



City of Palo Alto

City Council Staff Report

(ID # 11711)

Report Type: Consent Calendar

Meeting Date: 11/16/2020

Summary Title: College Terrace Centre: New Neighborhood Market

Title: QUASI-JUDICIAL. 2100 El Camino Real/501 Oxford (College Terrace Centre) [20PLN-00247]: Approval of a Proposed Grocery Store Pursuant to PC Ordinance Number 5069. Environmental Assessment: Exempt per CEQA Section 15301 (Existing Facilities). Zoning District: Planned Community (PC-5069)

From: City Manager

Lead Department: Planning and Development Services

Recommendation

Staff recommends that Council approve the proposed grocery store tenant pursuant to Planned Community (PC) Zoning Ordinance No. 5069 (College Terrace Centre), adopted January 11, 2010, based on the finding that the proposed grocery meets the requirements of the PC Ordinance, including that the grocery would be comparable in quality of products and services to the former JJ&F Market at this location.

Background

On January 11, 2010 the City Council approved PC Ordinance 5069 for a 57,900 square foot mixed use development at 2100 El Camino Real (College Terrace Centre) that included 8,000 square feet for a grocery store as one of the public benefits. The ordinance made the grocery tenant subject to City approval, stating specifically:

“The grocery tenant, if it is a party other than John Garcia (DBA JJ&F), shall be subject to the prior approval of the City of Palo Alto,”

and further that the City’s approval:

“shall not be withheld unless the City reasonably finds that such proposed grocery tenant is not likely to be comparable in quality of products and service as JJ&F as it existed and operated on December 7, 2009.”

The property is also subject to a restrictive covenant related to the grocery store requirement, which was approved in 2014. Both the PC ordinance and the restrictive covenant are included with this report as Attachments B and C, respectively.

On two prior occasions the Council has approved grocery store tenants to occupy this space after JJ&F did not reoccupy the new building. The first market was named College Terrace Market and lasted about six months before closing in late 2017. A second market called Khoury's Market was approved in 2018 and operated for about a year, closing earlier this year.

The lapse of a grocery store at this location over the years has resulted in assessment of penalties, which the owner has appealed. Some of these appeals are pending in the City's administrative process. Others have been finalized through the administrative process and are pending in Superior Court. The City Council has been engaged from time to time on these issues. The matter before Council here, however, is limited to evaluation of the proposed new market under the standards set forth in PC Ordinance 5069. Council's determination regarding the new market is independent from and will have no impact on the appeals and litigation over previously-assessed penalties. Staff will return to Council within the next couple of months to provide further updates on the administrative appeals and litigation.

To approve the new grocer, Real Produce International Market, the owner must demonstrate compliance with the following specific criteria:

- The grocery store must occupy no less than 8,000 square feet;
- The market must be neighborhood serving, providing all typical grocery store products and services of a neighborhood serving store, and not function as a convenience mart;
- The market must provide goods and services that are comparable in quality to that provided by the former JJ&F market; and,
- There must be at least 40 dedicated parking spaces available to the tenant within the subject building.

As contemplated by the PC ordinance, staff has reviewed the lease agreement between the property owner and tenant to confirm compliance with the above criteria. The lease demonstrates compliance with the first, second and forth requirements. Assessment of whether the proposed market offers comparable goods and services to the former JJ&F market is a more subjective criterion, but staff's initial assessment, subject to Council's reasoned judgment, is that the proposed market meets this criterion as well.

Discussion

The prospective tenant notes in the attached business description (Attachment A) that the market would provide high quality goods at reasonable prices. They anticipate offering locally

sourced produce (with a focus on organic) and as well as groceries and specialty items. The market would include a deli, grab and go area, fresh flowers and coffee service. Customers will be able to shop in-store or order online and the tenant would offer free, same-day delivery to all Palo Alto residents.

Information on the market's management team is included in the attachment. The market owner, Khaled Taffi, and his partners own and operate two produce wholesale businesses in the Bay Area, as well a grocery store in San Jose.

Limited tenant improvement work is needed for the market to begin operation. Attached to this report is a floor plan detailing the proposed market layout (Attachment D). Staff has been contacted by the tenant for information regarding temporary signs to advertise the new market and job opportunities.

Opening the market in advance of the holiday season is important to the tenant. The market appears to provide all goods and services typical of a neighborhood serving market and appears compliant with applicable ordinances and covenant restrictions. This item is being presented to the City Council on the consent calendar and may be pulled by three Councilmembers if further discussion is warranted. If pulled, staff recommends the Council conduct the hearing on the same evening to minimize the time to establish the market, if approved.

Policy Implications

The City's review of the prospective tenant is focused on the criteria presented in the background section of this report. The City's review of the request shall not be withheld unless the City reasonably finds that such proposed grocery tenant is not likely to be comparable in quality of products and service as JJ&F as it existed and operated on December 7, 2009.

A stable market at this location has been a long-desired goal by the City Council and neighborhood when it approved the College Terrace Centre development. Having another grocery store that provides essential services and goods to the Palo Alto community is particularly beneficial during the pandemic, which will provide in-store and same day delivery service.

Resource Impact

The recommendation in this report has no significant fiscal or budgetary impacts.

Timeline

The City received notification on October 19, 2020 of the owner's interest to seek City approval for a new grocery tenant. If approved, the tenant indicates it would take approximately two to six weeks to open to the public.

Stakeholder Engagement

This item was listed on the City Council's agenda, which was posted 10 days in advance of the meeting.

Environmental Review

The subject project is exempt from the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines 15061 (b)(3) in that it can be reasonably seen that a change in land use that replaces one grocery store with another of the same size and services would not have an impact on the environment.

Attachments:

Attachment A: Real Produce International Market Overview (PDF)

Attachment B: Planned Community Ordinance #5069 (PDF)

Attachment C: Restrictive Covenant (PDF)

Attachment D: Grocery Store Layout (PDF)

October 9, 2020

Palo Alto City Hall
C/O Mr. Jonathan Lait (City Planning Director)
250 Hamilton Avenue – Fifth Floor
Palo Alto, CA 94301
Via Email: Jonathan.Lait@CityofPaloAlto.org

Re: New Grocer - Real Produce International Market – in College Terrace Community;
501 Oxford Ave, Palo Alto, CA

Dear Mr. Jonathan Lait:

As the CEO of Real Produce International Market, we look forward to opening a new grocery store at 501 Oxford Ave, in the College Terrace neighborhood of Palo Alto. While times are tough right now for so many businesses with Covid-19 pandemic, safety concerns, and increased regulatory restrictions for businesses in these times, we take the long view and have signed a long-term lease for the grocer space at 501 Oxford Ave. We are excited for the opportunity to serve the community. We want to open our doors as soon as possible and if there isn't delay from the city or county, we would love to open before Thanksgiving

Our team consists of a family that is in the grocery, fruit and vegetable produce business. We own and run two fruit and vegetable wholesale businesses in the Bay Area (Oakland and S. San Francisco) as well as an existing brick and mortar grocery store, located in San Jose. Our existing grocery store has thrived while being in a competitive landscape where we are located in a shopping center with Trader Joes and a quarter of a mile from Whole foods. In addition, we are in the produce packing business, so we are even more vertically integrated in the fruit and vegetable produce business from farm to the grocery store. For your information please visit the following websites to learn more about our business:

- Existing stores: <https://www.yelp.com/biz/real-produce-san-jose>
- Cali fresh: <https://www.producemarketguide.com/company/500827/cali-fresh-produce>
- Growers produce Inc. <https://www.producemarketguide.com/company/1009781/growers-produce-inc>

We are very excited for our new Palo Alto location. It will offer the community local, organic and international products and dry goods. We will open serving fresh produce, meats, and freshly cooked foods. We are eager to open in Palo Alto's College Terrace neighborhood quickly as possible and to welcome and serve the community. We will be using the store in its current configuration but with minor interior enhancements to allow for better circulation and ease of shopping.


We would appreciate your support on the following items to help open our doors as soon as possible:

- Use and occupancy permit from the City of Palo Alto;
- Setup of accounts for utilities and trash with the city of Palo Alto;
- Approval of temporary (and ultimately) permanent signage;
- Assistance with obtaining approval with the Santa Clara County health department, if that is something you/your team can assist with; and

- Approval by the City for us be operators of the market whether at next City Council meeting or sooner.

Please let us know if you have any questions regarding our market or our experience as business operators. Attached to this letter you will find a bit more information about our collective experience, should you be interested. We look forward to your reply so that we can understand next steps required to open our doors. **It is very important that we open as soon as possible, and we hope you agree during these hard times, how important it is to have a successful local/neighborhood market.**

Sincerely,



Khaled Taffi
CEO & Manager,
Real Produce International Market

Attachment

Grocer Team Experience

Khaled Taffi: CEO of and Manager of Real Produce International Market, in Palo Alto.

- 43 years old
- Married with 3 kids. Living in San Jose, CA
- Related Work Experience:
 - 10 years- Head Chef- SeaFarers International Union
 - 3 Years - Family business
 - 13 years- Head Chef - Matson Navigation Company
 - 2 Years - Shareholder and CEO of Real Produce Inc- San Jose

Gaber Awnallah (Father). All of his 6 sons are in the fruit and vegetable produce business. Below is some info about two sons:

Abdulahem Awnallah:

- 33 years old
- Married with 2 kids. Living in San Leandro, CA
- Related Work Experience:
 - 6 years' experience and ownership percentage owner of a family business in Stockton.
 - 9 Year- Cali Fresh Produce Inc (a Produce Wholesale Company located in Oakland, CA) - Sales, Purchases, and logistics
 - 3 Years - Bills Ranch Market (Retail Produce and Grocery Business)- Store Manager - Bay Point, CA

Hashem Awnallah

- 29 Years old.
- Recently married. Living in Alameda, CA
- 9 Years experience working in Sales and Purchases for Cali Fresh Produce Inc- Oakland, CA

Real Produce International Market
501 Oxford Ave, Palo Alto, CA
Business Overview

Real Produce International Market is excited to bring high quality products at reasonable prices to the City of Palo Alto. Leveraging from decades of experience in the grocery industry, Real Produce will model the Palo Alto location after its brick and mortar store in San Jose.¹ The new market will offer locally sourced produce (with a focus on organic) and as well as groceries and specialty items from near and far. In addition, there will be a deli, grab and go area, fresh flowers and a coffee area to serve the needs of the community. Customers will be able to shop in-store or order online. Real Produce International Market will offer free, same-day delivery to all Palo Alto residents, something that will serve residents during Covid and beyond.

Below are some specific details regarding the business:

1. **Hours of operation:** 6 am and 10 pm.

