line, consisting of Type I protective fencing at a radius location 10 times the diameter of each tree trunk (the 14" redwood may have a ten foot TPZ on the south side only). If any development (grading, improvement or changes) occurs within the TPZ, an arborist assessment and mitigation plan shall be submitted to the City Planning Arborist for approval. Activities around the
trees shall be consistent with the City Tree Technical Manual, Section 2.00.

10. The following five (5) trees shall be protected. 14" Redwood, 6" Eucalyptus, 6" Olive, 10" Olive and a 32" Pine, and are considered the subject of this discretionary approval.

11. A Tree Protection Instructions Sheet, Labeled T-1, shall be included in the plans submitted for building permit. The sheet shall include the following information:
   • Standard Protection Measures (attached to Tree Disclosure Statement)
   • Tree Technical Manual, Section 2.20–2.2.5 (hardcopy or downloaded from website).

12. All pertinent plan sheets shall include a note applying to the protected trees stating: "Protected Tree--no contacting the project arborist is required as indicated on sheet T-1". Civil drawings shall specifically call out 'no grading permitted within a tree protection zone unless specifically approved by the City arborist.'

13. All underground utilities shall be located outside the TPZ, as far from tree roots as possible unless directionally bored.

14. All Planning Department conditions of approval for the project shall be printed on the plans submitted for building permit.

PRIOR TO ISSUANCE OF DEMOLITION, GRADING OR BUILDING PERMIT

15. Tree Protection Statement. A written statement from the contractor verifying that the required protective fencing is in place shall be submitted to the Building Inspections Division prior to demolition, grading or building permit issuance. The fencing shall contain required warning sign and remain in place until final inspection of the project. Tree fencing shall be adjusted after demolition if necessary to increase the tree protection zone as required by the project arborist.

DURING CONSTRUCTION

16. The applicant shall be responsible for the repair or replacement of any protected trees that are damaged during the course of construction. Replacement standards pursuant to the City Tree Technical Manual, Section 3.20, shall apply.
17. The following general tree preservation measures apply to all trees to be retained: No storage of material, topsoil, vehicles or equipment shall be permitted within the tree enclosure area. The ground under and around the tree canopy area shall not be altered. Trees to be retained shall be irrigated, aerated and maintained as necessary to ensure survival.

18. Watering Schedule. If irrigation is disconnected for longer than 20 days, all trees to be retained shall receive monthly watering during all phases of construction per the City Tree Technical Manual, Section 5.45. A written log of each application of water shall be kept by the contractor at the site. The City Planning Arborist shall be in receipt of this log before final inspection is requested.

PRIOR TO FINAL OCCUPANCY INSPECTION

17. The project sponsor shall schedule an inspection by Code Enforcement Officer or Planning Arborist to verify that the health and condition of the trees has been maintained and to determine if tree damage requires mitigation.

Fire Department

18. A fire sprinkler system shall be provided throughout the building which meets the requirements of NFPA Standard No. 13-1999 Edition. Fire sprinkler system installations require separate submittal to the Fire Prevention Bureau. (PAMC 15.04.083). Note: building plans will not be approved unless complete sprinkler coverage is indicated.

19. Tree limbs and other vegetation shall be kept clear of the structure in accordance with Appendix II-A of the 1998 California Fire Code. Note: No tree shall be planted closer than 10 feet to any point on the exterior of the building.

Public Works Department

PRIOR TO SUBMITTAL FOR BUILDING PERMIT

20. Grading & Drainage Plan - The applicant shall submit a final grading and drainage plan to Public Works Engineering. This plan shall show spot elevations or contours of the site and demonstrate the proper conveyance of storm water to the nearest adequate municipal storm drainage system. Existing drainage patterns, including accommodation of runoff from adjacent properties, shall be maintained.
21. Grading Permit - Permittee must obtain a grading permit from the City of Palo Alto Building Inspection Division if excavation volume (outside the building footprint) exceeds 100 cubic yards.

22. Impervious Area - The proposed development will result in a change in the impervious area of the property. The applicant shall provide calculations showing the adjusted impervious area with the building permit application. A Storm Drainage Fee adjustment on the applicant’s monthly City utility bill will take place in the month following the final approval of the construction by the Building Inspection Division. The impervious area calculation sheets and instructions are available from Public Works Engineering.

DURING CONSTRUCTION

23. Best Management Practices - The developer shall require its contractor to incorporate best management practices (BMP’s) for stormwater pollution prevention in all construction operations, in conformance with the Storm Water Pollution Prevention Plan prepared for the project. It is unlawful to discharge any construction debris (soil, asphalt, sawcut slurry, paint, chemicals, etc.) or other waste materials into gutters or storm drains. (PAMC Chapter 16.09).

24. Dust Control & Cleanup - To reduce dust levels, it shall be required that exposed earth surfaces be watered as necessary. Spillage resulting from hauling operations along or across any public or private property shall be removed immediately and paid for by the contractor. Dust nuisances originating from the contractor's operations, either inside or outside of the right-of-way shall be controlled at the contractor's expense.

25. City Standards - All construction within the City right-of-way, easements or other property under City jurisdiction shall conform to Standard Specifications of the Public Works and Utility Departments.

PRIOR TO FINALIZATION

26. Final Approval - The Public Works Inspector shall sign off the building permit prior to the finalization of this permit. All off-site improvements shall be finished prior to this sign-off. Similarly, all as-builts, on-site grading, drainage and post-developments BMP’s shall be completed prior to sign-off.
SECTION 9. Term of Approval.

Site and Design Approval. In the event actual construction of the project is not commenced within two years of the date of council approval, the approval shall expire and be of no further force or effect, pursuant to Palo Alto Municipal Code Section 18.82.080.

Variance Approval. In the event actual construction of the project is not commenced within one of the date of council approval, the approval shall expire and be of no further force or effect, pursuant to Palo Alto Municipal Code Section 18.90.080.

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST: APPROVED:

_________________________  ____________________________
City Clerk     Director of Planning and Community Environment

APPROVED AS TO FORM:

___________________________
Senior Asst. City Attorney