TO: HONORABLE CITY COUNCIL
FROM: CITY MANAGER
DEPARTMENT: PLANNING AND COMMUNITY ENVIRONMENT
DATE: JUNE 19, 2006
CMR: 226:06

SUBJECT: 3270 WEST BAYSHORE ROAD [06-AP-03, 04, 05, 06]: APPEALS BY GINA FALLON ET AL, SUSAN FINEBERG ET AL, WILLIAM CHAPMAN III, M.D., AND MICHAEL HMELAR OF THE DIRECTOR OF PLANNING AND COMMUNITY ENVIRONMENT’S APPROVAL OF AN ARCHITECTURAL REVIEW BOARD APPLICATION AND DESIGN ENHANCEMENT EXCEPTION REQUESTED BY CLASSIC COMMUNITIES ON BEHALF OF WEST BAYSHORE ASSOCIATES FOR THE DEMOLITION OF TWO OFFICE BUILDINGS AND THE DEVELOPMENT OF 96 RESIDENTIAL UNITS ON A 6.5 ACRE PARCEL IN THE ROLM ZONE DISTRICT. ENVIRONMENTAL ASSESSMENT: A NEGATIVE DECLARATION WAS PREPARED.

RECOMMENDATION
Staff recommends that the City Council deny the appeals and uphold the decision by the Director of Planning and Community Environment (Director) to approve the Architectural Review Board (ARB) application for 3270 West Bayshore Road, “Classic Communities”, including the Design Enhancement Exception (DEE) requests and Negative Declaration.

BACKGROUND
Four appeals (Attachments A, B, C and D) were submitted within the appeal period following the Director’s decision (Attachment E) on March 23, 2006, approving the application based upon a recommendation by the ARB to the Director, during the third public hearing of the formal application. The meeting minutes and staff report for the final ARB meeting are attached to this report (Attachments F and G, respectively). The three previous ARB reports, one of which was prepared for a preliminary project, are available on line as noted at the end of this report and on file with the Planning and Community Environment Department. The initial study/Negative Declaration is provided as Attachment H to this report, and revised in Attachment L.

The first appeal (Attachment A), submitted by Gina Fallon et al. on March 30, 2006, focuses on five issues:

(1) Planned growth and significance of the Comprehensive Plan Environmental Impact Report (Comp Plan EIR); (2) a lack of capacity within the Palo Alto Unified School District (PAUSD) for a potential cumulative number of students from this project and other planned and approved projects in South Palo Alto; (3) potential traffic impacts from the transport of these potential students to cross-town schools; (4) limited neighbor notification; and (5) unsubstantiated findings for (a) the tandem parking spaces Design Enhancement Exception (DEE), (b) two of the ARB approval findings for the design
quality and materials with respect to neighborhood compatibility, and (c) two of the findings for a Negative Declaration with respect to potential seismic hazards.

The second appeal (Attachment B), submitted by Susan Fineberg et al. on April 3, 2006, cites six reasons for the appeal:

(1) The Palo Alto Comprehensive Plan did not foresee the building of any residential units in this area, (2) No EIR was done on this project nor was additional analysis triggered at 75% of growth caps, (3) Residential units (approved and projected) exceed the growth caps established in the Comp Plan, (4) Cumulative impacts of the 931 approved and projected units in South Palo Alto need review, (5) Seismic, geologic, soil, and flood hazards on-site should require an EIR before approval, and (6) DEE’s are not supported by uniqueness of the site and could be eliminated by reducing density.

The third appeal (Attachment C), submitted by William E. Chapman III, M.D. on April 4, 2006, lists three main reasons for the appeal:

(1) The project violates the Comprehensive Plan, (2) The project fails the ARB goals and purposes, and (3) Impacts from the project and cumulative data regarding the PAUSD capacity were erroneously calculated and ignored.