2. **Management and staff:**
 - a. Khaled Taffi's family has been in the grocery business for three generations. They operate the San Jose store as well as a wholesale/distribution business in South San Francisco and Oakland. *More information in Letter to Jonathan Lait, dated October 9th, 2020, and below.*
 - b. Khaled Taffi will be the Manager.
 - c. Staffing. The goal is to hire local for the staffing of the store.

3. **How will the Real Produce team's wholesale businesses complement the Real Produce International Market in Palo Alto?**
 - a. The wholesale business² is an established distribution channel with a strong reputation. They have access to high quality organic products at lower prices that they can pass along to customers because of these other businesses.
 - b. No wholesale goods will be sold at the Palo Alto location. Wholesale is an entirely different business. The consumer business is much smaller quantities that are sold and is not at all related to the scale of selling wholesale.

4. **What factors indicate that Real Produce International Market will be successful in Palo Alto?**

¹ See Facebook "Real Product SJ." Also see: <https://www.yelp.com/biz/real-produce-san-jose>

² Cali fresh: <https://www.producemarketguide.com/company/576706/real-produce-inc>
Growers produce Inc. <https://www.producemarketguide.com/company/1009781/growers-produce-inc>

- a. There have been requests to open a second location in Palo Alto from current customers.
 - b. The Palo Alto community appreciates local organic food and specialty groceries. This location is bigger than the San Jose space, so it will be able to offer an expanded array of goods including meats, and freshly cooked food.
 - c. The San Jose store is located near Costco and Trader Joes and yet thrives because of the niche business model whereby high quality items are offered at at reasonable prices.
 - d. There is an excellent reputation with local vendors (i.e. Clover milk, Petaluma creamery, rock island organic meats, organic girl, Unify, and others) as well as the ability to obtain specialty goods from other areas, (i.e. cheeses, international offerings).
 - e. Experience shows that lower prices and a diversity of offerings bring customers and vibrancy which, in turn, grows the customer based and ensures success.
5. **Overview of the grocer space:**
- a. See floor plan, attached. .
 - b. The space was improved for the prior grocer. No further improvements are required at this time, as there is great priority in opening by Thanksgiving.
 - c. Cash registers for check-out.
 - d. Meat section.
 - e. Deli section.
 - f. Display space. All shelving will be placed in more or less the same locations as shown on the floor plan. Shelving up-grades may occur in the future. Some produce will be displayed in moveable carts.
6. **Marketing plan:** Social media, word of mouth/ reputation, fliers, signage.
7. **Signage:**
- a. Temporary sign with name, grand opening and local hiring outreach.
 - b. Permanent sign – in development.

Ordinance No. 5069

Ordinance of the Council of the City of Palo Alto Amending Section 18.08.040 of the Palo Alto Municipal Code (The Zoning Map) to Change the Classification of Property Known as 2180 El Camino Real from Neighborhood Commercial (CN) District to PC Planned Community 5069 for a Mixed Use Project Having 57,900 Square Feet of Floor Area For A Grocery Store (intended for JJ&F Market), Other Retail Space, Office Space, and Eight Affordable Residential Units, With Two Levels Of Below-Grade Parking Facilities and Surface Parking Facilities For The College Terrace Centre, and Approval of Design Enhancement Exceptions to Allow a Sign Spire and Gazebo Roof to Exceed the 35-Foot Height Limit, and to Allow Encroachment Into A Minimum Setback on Oxford Avenue.

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

SECTION 1.

- (a) Carrasco and Associates c/o Linda Poncini (“the Applicant”) on behalf of The Clara Chilcote Trust c/o Patrick Smailey (“property owner”) formally applied on October 18, 2007 to the City for approval of a rezoning application (the “amendment”) from CN ‘Neighborhood Commercial’ to a Planned Community (PC) district for a site comprised of four parcels located at 2180 El Camino Real (the “Subject Property”) to accommodate the uses set forth below.
- (b) The City Council, after duly noticed public hearings held on July 13, 2009 and July 27, 2009 initiated the amendment process, and forwarded the project to the Planning and Transportation Commission (PTC) for review and recommendation, to be followed by Architectural Review Board (ARB) review and recommendation, and then final review and final action by the City Council.
- (c) The PTC, after a duly noticed public hearing held on October 14, 2009, reviewed, considered, and recommended approval of the revised Initial Study draft Mitigated Negative Declaration and recommended that Section 18.08.040 (the Zoning Map) of the Palo Alto Municipal Code be amended to rezone the Subject Property to Planned Community to permit construction of the proposed project located as shown on ‘Exhibit A,’ attached to this document and incorporated by reference. Draft conditions of project approval ‘Exhibit B’ attached to this document and incorporated by reference were presented to the PTC for review and comments.

- (d) The ARB, after a duly noticed public hearing held on November 5, 2009, reviewed the project design and recommended that the City Council approve the project with associated draft conditions of approval 'Exhibit B.'
- (e) The PTC, after a duly noticed public hearing held on December 2, 2009, confirmed their approval of the project and conditions of approval (Exhibit B).
- (f) The City Council, after a duly noticed public hearings held on December 7, 2009, and after due consideration of the proposed project, the Mitigated Negative Declaration, the analysis of the project by City staff, and the modification of the proposed conditions recommended by the PTC and the ARB, finds that the proposed Ordinance is in the public interest and will promote the public health, safety and welfare, as hereinafter set forth.
- (g) The Council finds that (1) the Subject Property is so situated, and the use or uses proposed for the site are of such characteristics that the application of general districts or combining districts will not provide sufficient flexibility to allow for the Project; and (2) development of the Subject Property under the provisions of the PC Planned Community District will result in public benefits not otherwise attainable by application of the regulations of general districts or combining districts, as set forth in Section (4)(c) hereof; and (3) the use or uses permitted, and the site development regulations applicable within the proposed district are consistent with the Comprehensive Plan (Goals, Policies and proposed designation of Mixed Use for the Subject Property) and are compatible with existing and potential uses on adjoining sites or within the general vicinity.

SECTION 2. Section 18.08.040 of the Palo Alto Municipal Code, the "Zoning Map," is hereby amended by changing the zoning of Subject Property from "CN Neighborhood Commercial" to "PC Planned Community 5069."

SECTION 3. The City Council hereby finds with respect to the Subject Property that the project (the "Project") as depicted on Development Plans dated October 22, 2009, incorporated by reference, comprises a mixed-use development that includes the following components:

- (a) The replacement of 18,028 square feet of existing commercial space with 57,900 square feet of new commercial and residential space. The commercial space would include 8,000 square feet for a grocery store, 5,580 square feet of other ground floor retail space, and 38,980 square feet of office space;
- (b) Eight (8) residential below-market-rate (BMR) units, comprising 5,340 square feet;
- (c) Underground parking garage containing 216 parking spaces on two levels;
- (d) Surface parking lot accommodating 11 parking spaces;

- (e) 24 on-street parking spaces around the site's perimeter;
- (f) A landscaped plaza at the corner of Staunton Court and Oxford Avenue;
- (g) Removal of street trees along Staunton Court, and Oxford and College Avenues and planting of new street trees within the sidewalk area;
- (h) Removal and replacement of some or all street trees along El Camino Real in tree wells;
- (i) Automobile driveways on El Camino Real, Oxford Avenue and Staunton Court providing access to parking lots and an area for loading and deliveries. Access to the below grade parking would be provided from the El Camino Real driveway.

SECTION 4. The Development Plan dated October 22, 2009, and any approved supplemental materials, for the Subject Property, as submitted by the applicant pursuant to Palo Alto Municipal Code Section (PAMC) 18.38.090, shall be subject to the following permitted and conditional land uses and special limitations on land uses, development standards, parking and loading requirements, modifications to the development plans and provisions of public benefits outlined below, and conditions of project approval, attached and incorporated as "Exhibit B".

- (a) Permitted and Conditionally Permitted land uses shall be allowed and limited as follows:

Permitted Uses (subject to the limitations below under Section 4(b):

- (1) Multifamily Residential
- (2) Professional and General Business Offices (excluding medical offices)
- (3) Retail Services (excluding liquor stores)
- (4) Eating and Drinking Services (excluding drive-in and Take-out services)
- (5) Personal Services

Conditionally Permitted Uses:

- (1) Farmers Markets
- (2) Businesses that operate or have associated activities at any time between the hours of 10:00 p.m. and 6:00 a.m. (such businesses shall be operated in a manner to protect residential properties from excessive noise, odors, lighting, or other nuisances from any source during those hours)

The following conditionally permitted uses are only permitted within the areas designated as office space on the development plan:

- (1) Banks and Financial Services
- (2) Commercial recreation
- (3) Private clubs, Lodges, and Fraternal Organizations

(b) Special limitations on land uses include the following:

- (1) A grocery store, with an area of at least 8,000 square feet, shall exist within the development for the useful life of the improvements;
- (2) The grocery store shall be a neighborhood serving grocery store that provides all the typical grocery store products and services of a neighborhood serving store such that it shall not become a convenience mart facility;
- (3) A signed lease for the grocery store, enforceable against the tenant and approved by the City Attorney, shall be submitted prior to issuance of any building permits on the site.
- (4) The grocery tenant shall occupy and begin operations prior to any office tenant occupancy.
- (5) The below-market rate housing shall be occupied not later than 120 days after the first occupancy of the office building. No more than 50% of the office space shall be occupied prior to occupancy of the housing.
- (6) The grocery tenant, if it is a party other than John Garcia (DBA JJ&F), shall be subject to the prior approval of the City of Palo Alto and shall not be withheld unless the City reasonably finds that such proposed grocery tenant is not likely to be comparable in quality of products and service as JJ&F as it existed and operated on December 7, 2009.
- (7) The grocery store space shall remain in continuous operation as a grocery store. "Continuous shall be defined to include brief closure for ordinary business purposes."
- (8) No medical office shall be permitted within the development;
- (9) The office uses within the project shall not exceed 38,980 square feet;
- (10) The 5,580 square feet of area designated as "Other Retail" on the development plan shall not be converted to ground floor office space; and
- (11) The "Other Retail" space may be occupied by retail uses, personal service use, or eating and drinking services only.
- (12) Use of the outdoor market area as shown on the project plans as being 2,447 square feet shall be limited to an open air market for grocery related uses only.

(c) Development Standards:

Development Standards for the site shall comply with the standards prescribed for the Planned Community (PC) zone district (Chapter 18.38), and as modified in Section 4(a) and (b) above.

(d) Parking and Loading Requirements:

In addition to the parking and loading requirements specified in PAMC 18.52 and 18.54, a Transportation Demand Management (TDM) Program has been incorporated in the Development Plan to allow reductions in parking requirements. The TDM is shown in 'Exhibit C' and is attached to this document

and incorporated by reference. The final TDM plan shall provide for implementation and monitoring as provided in the conditions of approval.

(e) Modifications to the Development Plan and Site Development Regulations:

Once the project has been constructed consistent with the approved Development Plan, any modifications to the exterior design of the Development Plan or any new construction not specifically permitted by the Development Plan or the site development regulations contained in Section 4 (a) – (c) above shall require an amendment to this Planned Community zone, unless the modification is a minor change as described in PAMC 18.76.050 (b) (3) (e), in which case the modification may be approved through the Minor Architectural Review process. Any use not specifically permitted by this ordinance shall require an amendment to the PC ordinance, except that conversion of designated office space to retail use shall not require amendment.

(f) Public Benefits:

Development of the Subject Property under the provisions of the PC Planned Community District will result in public benefits not otherwise attainable by application of the regulations of general districts or combining districts. The Project includes the following public benefits that are inherent to the Project and in excess of those required by City zoning districts:

- (1) Provision of an 8,000 square foot neighborhood-serving grocery market.
- (2) 4 Below Market Rate housing units.
- (3) A contribution of \$5,000 dollars for tree planting within the El Camino Real median.

(g) Development Schedule:

The Project is required to include a Development Schedule pursuant to PAMC 18.38.100. The approved Development Schedule is set forth below:

Construction of the Project shall commence on or before December 2012, unless extension(s) are granted. The total time for project construction and occupancy of spaces is three (3) years, or by December 2015.

SECTION 5. Council approves the Architectural Review application, finding that:

- (a) The design is consistent and compatible with applicable elements of the city's Comprehensive Plan as set forth in Resolution No. 9012, Adopting an Amendment to the Comprehensive Plan Land Use Map by Changing the Land Use Designation for 2180 El Camino Real From Neighborhood Commercial to Mixed Use. The proposed mixed use development containing office, residential, retail and commercial uses is consistent with the Mixed Use land use designation;

- (b) The design is compatible with the immediate environment of the site in that the proposed buildings are designed to meet the El Camino Real Design Guidelines and be sensitive to the lower scale residential neighborhood beyond;
- (c) The design is appropriate to the function of the project in that the project has been designed to be pedestrian friendly, provide additional bike and vehicular parking, attract people to the project and provides unique amenity spaces;
- (d) In areas considered by the board as having a unified design character or historical character, the design is compatible with such character. In this case, the building is not within an area of unified design character or historical character;
- (e) The design promotes harmonious transitions in scale and character in areas between different designated land uses in that the project includes the proposal to locate the two story residential component across from the existing residential uses on Staunton Court to create a transitional buffer between the existing residential uses and the proposed commercial buildings;
- (f) The design is compatible with approved improvements both on and off the site in that the proposed buildings and other project improvements would blend well with the existing off site improvements by proposing to break up the proposal in to multiple buildings with varying heights to control the mass and scale;
- (g) The planning and siting of the various functions and buildings on the site create an internal sense of order and provide a desirable environment for occupants, visitors and the general community in that the proposed design reduces neighborhood traffic by placing the garage entry on El Camino, improves the economic viability of the grocery market by placing it at the visible corner of El Camino, brings light into the below grade parking structure with a large open bamboo garden, locates the commercial buildings away from existing residential uses, and provides landscaped open spaces;
- (h) The amount and arrangement of open space are appropriate to the design and the function of the structures in that several open spaces are provided to accommodate the various uses that may occur at the site. These spaces include the garden square at the corner of Staunton Court and Oxford Avenue, the roof top gazebo at the vegetated green roof and the arcade and open area at the corner of Staunton Court and College Avenue;
- (i) Sufficient ancillary functions are provided to support the main functions of the project in that the proposal includes a large trash storage area, ample areas for bike parking, and an underground vehicle parking area;
- (j) Access to the property and circulation thereon are safe and convenient for pedestrians, cyclists and vehicles in that the driveway to the underground garage

has been designed such that vehicles existing the garage are level with the sidewalk such that the drivers view of pedestrians is not impeded, extra bike and vehicle parking spaces have been provided and there are pedestrian pathways provided to allow access through the project;

- (k) Natural features are appropriately preserved and integrated with the project. The site is already developed and contains some mature trees that would be removed to accommodate the proposed podium over the below grade parking. The trees to be removed will be replaced with new plantings including approximately 41 new street trees around the perimeter of the project, a bamboo garden that would grow up through the center of the parking structure, various potted plantings throughout the project , and trees and plantings within the proposed garden square.
- (l) The materials, textures, colors and details of construction and plant material are appropriate expression to the design and function in that the proposal includes many detail elements to ensure the proposed architectural style is appropriately expressed;
- (m) The landscape design concept for the site, as shown by the relationship of plant masses, open space, scale, plant forms and foliage textures and colors create a desirable and functional environment in that landscape elements have been incorporated wherever they could over the concrete podium. There are planters at entry locations and the fronts of the buildings, there is a large bamboo garden growing up through the center of the project, a vegetated green roof over the grocery store, and a garden square;
- (n) Plant material is suitable and adaptable to the site, capable of being properly maintained on the site, and is of a variety which would tend to be drought-resistant and to reduce consumption of water in its installation and maintenance in that the proposal includes many plant species that perform well within this environment;
- (o) The project exhibits green building and sustainable design that is energy efficient, water conserving, durable and nontoxic, with high-quality spaces and high recycled content materials. The following considerations should be utilized in determining sustainable site and building design:
 - (1) Optimize building orientation for heat gain, shading, daylighting, and natural ventilation;
 - (2) Design of landscaping to create comfortable micro-climates and reduce heat island effects;
 - (3) Design for easy pedestrian, bicycle and transit access;
 - (4) Maximize on site stormwater management through landscaping and permeable paving;
 - (5) Use sustainable building materials;

- (6) Design lighting, plumbing and equipment for efficient energy and water use;
 - (7) Create healthy indoor environments; and
 - (8) Use creativity and innovation to build more sustainable environments.
- (p) The design incorporates many of the above mentioned green building measures including photovoltaic panels on the roof and a green roof. (see LEED and Build It Green checklists, Attachment G)

The design is consistent and compatible with the purpose of architectural review, to:

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

SECTION 6. Design Enhancement Exceptions (DEEs) are approved as follows:

- (a) Height Exceptions for the proposed roof top gazebo and the architectural signage spire above the grocery store, which would exceed the 35 foot limit by five feet and ten feet, respectively, with an additional seven feet of height for the metal pole atop the spire, rising to 52 feet.
- (b) Setback Exception to allow portions of the building along Oxford Avenue to encroach into a ten foot setback; specifically, to allow a 7'9" encroachment for the second floor of the grocery store building and parts of the first floor" and 3'6" encroachment for the recessed first floor areas as set forth in the project plans.
- (c) DEE Findings:
 - (1) There are exceptional or extraordinary circumstances or conditions applicable to the property or site improvements involved that do not apply generally to property in the same zone district, in that, although the adjacent parcel on Oxford Avenue is not occupied by a residential use, its zoning is residential and forces the imposition of a more restrictive setback requirement upon a portion of the site. The intent of the more restrictive height and setback regulations is to ensure that the new commercial development is sensitive to the nearby residential uses. Being that the adjacent use is not residential the need for the sensitivity is diminished.

- (2) The granting of these Exceptions will enhance the appearance of the site or structure, or improve the neighborhood character of the project and preserve an existing or proposed architectural style in a manner which would not otherwise be accomplished through strict application of the minimum requirements of Title 18 and the standards for review set forth in this Chapter, in that (a) the height exception for the gazebo would allow the construction of a shade structure that would provide an amenity space on the roof top and this space would provide views over the vegetated roof and would serve to help increase awareness of green roofs; (b) the height exception for the signage spire allows for the provision of a stronger element for the grocery store building to give the building more dominance at the corner, improving the significance of the building in this location; and (c) the setback encroachment improves the design of the streetscape in this location since the project faces the El Camino Real commercial strip and employing a similar urban setback and sidewalk along Oxford Avenue preserves the continuity of the design, such that implementation of a ten foot setback and landscaped yard at this corner would appear odd in relationship to the use of a hotel across the street.
- (3) The Exception is related to a site improvement that will not be detrimental or injurious to property or improvement in the site vicinity, and will not be detrimental to the public health, safety, general welfare or convenience, in that (a) the height exceptions are for minor architectural elements that improve the architecture, do not contribute to the bulk and mass of the structure, and are not in close proximity to residential uses such that they would have a negative impact upon them; and (b) the setback encroachment occurs opposite a residential zone but no residences would be impacted by encroachment since a hotel is located opposite the grocery store building and the encroaching wall of the grocery store building would be across the street from the back side of the hotel and even with the encroachment, a generous 14'-5" wide sidewalk would be provided.

SECTION 7. Indemnification. To the extent permitted by law, the Applicant shall indemnify and hold harmless the City, its City Council, its officers, employees and agents (the "indemnified parties") from and against any claim, action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside, or void this ordinance or any permit or approval authorized hereby for the project, including (without limitation) reimbursing the City its actual attorneys fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its choice.

SECTION 8. Acceptance by the applicant. If the Applicant does not accept the Proposed ordinance in writing prior to second reading of the ordinance and within 30 days of the Council's adoption, the question of the appropriate zoning of the Subject Property shall be referred to the Planning and Transportation Commission for their consideration and recommendation, which may include the CN zone, the CN zone plus various overlays, a newly

crafted zone applicable to Neighborhood Centers or such other zone as the Commission deems appropriate.

SECTION 9. A mitigated negative declaration (MND) for this project was prepared in accordance with the California Environmental Quality Act and circulated for public review for a 30-day period beginning on October 9, 2009. The City Council approved the MND at its meeting of on December 7, 2009.

SECTION 10. This ordinance shall be effective on the thirty-first day after the date of its adoption.