The fourth appeal (Attachment D), submitted by Michael Hmelar on April 6, 2006, is a request for a “more homogeneous and durable motif” for the building facades facing West Bayshore and Loma Verde. Further, this appellant asks that Council address the neighborhood’s perception that the ARB is not representing neighborhood concerns, is “driving the modern motif” and has “systemic process and expectation deficiencies.”

**DISCUSSION**

**Comprehensive Plan EIR**

The Comprehensive Plan (Comp Plan) was adopted by the City Council in 1998 after the City Council considered the environmental impacts analyzed in the Comp Plan Environmental Impact Report (EIR). The Comp Plan EIR recommended the City initiate further study when residential growth reached 75% of the number of units anticipated in the Comprehensive Plan. To date, approximately 2,000 residential units have been approved, and the Comprehensive Plan anticipated 2,450 residential units, so the “trigger” has been met. The Comp Plan EIR did not establish a residential growth cap.

The Council colleague’s memorandum (Attachment I) recommends a Comprehensive Plan amendment to reassess and update growth projections, since the City has surpassed 75% of the anticipated residential growth. The work program for this amendment was brought forward to the City Council on June 5th, prior to the hearing of this appeal.

**Comprehensive Plan**

The Comprehensive Plan generally encourages housing and the conversion of non-residential to residential land use. The Housing Element identifies the jobs/housing imbalance and supports conversion of job uses to housing. Housing Element Policy H-3 states “Continue to support the re-designation of suitable vacant or underutilized lands for housing or mixed uses containing housing.” The East Bayshore/San Antonio Road/Bayshore Corridor is cited as an employment
center in the Comprehensive Plan. Policy L-46 states, “Maintain the East Bayshore and San Antonio Road/Bayshore Corridor areas as diverse business and light industrial districts,” while policy L-47 points to the East Meadow Circle area as a potential site for higher density housing.

Relatively recent economic changes support higher land values for residential property. Comprehensive Plan Policy L-7 states, “Evaluate changes in land use in the context of regional needs, overall City welfare and objectives, as well as the desires of surrounding neighborhoods.” The proposed change in land use on the project site was indicated prior to May 2005, when it received a preliminary review by the ARB. At that time, the change of use did not require a re-zoning or a Conditional Use Permit. The Zoning Ordinance changes adopted by Council in December 2005 for this zone district established residential use as requiring a Conditional Use Permit, rather than allowing it as a permitted use under the ROLM zoning. However, the application had been deemed complete prior to the effective date of the ordinance changes so that residential use on this site was permitted by right.

**PAUSD Capacity**

There are competing goals and objectives in the Comprehensive Plan, in that housing is encouraged, yet it acknowledges that as of 1996, the PAUSD had a substantial over-enrollment problem. The Comprehensive Plan acknowledges the vital role that schools play in shaping community life and notes, “PAUSD has a substantial over-enrollment problem. Projected enrollment increases would exacerbate the existing over-enrollment problem should capacity remain constant.” The following statement also appears: “the new wave of increased enrollment is expected to peak between 2003 and 2007, beginning at the elementary school level.” Policy C-6 states “Continue and enhance City efforts to assist PAUSD in anticipating and addressing land development-related school enrollment impacts.” Related programs C-6 and C-7 state “provide regular status reports to PAUSD on potential and approved development projects. Require an assessment of school impacts prior to the approval of development projects that require legislative acts, including general plan amendments and zoning changes.”

Staff evaluated the project’s potential impacts upon schools in the environmental analysis, using the best data available at the time of its preparation. The data used to estimate students associated with this project was based upon student per unit ratios that had been used for the Mayfield Agreement and the 800 High Street project (.276 elementary student per unit, .088 middle school student per unit and .095 high school student per unit). This information was provided to the City by the PAUSD. The environmental analysis, due to a calculation error, noted that the completion of this project would result in 35 additional students (using the previously referenced numbers, the correct number of students anticipated by the Classic Communities development would be 44).

The City’s Advance Planning staff work with the PAUSD on a regular basis and have recently been working with PAUSD’s demographer, Shelley Lapkoff, to provide data on housing projects so that estimates for anticipated school age children can be created. The demographer estimated this project would yield 29.25 children beginning in 2009, which is less than the 44 estimated children indicated in the environmental analysis. The breakdown is 2.85 students from 19 below market rate units (19 units at a ratio of .15 children per unit), 9.9 students from 11 detached
single family residences (11 units at a ratio of .90 children per unit), and 16.5 students from 66
townhouse units (66 units at a ratio of .25 children per unit). A table excerpted from the
demographer’s report is attached, as well as an email from the PAUSD confirming these
numbers (Attachment J).

Traffic Impact Analysis

Traffic Impact Analysis (TIA) reports, as mandated by the Valley Transportation Authority
(VTA), are required for projects that generate net new trips of 100 or more during AM and PM
peak hours. As permitted by the Santa Clara County Congestion Management Program (CMP),
the City of Palo Alto has reduced this threshold so that projects not required to be reviewed can
be required to submit a TIA.

The development proposed at 3270 West Bayshore Road is estimated to generate a smaller
number of trips than the existing office use when fully occupied, and does not cross the VTA net
new trip threshold for requiring a TIA. Nevertheless, staff required the applicant to provide a
full-scale TIA due to the proposed change of use and the potential impacts on the surrounding
neighborhood

A project TIA covers the on- and off-site traffic and parking review. The site analysis includes
on-site parking demand and supply, parking layout/design, internal traffic circulation, access
location, capacity and type of access control, design of traffic calming devices that could be
proposed on the internal private streets, and need for right and left-turn channelization to serve
traffic entering and exiting the project site. The off-site analysis typically covers operational
Level of Service (LOS) analysis at intersections that would experience ten or more net new trips
per lane, the roadway segments adjacent to the project site, and the freeway ramps that could
serve trips heading to and from the site. The off-site analysis also typically includes a review of
potential parking overspill, vehicular queuing, and signal warrant analysis for candidate
intersections (i.e., for intersections that could potentially meet the state and federal warrants for
signalization based on the collision statistics, as well as on the pedestrian and vehicular traffic
volumes). The City’s accepted significant impact criteria are as follows:

A traffic impact is considered significant if the project will:
- Cause a local (City of Palo Alto) intersection to deteriorate below Level of Service (LOS)
  D; or
- Cause a local intersection already operating at LOS E or F to deteriorate in the average
  control delay for the critical movements by four seconds or more, and the critical
  volume/capacity ratio (V/C) value to increase by 0.01 or more; or
- Cause a regional intersection to deteriorate from an LOS E or better to LOS F; or
- Cause a regional intersection already operating at LOS F to deteriorate in the average
  control delay for the critical movements to increase by four seconds or more, and the
  critical V/C value to increase by 0.01 or more; or
- Cause queuing impacts based on a comparative analysis between the design queue length
  and the available queue storage capacity. Queuing impacts include, but are not limited
to, spillback queues at project access locations; queues at turn lanes at intersections that
block through traffic; queues at lane drops; queues at one intersection that extend back to
impact other intersections, and spillback queues on ramps; or
• Cause a freeway segment (for each direction of traffic) to operate at LOS F or contribute traffic in excess of 1% of segment capacity to a freeway segment already operating at LOS F; or
• Impede the development or function of planned pedestrian or bicycle facilities; or
• Impede the operation of a transit system as a result of congestion; or
• Create an operational safety hazard; or
• Cause any change in traffic that would increase the Traffic Infusion on Residential Environment (TIRE) index by 0.1 or more on a local or collector residential street; or
• Result in inadequate on-site parking capacity; or
• Result in inadequate emergency access.

PAUSD Bus Service
There is one school bus that presently serves the Palo Verde Elementary (located on the west side of Louis Road south of Ames Avenue). However, it is highly unlikely that the route of this school bus would be changed to access the West Bayshore/Loma Verde area (i.e. to serve the student population that could be generated by the proposed development).