INTRODUCED: December 07, 2009

PASSED: January 11, 2010

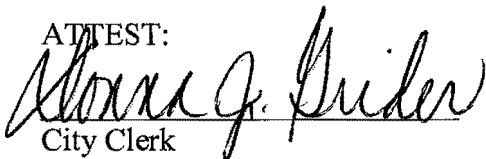
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NOES:


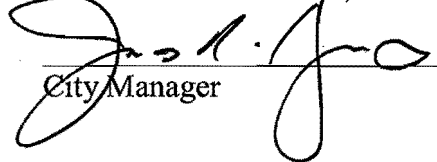
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ABSENT:


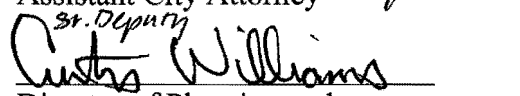
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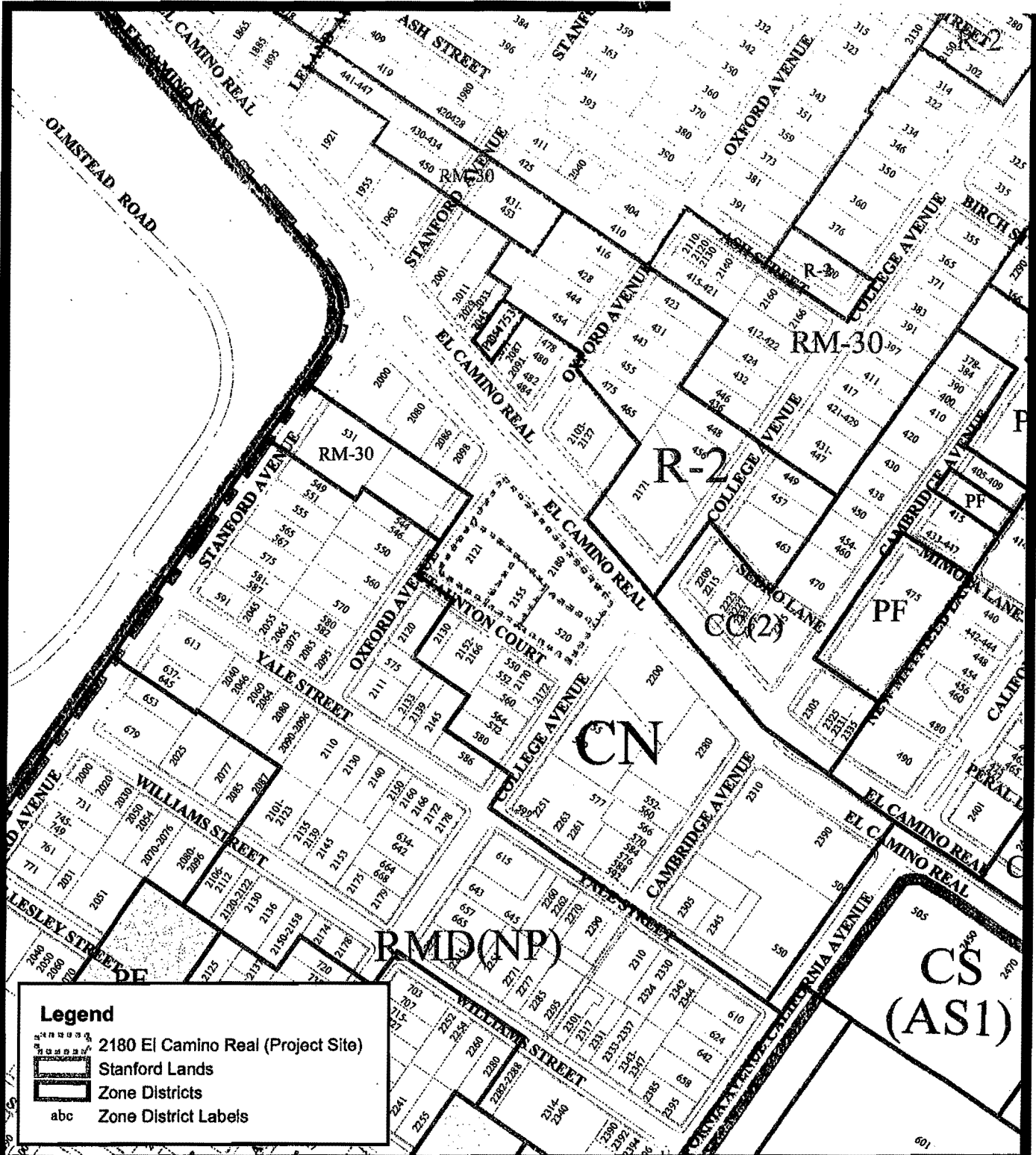

City Clerk

APPROVED:


Mayor

City Manager

APPROVED AS TO FORM:


Assistant City Attorney
Sr. Deputy

Director of Planning and
Community Environment



Legend

- 2180 El Camino Real (Project Site)
- Stanford Lands
- Zone Districts
- abc Zone District Labels



The City of Palo Alto



2180 El Camino Real Zoning Districts Area Map

This map is a product of the City of Palo Alto GIS

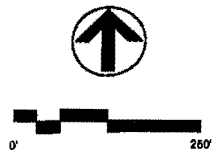


Exhibit B
2180 El Camino Real
Conditions of Project Approval

Planning and Transportation Division Conditions

1. The project shall be constructed as depicted on plans dated October 22, 2009 and labeled as 'Approved Plans' and the project, including uses, shall be implemented in accordance with Section 4 of the PC Ordinance (PC5069), except as modified by these conditions of approval.
2. The applicant shall return to the Architectural Review on consent calendar to address the following:
 - a) Provide clarified floor plans for the BMR units (with room names)
 - b) Clarify the site circulation, making it more clear;
 - c) Consider redesign of the exterior stair to the roof top garden, this shall include the elimination of the diagonal banding;
 - d) Consider simplifying the pathway from the exterior stairs to the gazebo area on the roof;
 - e) Review the banding of the grocery store building, consider one color with the two different finishes;
 - f) Provide details of the transformer fencing;
 - g) Reconsider the tile roofs at the office towers;
 - h) Consider some modification to the grocery walls facing Oxford Avenue such as a mural, display windows etc.;
 - i) Provide additional information about the private open spaces and the materiality of it;
 - j) Provide additional information about the bridge, materials, underside, etc.;
 - k) Consider redesign of the striped tower;
 - l) Reconsider the selection of the Ash tree species;
 - m) Provide additional information about the proposed bamboo (species and height) related to the canted wall;
 - n) Provide detail to show how the headlights going into the below grade parking will or will not impact the BMR units;
 - o) Consider redesign of the BMR units such that they are equally as striking as the other buildings in the project;
 - p) Provide more information regarding the plant pallet and conceptual plan for the green roof;
 - q) Provide more information about all screening elements and locations; and
 - r) Provide additional information about potted plants and the planting at the open area at the center of the project as well as the planting for the trellises located at the at-grade parking area.
3. The ARB shall address making the vegetated roof maximally observable to owners, occupants, tenants and visitors during normal business hours of the office

building, provided, however, that enjoyment of the vegetative roof shall not interfere with or derogate from the health of the growth thereon.

4. The owners/occupants of the BMR units shall have access to view and enjoy the vegetated roof from the gazebo during normal business hours of the office building.
5. The PC shall be inspected at least once every three years for compliance with the PC district regulations and the conditions of the ordinance under which the district was created.
6. The applicant shall comply with applicable provisions of Palo Alto's noise ordinance, both during construction and following construction, for the life of the project as per Chapter 9.10 of the Palo Alto Municipal Code and pursuant to PAMC Section 18.23.060, requiring an acoustical analysis at the time of building permit issuance, and demonstration and certification that it complies with the Noise Ordinance prior to final inspection. Any new noise producing equipment shall be placed as far away as is feasible from any existing residential sites and as close to El Camino Real as is possible.
7. The building permit for the building in which the grocery store is to be located shall be pulled concurrently with the building permit for the other non-residential building in the development.
8. The lease for the grocery store shall have, at minimum, a 20 year initial term.
9. Development Impact fees, totaling approximately \$393,684.70, shall be paid prior to issuance of building permits.
10. The applicant shall file and receive approval of a Preliminary Parcel Map/Parcel Map to combine the four parcels into one. The Parcel Map shall be recorded with the County of Santa Clara prior to issuance of a demolition permit or building permit.
11. The commercial portions of the project shall be required to attain LEED Silver level of certification through the USGBC. The residential portion of the project shall be required to meet the Build It Green multifamily green building requirements.
12. The following mitigation measures from the adopted Mitigated Negative Declaration are included below as project conditions:
 - a. **Mitigation Measure #1:** The project shall include automatic night shades or other system such as motion sensors and timers for the office windows at the rear of the building.
 - b. **Mitigation Measure #2:** Prior to any excavation the applicant shall prepare a site specific Health and Safety Plan that conforms to the requirements of Title 29 of the Code of Federal Regulations (VFR) Section 1910.120, the California General

Industry Safety Order (GISO) and Title 8, California Code of Regulation (CCR) Section 5192.

c. **Mitigation Measure #3:** All employees and subcontractors involved in excavation of potentially contaminated material shall be 40 hour Hazardous Waste Operations and Emergency Response (HAZWOPER) trained and certified.

d. **Mitigation Measure #4:** Soils shall be field screened, tested, and properly profiled during redevelopment to determine appropriate reuse or off site disposal.

e. **Mitigation Measure #5:** The proposed mechanical equipment shall be evaluated to ensure compliance with City of Palo Alto noise limit regulations. Measures such as equipment selection, equipment placement (location), and or the addition of barriers or enclosures shall be employed to ensure that any new noise producing equipment is in compliance with the City's noise ordinance.

f. **Mitigation Measure # 6:** Cal Trans must approve the proposed curb cut on the El Camino Real for the driveway to the underground parking garage.

g. **Mitigation Measure #7:** A Transportation Demand Management (TDM) program must be submitted by the applicant and approved by the Transportation Department prior to submittal of a building permit application. The TDM program shall outline parking and/or traffic demand measures to be implemented to reduce parking need and trip generation. Measures may include, but are not limited to: parking cash-out programs, provision of EcoPass (VTA) or Go Pass (Caltrain) for office tenants, shared parking, enhanced shuttle service, car sharing, providing priority parking spaces for car pools/vanpools or green vehicles, vehicle charging stations, additional bicycle parking facilities, or other measures to encourage transit use or to reduce parking needs. The program shall be proposed to the satisfaction of the Director, shall include proposed performance targets for parking and /or trip reductions, and indicate the basis for such estimates, and shall designate a single entity to implement the proposed measures.

State of California Department of Transportation (Cal Trans) Conditions

13. The design standard of the driveway on El Camino Real (SR 82) must comply with the Highway Design Manual.

14. Work that encroaches onto the State right of way (ROW) requires an encroachment permit that is issued by the Cal Trans. To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW must be submitted to the address below.

Office of Permits
California DOT, District 4
P.O. Box 23660
Oakland, CA 94623-0660

15. Traffic-related mitigation measures shall be incorporated into the construction plans during the encroachment permit process.

Transportation Division Conditions

16. Do not include or add any monument signs, furniture, or other sight obstructions (except trees) in the sight triangle on the northern frontage on El Camino Real. This condition does not prevent the use of produce or flower stalls, or tables and chairs for grocery store patrons in the space designated as grocery store outdoor space, so long as the location of same is approved by the City's Transportation Department.

17. The TDM shall include at least two car share vehicles. The Final TDM plan monitoring and implementation shall be carried out in accordance with Palo Alto Municipal Code Section 18.52.050 (d) TDM requirements, items (3) and (4) with respect to monitoring, and item (2) with respect to implementation related to performance targets for parking and trip reduction, and single entity to implement the TDM measures.