There is no cross-town bus service now using the Charleston-Arastradero corridor. School busses that use this road are the ones that travel to and from Hoover Elementary (one bus), Terman Middle (four full size busses and two special education busses), and Gunn High (one that drops-off/picks-up students within the school site, and three that drop-off/pick-up on Arastradero Road).

Design Enhancement Exception Findings
With regards to the Design Enhancement Exception (DEE) that was approved with this application, staff has determined that the requested exceptions meet the applicable findings.

1. Density
At the time the application for this project was submitted, exclusively residential development was governed through the LM zoning district by the RM-30 site development regulations (PAMC section 18.24). These regulations stipulate a maximum residential density of 30 units per acre. The approved project has a density of approximately 14.75 units per acre, or slightly less than half the maximum density permitted by the Palo Alto Municipal Code. The adjacent single-family neighborhood has an approximate density of 6.4 units per acre.

While reducing the density could allow for development of the site without the need for a DEE, it would also result in a lower number of below market rate housing units as well as a less diverse range of housing types. The Housing Element of the City’s Comprehensive Plan (as mentioned earlier) states that the City should encourage in-fill development and conversion of under-utilized non-residential lands to “higher density residential or mixed use projects.” Additionally, a more diverse selection of housing types is also supported by the Comprehensive Plan, including “…the use of … live/work units and other housing prototypes…” The DEE requested for this project relates directly to the higher density units on-site. Therefore, a reduction in the density would imply a reduction in the number of smaller units, which would effectively make this project less compliant with the goals of the Comprehensive Plan.

2. Tandem Parking
Tandem parking is permitted in the R-1 zones. As part of the ongoing zoning ordinance update, staff is recommending that tandem parking be allowed in multi-family development areas where there is a greater need for such parking design/layout, and to reduce the amount of land and paving dedicated to parking. Staff allowed tandem parking at the proposed project site due to the space constraints and since the overall parking requirement was not reduced to cause a spillover effect. It should also be noted that parking would be prohibited on both sides of the adjacent sections of West Bayshore Road (associated with the establishment of the proposed sound wall and 2-foot shift of the lane limit lines). Parking would also be prohibited during the day along one side of Loma Verde Avenue to allow for eventual provision of bike lanes.

3. Site Conditions
DEE Approval Finding #1 requires that there be “exceptional or extraordinary circumstances or conditions applicable to the property … that do not apply generally to property in the same district.” The residential use approved for this site was a permitted use in this district at the time of application, but now requires a Conditional Use Permit. The subsequent zoning amendment means that any future application will be subject to the City’s discretionary review as a conditionally permitted use. Additionally, this site has edge characteristics that are unique to the properties in the same district. This site is adjacent to US 101, existing industrial/commercial sites, and low-density residential housing. These same conditions can be found on less than 10% of lots in the ROLM district.

Setback encroachments are located adjacent to the abutting commercial property located at 3160 West Bayshore Road. These encroachments facilitate locating the highest density and most massive units as far as possible from the adjacent low-density residential properties, and allowing for more open-space area to be concentrated in the center of the property to help mitigate impacts on the surrounding community. Strict application of the minimum requirements of Title 18.24 of the Palo Alto Municipal Code (PAMC) would prevent this encroachment, and would likely have resulted in a greater mass placed closer to the low-density residential community.

ARB Findings, Goals and Purposes
This project received a preliminary review by the Architectural Review Board on May 5, 2005. Although the density and site plan were significantly modified for the formal application, the chosen design motif has not changed significantly through the review process.

Two of the 16 findings in PAMC 18.76.020 required for ARB approval speak to the quality of architectural expression. Condition #12 states, “the materials, textures, colors and details of construction and plant material are appropriate expression to the design and function and whether the same are compatible with the adjacent and neighboring structures, landscape elements and functions.” Condition #16 states, “the design is consistent and compatible with the purpose of architectural review as set forth in subsection (a).” Subsection (a) “Purpose” states that the Board's goals and purposes are to:

- Promote orderly and harmonious development of the City;
- Enhance the desirability of residence or investment in the City;
- Encourage the attainment of the most desirable use of land and improvements;
- Enhance the desirability of living conditions upon the immediate site or in adjacent areas; and
- Promote visual environments which are of high aesthetic quality and variety and which, at the same time, are considerate of each other.