Vehicle Parking

18. Spaces adjacent to walls required to be 9' wide (spaces adjacent to mechanical and utility rooms). Spaces adjacent to poles/columns would be required to be 9.0' wide based on the location of the columns right at the entry to the parking spaces.

19. Northern most HC spaces can also be labeled as "van accessible" if the combined opening is 26.0' (9'-8'-9').

20. Include wheel stops where appropriate (all spaces that are at grade with pedestrian paths, lobbies, or bike locker areas)

Bicycle Parking

21. Illustrate on plans the location of Long Term (lockers) and Short Term bike racks, including total count similar to vehicular parking. Adequate aisles between lockers and racks must be shown.

22. Include details of types of racks to be used (must be approved by City Staff). Plan appears to include inverted-U racks (approved type).

23. All short term bicycle parking (racks) need to be located on the street level and be located within 50 feet and distributed near each of the main entrances to the various buildings. (Office racks not in appropriate location)

24. Long term bike lockers are allowed in the garage, but need to be located near employee elevators/stairs (locations appears to be okay, but all lockers should be on the first level of garage).

Building Division Conditions

25. The plans submitted for the building permit shall include the full scope of the construction of the entire building, including all site development, utility installations,

architectural, structural, electrical, plumbing and mechanical work associated with the proposed project.

26. The applicant shall be required to schedule and attend a pre-application meeting with Building Division staff to review the permit application process and to verify that the permit application will include all items required by these conditions.

27. Due to the scale of the overall project, the applicant shall be required to utilize a 3rd party plan check agency to conduct the building code plan review. A list of the agencies approved by the City of Palo Alto is available at the Development Center. The City Building plan check fees are reduced by 75% when a 3rd party plan check agency is utilized.

28. The plans submitted for the building permit shall include an allowable floor area calculation that relates the mixed occupancies and type of construction.

29. The plans submitted with the permit application shall include the complete design for disabled access and exiting for the entire site. Disable access features and exiting within the unimproved offices spaces may be deferred to future tenant improvement permits.

30. The design of building components that are not included in the plans submitted for building permit and are to be deferred shall be limited to as few items as possible. The list of deferred items shall be reviewed and approved prior to permit application.

31. The plans submitted with the building permit application for the shell building shall include the construction of stairs, exit enclosures and exit passageways extending to the exterior of the building.

32. All entrances and vertical clearances within the parking structures shall have a minimum vertical of 8 feet 2 inches where required for access to the accessible parking spaces per CBC Section 1130B.

33. The location of the building electrical service shall require prior approval by the Inspection Services Division and shall be located at an exterior location or in a room or enclosure accessible directly from the exterior.

34. A separate building permit shall be required for the construction of each building.

35. Plans submitted for plan review shall clearly indicate the proposed occupancy group(s) and type of construction of the building.

36. Plans for the residential units submitted for plan review shall comply with the latest requirements from the State of California [HCD 1/AC] Chapter 11B of the 2007 Edition of the CBC.

37. Plans for the residential units shall include an acoustical analysis and the plans shall incorporate the report's recommendations needed to show the common walls and floor ceiling assemblies in compliance with the sound transmission control requirements in CBC Section 1207.

38. Normal and accessible parking stalls for the residential rental units must be separated from the stalls of the commercial building and their location must be identified on plans submitted for plan review.

39. Plans submitted for plan review shall indicate the required number of parking stalls for the residential units and commercial building. Plans shall also indicate number of accessible stalls is in compliance with HCD 1/AC Chapter 11A for residential units and with DSA/AC Chapter 11B for the commercial facilities. Parking stalls for each use shall be separated in accordance with recommendations of the Planning Division.

Fire Department Conditions

40. The Fire Department requires that the developer have a contingency plan in place to handle any contamination or abandoned underground tanks discovered during excavation.

41. Emergency Contractor must have State HAZ license.

42. Fire Department shall be notified during normal business hours at the earliest opportunity in the event of such a discovery.

43. A permit from the Santa Clara County Department of Environmental Health is required for any underground tank removal.

44. 3 nearest Street Hydrants shall be upgraded to Clow Rich Model 76.

45. Aerial Fire Apparatus access shall be provided for the entire El Camino building Frontage. No overhead cable will be allowed on this side of the building.

46. Site address to be prominently posted on the building. (2001CFC901) Maximum vehicle weight bearing capacity for the podium deck shall be posted.

47. Please contact the Palo Alto Fire Department Training Office at 650-321-5617 if it is at all feasible to allow the Fire Department to use the structures to be demolished for training purposes.

48. A fire sprinkler system shall be provided which meets the requirements of NFPA Standard No. 13, 2002 Edition. (PAMC15.04.160) Fire Sprinkler system installations or modifications require separate submittal to the Fire Prevention Bureau. (PAMC15.04.083)

49. An exterior bell shall be provided, and an approved audible sprinkler flow alarm to alert the occupant shall be provided in the interior of the building in an approved location. (2001CBC904.3.2) Fire Alarm system installations or modifications require separate submittal to the Fire Prevention Bureau. (PAMC15.04.083)
50. Underground fire supply system installations or modifications require separate submittal to the Fire Prevention Bureau as well as the Public Works Department and the Water/Gas/Wastewater Section of the Utilities Department. (PAMC15.04.083)
51. All sprinkler drains, including those for floor control valves and inspector's test valves, as well as the main drain, shall not discharge within the building. Water discharged from these points shall be directed to an approved landscape location or to the sanitary sewer system. (99NFPA13, Sec. 5-14.2.4.3) NOTE: Please check with Roland Ekstrand in Utilities for maximum flow capacity of sanitary sewer in the area. Main Drain test discharge flow rate shall be impounded and attenuated to below sanitary sewer capacity before discharge.
52. Elevator car shall be sized for Fire Department gurney access requirements based on gurney dimensions of 24 in. x 84 in. plus a minimum of two emergency response personnel. (2007 Cal. Bldg. Code Sec. 3002.4a)
53. The maximum weight bearing capacity for the podium deck shall be posted.
54. A fire hydrant is required at the intersections of Oxford Ave./Staunton Ct. and College Ave./Staunton Ct.
55. Fire Department ground ladder access to the dwelling units bedroom egress windows shall be provided.
56. When the Main Electrical Shutoff is located in the interior of the building, an exterior shunt trip or other approved means of emergency shutoff shall be provided. Please contact the Building Div. for details.
57. An approved access walkway shall be provided to each bedroom egress/rescue window.
58. Provide Fire Department access across the roof of the 3 story building. 11. If the residential units have a different address than El Camino Real, provide a separate fire department connection at the housing building.

Public Works Engineering

59. This project must meet the State Regional Water Quality Control Board's (SRWQCB) revised provision C.3. The applicant is required to satisfy all current storm water discharge regulations and shall provide calculations and documents to verify compliance. The project must also enter into a maintenance agreement with the City to

guarantee the ongoing maintenance of the permanent C.3 storm water discharge compliance measures. The maintenance agreement shall be executed prior to the first building occupancy sign-off. Offsite property or ROW cannot be used to satisfy the C.3 requirements. Every effort should be made to use natural (non-mechanical) methods of stormwater treatment. The applicant is required to meet with Public Works Engineering (PWE) prior to final ARB to discuss and review the C.3 stormwater treatment plan.

60. The applicant shall meet with PWE prior to final ARB to discuss the shoring system to be used in the construction of the project. Shoring systems must be on private property, out of the right-of-way (ROW) and the use of tie-back systems has specific requirements which will be discussed at the meeting.

61. The applicant shall, at minimum, submit an application for a minor subdivision with the Planning division prior to issuance of building permits.

62. The street frontages of the development shall be resurfaced (grind and overlay, full width) and the curbs, gutters, and sidewalks shall be removed and replaced. This work shall be detailed in the offsite improvement plans required for the final map process and it is highly encouraged that the work takes place near the end of the construction process.

63. The applicant shall install LED streetlights along the frontages of the development. Type, style and location, etc. shall be determined at the time of offsite improvement construction and in coordination and consultation with Palo Alto Utilities Department.

64. Any special surface (i.e. sidewalk) treatments proposed within the ROW shall be reviewed by PWE.

65. The project must be constructed without the use of perimeter or subgrade drains outside the walls of the subgrade structure. In other words, the project shall be constructed “like a boat”.

66. Provisions for a grease trap shall be made onsite.

67. The applicant is required to meet with Public Works Engineering (PWE) to verify the basic design parameters affecting grading, drainage and surface water infiltration. The applicant is required to submit a conceptual site grading and drainage plan that conveys site runoff to the nearest adequate municipal storm drainage system. In order to address potential storm water quality impacts, the plan shall identify the Best Management Practices (BMP's) to be incorporated into the Storm Water Pollution Prevention Plan (SWPPP) that will be required for the project. The SWPPP shall include permanent BMP's to be incorporated into the project to protect storm water quality. (Resources and handouts are available from Public Works – Engineering. Specific reference is made to Palo Alto's companion document to “Start at the Source”, entitled

“Planning Your Land Development Project”). The elements of the PWE-approved conceptual grading and drainage plan shall be incorporated into the building permit plans.

PRIOR TO SUBMITTAL FOR BUILDING PERMIT

68. 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.

69. 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.

70. A construction logistics plan shall be provided, addressing at minimum parking, truck routes and staging, materials storage, and the provision of pedestrian and vehicular traffic adjacent to the construction site. All truck routes shall conform with the City of Palo Alto’s Trucks and Truck Route Ordinance, Chapter 10.48, and the route map which outlines truck routes available throughout the City of Palo Alto. A handout describing these and other requirements for a construction logistics plan is available from Public Works Engineering.

PRIOR TO ISSUANCE OF BUILDING PERMIT

71. Prior to building permit issuance, a digital copy of the parcel map or final map, in AutoCAD format, shall be submitted to Public Works Engineering and shall conform to North American Datum 1983 State Plane Zone 3 for horizontal survey controls and NGVD 1929 for vertical survey controls.

72. A detailed site-specific soil report prepared by a licensed soils or geo-technical engineer must be submitted which includes information on water table and basement construction issues. Measures must be undertaken to render the basement waterproof and able to withstand all projected hydrostatic and soil pressures. No pumping of ground water is allowed. In general, Public Works Engineering recommends that structures be constructed in such a way that they do not penetrate existing or projected ground water levels.

73. The applicant is required to paint the “No Dumping/Flows to Matadero Creek” logo in blue color on a white background, adjacent to all storm drain inlets. Stencils of the logo are available from the Public Works Environmental Compliance Division, which may be contacted at (650) 329-2598. A deposit may be required to secure the return of the stencil. Include the instruction to paint the logos on the construction grading and

drainage plan. Include maintenance of these logos in the Hazardous Materials Management Plan, if such a plan is part of this project.

74. The project includes the construction of dumpster and recycling areas as part of a food service facility. Regulations require that the dumpster/recycling area be adequately roofed or covered.

75. The project includes the construction of dumpster and recycling areas. City guidelines require that this area be covered.

76. The project includes a loading dock. Design of the loading area shall comply with the Palo Alto Municipal Code (PAMC) Sec. 16.09.032(2).

DURING CONSTRUCTION

77. The contractor must contact the CPA Public Works Inspector at (650) 496-6929 prior to any work performed in the public right-of-way.

78. No storage of construction materials is permitted in the street or on the sidewalk without prior approval of Public Works Engineering.

79. 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).

80. 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

81. All sidewalks and curb and gutters bordering the project shall be removed and replaced in compliance with Public Works approved standards. Sec. 12.08.010.

82. All unused driveways shall be removed and replaced with curb and gutter. Sec. 12.08.090.

83. All street surfaces along the frontages of the development shall be removed and replaced (grind and overlay, full-width).

84. 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.

85. A curb ramp for the disabled will be required at corners of the development.
PRIOR TO SUBMITTAL OF PARCEL OR FINAL MAP

86. Subdivision Agreement is required to secure compliance with condition of approval and security of improvements onsite and offsite. No grading or building permits will be issued until Final or Parcel Map is recorded with County Recorder.

87. The applicant shall arrange a meeting with Public Works Engineering, Utilities Engineering, Planning, Fire, and Transportation Departments after approval of this map and prior to submitting the improvement plans. These improvement plans must be completed and approved by the City prior to submittal of a parcel or final map.

88. The project subdivision includes significant complexity involving, final map and coordination of infrastructure design and construction. Developer shall appoint a Project Manager to coordinate with City, Public Works and Utility, engineering staff. Public Works will conduct daily and longer term communication with appointed project manager in order to facilitate timely review and approval of design and construction matters.

89. All construction within the City right-of-way, easements or other property under City's jurisdiction shall conform to standard specifications of the Public Works and Utility Department. Sec. 12.08.060.

PRIOR TO RECORDATION OF PARCEL/FINAL MAP

90. The subdivider shall post a bond prior to the recording of the final parcel or subdivision map to guarantee the completion of the "on" and "off" site condition(s) of approval. The amount of the bond shall be determined by the Planning, Utilities and Public Works Departments.
Public Works Recycling

91. Recommend that enclosure doors open full width of enclosure, service aisle and curbs do not restrict access to enclosure.

92. Enclosure access must not conflict with loading dock.

93. PASCO services enclosure from street and distance from street to enclosures is beyond standard service. Additional charges apply for service beyond 25 feet from street.

94. PASCO will not drive into loading dock to provide service.

95. Tallow bins must be segregated from refuse/recycling area of enclosure to eliminate slip hazardous due to spills.

Electric Utility Engineering Department Conditions

96. The applicant shall comply with all the Electric Utility Engineering Department service requirements noted during plan review.

PRIOR TO ISSUANCE OF DEMOLITION PERMIT

97. The Permittee shall be responsible for identification and location of all utilities, both public and private, within the work area. Prior to any excavation work at the site, the Permittee shall contact Underground Service Alert (USA) at 1-800-227-2600, at least 48 hours prior to beginning work.

98. The Applicant shall submit a request to disconnect all existing utility services and/or meters including a signed affidavit of vacancy, on the form provided by the Building Inspection Division. Utilities will be disconnected or removed within 10 working days after receipt of request. The demolition permit will be issued after all utility services and/or meters have been disconnected and removed.

THE FOLLOWING SHALL BE INCORPORATED IN SUBMITTALS FOR BUILDING PERMIT

99. A completed Electric Load Sheet and a full set of plans must be included with all building permit applications involving electrical work. The load sheet must be included with the preliminary submittal.

100. Industrial and large commercial customers must allow sufficient lead-time for Electric Utility Engineering and Operations (typically 8-12 weeks after advance engineering fees have been paid) to design and construct the electric service requested.

101. Only one electric service lateral is permitted per parcel. Utilities Rule & Regulation #18.

102. This project requires a padmount transformer. The location of the transformer shall be shown on the site plan and approved by the Utilities Department and the Architectural Review Board. Utilities Rule & Regulations #3 & #16.

103. The developer/owner shall provide space for installing padmount equipment (i.e. transformers, switches, and interrupters) and associated substructure as required by the City. In addition, the owner shall grant a Public Utilities Easement for facilities installed on private property as required by the City.

104. The customer shall install all electrical substructures (conduits, boxes and pads) required from the service point to the customer's switchgear. The design and installation shall be according to the City standards and shown on plans. Utilities Rule & Regulations #16 & #18.

105. The customer shall maintain a minimum of six feet horizontal clearance between the nearest conductor at rest and any part of the new development. The customer shall meet all California General Order No. 95 clearance requirements.

106. Location of the electric panel/switchboard shall be shown on the site plan and approved by the Architectural Review Board and Utilities Department.

107. All utility meters, lines, transformers, backflow preventers, and any other required equipment shall be shown on the landscape and irrigation plans and shall show that no conflict will occur between the utilities and landscape materials. In addition, all aboveground equipment shall be screened in a manner that is consistent with the building design and setback requirements.

108. For services larger than 1600 amps, the customer will be required to provide a transition cabinet as the interconnection point between the utility's padmount transformer and the customer's main switchgear. The cabinet design drawings must be submitted to the Electric Utility Engineering Department for review and approval.

109. The customer is responsible for sizing the service conductors and other required equipment according to the National Electric Code requirements and the City standards. Utilities Rule & Regulation #18.

110. If the customer's total load exceeds 2500kVA, service shall be provided at the primary voltage of 12,470 volts and the customer shall provide the high voltage switchgear and transformers. Utilities Rule & Regulation #3.

111. Projects that require the extension of high voltage primary distribution lines or reinforcement of offsite electric facilities will be at the customer's expense and must be coordinated with the Electric Utility.

112. Any additional facilities and services requested by the Applicant that are beyond what the utility deems standard facilities will be subject to Special Facilities charges. The Special Facilities charges include the cost of installing the additional facilities as well as the cost of ownership. Utilities Rule & Regulation #20.

COMMENTS ON SUBMITTALS

113. Drawing A1.1 – First Floor & Site Plan

- Transformer Pad size (and working spaces), boxes, conduit size and quantity will be determined after Electric Load Sheets are submitted. A 3'x5' primary box is required in front of each transformer pad.
- Three feet clearance is required on each side of the transformer pad. There shall be eight feet of clearance in the front of the transformer. Transformer shall not be in an enclosed environment.

114. Drawing A2.2 – Elevations

- Elevation drawings shall show that the project meets California General Order No. 95 clearance requirements.

Regional Water Quality Control Plant Conditions

115. Drain plumbing for parking garage floor drains must be connected to an oil/water separator with a minimum capacity of 100 gallons, and to the sanitary sewer system (PAMC 16.09.032(B)(17)).

116. Substances containing copper in excess of 2.0 mg/L, tributyl tin in excess of 0.1 mg/L, or chromium in excess of 2.0 mg/L may not be added to cooling systems in Palo Alto. These concentrations apply to the substances prior to dilution with cooling system water. (Note: The City of Palo Alto Municipal Code has proposed additions to this requirement which include substances that may not be added to cooling towers containing Zinc in excess of 2.0 mg/liter and Molybdenum in excess of 2.0 mg/liter.) (PAMC 16.09.115)

117. A flow meter shall be installed to measure the volume of blowdown water from the new cooling tower. Cooling systems discharging greater than 2,000 gallons per day are required to meet a copper discharge limit of 0.25 milligrams per liter.

118. Prior to draining any existing closed loop chilled water, the water in each of the existing loops shall be tested for copper, lead, nickel, and zinc. Test results shall be submitted to the Regional Water Quality Control Plant. Treatment of the chilled loop water prior to draining may be required if the pollutant concentrations exceed discharge limitations contained in the PAMC.

119. If thermometers will be installed on the chilled water supply and return piping. Non-mercury thermometers should be used for this application.(This is a recommendation and not required).

120. If the project is located in an area of known groundwater contamination with Volatile Organic Compounds (VOCs) then the plans must include the following procedure for construction dewatering pursuant to (PAMC 16.09.117, 16.09.110(h):

121. Prior to discharge of any water from construction dewatering, the water shall be tested for volatile organic compounds (VOCs) using EPA Method 601/602. The

analytical results of the VOC testing shall be transmitted to the Regional Water Quality Control Plant (RWQCP). If the concentration of any VOC exceeds 5 ug/L (5 ppb), the water may not be discharged to the storm drain system and an Exceptional Discharge Permit for discharge to the sanitary sewer must be obtained from the RWQCP prior to discharge. If the VOC concentrations exceed the toxic organics discharge limits contained in the Palo Alto Municipal Code, a treatment system for removal of VOCs will also be required prior to discharge to the sanitary sewer. Additionally, any water discharged to the storm drain system must be free of sediment.

122. Connections to the storm drain shall not be permitted for loading docks where chemicals, hazardous materials, grease, oil, or waste products are handled (PAMC 16.09.032).

123. Loading dock drains may be connected to the sewer only if the area in which the drain is located is covered or protected from rainwater run-on by berms and/or grading, and appropriate wastewater treatment approved by the superintendent is provided. Any loading dock area with a sanitary sewer drain shall be equipped with a fail-safe valve, which shall be kept closed during periods of operation.

124. Condensate lines shall not be connected or allowed to drain to the storm drain system (PAMC 16.09.032(b)(8)).

125. New dumpster areas shall be covered. The area shall be designed to prevent water run-on to the area and run-off from the area (PAMC 16.09.106(e) Dumpsters for New and Remodeled Facilities).

Undesignated Retail Space

126. Newly constructed or improved buildings with all or a portion of the space with undesignated tenants or future use will need to meet all requirements that would have been applicable during design and construction. If such undesignated retail space becomes a food service facility the following requirements must be met pursuant to PAMC Section 16.09.103(a) Grease Control Devices for Food Service Facilities:

- A grease control device (GCD) shall be installed with a minimum capacity of 750 gallons. The GCD must be sized in accordance with the 2007 California Plumbing Code. The sizing calculation must be submitted with the plans. All grease generating drainage fixtures shall be connected to the GCD. The connection of any dishwashers or pasta cookers to a GCD is prohibited. All large, in-ground interceptors shall have a minimum of three manholes to allow visibility of each inlet piping, baffle (divider) piping and outlet piping to ensure accessibility for inspection, cleaning and removal of all contents. The plans shall clearly indicate the number of manholes on the GCD and a list of all drainage fixtures connecting to the GCD. Two manholes may be allowed under certain conditions only granted by the Environmental Compliance Division of Public Works Department.