The Architectural Review Board (ARB) is charged with design review of all new construction; and changes and additions to commercial, industrial and multiple-family projects. The ARB evaluates a project’s architectural character as presented by the applicant, seeking design integrity, consistency, and innovation, and is particularly focused on the context for the proposed development. For this project, the ARB noted three edge conditions which provided context for the design as approved. These conditions were State Route 101, the adjacent commercial developments, and Sterling Canal and the single family residential zone across Sterling Canal. Although the design as presented is not the only possible solution to reflect the context of the project, the design does reflect these edge conditions. The ARB reviewed the plans for the formal application at three public hearings, concentrating its review on the materials, textures, colors and details of construction and plant materials.

Environmental Document

1. Hazards
   This project was reviewed and approved by staff of all pertinent City departments regarding the seismic, geologic, soil and flood impacts of this development. Conditions #27, 49, 50, 51, 61 and 62 address these issues directly and ensure that prior to issuance of building permits, the project will meet all applicable regulations covering development of this type in this geographic location.

2. Initial Study/Negative Declaration vs. Environmental Impact Report
   A full Environmental Impact Report (EIR) was not required for this project because in terms of both traffic and land use, the approved residential development is expected to be less intensive than the existing commercial uses when operating at full capacity. As traffic impacts will be reduced, traffic-related pollution is expected to be much lower, and no on-site pollution generation is expected, given the exclusively residential nature of this project. As mentioned earlier, the PAUSD has been apprised of this development and has already included this project in its latest projections. Development impact fees, which will be assessed at the time of submission for the necessary building permits, will be used to help mitigate the development’s impacts on City services such as parks, libraries and other community facilities. At current rates, these development impact fees would total $581,042. Additionally, the concentrated open space areas internal to the site, which are in part facilitated by the associated Design Enhancement Exception, will also help to reduce use impacts on nearby City park facilities.

3. Less than Significant Cumulative Impacts
   A Negative Declaration is appropriate as many of the impacts on the surrounding community generated by this project are expected to be less intensive than the existing permitted use. In terms of traffic, noise and pollution, it has been recognized that residential land uses are considered less-intensive versus similarly situated commercial/industrial uses. In areas where community impacts are expected to increase, such as community facilities and schools, it is staff’s determination that the impacts of this particular development will be successfully offset by a combination of the applicable development impact fees, the site planning of the project, and the collaboration between the PAUSD and the City of Palo Alto with regards to the expected
number of new students in this development, which have been incorporated into the PAUSD’s student projections.

4. Negative Declaration Revision  
The Negative Declaration has been revised (Attachment L) with the PAUSD’s latest available demographic figures (Attachment J). As this change results in a reduction in the expected number of school-children from this project, the Negative Declaration does not need to be re-circulated.

Notice  
The required 600 foot notice radius for the review of this project was observed for all hearings, including the preliminary ARB review hearing in May, 2005.

COURTESY COPIES  
Palo Alto Unified School District

ATTACHMENTS  
Attachment A: Appeal by Gina Fallon et al;
Attachment B: Appeal by Susan Fineberg et al;
Attachment C: Appeal by William Chapman III, MD;
Attachment D: Appeal by Michael Hmelar;
Attachment E: Director’s Decision;
Attachment F: ARB Meeting Minutes – 03/16/2006;
Attachment G: ARB Staff Report – 03/16/2006;
Attachment H: Negative Declaration;
Attachment I: Council Colleagues Memorandum;
Attachment J: PAUSD Demographic Figures;
Attachment K: Draft Record of Land Use Action;
Attachment L: Revised Negative Declaration.
Note: Previous ARB staff reports are available on the City’s website at http://www.cityofpaloalto.org/cityagenda/publish/arb-meetings/arb-meetings.html.

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