- To ensure all food service establishment drainage fixtures are connected to the correct lines, each drainage fixture shall be clearly labeled on the plans. Also a list of all fixtures and their discharge connection, i.e. sanitary sewer or grease waste line, shall be included on the plans.
- New buildings constructed to house food service facilities shall include a covered area for a dumpster. The area shall be designed to prevent water run-on to the area and runoff from the area. Drains that are installed within the enclosure for recycle and waste bins, dumpsters and tallow bins (used oil containers) serving food service facilities are optional. Any such drain installed shall be connected to a GCD and the sanitary sewer. If tallow is to be stored outside then an adequately sized, segregated space for a tallow bin shall be included in the covered area (PAMC 16.09.032b(16) 'Covered Dumpsters for Food Service Facilities').
- The installation of a garbage grinder at any food service facility is prohibited after January 1, 2003. The kitchen cannot utilize a garbage grinder for food waste disposal to the sanitary sewer (PAMC 16.09.103(e) Prohibition Against Garbage Disposals).
- Food service facilities shall have a sink or other area for cleaning floor mats, containers, and equipment, which is connected to a grease interceptor and the sanitary sewer (PAMC 16.09.032b(16) Large Item Cleaning Sink for Food Service Facilities.)

Public Works Operations-Trees

127. Provide optimum public tree replacement for street trees. The plans shall show and provide a streetscape design with materials on the civil, landscape and irrigation drawings with the following information and direction:

- El Camino Real and Oxford Avenue Frontage: Utilize city-approved Silva Cell soil planter (approx. 30-inch depth) beneath the new sidewalk from corner to corner. Utilities shall be allowed to pass thru the planters. Provide automatic irrigation using a solar smart controller with two bubblers per tree. Utilize Public Works Planting Detail #604. Beneath each tree planting site, auger two 4-6" diameter drain holes 3ft deep below the bottom of the planter basin soil and backfill with medium sand (0.25 to 0.5 mm) or fine gravel. For El Camino Real, utilize Platanus a. 'Columbia', Columbia Plane, #15 size, spaced 30-feet on center, a minimum of 15-feet from street lights and 10-feet from utilities and driveways. For Oxford Avenue, utilize Fraxinus a. 'Autumn Purple', Autumn Purple Ash (or other species as may be agreed upon by the Directors of Planning and Community Environment and Public Works), #15 (ball and burlap) B&B or 15 gallon minimum size, spaced 25-30 feet on center, a minimum of 15-feet from street lights and 10-feet from utilities and driveways.
- Staunton Court and College Avenue Frontage: Provide automatic irrigation using a solar smart controller with two bubblers per tree. Utilize Public Works Planting Detail #604. Beneath each tree planting site, auger two 4-6" diameter drain holes 3ft deep below the bottom of the planter basin soil and backfill with medium sand (0.25

to 0.5 mm) or fine gravel. Automatic irrigation shall be provided to all street trees as required in landscape design conditions below. On College Avenue, utilize Fraxinus a. 'Autumn Purple', Autumn Purple Ash (or other species as may be approved by the Directors of Planning and Community Environment and Public Works), #15 B&B or 15 gallon minimum size, spaced 25-30 feet on center, a minimum of 15-feet from street lights and 10-feet from utilities and driveways. On Staunton Court frontage, utilize Fraxinus pennsylvanica 'Cimmzam', Red Ash (or other species as may be approved by the Directors of Planning and Community Environment and Public Works), #15 B&B or 15 gallon minimum size, spaced 25-30 feet on center, a minimum of 15-feet from street lights and 10-feet from utilities and driveways.

Planning Department Arborist

128. LANDSCAPE PLANS.

a. Provide a detailed landscape and irrigation plan encompassing on-and off-site plantable areas out to the curb shall be approved by the Architectural Review Board. A Landscape Water Use statement, water use calculations and a statement of design intent shall be submitted for the project. A licensed landscape architect and qualified irrigation consultant will prepare these plans, to include:

- i) All existing trees identified both to be retained and removed including street trees.
- ii) Complete plant list indicating tree and plant species, quantity, size, and locations.
- iii) Irrigation schedule and plan.
- iv) Fence locations.
- v) Lighting plan with photometric data.
- vi) Trees to be retained shall be irrigated, aerated and maintained as necessary to ensure survival.
- vii) All new trees planted within the public right-of-way shall be installed per Public Works (PW) Standard Planting Diagram #603 or 604 (include on plans), and shall have a tree pit dug at least twice the diameter of the root ball.
- viii) Landscape plan shall include planting preparation details for trees specifying digging the soil to at least 30-inches deep, backfilled with a quality topsoil and dressing with 2-inches of wood or bark mulch on top of the root ball keeping clear of the trunk by 1-inch.
- ix) Automatic irrigation shall be provided to all trees. For trees, PW Detail #513 shall be included on the irrigation plans and show two bubbler heads mounted on flexible tubing placed at the edge of the root ball. Bubblers shall not be mounted inside an aeration tube. The tree irrigation system shall be connected to a separate valve from other shrubbery and ground cover, pursuant to the City's Landscape Water Efficiency Standards. Irrigation in the right-of-way requires a street work permit per CPA Public Works standards.
- x) Landscape Plan shall ensure the backflow device is adequately obscured with the appropriate screening to minimize visibility (planted shrubbery is

preferred, painted dark green, decorative boulder covering acceptable; wire cages are discouraged).

b) Mandatory Landscape Architect (LA) Inspection Verification to the City. The LA of record shall verify the performance measurements are achieved with a separate letter of verification to City Planning staff, in addition to owner's representative for each of the following:

i) Tree and Shrub Planting Specifications, including delivered stock, meets Standards in the CPA Tree Technical Manual, Section 3.30-3.50. Girdling roots and previously topped trees are subject to rejection.

DURING CONSTRUCTION

129. TREE DAMAGE. Tree Damage, Injury Mitigation and Inspections apply to Contractor. Reporting, injury mitigation measures and arborist inspection schedule (1-5) apply pursuant to TTM, Section 2.20-2.30. Contractor shall be responsible for the repair or replacement of any publicly owned or protected trees that are damaged during the course of construction, pursuant to Title 8 of the Palo Alto Municipal Code, and city Tree Technical Manual, Section 2.25.

130. GENERAL. 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.

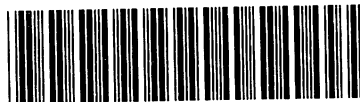
PRIOR TO OCCUPANCY

131. LANDSCAPE INSPECTION. The Planning Department shall be in receipt of written verification that the Landscape Architect has inspected all trees, shrubs, planting and irrigation and that they are installed and functioning as specified in the approved plans.

132. PLANNING INSPECTION. Prior to final sign off, contractor or owner shall contact the city planner (650-329-2441) to inspect and verify Special Conditions relating to the conditions for structures, fixtures, colors and site plan accessories.

POST CONSTRUCTION

133. MAINTENANCE. All landscape and trees shall be maintained, watered, fertilized, and pruned according to Best Management Practices-Pruning (ANSI A300-2001 or current version). Any vegetation that dies shall be replaced or failed automatic irrigation repaired by the current property owner within 30 days of discovery.



Fees * No Fees
Taxes
Copies
AMT PAID

**RECORDING REQUESTED BY, AND
WHEN RECORDED, MAIL TO:**

CITY OF PALO ALTO
City Hall, 8th Floor
250 Hamilton Avenue
Palo Alto, CA 94301

REGINA ALCOMENDRAS
SANTA CLARA COUNTY RECORDER
Recorded at the request of
City

RDE # 024
2/17/2015
12:45 PM

Attn: City Attorney

(Above Space For Recorder's Use)

The undersigned declares that this document is recorded at the request of and for the benefit of the City of Palo Alto and therefore is exempt from the payment of the recording fee pursuant to Government Code §6103 and 27383 and from the payment of the Documentary Transfer Tax pursuant to Revenue and Taxation Code §11922.

RESTRICTIVE COVENANT
(PC ORDINANCE 5069)

This Restrictive Covenant ("Restrictive Covenant") is made as of December 22 2014, between COLLEGE TERRACE CENTRE LLC, a California limited liability company ("Owner"), and the CITY OF PALO ALTO, a California municipal corporation ("City"). Owner and City are collectively referred to herein as the "Parties," and individually as a "Party."

RECITALS

A. Owner is the fee owner of certain real property located at 2100 El Camino Real in the City of Palo Alto, County of Santa Clara, more particularly described on Exhibit A attached hereto and incorporated herein ("Property").

B. On December 2, 2009, the City, acting by and through the City Council, approved Ordinance No. 5069 (the "PC Ordinance"), amending Section 18.08.040 of the Palo Alto Municipal Code to rezone the property to PC Planned Community 5069 and allow the development of the Property as a mixed use project comprised of commercial, residential and office, and related parking facilities ("College Terrace Centre").

C. In approving the PC Ordinance, City made the requisite finding that development of the Property under the provisions of the PC Planned Community District would result in public benefits not otherwise attainable by application of the regulations of general districts or combining districts. Section 4(f)(1) identifies as a public benefit inherent to the development project, provision of an 8,000 square foot neighborhood-serving grocery market.

D. Section 4(b) of the PC Ordinance imposes, in relevant part, special limitations on land uses including the following limitations with regard to the grocery store: (i) A grocery store, with an area of at least 8,000 square feet, shall exist within the development for the useful life of the improvement; (ii) The grocery store shall be a neighborhood service grocery store that provides all the typical grocery store products and services of a neighborhood serving store such

that it shall not become a convenience mart facility; (iii) The grocery tenant shall occupy and begin operations prior to any office tenant occupancy; (iv) The grocery tenant, if it is a party other than John Garcia (DBA JJ&F), shall be subject to the prior approval of the City and shall not be withheld unless the City reasonably finds that such proposed grocery tenant is not likely to be comparable in quality of products and service as JJ&F as it existed and operated on December 7, 2009; and (v) The grocery store space shall remain in continuous operation as a grocery store. Section 4(b)(7) defines "continuous" to include "brief closure for ordinary business purposes."

E. On August 11, 2014, the City Council conducted a hearing to determine whether the proposed replacement grocer met the PC Ordinance requirements. At that hearing the Council continued the item and directed the Owner to provide further information on the tenant. Subsequently, Owner modified its proposal and on December 1, 2014, the City Council conducted a second hearing to consider whether the PC condition had been satisfied. At that hearing, the Council rejected applicant's replacement tenant but directed staff to come back with a permit extension.

F. As a condition precedent to the City's approval of a replacement grocer tenant other than John Garcia (the "Replacement Tenant"), City is requiring that Owner record this Restrictive Covenant to ensure that a grocery store is located and continues to operate within College Terrace Centre as expressly set forth in the PC Ordinance. Owner wishes to record this Restrictive Covenant, subject to the terms and conditions set forth below.

COVENANT

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants, terms, conditions, and restrictions contained herein, Owner hereby declares as follows:

1. Operation of a Grocery Store. During the term of this Restrictive Covenant, a grocery store with an area of at least 8,000 square feet shall be in continuous operation within College Terrace Centre for the useful life of the improvements specified in the PC Ordinance. The grocery store shall be a neighborhood service grocery store that provides all the typical grocery store products and services of a neighborhood serving store such that it shall not become a convenience mart facility. For purposes of this Restrictive Covenant, and consistent with the PC Ordinance, "continuous" operation includes any brief closure for ordinary business purposes.

2. Penalty. In the event that the Replacement Tenant, and any subsequent tenant thereafter, fully ceases business operations within College Terrace Centre and such cessation continues for a period of time in excess of six (6) consecutive months (the "Grace Period") or the applicable grocery store tenant is not replaced with another grocery store tenant that begins business operations within such Grace Period, the City shall have the right, but not the obligation, to levy a penalty against Owner, or any successor owner of the Property, as the case may be, in the amount of Two Thousand Dollars and 00/100s (\$2,000.00) (the "Penalty") for each day after the Grace Period that a grocery store is not in operation within College Terrace Centre in accordance with the terms of the PC Ordinance. The Grace Period and the Penalty are subject to these additional terms:

(a) The Grace Period afforded pursuant to this Agreement shall not exceed six (6) cumulative months in any five (5) year period.

(b) The amount of the Penalty shall be subject to adjustment for the amount of increase, if any, in the CPI since the date of issuance of a temporary certificate of occupancy ("TCO") for initial occupancy of the grocery store premises. At the time any Penalty is to be applied, the City shall determine the cumulative CPI increase based on the percentage increase in the CPI from the date of issuance of the TCO through the latest date for which a current index is available prior to the scheduled increase. "CPI" shall mean the Consumer Price Index for All Urban Consumers, All Items (Base year 1982-1984 = 100) published by the United States Department of Labor, Bureau of Labor Statistics, San Francisco-San Jose-Oakland Average. If the Bureau of Labor Statistics substantially revises the manner in which the CPI is determined, an adjustment shall be made in the revised index which would produce results equivalent, as nearly as possible, to those which would be obtained hereunder if the CPI were not so revised. If the CPI becomes unavailable to the public because publication is discontinued, or otherwise, the City shall substitute therefor a comparable index based upon changes in the cost of living or purchasing power of the consumer dollar published by a governmental agency, major bank, other financial institution, university or recognized financial publisher.

(c) Notwithstanding the foregoing or anything to the contrary set forth in this Restrictive Covenant, the Penalty shall not be imposed and shall not become payable if City or any other third party (not including Owner) challenges the legality of the PC Ordinance or otherwise seeks to preclude, halt or interrupt the operation of a grocery store and successfully obtains or secures a court order temporarily or permanently enjoining or otherwise prohibiting the operation of a grocery store within College Terrace Centre.

3. Dedicated Parking. Owner shall continuously provide no less than forty (40) dedicated parking spaces for the use of the grocery store within College Terrace Centre.

4. City Enforcement and Right to Inspect. Upon no less than two (2) business days' prior written notice, City shall have the right to inspect grocery store operations once per year for the sole purposes of confirming that (i) the Replacement Tenant, or any subsequent tenant, is providing products and services typical of a neighborhood serving store such that it shall not become a convenience mart facility; (ii) such products and services are comparable in quality to those of JJ&F as it existed and operated on December 7, 2009; and (iii) the dedicated parking for the grocery store is provided as required herein. This provision shall not preclude the City from conducting additional inspections based on a code enforcement complaints.

5. Reserved Rights. Owner reserves to itself, and to its members, managers, personal representatives, heirs, successors, and assigns, all rights accruing from its ownership of the Property, including the right to engage in all uses of the Property that are not expressly prohibited or limited by, and are consistent with, the PC Ordinance and this Restrictive Covenant, including the right to seek from the City modifications to, amendments to or termination of the PC Ordinance.

6. Term. This Restrictive Covenant shall be effective on the date on which it is recorded and shall continue in full force until the earlier to occur of (i) termination of this

Restrictive Covenant by written agreement of Owner (or its successor or assign, as applicable) and City or (ii) the operative provisions of the PC Ordinance are no longer in full force or effect.

7. Notices. All notices required or permitted under this Restrictive Covenant shall be in writing and shall be deemed to have been duly given if personally delivered or sent by prepaid first class mail, addressed as follows:

If to Owner: College Terrace Centre, LLC
388 Market Street, Suite 940
San Francisco, CA 94111
Attn: Brian Spiers

If to City: City of Palo Alto
City Hall, 8th Floor
250 Hamilton Avenue
Palo Alto, CA 94301
Attn: City Attorney

Each party may change its address for notice by providing notice thereof to the other party.

8. Applicable Law. This Restrictive Covenant shall be construed and enforced in accordance with the laws of the State of California.

9. Governing Law. This Restrictive Covenant shall be governed by the laws of the State of California.

10. Successors and Assigns. The provisions of this Restrictive Covenant shall be binding upon and inure to the benefit of the successors and assigns of Owner and City, respectively.

11. Amendment. This Restrictive Covenant may only be amended pursuant to a written amendment, executed by Owner (or its successor or assign), consented to by City, and recorded in the Office of the Recorder of Santa Clara County, California.

12. Counterparts. This Restrictive Covenant may be executed in counterparts, each of which shall be deemed an original and all of which, taken together, shall be deemed one and the same instrument.

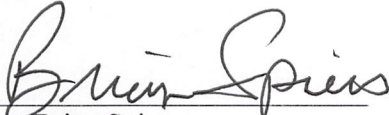
[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have entered into this Restrictive Covenant as of the date first set forth above.

OWNER

COLLEGE TERRACE CENTRE LLC
a California Limited Liability Company

By: Brian Spiers Development, LLC
a California Limited Liability Company
Its Manager

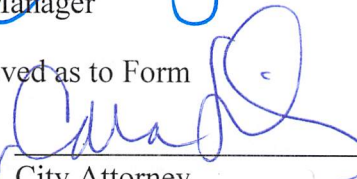
By: 
Brian Spiers
Its: Manager

CITY

CITY OF PALO ALTO,
a California municipal corporation

By: 
City Manager

Approved as to Form

By: 
For City Attorney

STATE OF CALIFORNIA)

^{WA}) ss.

COUNTY OF ~~SANTA CLARA~~

San Francisco

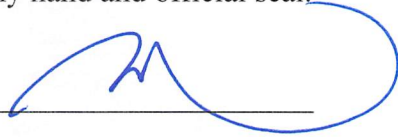
Wendy Ng

On 23rd December 2014, before me, _____, a Notary Public, personally appeared Brian Spiers, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

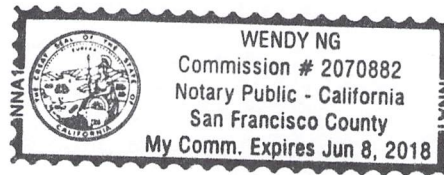
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____



(SEAL)



ALL-PURPOSE ACKNOWLEDGEMENT

STATE OF CALIFORNIA)
)
COUNTY OF SANTA CLARA)

On 12/23, 2014, before me, Donna M. Hartman,
a Notary Public, in and for the State of California, personally
appeared JAMES R. Keene, Jr.

who proved to me on the basis of satisfactory evidence to be the
person ~~(s)~~ whose name (is) subscribed to the within instrument
and acknowledged to me that (he) ~~(she/they)~~ executed the same in
(his) ~~(her/their)~~ authorized capacity ~~(ies)~~, and that by (his) ~~(her/their)~~
signature ~~(s)~~ on the instrument the person ~~(s)~~, or the entity upon
behalf of which the person ~~(s)~~ acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of
California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Donna M. Hartman



EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

2100 El Camino Real, 520 College Avenue, 2121 and 2155 Staunton Court, Palo Alto, CA

REAL PROPERTY IN THE CITY OF PALO ALTO, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, DESCRIBED IN EXHIBIT "A" OF CERTAIN CERTIFICATE OF COMPLIANCE (LOT LINE ADJUSTMENT AND MERGER) AS EVIDENCED BY DOCUMENT RECORDED SEPTEMBER 12, 2013 AS INSTRUMENT NO. 22385210 OF OFFICIAL RECORDS, BEING PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THAT REAL PROPERTY SITUATED IN THE CITY OF PALO ALTO, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING ALL OF THE LANDS DESCRIBED IN THAT CERTAIN GRANT DEED FILED FOR RECORD ON APRIL 15, 2011 AS DOCUMENT NUMBER 21147724 OF OFFICIAL RECORDS IN THE OFFICE OF THE RECORDER FOR THE COUNTY OF SANTA CLARA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST WESTERLY CORNER OF SAID LANDS AS DESCRIBED IN SAID DOCUMENT, BEING ALSO A POINT AT THE INTERSECTION OF THE NORTHERLY LINE OF STAUNTON COURT AND THE EASTERLY LINE OF OXFORD AVENUE;

THENCE ALONG THE EASTERLY LINE OF OXFORD AVENUE, NORTH 33°32'30" EAST, 205.26 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF EL CAMINO REAL AND THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT FROM WHICH POINT A RADIAL LINE BEARS SOUTH 02°05'44" EAST;

THENCE ALONG SAID SOUTHWESTERLY LINE AND ALONG SAID CURVE HAVING A RADIUS OF 12.00 FEET, THROUGH A CENTRAL ANGLE OF 50°18'14", AN ARC LENGTH OF 10.54 FEET;

THENCE CONTINUING ALONG SAID SOUTHWESTERLY LINE, SOUTH 41°47'30" EAST, 289.00 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 12.00 FEET, THROUGH A CENTRAL ANGLE OF 28°22'13", AN ARC LENGTH OF 5.94 FEET TO A POINT ON THE WESTERLY LINE OF COLLEGE AVENUE;

THENCE ALONG SAID WESTERLY LINE, SOUTH 33°32'00" WEST, 131.07 FEET TO A POINT ON THE NORTHERLY LINE OF STAUNTON COURT; THENCE ALONG SAID NORTHERLY LINE, NORTH 56°28'00" WEST, 294.78 FEET TO THE POINT OF BEGINNING.

APN: 137-01-029, 137-01-030, 137-01-131 and 137-01-135

